

Recognising economic and moral rights of performers (singers) in Sri Lanka: Lesson from the European Union and India

D. M. R. A. Dissanayake

Department of Public and International Law, Faculty of Law, University of Colombo, Sri Lanka

As aptly stated by Charlie McCreevy “performing artists are no longer the ‘poor cousins’ of the music business.” A singer or performing artist is a cultural icon who combines artistry, skills and emotional expression. The music industry has always been an integral part of the cultural life in any country and at the heart of this form of art is the singer. As it is evident from recent cases, even though the songs become immensely popular the singer who sings the song is not adequately recognised nor is he or she rewarded adequately for the song. Most strikingly, singers in Sri Lanka have a longstanding grievance that the royalty do not see them throughout their lives and most of singers end up getting nothing. Against this backdrop, the purpose of this research is to examine the current status of performers rights in Sri Lanka and explore the possibility of strengthening the legal regime pertaining to the rights of the performers. The intellectual property (IP) Act, No. 36 of 2003 recognises singers as performers but falls short of guaranteeing moral rights. This research finds that moral rights of the singers in Sri Lanka have not been protected, except for a few economic rights. Moral rights, such as the right to attribution or credit as the performer of the song and the right to object any derogatory uses of the song or claim damages in respect of any distortion or mutilation or other modifications of the song prejudicial to his or her reputation, are vital tools in the hands of performers. In recent years, many performing artists have raised concerns over barring or preventing them from singing their songs and in certain instances lawsuits have been filed against them. Therefore, it is necessary to address this tension drawing inspirations from the European and Indian experiences. In this regard, Sri Lanka should consider acceding to the WIPO Performances and Phonograms Treaty (WPPT) of 1996. In terms of legal and policy implications, this research enlightens policymakers on the compelling need for modernising IP system to afford enhanced protection for singers in Sri Lanka. The research dwells within the black letter legal research coupled with comparative legal analysis.

Keywords: *Performer/Singer, Moral rights, Neighbouring/Related rights, Creative industry*