



## **“Independent Artist Concern in the Indian Music Industry”**

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*While some claim that indie musicians in India have it easy, there’s no denying that a large number of issues remain unresolved and ignored. Whether it’s irregular payment schedules, insufficient venues, irresponsible creative-sharing or a lack of artist solidarity, independent musicians face tough times trying to make the most out of an industry that focuses on trends rather than conveying a holistic view on contemporary Indian music.*

One of the perks of being an entertainment lawyer is getting to work with artists. Now artists like to identify themselves in different ways – some like to call themselves entertainers while others prefer the term activist. Some like to call their work experimental, while others dedicate themselves to performing classical pieces in an effort to conserve traditional art forms. There are also artists, who don’t like to be pigeonholed and labelled but all artists create and this is where I step in. I work with artists helping them protect their work, advising them on how to responsibly incorporate other’s creations while figuring out how to share their own.

Working with independent musicians in India allows me to examine issues that arise in the nascent stages of an artist’s career like sorting out authorship issues, protecting band names and negotiating recording contracts with indie labels and music platforms. Legal consulting for artists can offer a particularly insightful glimpse into the independent and session musician’s life here in India, and while there’s a fair share of good that comes with the job, the indie artist’s concerns in the Indian music industry remain largely unresolved or ignored.

This essay incorporates inputs from indie musicians in different Indian cities that were collected from a survey as well as from several formal/informal conversations over the past year. Combined with my work with Artistik License, it hopes to provide readers with a better (but not necessarily exhaustive) understanding of the issues facing independent musicians in India today.

### **Late payment schedules:**

One of the foremost problems I’ve witnessed first hand with indie and sessions musicians working in India has to do with terribly co-ordinated and delayed payment schedules. It’s not uncommon to hear musicians receiving payments for gigs and festivals at a date that’s nearly six months after a performance. What’s worse, the payment may not even reach them in full with organizers claiming to have to either recoup certain costs or being unable to pay in full because of their own financial constraints.



Nearly 42% of those who responded to our survey receive payments for their work only months later while another 42% almost never receive payments. This leaves only about 16% of our survey's respondent's claiming that they do in fact receive their payments on time and in full. A staggering 83% of all musicians who responded to this survey reveal that they have had to and continue to miss payments for some of their performances due to disorganized venues and event organizers.

This is not to say that all organizers and venues are terrible at paying their musicians, but there are still a large number of instances of non-payment to musicians. This coupled with the fact that there is no mutually agreed upon industry standard for indie musicians or legally enforceable minimum wage, leads to many musicians choosing to forego payments instead of having to chase them or pursue legal action against venue owners and event organizers. Something that indie musicians can do in an effort to avoid this situation is to incorporate a certain degree of formality into their interactions by putting their terms in writing and subsequently asking a lawyer to send absconding organizers a legal notice to the effect that they ought to pay up, and pay up now.

#### **Not getting things in writing:**

If you thought oral agreements and napkin deals were a thing of the past, sessions and indie musicians would argue otherwise. Most musicians deal with venues, organizers and each other very informally, through oral agreements – this is because indie musicians would like to believe that they all trust each other, and make a conscious effort to stay away from written commitments or legal jargon of any sort. Unfortunately, their system is not without flaws with a number of organizers promising a certain amount of pay and facilities, and often not keeping their promises. With respect to payment schedules, getting things in writing would help musicians a great deal since the act of putting down terms in a semi formal agreement would serve to clarify and make credible the entire process of being hired to perform. A written agreement of any sort is also tons easier to use or enforce in a court of law, rather than its oral counterparts.

#### **Independence instead of isolation and the problem of multiple music scenes:**

Although artist associations and co-operatives exist in India, they almost never seem appealing to indie musicians owing to the fact that they are inaccessible either for financial or geographical reasons. Save for a few of the larger metropolitans, artist collectives of any kind are hard to come by in India, and the few that do exist seem geared towards a specific kind of musician working with certain genres of music like film music. Communication between the different associations is pretty sparse except in certain special cases like say when Javed Akhtar managed to rally up musicians from across the country, in his mission to ensure amendments were made to the previous Indian Copyright Act.



The absence of any organized network for musicians playing in various parts of the country leads to a distorted and disconnected independent music scene. Many musicians agree that it's hard to find gigs in other cities since venues often only support local artists in their respective cities, and the lack of any centralized forum or network for musicians ensures that save for word of mouth, there's no other means by which new musicians or venues can actually learn about each other.

Based on the data collected from our survey, nearly 30% of the musicians who responded claim that it's difficult to cope with the problem of city-specific music scenes. They elaborate upon this by stating that arranging inter-city tours and collaborations are complicated because a lack of information or access, with most city venues closing its doors to any musician who is not local. Some further probing into this detail will reveal that many musicians also feel that this closed-ness is a result of their own doing, with fewer musicians and venue organizers both refusing to step outside of their comfort zone with respect to the business of making music and gigging. Whatever the explanation, it's reasonable to conclude that the lack of an artist collective or association leaves indie musicians disconnected from each other, and therefore vulnerable to a greater deal of exploitation by venue owners and organizers alike. In an effort to remedy this, it is perhaps advisable that musicians make the effort to consolidate their efforts in some form by either establishing an association or guild as this will also make it easier to formulate certain industry standards on issues of payment and hiring in spite of the informal nature of the indie music scene.

#### **Diversity in venues, organizers and festivals:**

A disconnected music scene is only made worse by the incredibly low number of good and diverse performance platforms available to independent musicians in India. Nearly 90% of the survey respondents claim that there are an insufficient number of performance venues in their cities. Most indie musicians believe that the current state of the Indian music industry offers them little in terms of encouragement thereby creating an atmosphere that is nowhere near conducive to fostering a healthy independent music scene. As one musician friend of mine put it, there is no music scene to speak of. Some dedicated venues and music platforms in Delhi, Bangalore and Chennai are doing a great deal of work to transform the indie music scene, by providing musicians with a performance space alongside with publicity. Unfortunately though, the demand for accessible and effective experimental and other performance spaces is not being met with by the current supply, leading to a number of good bands and musicians having to settle with mediocre venues, facilities and exposure. Venues and organizers prefer to stay within their comfort zone preferring cover songs to taking chances with new bands and original music.

The Government needs to take a keen interest in encouraging venues and festival organizers by way of friendlier licensing and tax statutes, and ought to really push for more and better organized Government cultural festivals that are more inclusive of all



genres of music found in India. Venues need to evolve into spaces that go beyond catering to the culinary interests of customers, but this is only possible with the aid of able gig programmers and serious musicians. As mentioned earlier, not all venues and organizers are unsuccessful in promoting independent music, but sadly their efforts are also marred by the undue interference of external agencies like unfriendly excise laws and police officials.

### **Strange statutes and Police interference:**

Certain provisions of Indian statutes like Excise laws set limits on indie music by restricting musical and dance performances from taking place in venues that serve alcohol. The Karnataka Excise License (General Conditions) Rules, 1967 and the Karnataka Police Act, 1963 have been notoriously famous for posing problems to the indie music scene in Bangalore over the past few years. These statutes prohibit live entertainment by way of musical instruments calling them a source of annoyance and noise. The discretion over regulating and prohibiting such activities lies with the police, who often use these provisions to barge into venues, and disturb gigs. This is inspite of venues and organizers having already procured the requisite entertainment and liquor licenses. Added to this confusion over the proper enforcement of laws is the task of moral policing that is taken up certain powerful local politico-religious organizations that seem to have a bone to pick with any kind of event that is not religious or approved by them.

The last few years have been witness to some interesting bans on live music including orders from the Government asking for all live entertainment to cease as early as 10pm giving almost no time to venues and organizers for evening shows. The trickiest bit about these statutes is that there is no real way to ascertain when and how they will be enforced leaving venue owners, event organizers and artists in a continual state of stress.

### **The copyright collection societies – an invisible force to reckon with:**

Another problem that many indie musicians, venue owners and event organizers face are surprise visits from IPRS and PPL officials. For the uninitiated, the IPRS stands for the Indian Performer Rights Society and the PPL stands for the Phonographic Performance Limited. Both organizations are copyright collection societies and are in charge of licensing phonographic material (songs that are sound recordings) played at gigs and events. This includes all kinds of instances where venues would play music including elevator music to DJ sets. The IPRS and the PPL are meant to act as intermediaries between musicians, lyricists and labels (basically the copyright owners over a particular song) and the venues, events and spaces that use their music on issues of licensing and royalty collection. Venues and events need to procure certain licenses from the IPRS and the PPL depending on the music they will be playing – live or recorded.



There have been instances where IPRS and PPL officials have made surprise inspections, barging into venues and abruptly calling for the end of gigs, their grouse being that the organizers have not paid to procure the requisite licenses. Unfortunately, a number of venue owners and organizers remain blissfully unaware of the work and significance of these copyright collection societies. This has to do with an information gap where venue owners and event organizers do not always understand the way in which copyright collection societies function. Also, the IPRS and the PPL, like most copyright collection societies, have been the subject of much public scrutiny for allegations of corruption, misappropriation and inefficiency. This translates into venue owners treating IPRS and PPL officials with a great deal of scepticism.

### **Original music – reception and protection:**

A number of indie musicians and session musicians work towards producing bodies of original music. This music does not always find its way into the public's reach because of the lack of diversified venues and music sharing platforms. As mentioned earlier, the reception to original music is always a little cold save for a few venues and their music programmers who look to encourage independent music. As one of the respondents to the survey claimed, trendiness is rewarded often perpetuating a cycle of mediocrity rather than investing in the new and the experimental thereby conveying a very skewed perspective on the contemporary Indian music scene.

Dabbling in the creation of original music is also an extremely tricky process for indie bands and musicians who are often unable to do much when their music has been “borrowed” by other larger bands and record labels. Recently, I was informed of a musician who chose to play a song written and composed by a band I work with and agreed to do so, so long as due credit was given to the originating band. As it turned out, no such credit was given and for all practical purposes, the musician had implicitly laid claim to the composition devised by the other band. In the world of legalese, this would count as infringement and some kind of moral rights violation but unfortunately, not a lot of musicians or bands understand this. The indie music scene is one that is built on trust so a violation of it is not taken too kindly, but then again most musicians are unaware of the fact that this violation of trust easily translates into a legal wrong that can be acted upon either through a court action or an out-of-court settlement.

Most indie musicians, who invest their time and energy in creating a body of original music, also need to acknowledge the need to invest in learning about how to protect their work and how to share other's work responsibly. The culture of copying and sharing, although inherent in the music industry, cannot become an excuse for stealing, distorting and misappropriating creative work – this is something that indie musicians need to become aware of.



### **A lack of rights awareness:**

Indie musicians, like all freelancing professionals in India possess certain rights. These rights include rights that flow from their creation and ownership of intellectual property in the form of musical compositions, lyrics and arrangements. Unfortunately, musicians are often unaware of the nuances of their rights – something that becomes obvious when you notice musicians unwittingly waiving their moral rights or signing agreements that carry copyright assignment clauses. This is not to say that musicians are incapable of understanding legal jargon, but that sometimes the legalese can be overwhelming or disguised and needs an experienced eye to look over it. Entertainment law does not stop at intellectual property rights though – it extends to other professional concerns of the musician including devising legally enforceable minimum wages, incorporating labour law provisions that prevent the undue exploitation of musicians by specifying the number of working hours and providing safe working environments. An area ignored by many venue organizers and musicians alike is occupational safety and health for musicians – regulating sound so as not to damage the performer’s hearing or covering and securing electrical equipment from external agents like wind and water so as to prevent any mishaps – these are some of the issues that ought to be dealt with in a more professional sense, carrying with them the heavy hand of the law in case of violation of any standards.

Evolution and growth are the key words in the indie music scene in India with the Government and organizers having to work together, in an effort to provide independent musicians with an environment that is both secure and nurturing of new ideas and talent. Most of all, independent musicians ought to set aside their differences and attempt to organize themselves into collectives in the hope of creating a professional network capable of creating some mutually agreed upon principles and standards of work.

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