

Protection of Performers' Rights under Intellectual Property Law:

A Way Forward

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Today, effectiveness of copyright protection of a work under intellectual property law is determined, among other things, by the relationship between creative author of a work and entrepreneur, who has initiated, arranged and organized the particular work even by way of commissioning and employing creative authors and other artists. While these creative authors' rights are protected under copyright law, it is again questionable how the rights of performers who have not produced a "creative" work, in the eye of law, can be protected. In this scenario, the protection of rights of performers including singers is arguable under Sri Lankan law. Even though their rights are protected, not under copyright law, but under an aspect of copyright law called neighboring rights, it is again arguable whether the protection given under this section of law is adequate.

Basically neighboring right law applies to performers, sound recorders and broadcasting organizations. In comparison with the rights of sound recorders and broadcasting organization, performers have very limited scope of protection under neighboring rights concept. In fact, they are entitled only to exclude others from fixation, reproduction and broadcasting of their "unfixed" or live performance. This paper, through a comparative analysis of performer's rights of three other major jurisdictions namely *USA*, *UK* and *India*, finds that rights of performers in Sri Lanka should be broadened and "upgraded" to the status of rights of copyright owner.

This paper further finds several possibilities of protecting rights of performers under copyright law and defines some concepts recognized by the Intellectual Property Act such as joint authorship, moral rights and related rights as broadly as possible.

Key words: *copyrights, neighboring rights, performer, singer*