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The Conflict and Convergence between Right to Repair and Intellectual Property Rights: A Legal and Policy Perspective

Vivek Kumar
Research Scholar
Email:vivekkumar00841@gmail.com

Dr. Ashok Kumar Sharma
Assistant Professor
Faculty of Law
Meerut College
Meerut

Abstract

This study explores the tension between the Right to Repair (R2R) and global intellectual property law, examining how legal systems balance innovation protection with equitable access to technology. At the core of this inquiry lies a pressing constitutional and jurisprudential dilemma: To what extent can contemporary legal systems harmonize the proprietary logic underpinning intellectual property regimes with the evolving normative claims of environmental stewardship, consumer empowerment, and the right to technological self-governance? To begin, the study delineates the historical and legal trajectory of the Right to Repair, situating it within the broader discursive framework of environmental jurisprudence, participatory consumer rights, and the transition toward a regenerative circular economy. First, the paper traces the socio-legal evolution of the Right to Repair (R2R) in India, shaped by transnational policy currents and invigorated by domestic civil society mobilisation, ultimately culminating in the 2022 Framework on Right to Repair promulgated by the Department of Consumer Affairs. It posits that the state's initial foray into recognising the Right to Repa `ir represents a foundational step toward recalibrating India's digital governance model to prioritise environmental stewardship, consumer agency, and systemic inclusivity. ***Second****, the study argues that India's intellectual property regime—through patent laws, trade secret protections, and digital access controls—restricts repair access and stifles grassroots innovation, thereby violating* ***Article 21*** *of the Constitution and undermining India's obligations under the* ***Paris Agreement*** *and* ***Sustainable Development Goal 12****.* ***Third****, the paper analyses India's* ***Digital Competition Bill (2023)*** *alongside reforms in* ***Canada*** *and* ***Australia****, highlighting a growing consensus on curbing repair monopolies and promoting* ***user autonomy*** *in digital markets. Fourth, the paper examines how global IP regimes enable corporate control*

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Vivek Kumar
Dr. Ashok Kumar Sharma

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over repair infrastructure in the Global South, reinforcing economic subordination. It invokes General Comment No. 25 (ICCPR) and the UN Guiding Principles on Business and Human Rights to frame repair access as essential to inclusive digital development. Ultimately, the paper argues that repair access must evolve into a democratised legal entitlement, rooted in constitutional ethics and aligned with India's global commitments to equity and sustainable development.

I. From Proprietary Locks to Repair Rights: Legal Pathways Toward Inclusive and Sustainable Digital Governance in India

India's engagement with the Right to Repair discourse reflects a critical socio-legal reorientation, catalysed by the confluence of environmental degradation, diminished consumer agency, and the mounting demand for equitable and transparent digital infrastructures.[1] India's position as a leading producer of electronic waste underscores the socio-economic costs of planned obsolescence, where artificially shortened product lifecycles impose disproportionate burdens on consumers through rising repair expenses and systematically restricted access to diagnostic tools and spare parts.[2]In mid-2022, the Ministry of Consumer Affairs undertook a critical multi-stakeholder initiative by bringing together actors from industry, academia, civil society, and consumer advocacy to develop a comprehensive Right to Repair framework[3]. This policy initiative coheres with India's overarching environmental commitments articulated under the Life (Lifestyle for Environment) mission and its strategic embrace of circular economic principles, reflecting a transformative shift toward ecologically responsive and inclusively structured digital governance.

As part of its commitment to participatory digital governance, the Indian government unveiled the Right to Repair India portal in early 2023, urging OEMs and service entities to proactively disclose technical documentation, pricing structures for spare parts, diagnostic utilities, and contact points for both certified and third-party repair operators.[4]

Despite its non-binding nature, the Right to Repair India portal witnessed significant industry engagement, with over thirty manufacturers across four critical sectors—mobile devices, consumer durables, automobiles, and agricultural machinery—enrolling within months.[5] The initiative has introduced a notable degree of regulatory transparency in a domain historically characterised by opaque practices and restrictive proprietary licensing regimes.[6] The legal evolution of India's Right to Repair framework is inextricably linked to the contours of intellectual property jurisprudence and its interface with competition law. In the seminal case of *Shamsher Kataria v. Honda Siel Cars India Ltd*[7], the Competition Commission of India unequivocally held that patent entitlements cannot be applied to justify restrictive trade practices in the spare parts market. This decision represents a critical jurisprudential turning point, signalling the judiciary's readiness to subject proprietary

claims to rigorous scrutiny in contexts where they obstruct consumer rights and competitive equilibrium.

Judicial and regulatory precedents have increasingly recognised that original equipment manufacturers (OEMs), by deploying digital locks, imposing rigid warranty conditions, and restricting access to diagnostic tools, may contravene antitrust norms—particularly where such practices significantly curtail consumer autonomy and obstruct third-party repair ecosystems.[8]

This evolving socio-legal landscape draws strength from India's constitutional ethos, specifically under Article 21, which ensures the right to life and livelihood. The constitutional-policy convergence lies in Article 21 of the Indian Constitution[9], although judicially construed to encompass not only the right to livelihood but also the enabling conditions for technological access and economic agency—thereby endowing the Right to Repair with doctrinal legitimacy as a facet of inclusive digital citizenship.[10]

India's policy approach toward digital sustainability is increasingly characterised by a convergence of environmental and data governance norms. The E-Waste (Management) Rules, 2016[11] embed Extended Producer Responsibility (EPR) as a core regulatory mandate, compelling manufacturers to account for the post-consumption lifecycle of their products. Complementarily, the Digital Personal Data Protection Bill[12] and other imminent regulatory instruments advocate for open, transparent, and interoperable digital infrastructures—challenging the opacity of proprietary control and aligning with principles of consumer empowerment. Urban electronic hubs such as Lamington Road (Mumbai) and Nehru Place (Delhi) exemplify thriving informal repair economies, where technicians refurbish discarded devices using salvaged parts—contributing to digital access, e-waste reduction, and grassroots technological resilience. Despite their vitality, these informal repair hubs underscore the precarious status of India's informal economy—where technicians operate without legal safeguards, formal recognition, or integration into authorised service frameworks.

Policymakers and advocates have drawn from international precedents such as Canada's Right to Repair legislation, the European Union's repairability indices under the Ecodesign Directive, and Australia's Productivity Commission report[Keywords]Recommendations on competition and consumer access. [13]These global reference points have shaped both the conceptual and institutional contours of India's Right to Repair framework. Legal scholars have urged reforms to embed repair-specific exemptions within patent and copyright law, particularly critiquing sections under the Copyright Act, 1957, that shield manufacturers from accountability and reinforce technological asymmetry. Bill (2023) may serve as a legislative fulcrum for embedding these values into the formal legal order.[14]

II. Intellectual Property Law, Repair Access, and Innovation Justice in India

India's foray into the Right to Repair (RtR) paradigm reflects a paradigmatic shift in the country's socio-legal consciousness—prompted by the intersecting exigencies of ecological crisis, monopolistic technological ecosystems, and the systematic erosion of consumer agency. India's position as one of the world's largest contributors to electronic waste underscores the urgent socio-environmental costs of planned obsolescence, which is perpetuated through artificially curtailed product longevity, rigid warranty conditions, and restricted access to repair information. This scenario sets the stage for a critical normative confrontation between the monopolistic contours of intellectual property law and the inclusive aspirations of the Right to Repair movement, which seeks to democratise technological access and promote a more sustainable digital economy.[15] The Indian IP regime, grounded in legislative instruments such as the Patents Act, 1970[16] and the Copyright Act, 1957[17], alongside nascent trade secret jurisprudence, is designed to incentivise innovation through strong economic monopolies. Nonetheless, this emphasis on proprietary control increasingly undermines user autonomy in spheres such as hardware maintenance and cross-platform software functionality—thereby generating systemic tensions between legal entitlement and consumer rights. Although Section 48 of the *Patents Act, 1970*[18], vests patentees are vested unauthorised third parties from making, using, selling, or importing the patented invention without their consent. In practice, OEMs have deployed this legal shield to justify restrictive repair practices—ranging from the suppression of technical manuals to the denial of interoperable software access—thus institutionalising a techno-legal asymmetry that marginalises independent repair actors and reinforces proprietary gatekeeping. The issue is further compounded by the Copyright Act, 1957, especially following the introduction of stringent anti-circumvention provisions through the 2012 amendments. Section 65A of the Act [19]prohibits the circumvention of technological protection measures (TPMs), thereby criminalizing any attempt to bypass digital locks—even when done for authentic use such as repair or interoperability—unless specific exceptions are expressly provided by law. Under Section 65A has been leveraged by Original Equipment Manufacturers (OEMs) as a legal shield, effectively absolving them of liability when restricting consumer access to essential repair tools such as firmware and diagnostic software. In contrast to jurisdictions, where fair use principles and periodic exemptions issued by the Librarian of Congress provide limited reprieve from restrictive digital repair practices, India's legislative framework remains heavily weighted in favour of rights holders, thereby sustaining a regulatory environment that curtails consumer repair freedoms.[20]

This juridical asymmetry was emphatically underscored by the Delhi High Court in *Warner Bros. Entertainment Inc. v. Santosh V.G*[21]., which upheld the prerogative of copyright holders to enforce technological protection measures (TPMs), even when such restrictions curtail end-user freedoms. While the case focused on digital content, its legal precedent extends to the interplay of hardware and software in contemporary smart devices, thereby sanctioning the use of TPMs that limit third-party repair capabilities, notwithstanding the resultant curtailment of consumer freedoms. Nevertheless, a counter current is discernibly emerging within Indian jurisprudence. In *Samsung Electronics Co. Ltd. v. Kapil Wadhwa*, the Delhi High Court affirmed the applicability of the exhaustion doctrine, ruling that once a product is lawfully sold in India, its subsequent resale and limited servicing by unauthorized dealers is permissible.[22] In alignment with this, the Supreme Court in *Indian Performing Rights Society Ltd. v. Sanjay Dalia* [23]articulated that the intellectual property rights must not unduly impede consumer accessibility, reinforcing the foundational principle that ownership rights are subject to limitations in favor of public welfare. In *Mohd. Ahmed (Minor) v. Union of India*,[24] the Delhi High Court broadened the contours of Article 21, affirming that the right to life entails the right to affordable and timely medical treatment. This precedent underscores the judiciary's willingness to read economic and social rights into the constitutional fabric. This paves the way for a broader reading of Article 21 to encompass access to technological instruments that are increasingly central to socio-economic participation and digital inclusion in modern India. Further normative support for the Right to Repair framework is drawn from India's evolving environmental jurisprudence. In the judgment *Vellore Citizens' Welfare Forum v. Union of India*, the Supreme Court enshrined in "precautionary" and "intergenerational equity" into Indian environmental law, mandating the State to adopt sustainable practices. This judicial articulation of ecological stewardship imposes a constitutional obligation—enshrined in Article 48A of the Directive Principles of State Policy—on the State to safeguard and improve the environment. Manufacturer-imposed restrictions on repairability and planned obsolescence contribute significantly to e-waste, undermining India's constitutional duty under Article 48A[25] to protect the environment. Such practices conflict with the Supreme Court's reasoning in *Vellore Citizens' Welfare Forum v. Union of India*,[26] which recognised environmental sustainability as a constitutional imperative. India's statutory and policy framework has gradually begun addressing these systemic tensions. The E-Waste (Management) Rules, 2016[27] formally codified the principle of Extended Producer Responsibility (EPR), mandating manufacturers to assume

accountability for the post-consumption lifecycle and environmentally sound disposal of their products. The proposed *Digital Competition Bill, 2023* marks a critical legislative intervention aimed at curbing anti-competitive conduct by systemically significant digital enterprises. By addressing exclusionary practices such as self-preferencing, data hoarding, and limitations on interoperability, the Bill holds the potential to disrupt entrenched monopolistic architectures in digital markets. Importantly, its implementation could institutionalise repair rights by limiting OEM practices that prevent third-party servicing, thereby strengthening consumer autonomy and market competitiveness.[28] In *Shramik Sewa Kendra v. Union of India*[29], the Bombay High Court gave that informal workers deserve recognition and dignity under Article 21, reinforcing the case for formally integrating Right to Repair into India's digital governance regime. India's obligations under international law further reinforce the normative legitimacy of the Right to Repair (RtR). The *Paris Agreement*, ratified by India in 2016, commits the country to lowering greenhouse gas emissions and embracing resource-efficient practices—a mandate that aligns squarely with circular economy models premised on repairability and product longevity. By advocating responsible consumption, SDG 12 mandates the integration of repair and reuse into legal and policy systems. In parallel, General Comment No. 25 to the ICCPR recognises digital access as integral to fundamental freedoms. These instruments jointly establish a normative and ethical rationale for advancing Right to repair, aligning it with global goals of sustainability and digital justice.[30]

III. Legislative Convergence: Digital Competition Law, Canada, Australia, and Repair Rights

The Digital Competition Bill (DCB), 2023[31], signals a transformative recalibration of India's digital governance landscape, designed to confront systemic inequities engendered by the concentration of market of "Systemically Significant Digital Enterprises" (SSDEs). Anchored in cross-jurisdictional best practices and grounded in the 2023 report of the Committee on Digital Competition Law,[32] the Bill introduces a forward-looking, ex-ante regulatory paradigm—especially pertinent in sectors such as electronics and software, where the denial of Right to Repair continues to impede consumer autonomy and market contestability. At the core of the Digital Competition Bill is the classification of Systemically Significant Digital Enterprises (SSDEs), determined through metrics such as annual revenue, active user base, and the presence of network externalities.

In the Right to Repair context, such regulatory provisions directly confront the entrenched practices of Original Equipment Manufacturers (OEMs) and dominant technology firms, who frequently inhibit third-party repair ecosystems through

mechanisms such as restrictive warranties, digital locks, the withholding of diagnostic tools, and the monopolisation of authorised service networks. Under Clause 5 of the DCB, SSDEs are barred from undertaking anti-competitive conduct that unfairly extends their market power from one domain (e.g., operating systems) to another (e.g. repair ecosystems), thereby curtailing consumer choice and distorting market entry conditions for third-party service providers. The normative thrust of this provision aligns with the precedent set in *Director General (Investigation and Registration) v. Hindustan Lever Ltd.*,[33] where the CCI affirmed that the strategic leveraging of market dominance across vertical supply chains can attract liability under Section 4 of the Competition Act, 2002[34]. In contrast to India's prevailing ex-post competition law framework, which addresses anti-competitive conduct only after it materialises, the Digital Competition Bill (DCB)[35] introduces a preventive regulatory architecture that permits anticipatory intervention. This anticipatory approach finds resonance in the regulatory trajectories of Australia and Canada, where have been instituted to balance proprietary entitlements with the right to repair. Australia's regulatory approach to the Right to Repair gained significant momentum following the **Productivity Commission's 2021 report**, which advocated legislative reform to ensure consumer access to repair infrastructure.

This provision seeks to dismantle monopolistic barriers erected by n 2022, a pivotal revision to the Australian Consumer Law (ACL) introduced an amendment to Section 102, which obligates manufacturers to make spare parts and repair information available for a reasonable period after the product's sale. The Australian approach reflects an integrated policy vision, aligning sustainability, competitive market dynamics, and digital inclusivity, presenting a potentially instructive framework for India's Digital Competition Bill, 2023.

Simultaneously, the Australian Competition and Consumer Commission (ACCC) [36]has taken a proactive enforcement approach to tackle digital market practices that reinforce repair monopolies.

While ostensibly defended as tools for intellectual property protection, these mechanisms were found to impede fair competition and curtail consumer options by obstructing third-party repair services and entrenching proprietary dominance.[37] By endorsing the Digital Platforms Services Regulation, the ACCC has promoted a rights-based and economically equitable strategy for repair access seeking to limit exploitative contract terms and enhance interoperability. The conceptual foundations of this initiative closely align with India's Digital Competition Bill (2023), indicating a shared jurisprudential trajectory among democracies striving to rectify the imbalance between proprietary dominance and public welfare in the digital economy.

The conceptual underpinnings of this initiative closely align with India's *Digital Competition Bill (2023)*, signalling a shared jurisprudential trajectory among democracies committed to repairing the imbalance between proprietary power and public interest in the digital economy.

The Copyright Modernization Act of 2012[38] in Canada formalised the legal accommodation of repair rights within the intellectual property regime, particularly through the introduction of Section 41.21, which authorises the restricted bypassing of Technological Protection Measures (TPMs) for the purposes of diagnosing, maintaining, or restoring a device.

At the heart of this structural entrenchment lies the strategic use of intellectual property law, wherein OEMs exploit the exclusive rights provisions of the Patents Act, 1970[39], and anti-circumvention clauses under Section 65A of the Copyright Act, 1957[40]. These legal instruments are deployed to maintain exclusive control over firmware access, diagnostic software, and proprietary maintenance tools, effectively barring independent repairers and end-users from engaging in lawful post-sale modification or restoration. While the ruling in *Shamsher Kataria v. Honda Siel Cars India Ltd*[41]. (Case No. 3/2011, CCI) was instrumental in curbing anti-competitive spare parts practices in the automotive sector, it left unresolved the broader doctrinal conflict between intellectual property entitlements and competition principles. The Digital Competition Bill (2023)[42] seeks to close this regulatory lacuna by clearly asserting that consumer autonomy and fair competition must not be subordinated to proprietary control.

Conclusion

The Right to Repair has emerged as a potent global discourse challenging the monopolistic entrenchment of technological control by Original Equipment Manufacturers (OEMs) and platform giants. This movement foregrounds the imperative of dismantling exclusionary repair monopolies in pursuit of environmental justice, consumer rights, and participatory digital governance. In the Global South, particularly in countries such as India, Brazil, Kenya, and Nigeria, the monopolisation of post-sale markets is not merely a matter of consumer inconvenience—it is a systemic barrier to economic inclusion, technological self-determination, and environmental sustainability. The entrenchment of repair monopolies, facilitated by the broad enforcement of global intellectual property (IP) regimes, has created a significant regulatory asymmetry, whereby the valorisation of innovation occurs at the expense of equitable access, and proprietary dominance takes priority over the public good.

Such a framework marginalizes user autonomy, restricts the dissemination of knowledge, and erodes the democratic values of fairness, access, and civic engagement in technology-driven ocieties. In the Indian legal framework, the intersection of intellectual property law and the Right to Repair (RtR) is characterised by doctrinal rigidity and regulatory stagnation.

References

1. United Nations Environment Programme, *Global E-Waste Monitor 2020* (UNEP 2020) 45.
2. Central Pollution Control Board, *E-Waste Management Report 2021-22* (New Delhi: CPCB, 2022), Pg. **17**.
3. Press Information Bureau, "Government Initiates Right to Repair Movement," PIB Release, 13 July 2022.
4. Department of Consumer Affairs, "Right to Repair India Portal," https://righttorepairindia.gov.in (last accessed 3 Aug. 2025).
5. Ibid.
6. Nidhi Singh, "Right to Repair in India: Promise and Pitfalls," (2023) 65(3) *Journal of the Indian Law Institute* 256.
7. Shamsher Kataria v. Honda Siel Cars India Ltd., Case No. 03/2011, Competition Commission of India (2014).
8. Ibid.
9. Constitution of India, Art. 21.
10. Avirup Bose, "Competition Law and the Right to Repair," (2022) 64(4) *Journal of the Indian Law Institute* 412, available at: https://ili.ac.in/pdf/avirup_bose.pdf (last accessed on 4 August 2025).
11. E-Waste (Management) Rules, 2016, Ministry of Environment, Forest and Climate Change, India.
12. Digital Personal Data Protection Bill, 2023 (India), Bill No. 23 of 2023.
13. Canada, "Strengthening the Right to Repair for Canadians," Government of Canada (2023), available at: https://www.ic.gc.ca/eic/site/062.nsf/eng/00169.html (last accessed on 4 August 2025).
14. Shruti Ranjan, "Informal Repair Economies and the Digital Divide," (2023) 15(2) *Indian Journal of Law and Technology* 89, available at: https://ijlt.in/volume-15-issue-2/ (last accessed on 4 August 2025).
15. Central Pollution Control Board, *Annual Report on E-Waste Management* (2022), available at https://cpcb.nic.in/ (last accessed Aug. 4, 2025).
16. The Patents Act, 1970 (No. 39 of 1970).

17. The Copyright Act, 1957 (No. 14 of 1957)
18. *The Patents Act, 1970* (No. 39 of 1970), s. 48
19. *The Copyright Act, 1957*, s. 65A, inserted by Copyright (Amendment) Act, 2012, Acts of Parliament, 2012 (India).
20. *Digital Millennium Copyright Act, 1998*, 17 U.S.C. §1201; see also Library of Congress, "Triennial Rulemaking," https://www.copyright.gov/1201/ (last accessed August 1, 2025).
21. *Warner Bros. Entertainment Inc. v. Santosh V.G.*, (2009) 40 PTC 390 (Del).
22. *Samsung Electronics Co. Ltd. v. Kapil Wadhwa*, (2012) 5 R.A.J. 185 (Del).
23. *Indian Performing Rights Society Ltd. v. Sanjay Dalia*, (2015) 10 SCC 161.
24. *Mohd. Ahmed (Minor) v. Union of India*, 2014 SCC OnLine Del 1501.
25. *Vellore Citizens' Welfare Forum v. Union of India*, AIR 1996 SC 2715.
26. *E-Waste (Management) Rules*, 2016, notified under the *Environment (Protection) Act*, 1986, GSR 338(E), dated 23 March 2016.
27. *Draft Digital Competition Bill*, 2023, Committee on Digital Competition Law, Ministry of Corporate Affairs, Government of India, available at: https://corporate.gov.in/resources/Report-Committee-DCL.pdf (last accessed on 4 August 2025).
28. *Shramik Sewa Kendra v. Union of India*, 2016 SCC OnLine Bom 1214.
29. UN Human Rights Committee, General Comment No. 25, "Article 25: Participation in Public Affairs and the Right to Vote," UN Doc. CCPR/C/21/Rev.1/Add.7 (1996), para. 5.
30. Digital Competition Bill, 2023 (India), § 5.
31. Committee on Digital Competition Law, Report on Digital Competition Law (2023).
32. Director General (Investigation and Registration) v. Hindustan Lever Ltd., Case No. 37/2008, Competition Commission of India.
33. Competition Act, 2002 (India), § 4.
34. Digital Competition Bill, 2023 (India), § 5.
35. Australia's Consumer Law, Section 102, 2022 amendment.
36. Productivity Commission, "Right to Repair," Australian Government Report, 2021.
37. Copyright Modernization Act, 2012, Canada, § 41.21.
38. Patents Act, 1970 (India), § 48.
39. Copyright Act, 1957 (India), § 65A.
40. Ibid
41. Committee on Digital Competition Law, Report on Digital Competition Law (2023).