

# **Analyzing Cross-border Regime for Enforcing Copyright in the Age of Digital Piracy: A Comparative Study of Music Piracy in India and China**

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# Introduction

- Digital piracy has redefined IP enforcement in the music industry.
- India and China, as emerging economies and major content markets, offer contrasting enforcement landscapes
- The study analyzes enforcement structures, international frameworks, and the effectiveness of legal measures in both countries.
- **Focus**: Music piracy due to its global reach, high revenue loss, and evolving modes (e.g., streaming, leaks, torrents, Telegram).

# Research Objectives and Questions

## Objectives:

- To examine copyright enforcement frameworks in India and China
- To compare mechanisms to curb digital music piracy
- To assess cross-border enforcement challenges

## Research Questions:

- How do India and China enforce copyright against digital music piracy?
- What are the key institutional, legal, and practical differences?
- How effective is the international framework in supporting national enforcement?

# Understanding Digital Music Piracy

- **Forms**: Illegal streaming, torrents, mobile apps, Telegram groups, P2P platforms
- **Impacts**: Revenue loss, under-compensated artists, reduced innovation
- **Trends**: Shift from physical to digital; rise of private streaming leaks
- **Tech factors**: Use of VPNs, mirror sites, cloud storage.

# International Copyright Framework

- TRIPS Agreement
- WIPO Internet Treaties (WCT and WPPT)
- Cross-border enforcement issues (Territoriality of copyright; lack of unified takedown procedures; inadequate international coordination)

# India's Copyright Enforcement Framework

- **Key Laws**: Copyright Act, 1957 (as amended), Information Technology Act, 2000 (as amended)
- **Judicial Enforcement**: Civil and Criminal remedies; High Court's dynamic injunctions
- **Key Cases**: *Super Cassettes v. MySpace* (ISP Liability); *UTV Software Pvt. Ltd. V. 1337x.to* (dynamic injunction)
- **Challenges**: Slow litigation; ISP non-compliance; Weak criminal enforcement.

# China's Copyright Enforcement Framework

- **Key Laws**: Copyright Act (amended in 2021); E-Commerce law; Civil Code
- **Enforcement Agencies**: NCAC, SAMR, Public Security, IP Courts
- **Dual Enforcement**: Administrative (faster) and judicial (legal clarity)
- **Key Cases**: *Tencent Music copyright suits*; *NetEase licensing disputes*
- **Challenges**: Over-reliance on administrative path; Selective enforcement; Trade tensions influencing compliance

# Key Similarities – India and China

- Both are TRIPS-compliant and WIPO treaty signatories
- Struggle with online enforcement due to tech limitations
- Involve private sector (platforms, CMOs) in enforcement
- Piracy persists due to affordability gaps and weak deterrence.



# Key Differences

Factor	India	China
Enforcement	Judicial-driven	Administrative and judicial mix
ISP Cooperation	Often contested	More proactive
Enforcement Speed	Slow	Quicker administrative action
Role of CMOs	Limited influence	More integrated
Political Will	Moderately active	State-guided IP reforms

# Role of Technology and Private Actors

- **India:** Dynamic injunctions, takedown notices *via* courts, but poor enforcement
- **China:** Tencent, NetEase invest in AI-based piracy detection
- **Global Examples:** YouTube Content ID, Spotify watermarking, Apple Music anti-leak policies
- **Problems:** Inconsistent enforcement by platforms, Small creators lack access to tech tools, Cross-platform leaks remain untraceable

# Cross-border Enforcement Challenges

- **Jurisdiction**: Who acts when content is hosted abroad?
- **Anonymity**: Pirates use VPNs and aliases
- **Lack of global consensus**: on enforcement standards
- **Case Studies**: Indian dynamic injunctions extended to foreign domains; China's takedown orders not enforceable in India
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# Policy Recommendations

- Bilateral Cooperation Agreements
- Platform Accountability Standards
- Collective Licensing Expansion
- Cross-border Evidence Protocols
- Harmonized Safe Harbor Provisions

# The Way Forward

- ASEAN-style regional IP enforcement frameworks may be explored
- Joint enforcement actions by streaming platforms and music labels
- Promotion of fair pricing models to reduce demand for pirated music
- Strengthening international digital IP diplomacy through WIPO-led initiatives.