

Protecting Street Art and Graffiti as Artistic Works Under Indian Copyright Law: An Analysis

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ABSTRACT

Street art, known for its temporary nature and presence in public spaces, faces challenges in copyright protection. Despite these hurdles, street art is increasingly recognized as a legitimate artistic expression warranting copyright safeguards. This abstract explores how street art can be protected under copyright law, beginning with its definition and qualification as an artistic work under copyright statutes. It addresses practical and legal issues such as authorship, ownership, and the impact of public location. This study illustrates different approaches to protecting street art through circumstances and some legal precedents. It also examines the role of moral rights and public interest in balancing artists' rights with property rights and urban aesthetics. The abstract proposes legal reforms or policy interventions to enhance copyright protection for street art while maintaining its cultural integrity, contributing to the discourse on the intersection of copyright law and urban art.

Keywords: Street Art, Graffiti, Copyrights, Protections, Validations

INTRODUCTION

Street art and graffiti have long been recognized as vibrant forms of artistic expression, adorning urban landscapes with their bold colours, intricate designs, and thought-provoking messages. Traditionally viewed as acts of vandalism, street art and graffiti are increasingly being acknowledged for their artistic value and cultural significance. This shift in perception raises important questions about the legal protections available to street artists, particularly under copyright law.

In India, the protection of artistic works under copyright law is governed by the Copyright Act, 1957. This legislation aims to safeguard the rights of creators, ensuring that they can control the use of their works and benefit from their creations. However, the application of copyright law to street art and graffiti presents unique challenges. These art forms often exist in public spaces without the explicit permission of property owners, raising questions about the legitimacy of their creation and the applicability of legal protections.

These forms of art encapsulate narratives of resistance, resilience, and creativity, transcending geographical boundaries to resonate with diverse audiences worldwide. They embody a fusion of creativity and activism, forging connections between art, society, and the public sphere. Their cultural and artistic significance lies not only in their visual impact but also in their ability to reflect and shape contemporary social discourse. (Joshi, - 2023)

Art enthusiasts globally have come to value the marvels of street art, which has now emerged as a highly desirable and respected art form. Many of the most significant works remain in public spaces, accessible to all and maintaining their roots in the urban environment. The spontaneous nature and unconventional settings of street art creation highlight the artists' resourcefulness and innovation, further enhancing its appeal. (Elias & Ghajar - 2016).

Recognizing street art and graffiti as legitimate artistic works validates the artists, protects their rights, boosts economic opportunities, enhances community engagement, enriches academic research, and informs legal and policy development. This recognition underscores the value of these art forms in contemporary culture and their significant impact on society. (Halle, – 2021)

This growing recognition is evident in several ways:

1. Artistic and Cultural Acknowledgment

Validation of Creative Expression: Acknowledging street art and graffiti as legitimate art forms validates the creativity and skill involved in their creation, affirming the artists' contributions to the art world.

Cultural Heritage: These art forms often reflect the social, political, and cultural landscapes of their environments, preserving the voices and stories of communities. Recognizing their legitimacy helps to document and conserve cultural heritage.

2. Legal Protection and Rights

Copyright Protection: Recognition ensures that street artists can claim copyright over their works, preventing unauthorized reproduction and commercialization. This protection encourages artists to continue creating by safeguarding their intellectual property.

Moral Rights: Artists gain the right to be credited for their work and to protect their creations from distortion or mutilation, maintaining the integrity of their art.

3. Economic Opportunities

Commercial Value: Legitimate recognition can increase the market value of street art and graffiti, allowing artists to sell their works in galleries and auctions, thereby providing them with financial benefits.

Tourism and Urban Renewal: Recognized street art can attract tourists, contributing to the local economy. Cities known for their vibrant street art scenes often experience economic revitalization as visitors flock to see the artwork.

4. Social and Community Impact

Community Engagement: Street art often engages with local communities, addressing social and political issues and fostering a sense of identity and pride. Recognizing its legitimacy encourages more community-based projects and public art initiatives.

Beautification and Public Spaces: Legitimate Street art can transform urban landscapes, turning neglected areas into vibrant public spaces, enhancing the aesthetic appeal and livability of cities.

5. Academic and Educational Value

Scholarly Research: Academic recognition of street art and graffiti promotes scholarly research, leading to a deeper understanding of their historical, cultural, and social significance.

Educational Inclusion: Incorporating street art into educational curricula can inspire students, broaden their perspectives on art, and encourage them to explore diverse forms of creative expression.

6. Legal and Policy Development

Policy Formulation: Recognizing street art prompts the development of policies that protect artists' rights while balancing property owners' interests. This can lead to more nuanced and fair legal frameworks.

Preservation Efforts: Legitimate recognition can drive efforts to preserve significant street art works, ensuring they are maintained for future generations and protected from destruction. (Saikia - 2019) (Kunwar - 2021) (Choubey - 2020) (legalserviceindia.com)

STREET ART AND GRAFFITI IN INDIAN CITIES

The evolution of street art and graffiti in Indian cities reflects a dynamic interplay of global influences and local contexts. From its early rebellious beginnings to its current status as a celebrated art form, street art in India continues to thrive and evolve, driven by the creativity and vision of its artists. These notable artists have not only contributed to the beautification of urban spaces but also sparked important conversations on social, cultural, and political issues, enriching India's urban art scene.

Early Beginnings

Street art and graffiti in India have evolved from traditional wall paintings and folk art forms, such as Warli and Madhubani, which have long been a part of rural and tribal communities. The urban street art movement began to take shape in the late 20th century, influenced by global trends and local socio-political contexts.

1990s: Emergence of Graffiti

In the 1990s, graffiti began to appear in Indian cities, primarily as a form of rebellion and political commentary. This period saw the rise of anonymous tags and stencils on public walls, often addressing issues like corruption, social inequality, and government policies.

2000s: Rise of Street Art Festivals

The 2000s marked a significant shift with the emergence of street art festivals and organized public art projects. Events like the "St+art India" festival played a crucial role in legitimizing street art and bringing it into mainstream consciousness. These festivals invited international and local artists to create large-scale murals, transforming urban landscapes.

2010s: Institutional Supports and Public Acceptance

During the 2010s, street art gained substantial public acceptance and institutional support. Municipal governments and private organizations began to commission murals to beautify public spaces and promote cultural heritage. Social media platforms also played a pivotal role in popularizing street art, allowing artists to reach broader audiences.

Recent Trends

In recent years, street art in India has become more diverse and inclusive, addressing contemporary issues such as gender equality, environmental conservation, and mental health. Collaborative projects and community-based initiatives have further enriched the street art scene, making it a dynamic and evolving form of artistic expression.

Notable Artists and their Contributions

Daku

Contribution: Often referred to as India's Banksy, Daku is known for his thought-provoking stencils and typography-based street art. His works address social and political issues, such as freedom of speech, surveillance, and urbanization.

Notable Works: "Typographic sundial generates ever-changing graffiti", Figure – 01, which features a series of stencils commenting on the relentless passage of time and its impact on human life.



Figure - 01

Typographic sundial generates ever-changing graffiti

Retrieved from: <https://www.designboom.com/art/time-changes-everything-daku-start-india-graffiti-06-23-2016/>

Anpu Varkey

Contribution: Anpu Varkey is celebrated for her large-scale murals that often depict surreal and whimsical imagery. Her works are characterized by bold colors and intricate details, blending contemporary and traditional styles.

Notable Works: The "Cat", Figure – 02, mural in New Delhi's Lodhi Art District, which has become an iconic piece of urban art in the city.



Figure – 02

Cat, retrieved from: <https://neocha.com/magazine/the-art-of-anpu-varkey/>

Tyler

Contribution: Tyler is known for his pop-culture-inspired street art, blending elements from movies, comics, and popular media. His work often carries a satirical edge, critiquing consumerism and celebrity culture.

Notable Works: The "Tug of war", Figure – 03, mural in Mumbai, which gained widespread attention for its intricate design and cultural references.



Figure – 03

Tug of war, Retrieved from: <https://medium.com/@saumya.r.jain/how-spray-cans-build-a-revolution-tyler-street-art-28cfb1401e08>

Baadal Nanjundaswamy

Contribution: Baadal Nanjundaswamy uses street art to highlight civic issues, particularly in Bangalore. His work often incorporates 3D elements and optical illusions, creating interactive pieces that engage the public.

Notable Works: The "Pothole Art", Figure – 04, series, where he transformed potholes into humorous and eye-catching installations, drawing attention to poor road conditions.



Figure – 04

From Potholes series, Retrieved from: <https://www.india.com/viral/artiste-baadal-nanjundaswamy-transforms-pothole-into-a-crocodiles-home-in-bangalore-428456/>

Guesswho

Contribution: Operating anonymously, Guesswho creates stencils that blend traditional Indian iconography with contemporary themes. His work often challenges social norms and questions cultural

stereotypes.

Notable Works: The "Mona Lisa in an Indian Version" series, Figure – 05, which juxtaposes Western art icons with Indian cultural symbols.



Figure – 05

Mona Lisa in an Indian version, Retrieved from:

<https://thesolitarynavigator.wordpress.com/2015/07/10/guess-who-the-stunning-collection-of-graffiti-continues/>

Yantr

Contribution: Yantr is known for his science fiction-inspired murals that explore themes of technology and future landscapes. His intricate and futuristic designs often feature robots, space exploration, and cosmic motifs.

Notable Works: The "Cleaning Robot", Figure – 06, mural in Bangalore, which showcases his signature style of blending mechanical and organic elements.



Figure – 06

Cleaning robot, Retrieved from: https://iturl.in/2325f8a0?utm_source=sharetext&utm_medium=copy

CURRENT LEGAL STATUS OF STREET ART AND GRAFFITI IN INDIA

Street art and graffiti in India face a complex legal landscape. Under the Copyright Act, 1957, artistic works are protected, but the application of these protections to street art and graffiti is not straightforward. Here's an examination of how these art forms are currently treated under Indian copyright law, followed by an analysis of existing legal protections and limitations for artists.

Definition of Artistic Works

The Copyright Act, 1957, defines "artistic work" to include paintings, sculptures, drawings, and any other work of artistic craftsmanship. Street art and graffiti can fit within this broad definition, making them eligible for copyright protection.

Requirements for Copyright Protection

To qualify for copyright protection under Indian law:

Originality: The work must be original, involving a certain degree of creativity.

Fixation: The work must be fixed in a tangible medium. Street art and graffiti, being physically created on walls and other surfaces, meet this requirement.

Rights Conferred by Copyright

Copyright grants the creator several exclusive rights, including:

- The right to reproduce the work.
- The right to distribute copies of the work.
- The right to perform the work publicly.
- The right to display the work publicly.

For street artists and graffiti writers, these rights theoretically allow them to control the use and dissemination of their art. (legalserviceindia.com) (indiankanoon.org)

Existing Legal Protections and Limitations

Protections

Copyright Ownership: The artist, as the creator, owns the copyright to their work from the moment of its creation, provided it meets the originality and fixation criteria.

Moral Rights: Indian copyright law grants moral rights to artists, including the right to be attributed as the creator and the right to protect the work from distortion, mutilation, or modification that would harm the artist's reputation.

Limitations

Permission and Legality: Much street art and graffiti are created without the explicit permission of property owners, making them illegal acts of vandalism under property law. This illegality can complicate claims for copyright protection, as unauthorized works may be subject to removal or destruction without regard to copyright.

Public Space and Ownership: Since street art and graffiti are often created on public or private property without authorization, ownership and control of the physical surface can lead to conflicts. Property owners might not recognize the artist's rights and may remove or alter the artwork.

Enforcement Challenges: Enforcing copyright for street art and graffiti can be difficult. The anonymous nature of much graffiti complicates the identification of the artist, and the transient nature of

street art means that works can be quickly removed or defaced.

Commercial Exploitation: Artists seeking to commercialize their street art face challenges due to its public and often unauthorized nature. Unauthorized reproductions and commercial uses of their work can be hard to control and combat. (indiankanoon.org)

Legal Precedents and International Perspectives

Indian Context

There have been limited legal cases specifically addressing the copyright of street art and graffiti in India. However, broader copyright principles apply, and courts may recognize the rights of street artists under the Copyright Act, 1957, provided the works meet the legal criteria.

International Context

Globally, street art and graffiti have gained recognition as legitimate art forms, and some jurisdictions have begun to offer legal protections. Notable examples include:

United States: The Visual Artists Rights Act (VARA) protects the moral rights of artists, including street artists, allowing them to prevent the destruction of recognized works of art.

European Union: Countries like France and the UK have begun to acknowledge the rights of street artists, with court cases ruling in favour of artists in disputes over the removal or alteration of their works.

Street art and graffiti occupy a unique position within Indian copyright law. While the Copyright Act, 1957, provides a framework for protecting these works as artistic creations, practical challenges related to permission, ownership, and enforcement pose significant limitations. To better support street artists and graffiti writers, legal reforms and clearer policies are needed to balance the rights of artists with the interests of property owners and the broader public. Such changes could help legitimize these vibrant art forms, offering artists the protections they deserve while preserving the cultural and social value of street art and graffiti in India. (copyright.gov.in) (indiankanoon.org)

ARGUMENTS FOR PROTECTING STREET ART AND GRAFFITI AS ARTISTIC WORKS

Recognizing street art and graffiti as valid forms of artistic expression deserving copyright protection offers numerous benefits. It validates the creativity and skill of artists, preserves culturally and historically significant works, and promotes diversity and inclusivity in the art world. For communities, the beautification and engagement provided by street art can enhance social cohesion and economic vitality. From a cultural preservation perspective, legal protections ensure that these vibrant expressions of contemporary life are maintained for future generations. By acknowledging the value of street art and graffiti, society can foster a more inclusive, dynamic, and culturally rich environment.

1. Validation of Artistic Talent and Creativity

Street art and graffiti often involve significant skill, creativity, and originality. Recognizing these forms as valid artistic expressions acknowledges the talent and effort of the artists, placing them on an equal footing with traditional art forms.

2. Cultural and Historical Significance

Street art and graffiti can capture the zeitgeist of a particular time and place, reflecting societal attitudes, political movements, and cultural trends. Protecting these works ensures that they are preserved as part of the cultural and historical record, enriching our understanding of contemporary urban life.

3. Promotion of Diversity in Art

Street art and graffiti introduce a diverse range of voices and perspectives into the art world, often highlighting marginalized or underrepresented communities. Recognizing these art forms promotes inclusivity and diversity, expanding the scope of what is considered valuable and legitimate art.

4. Encouragement of Creative Freedom

Providing copyright protection to street artists and graffiti writers encourages creative freedom and innovation. Artists are more likely to experiment and push boundaries when they know their work is legally protected. (copyright.gov.in) (indiankanoon.org)

Potential Benefits for Artists, Communities, and Cultural Preservation Efforts

1. Benefits of Artists

Economic Opportunities: Copyright protection allows street artists to commercialize their work, through licensing, sales, and commissions, providing them with financial stability and recognition.

Moral Rights: Artists can protect the integrity of their work, ensuring it is not altered, defaced, or destroyed without their consent. This protection enhances the artist's reputation and maintains the original intent and quality of the artwork.

Recognition and Credibility: Legal recognition as legitimate artists can enhance the credibility and professional standing of street artists, opening up new opportunities for exhibitions, collaborations, and public art projects.

2. Benefit for Communities

Beautification and Urban Renewal: Street art can transform neglected urban spaces into vibrant, aesthetically pleasing environments. This beautification can foster a sense of pride and ownership among community members.

Social and Political Engagement: Street art often addresses social and political issues, sparking conversations and raising awareness about important topics within the community. This engagement can lead to greater civic participation and community cohesion.

Tourism and Economic Growth: Cities known for their street art can attract tourists, boosting local economies. Street art tours, festivals, and related events can generate revenue and create jobs.

3. Benefits for Cultural Preservation

Documentation of Contemporary Culture: Recognizing and protecting street art helps document contemporary cultural expressions, preserving them for future generations. This documentation is valuable for historians, researchers, and the general public.

Protection of Public Art: Legal protection can prevent the unauthorized removal or destruction of significant street art, ensuring that important cultural assets are maintained and conserved.

Enhanced Cultural Heritage: Street art contributes to the cultural heritage of a city or region, reflecting its unique identity and character. Protecting these works ensures that they remain a part of the cultural landscape, enriching the collective heritage. (copyright.gov.in) (indiankanoon.org)

CONCLUSION

Street art and graffiti are more than mere decorations or acts of rebellion; they are vital expressions of contemporary culture and social commentary. Recognizing these art forms under Indian copyright law will validate the creative efforts of artists, provide them with much-needed legal protections, and encourage a richer, more inclusive cultural landscape.

Legal protection for street art and graffiti will ensure that artists can reap the economic benefits of their work, maintain the integrity of their creations, and continue to contribute to the cultural and aesthetic vibrancy of Indian cities. Moreover, it will foster a deeper appreciation of these art forms within the broader public, highlighting their significance as tools for social engagement and urban beautification. It is crucial for policymakers, cultural institutions, and communities to acknowledge the importance of street art and graffiti and work towards creating a supportive legal framework that safeguards these artistic expressions. By doing so, India can preserve its dynamic urban art scene and ensure that the voices and visions of its street artists are respected and protected for generations to come.

Summary of Key Points for Greater Recognition and Legal Protection:

Introduction to Street Art and Graffiti: Street art and graffiti are vibrant forms of artistic expression, gaining recognition for their cultural and artistic value. These art forms face unique challenges under Indian copyright law due to their often unauthorized nature and public settings.

Evolution in India: Street art and graffiti in India have evolved from traditional forms to modern urban expressions, gaining prominence through festivals and increased public and institutional support. Notable artists like Daku, Anpu Varkey, and Baadal Nanjundaswamy have significantly contributed to the urban art scene.

Current Legal Landscape:

Eligibility for Copyright: Under the Copyright Act, 1957, street art and graffiti can qualify as "artistic works" if they meet criteria of originality and fixation.

Protections and Limitations: Artists hold copyright to their works and enjoy moral rights. However, unauthorized creation and public placement of these works complicate legal protection and enforcement.

Reasons for Recognition:

Validation of Creativity: Recognizing these forms validates the creativity and skill involved.

Cultural Significance: Street art preserves the cultural and historical context of its time.

Diversity and Innovation: It promotes diversity in artistic expressions and encourages innovation.

Benefits of Legal Protection:

For Artists: Ensures economic opportunities, moral rights, and professional credibility.

For Communities: Enhances urban environments, fosters social engagement, and boosts tourism.

For Cultural Preservation: Protects contemporary cultural expressions and contributes to cultural heritage. (legalserviceindia.com) (indiankanoon.org)

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