It is high time serious thought was given to the legal problems of copyright in the field of folk performing arts and creation of folk artefacts by indigenous craft persons. The practitioners in these fields mostly come from illiterate as well as socially backward groups or occupational communities. They will lose their right to various traditional creations before they even become aware of the new realities.

The present situation has arisen due to a mushrooming of new electronic media like cassettes, CDs, film, videos, albums, multimedia programmes, digital photography, television, radio, and many other replicable scientific gadgets. All these are linked to the global market. Unscrupulous businessmen who are able to cheaply or illegally acquire and replicate original creations, are doing so and are thus depriving creative people of their just due. Millions of cassettes on folk music are being produced, and thousands of audio recording shops operate from practically every big city and town in the country. Such cassettes are produced and sold at low cost on very bad quality tapes with bad recording. Such reproductions do not represent the best quality of the performers, and also display folk culture in its crudest form. New commercial organizations have been set up in the guise of promoting handicraft and indigenous designs, and traditional artefacts. Most of the time such creations have their own social, religion and philosophic context and significance.

In the name of entertainment, folk music of regional cultures has become a source of piracy without any regard for legal, ethical or moral responsibility. The powerful film industry is exploiting the field either by lifting the melody (independent of text) or tune. Sometimes, the lyrics are also copied.

Who owns folk music? The answer is that it belongs to different cultural regions, cultural groups, and small ethnic identities; to the people who know it well, where it comes from and who has composed it. It is true that no individual can have legal right to such cultural expressions but the given group or region has its own right. If India, as a nation, can claim neem, haldi and basmati as its right, why can’t the smaller regional cultures demand the same right.

Recently, a song from Rajasthan was adopted in a film and became popular the world over. This song ‘Nimbuda’ was composed and set to tune by Gazi Khan Manganiar of Haduwa village, and is now sung by many Langa and Manganiar singers. It became popular in hundreds of schools in Rajasthan. This movement of folk songs is a natural and normal course. But it is a very different situation when a film, supported by the music industry, picks up a melody and some text, puts in additional lines, adds orchestration and start claiming the credit of composition as well as legal rights over the song. Here the lyricist and music director do not even have the courtesy to acknowledge the source. In the case of ‘Nimbuda’ it is not only the source but the whole material that has been lifted. The so-called pop music, popular music of today, holds no bar to ‘pirate picking’!

All great classical musicians respectfully refer to their guru or ustad at a performance. There is a sense of ethics and humility involved in acknowledging reality. But, the situation is quite the opposite in the field of folk music where the adaptation of a folksong renders it a new creative composition with the appropriation of all the benefits that come with it.

Copyright of folk and indigenous art forms
Need for accountability

KOMAL KOTHARI

Shri Komal Kothari interacting with Rajasthani folk musicians.
Traditionally, Indian folk music was always treated as ‘anonymous’ as far as composition was concerned. But on close scrutiny, we do find that there has been a regular tradition of individuals creating new songs. For the old songs, we have no reference, but in our times we can carefully identify creative individuals. The important point is that the songs should be accepted as the expression of a given cultural region. Until a song does not get the stamp of society it cannot be designated a folksong.

Once, such a folksong is lifted by a big commercial venture, a new situation arises. It is then owned by a fake composer and a wealthy director of the industry, and they acquire copyright and legal ownership. Rendering of the same melody publicly will be, or can be, treated as infringement by law. The poor folk singer would be abused by experts in the field as rendering film songs. This has happened to hundreds of folk songs in the long history of recorded music. The whole question of compensating the creativity of ordinary people may be a very small question but stealing the melody and assigning it as one’s own composition is a travesty of truth.

This situation is receiving attention at the international legal level. The issue is being raised by developing countries as their micro-level cultures are being exploited by the developed world through its superior technology of informatics. There is a huge risk to the cultural heritage of small countries to be wiped out on the one hand and lose the opportunity to strengthen their own artistic endeavours due to paucity of funds and poverty on the other. It is now recognized that the cultural material of any community, tribe, group, ethnic, region or nation should be respected and legally protected. They should have the ‘right’ to be recognized, acknowledged and compensated or share the profits earned through royalty. The financial gain should go to the different institutional organizations who are devoted to the subject concerned. This type of cognisance is now known as ‘class action’.

An option is that any commercial venture undertaken, based on a specific tradition like the Ramayan or Mahabharata, should deposit specific royalty from the profits to cultural organizations who receive the last priority from government funding.

A populist commercial view is that, by patronizing traditional forms of arts and crafts, they are obliging the society through the mass media. The society demands that a proper commercial share should come to it in concrete form. The present proliferation of TV (satellite or DTH), cable lines, FM and AM radio stations, flourishing industry of audio-video recording, web and internet, need to be answerable to traditional cultures of the people.