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IS COPYRIGHT PROTECTION AVAILABLE FOR RETELLINGS, COMMENTARIES, OR DRAMATIZATIONS OF ANCIENT TEXTS LIKE THE RAMAYANA AND MAHABHARATA, AND HOW DISTINCT MUST THESE ADAPTATIONS BE TO QUALIFY AS ORIGINAL WORKS?

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ABSTRACT

This paper explores the copyright protection framework for adaptations of ancient Indian texts such as the *Ramayana* and *Mahabharata*. It examines key legal provisions, doctrines, and judicial interpretations under the Copyright Act, 1957, including originality, derivative works, and the public domain. Through landmark cases like *R.G. Anand* and *Bhaktivedanta*, it explains how creative adaptations receive protection when they demonstrate independent originality, commentary, or transformation, balancing cultural heritage accessibility with modern creators' rights.

KEYWORDS: Copyright Act 1957, adaptation, originality, public domain, derivative works, *Ramayana*, *Mahabharata*, *Bhaktivedanta* judgment, transformative work, substantial similarity, creativity, independent creation.

INTRODUCTION: The adaptation of ancient Indian mythological texts such as the *Ramayana* and *Mahabharata* raise unique questions in copyright law. While these epics belong to the public domain due to their antiquity and anonymous authorship, the modern adaptations, translations, and dramatizations often contain significant creative contributions that may deserve protection. The Copyright Act, 1957, along with judicial doctrines like originality and transformative work, provides the framework for such evaluation. This paper goes to analyse how Indian courts may interpret and apply these doctrines to balance cultural preservation along with rights of authors who have created these adaptations.

RESEARCH QUESTIONS

1. Are ancient Indian texts like the *Ramayana* and *Mahabharata* protected under

copyright law, or are they considered public domain?

2. How distinct or original must an adaptation of the ancient text be to qualify for copyright protection?
3. How does the *Bhaktivedanta* judgement affect this particular proposition of law what does it lay down?

LITERATURE REVIEW:

Translations of ancient texts like the *Ramayana* and *Mahabharata*, while based on public domain sources, can be copyright have copyright protection in India if they show the translator's originality, skill, and creative interpretation of the same ancient texts. Abhivyakti Mirajkar¹³⁷¹, in her analysis, explains

¹³⁷¹ Abhivyakti Mirajkar, While ancient Sanskrit texts cannot be copyrighted, and the meanings in there are also ancient, how are publishers applying a copyright notice on the translations?, Quora (2018), <https://www.quora.com/While-ancient-Sanskrit-texts-cannot-be-copyrighted-and-the-meanings-in-there-are-also-ancient-how-are-publishers-applying-a-copyright-notice-on-the-translations/answer/%E0%A4%85%E0%A4%AD%E0%A4%BF%E0%A4%B5%E0%A5%8D%E0%A4%AF%E0%A4%95%E0%A5%8D%E0%A4>

that translation of ancient text goes beyond merely interchanging words from one language to another but is also a creative act that requires a clear understanding of both languages and cultures, blending the work with the translator's personal interpretation and literary style. The copyright for the same translated creations typically vests with the translator or publisher, depending on the agreement, not with that of the original ancient work. This position is anchored in Indian copyright law's core premise that "expressions"—not ideas or meanings—are protected, so a translator's unique expression is a new copyrightable work. Ultimately, copyright in translation is justified as the translated text embodies the skill, judgment, and originality of the translator, and is thus distinct from mere mechanical conversion.

Mark Stinson¹³⁷² wrote via Quora that ancient authors' works like those of Plato or Aristotle, are primarily considered public domain since copyright time limitation has long expired. However, considering these historic texts were written in different languages like Greek and not in English, today's readers only have access to them through translated editions. The copyright for these translations belongs to the translator, not the original author, so to use or publish a particular translation, one must check when it was created and who holds the rights. For example, Benjamin Jowett's popular English translation of Plato's "Republic," completed before his death in 1893 and then entered the public domain in 1963. This is why many widely available versions are based on Jowett's translation of "Republic," sometimes supplemented with new introductions or analysis by contemporary writers.

Ghosekar¹³⁷³ (2025) study on this topic finds that India's Copyright Act, following the international conventions on intellectual property law, protects authors' exclusive rights and incentivize creativity, especially in cultural sectors. However, public awareness in regards to copyright remains minimal, particularly regarding India's ancient texts like Ramayana, and Mahabharata, which mostly reside in the public domain but face risks from unauthorized reinterpretations and cultural misuses. Ghosekar advocates for enhanced legal frameworks, government-led awareness campaigns, and initiatives supporting digital preservation and indigenous publishing to foster responsible access and protection of literary heritage. Survey data cited in the study show a strong youth consensus on the necessity of protecting these ancient works. Collectively, this literature situates copyright as both a protective legal tool to protect authors who translate these ancient works and simultaneously as a mechanism to preserve cultural identity.

Singh and Agarwal's analysis¹³⁷⁴ of *Bhaktivedanta Book Trust v. Bhagavatam.in* establishes that while ancient scriptures remain public domain, original adaptations i.e. translations, commentaries, and audiovisual interpretations of ancient texts qualify for copyright protection through transformative creative input by the author/translator. The Delhi High Court in 2023 confirmed that copyright subsists in the new expressions added to the ancient texts by contemporary authors and not with the underlying ancient texts itself.

FINDINGS:

A. The Various Legal Provisions and Doctrines:

The Copyright protection framework for adaptations of ancient texts operates

[%A4%E0%A4%BF-%E0%A4%AE%E0%A4%BF%E0%A4%B0%E0%A4%9C%E0%A4%95%E0%A4%B0-Abhivaykti-Mirajkar](#)

¹³⁷² Mark Stinson, Who owns the copyright on ancient authors' books?, Quora (2022), <https://www.quora.com/Who-owns-the-copyright-on-ancient-authors-books/answer/Mark-Stinson-15>

¹³⁷³ Pravin H. Ghosekar, Study of Importance of Copyright in the Context Indian Ancient Literature, Research Hub Journal, vol. 6, Special Issue 1, March 2025, at 273-78.

¹³⁷⁴ Manisha Singh & Ritika Agarwal, Protection of Copyright Existing in the Original Adaptation or Expression of Ancient Mythological Texts, LexOrbis (Dec. 12, 2023), <https://www.lexology.com/library/detail.aspx?g=681cb137-d17c-4f59-b351-5be1ae248dae>.

through specific statutory provisions and legal doctrines established in landmark cases. Section 14(a)¹³⁷⁵ of the Copyright Act, 1957, grants copyright owners' exclusive rights including reproduction, adaptation, and public communication of literary works, forming the foundation for protecting original expressions in derivative works. Section 2(a)¹³⁷⁶ defines "adaptation" broadly to include format conversions, dramatic-to-non-dramatic transformations, and literary work modifications. Section 17¹³⁷⁷ establishes that copyright vests in creators through their original creative effort which protects the adaptations made by creators. There are also several key principles that govern copyright protection for ancient text adaptations. The Doctrine of Originality, established in *R.G. Anand Case*¹³⁷⁸, requires works to originate from the author rather than being copied, emphasizing on the independent creative effort put by the author over novelty or uniqueness of the work itself. This doctrine is key in determining if the adaptation of ancient texts qualify for protection based on the adapter's original contribution rather than the underlying public domain material. The Public Domain Doctrine establishes that ancient texts like the Ramayana and Mahabharata cannot be copyrighted as they lack identifiable authors and exceed copyright duration limits. However, the Transformative Work Doctrine, reinforced in the *Bhaktivedanta case*¹³⁷⁹, protects adaptations containing original commentary, translation, or interpretation that demonstrate substantial creative input.

B. Public Domain Doctrine, Ramayana and Mahabharata:

Public domain works are those which are no longer protected by intellectual property laws. This means anyone may use them freely and no one person can claim exclusive ownership of the same work. Here, in copyright law, this refers to any persons right to use a particular work freely without requiring prior permission from the author. Works enter the public domain in the following four ways:

1. *When the copyright expires*
2. *When there is a failure to renew the copyright*
3. *Whenever there is voluntary dedication by the owner itself*
4. *When there is ineligibility for copyright (such as facts or ideas).*

Donaldson v. Becket (1774)¹³⁸⁰ established the modern Public Domain Doctrine by ruling that copyright was not perpetual but limited by statute. The House of Lords rejected perpetual common law copyright. This landmark case definitively ended the "battle of the booksellers" by confirming that copyright protection was purely statutory, not a natural common law right. The decision established that once statutory copyright terms expire, works become freely available to the public, creating the foundational principle of the public domain that balances authors' rights with public access to knowledge.

C. Derivative works:

"Derivative works" under Indian copyright law operate through specific provisions that balance original creators' rights with subsequent creators' contributions. Section 2(a)¹³⁸¹ of the Copyright Act, 1957, defines "adaptation" to include translations, dramatic conversions, and format modifications of existing works.

¹³⁷⁵ The Copyright Act, 1957, No. 14 of 1957, § 14(a) (India).

¹³⁷⁶ The Copyright Act, 1957, No. 14 of 1957, § 2(a) (India).

¹³⁷⁷ The Copyright Act, 1957, No. 14 of 1957, § 17 (India).

¹³⁷⁸ *R.G. Anand v. M/S Delux Films & Ors.*, AIR 1978 SC 1613

¹³⁷⁹ *The Bhaktivedanta Book Trust, India v. <https://bhagavatam.in/#gsc.tab=0>* & Ors., 2023 LiveLaw (Del) 889

¹³⁸⁰ *Donaldson v. Becket*, (1774) 2 Brown's Parl. Cases (2d ed.) 129, 1 Eng. Rep. 837 (H.L.).

¹³⁸¹ The Copyright Act, 1957, No. 14 of 1957, § 2(a) (India).

Section 14(a)(vi)¹³⁸² grants original copyright owners exclusive rights to create adaptations, while Section 14(a)(vii)¹³⁸³ extends protection to acts performed on these adaptations. For derivative works to qualify for independent copyright protection, they must demonstrate substantial originality beyond the underlying work. This means more than trivial modifications or mechanical reproductions from the original works. This dual-layer protection system ensures that derivative works receive copyright for their original contributions while respecting the underlying work's existing copyright. Indian courts, following precedents like *R.G. Anand v. Delux Films*¹³⁸⁴, apply the "substantial similarity test" to determine whether sufficient creative input justifies protection, emphasizing that copyright subsists only in the new expression contributed by the derivative work's author, not in the borrowed public domain elements.

D. Substantial Similarity Test:

The Substantial Similarity Test is a fundamental doctrine in copyright law used to determine whether unauthorized copying constitutes actionable infringement beyond exact reproductions, operating through a two-pronged analysis that first assesses whether the defendant had access to the plaintiff's work and whether actual copying occurred through "striking similarity" similarities so substantial they preclude coincidental creation—and second, determines if the copying rises to actionable misappropriation by examining whether similarities exist in protected elements rather than unprotectable ideas, facts, or common expressions. In India, *R.G. Anand v. Delux*

*Films*¹³⁸⁵ established that while ideas cannot be copyrighted, their expression can be protected through substantial similarity analysis, while *Eastern Book Company v. D.B. Modak*¹³⁸⁶ refined this by applying the "skill and judgment" test to determine protectable expression in derivative works. For derivative works of ancient texts, the substantial similarity test filters out similarities arising from common public domain sources such as shared mythological elements from the Ramayana or Mahabharata and focuses on original creative contributions by examining whether adaptations demonstrate sufficient originality in their expression through unique interpretations, commentary, or artistic choices to merit independent copyright protection while respecting the underlying source material's public domain status.

E. Various thresholds for how different derivative works need to be:

1. Independent Creation Plus Creativity Threshold:

In the case *Feist Publications v. Rural Telephone Service Co.*¹³⁸⁷ Feist copied telephone directory listings from Rural's phonebook without permission. The Supreme Court held that Rural's telephone directory could not be copyrighted because it was merely a list of factual information arranged alphabetically, without any creative input. The Court established that for any work to get copyright protection, it must be independently created by the author and show "at least some minimal creative spark." This essentially means that derivative works cannot just copy and rearrange the existing material but rather must add something new

¹³⁸² The Copyright Act, 1957, No. 14 of 1957, § 14(a)(vi) (India).

¹³⁸³ The Copyright Act, 1957, No. 14 of 1957, § 14(a)(vii) (India).

¹³⁸⁴ *R.G. Anand v. M/S Delux Films & Ors.*, AIR 1978 SC 1613

¹³⁸⁵ *ibid*

¹³⁸⁶ *Eastern Book Company & Ors. v. D.B. Modak & Anr.*, (2008) 1 SCC 1 (India).

¹³⁸⁷ *Feist Publications, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340 (1991).

and creative. For ancient text adaptations that have existed, the authors must contribute their own original ideas, interpretations, or creative choices beyond simply retelling the same story in the same way. Examples in both Ramayana and Mahabharata exist in regards to this particular threshold. *Amish Tripathi's Ram Chandra Series*¹³⁸⁸ demonstrates independent creation by reimagining Rama as a human prince rather than a divine figure, adding some original psychological depth and political intrigue. Tripathi's creative contribution includes original character backstories, new plot elements, and modern interpretative frameworks that satisfy the "minimal creative spark" requirement. *Shashi Tharoor's "The Great Indian Novel"*¹³⁸⁹ transforms the Mahabharata into a political allegory of modern India's independence struggle, creating entirely new meanings and contemporary relevance. His creative contribution involves mapping epic characters onto historical figures like Gandhi and Nehru, demonstrating substantial independent creative input beyond the original text.

2. The "More Than Merely Trivial" Standard

*Alfred Bell & Co. v. Catalda Fine Arts*¹³⁹⁰ involved a dispute over mezzotint engravings which is a special printing technique of famous paintings that were already in the public domain. Alfred Bell argued that Catalda's reproductive works were just copies and didn't deserve any copyright protection. However, the Second Circuit Court differed, ruling that even reproductions of

public domain works can be copyrighted if they show "something more than a 'merely trivial' variation, something recognizably the creator's own." The Court found that the skill, judgment, and creative choices involved in making those mezzotint reproductions such as decisions about the type of shading, application of colour, and artistic interpretation were enough to make them original works. What this standard means for ancient text adaptations is that, simply changing a few words or updating the language isn't enough; there must be meaningful creative contributions that reflect the adapter's own artistic vision and judgment. In regards to Ramayana, *The Television Series by Ramanand Sagar (1987-1988)*¹³⁹¹ went beyond simple retelling by adding certain original dialogue, visual interpretations, character interactions, and dramatic presentations. *The Delhi High Court*¹³⁹² specifically recognized this as a "transformative work" deserving copyright protection because Sagar's creative choices in cinematography, characterization, and storytelling were "recognizably his own." In regards to Mahabharata *Chitra Banerjee Divakaruni's "Palace of Illusions"*¹³⁹³ retells the entire Mahabharata from Draupadi's perspective, adding original emotional depth, feminist interpretation, and psychological insights into women's experiences. Her creative contribution includes imagined inner dialogues, relationships, and cultural

¹³⁸⁸ AMISH TRIPATHI, RAM: SCION OF IKSHVAKU (2015).

¹³⁸⁹ SHASHI THAROOR, THE GREAT INDIAN NOVEL (1989).

¹³⁹⁰ Alfred Bell & Co. v. Catalda Fine Arts, 191 F.2d 99 (2d Cir. 1951).

¹³⁹¹ Ramayan (Television Series), directed by Ramanand Sagar, Doordarshan, 1987-1988.

¹³⁹² The Bhaktivedanta Book Trust, India v. <https://bhagavatam.in/#gsc.tab=0> & Ors., 2023 LiveLaw (Del) 889

¹³⁹³ Chitra Banerjee Divakaruni, The Palace Of Illusions (2008).

commentary that makes the work distinctively her own artistic vision. *M.T. Vasudevan Nair's "Bhima: Lone Warrior"*¹³⁹⁴ focuses specifically on Bhima's character, adding realistic human emotions, internal conflicts, and contemporary psychological interpretation. The author's five years of research and creative presentation of Bhima as an ordinary human with flaws demonstrates meaningful creative input beyond the original epic.

3. The "Quantum of Originality" Requirement in India

The Indian Supreme Court's decision in *Eastern Book Company v. D.B. Modak*¹³⁹⁵ dealt with whether edited versions of Supreme Court judgments could be copyrighted. Eastern Book Company published law reports containing Supreme Court decisions with added headnotes, footnotes, cross-references, and improved formatting to make them more useful for lawyers. When competitors copied these enhanced versions, Eastern Book Company sued for copyright infringement. The Supreme Court held that while the original judgments were in the public domain, the company's editorial work showed sufficient "skill and judgment" to deserve copyright protection.

For ancient text adaptations, this means that translators, commentators, or interpreters must demonstrate real intellectual contribution such as any form of scholarly analysis, cultural interpretation, or creative presentation choices instead of just mechanical reproduction or simple

format changes. The work must show evidence of thoughtful creative decisions that add genuine value to the original public domain material. *Devdutt Pattanaik's "Sita: An Illustrated Retelling"*¹³⁹⁶ demonstrates "skill and judgment" through scholarly analysis, cultural interpretation, comparative mythology, and original illustrations. His intellectual contribution includes explaining cultural contexts, providing alternative interpretations, and presenting fresh perspectives on character motivations that reflect genuine scholarly effort. *Kavita Kane's "Karna's Wife: The Outcast's Queen"*¹³⁹⁷ shows intellectual effort by creating an entirely new narrative around Uruvi (Karna's wife), developing her psychology, relationships, and social challenges. Kane's creative judgment in exploring themes of caste discrimination, love, and social justice through this character demonstrates substantial intellectual contribution.

F. Analysis of the *Bhaktivedanta Judgement*¹³⁹⁸

The Delhi High Court first addressed whether ancient Indian texts such as the Ramayana and Mahabharata are entitled to copyright protection. The Court found that these epics which were composed over two millennia ago by authors whose identities cannot be definitively ascertained cannot be protected under Copyright Law because their term has long since expired and also because they lack a determinable author. Consequently, they would fall into the public domain, freely available for reproduction and dissemination by all without infringement.

¹³⁹⁴ M.T. Vasudevan Nair, *Bhima: Lone Warrior* (Radhika Menon Trans., 2013).

¹³⁹⁵ *Eastern Book Company & Ors. v. D.B. Modak & Anr.*, (2008) 1 SCC 1

¹³⁹⁶ Devdutt Pattanaik, *Sita: An Illustrated Retelling of the Ramayana* (Penguin Books India 2013).

¹³⁹⁷ Kavita Kane, *Karna's Wife: The Outcast's Queen* (Rupa Publications India 2013).

¹³⁹⁸ *The Bhaktivedanta Book Trust, India v. https://bhagavatam.in/#gsc.tab=0 & Ors.*, 2023 LiveLaw (Del) 889

Turning to adaptations of these public domain texts, the Court examined the threshold of originality required for an adaptation to qualify for copyright protection. It reaffirmed that mere mechanical reproduction or superficial modifications like modernized language or typesetting alone do not suffice but rather the adaptor's work must have incorporated independent creative choices like original commentary, narrative restructuring, character development, or dramatization that is recognizably new and not dictated by the original material. The Court cited examples including *Ramanand Sagar's Ramayana television series* and *B.R. Chopra's Mahabharata*, noting that their unique dialogue, characterization, visual design, and dramatic interpretation exemplify the level of originality required for protection as transformative works. The Court held that while the underlying spiritual texts remain public domain, the Trust's modern expressions through its translations, summaries, exegesis, organized commentaries, and audiovisual dramatizations go on to demonstrate sufficient "skill and judgment" under Section 17¹³⁹⁹ and qualify as original works under Section 14(a)¹⁴⁰⁰ of the Act.

The Court's ruling clarifies that adaptations of ancient texts become protectable when the adaptor contributes substantive new material. This includes the following;

- (a) Any form of scholarly analysis offering new interpretations or contextual framing;
- (b) A creative retelling through dramatic form with original dialogue and staging;
- (c) Audiovisual productions with unique storytelling and cinematography;

(d) Structured compilations and commentaries featuring interpretive headnotes, cross-references, and editorial structuring.

Such works demonstrate "independent creation" and a "modicum of creativity" beyond the public domain source, satisfying the originality requirement to get protection.

The Court also emphasized that protection of these adaptations preserves the Trust's economic rights and prevents the dilution of its revenue streams through unchecked piracy.

In summary, the judgment establishes three key propositions:

A. Ancient Indian epics are public domain works not subject to copyright.

B. Adaptations must exhibit original creative contributions either through commentary, dramatization, scholarly framing, or audiovisual interpretation to qualify for protection as transformative works.

C. The *Bhaktivedanta* ruling affirms that modern expressions derived from public domain texts can be copyrighted, reinforcing the balance between free public access to cultural heritage and protection of contemporary creative contributions.

CONCLUSION: The copyright framework for adaptations of ancient texts like the *Ramayana* and *Mahabharata* strike a balance between cultural accessibility and creative protection for the authors. While these epics remain in the public domain, adaptations that reflect originality, creativity, and independent interpretation receive copyright under the Copyright Act, 1957. The *Bhaktivedanta* and *R.G. Anand* rulings affirm that new expressions, commentary, or dramatizations qualify as transformative works. Thus, Indian law safeguards both the public's right to cultural heritage and authors' creative contributions. This was found by analysing the Landmark Judgements and various articles.

¹³⁹⁹ The Copyright Act, 1957, No. 14 of 1957, § 17 (India)

¹⁴⁰⁰ The Copyright Act, 1957, No. 14 of 1957, § 14(a) (India).