

Praise for the Book

Who Owns That Song? is a fascinating examination of the strange afterlife of one of our greatest poets. With formidable scholarship, A.R. Venkatachalapathy not only reveals how a motley group of film producers, politicians, movie stars and family members fought to seize control of Subramania Bharati's poems, but also sheds light on how literature shapes, and is shaped by, nationalism in modern India. Crisp, and wickedly alive to the ironies created when patriotism, greed and love of poetry battle one other, this slender book deeply enriches our understanding of Bharati's legacy.

Aravind Adiga, Man Booker winner for *The White Tiger*

This is a brilliant book by a superlative historian. With wit and verve, A.R. Venkatachalapathy traces the surprising story of how the state acquired the rights to Subramania Bharati's work and placed it in the public domain. *Who Owns That Song?* weaves together Bharati's biography, his work and the political history of twentieth-century India. Venkatachalapathy shows us how Bharati emerged as a vital force in the history of Indian nationalism and Tamil cultural revival, and he charts the battle over Bharati's legacy in the early years of independent India. This is essential reading: insightful and delightful in equal measure.

Sunil Amrith, MacArthur Prize Fellow

The ironies and ultimate triumph of Subramania Bharati's career, a towering figure of twentieth century Tamil culture, leap to life as never before in this sparkling, profound work of scholarly sleuthing and cultural criticism. Spooling back through the intriguing story of ownership over Bharati's writing, Venkatachalapathy brilliantly reconstructs the cultural milieu and ploys which transformed an indigent poet into a national cultural icon – his words freely woven into the popular imagination.

Sunil Khilnani, author of *The Idea of India*

Venkatachalapathy tells us, grippingly, how we – the people of India – have come to own the words of the master poet and writer Subramania Bharati. An intriguing story of literary vitality, nationalism and political will.

T.M. Krishna, musician, winner of the Magsaysay Award

I have often wondered how the light of A.R. Venkatachalapathy's historical scholarship focuses on the past, shines on the present and diffuses into the future. *Who Owns that Song?* possesses the same quality. By exploring the history of Subramania Bharati's copyright, this book enlightens us on the novel concept of nationalization of literary treasures, and rides us through the background, the nitty-gritty of the process and the various challenges that brought this to fruition. The racy narrative style makes for an interesting read. It is gratifying that a Tamil experience can be a lesson for world literature.

Perumal Murugan, author of *One Part Woman*

This page-turner of a book tells the extraordinary story of Bharati's tumultuous life, his failed attempts at publishing his poems and the posthumous battles over them among competing film producers, publishers and the state. A wonderfully rich study that raises many important questions over who owns poetry and who has the right to it.

Francesca Orsini, Chair, Centre for Literary, Cultural and Postcolonial Studies, SOAS

This slim volume is a little gem of Book History. The vigorously contested and unprecedented process through which the copyright of the great nationalist Tamil poet Subramania Bharati was 'nationalized', i.e. acquired by the state government, is here narrated in all its twists and turns. Such is the author's erudition and so engaging is his style that this book reads like a suspense novel by an omniscient narrator. It also raises vital issues of direct relevance to authorship, author-ity and the politics of ownership of art.

Harish Trivedi, former professor, University of Delhi

Who Owns That Song?



Subramania Bharati
Photograph taken in 1921, the last year of the poet's life.

Who Owns That Song?

The Battle for Subramania Bharati's
Copyright

A.R. Venkatachalapathy

 Juggernaut

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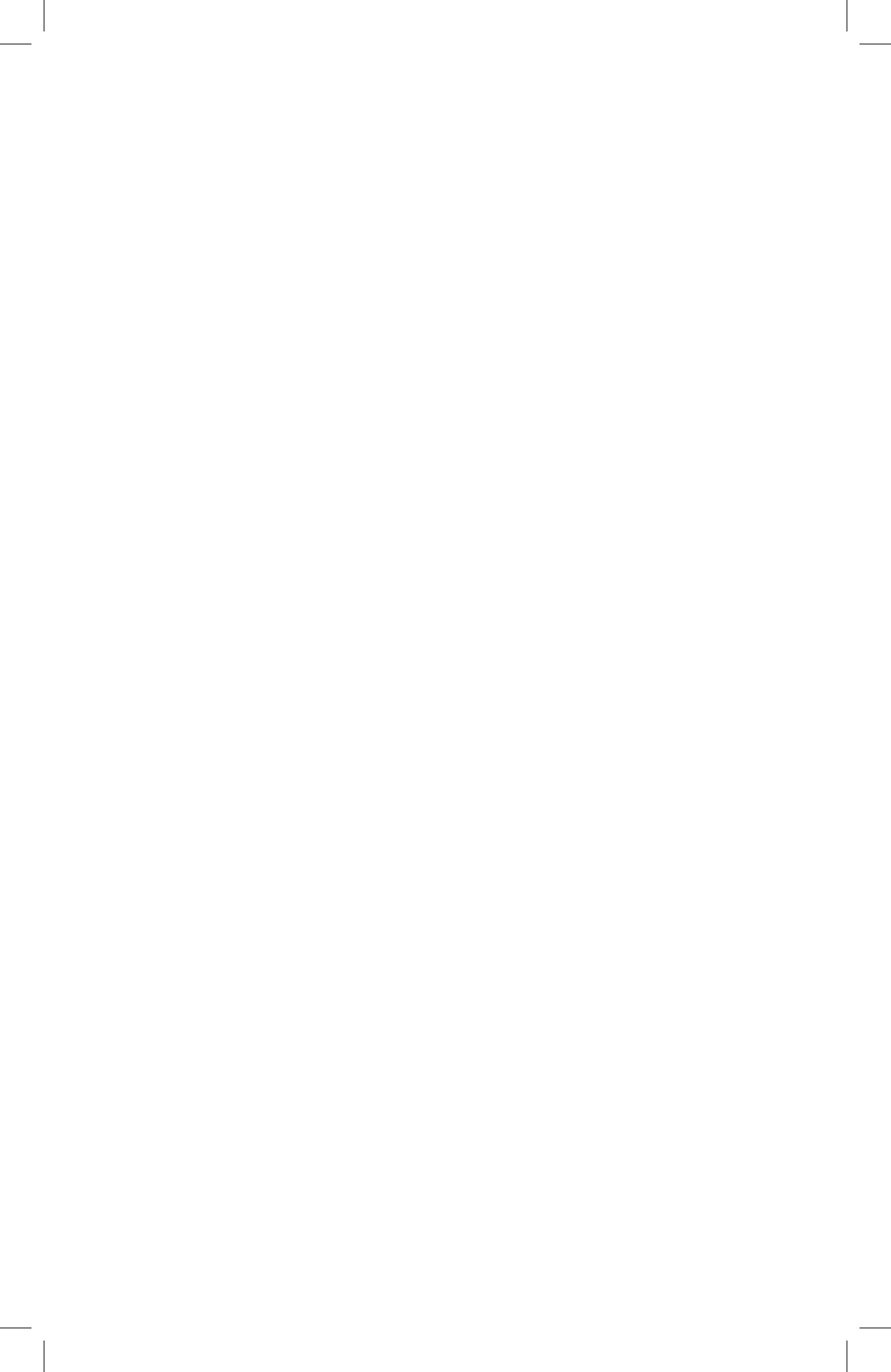
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Subramania Bharati is planning to publish all his manuscripts . . . in forty volumes in print runs of 10,000 copies each. There is little doubt that these four lakh copies will get sold out in Tamilnadu as easily and as quickly as kerosene and matchboxes.

– from Bharati’s prospectus for his publication programme,
1920

Is it right . . . to permit the immortal poet of Tamilnadu to be locked up in an iron safe and be made a matter of business?

. . . We have every right to ask the people living in a free country, ‘Who owns Bharati?’

Why shouldn’t the Madras government proclaim that ‘Bharati’s poems and writings are the property of Tamilnadu. No individual has any right over it.’

– from a pamphlet, February 1948

For some years now, the people in Tamilnadu – the literate and the illiterate, the Congressman and the Communist – have joined in a campaign against me for the sin of possessing the copyright in poet’s works . . . The question of nationalisation of the works of a poet or author is raised in no other part of India. Do not people consider it quite natural that the works of Tagore or Sarojini Devi . . . [are] published by the author or his or her heirs, legal representatives, assigns or the publishers to whom the works might have been sold?

– C. Visvanathan, Bharati’s half-brother and publisher (1949)

There is a popular feeling that the works of Sri C. Subramania Bharati, the great Tamil poet of Modern Tamil Renaissance,

should be acquired by the Government and made available for the use of the public generally at as cheap a cost as possible.

– T.S. Avinashilingam Chettiar, Education Minister, on the floor of Madras Legislative Assembly, 12 March 1949

Bharatiar's works were held as private property and . . . nobody could use them for any purpose without the permission of those individual owners. Therefore, in order to make them public property, the Government purchased the entire right of publishing Bharatiar's works . . . The Government has decided to release the entire right to the public . . . Bharatiar's poetical works imprisoned in the hands of private individuals and subsequently within the four walls of the Secretariat will hereafter be completely released and will have complete freedom.

– C. Subramaniam, Law, Education and Finance Minister, on the floor of Madras Legislative Assembly, 14 March 1955

Dramatis Personae

Subramania Bharati. Unsung poet, neglected in his life, attains posthumous fame, with his books remaining bestsellers till date.

Chellamma. The poet's widow, endures dire poverty after marriage to her eccentric husband, but does not get a penny when his works become a posthumous commercial success.

C. Visvanathan. The poet's half-brother, buys the copyright when the works have little commercial value. The object of envy and popular agitation when he reaps unexpected windfalls, and later forced to give up his copyright at distress price.

Jeshinglal K. Mehta. Gujarati businessman who invests in a poet despite being unable to read Tamil.

AV. Meiyappan. Movie mogul and businessman. Makes a calculated investment at the right moment by buying the broadcast rights of the poet's writings. Files a suit for infringement of these rights and has to face adverse public opinion.

T.K. Shanmugam. Idealistic actor who enters the theatre at the age of six, works with the father of the Tamil stage and will not brook a businessman's stranglehold over his favourite poet's songs.

Dramatis Personae

P. Jeevanandam. Communist agitator who can stir public emotion through his selfless work and fiery speeches. An ardent admirer of the poet's works, he takes them to the masses.

Omandur P. Ramaswamy Reddiar. Rustic Gandhian who, as head of the Madras government, is faced with the unenviable task of balancing popular demand with a private (intellectual) property issue.

T.S. Avinashilingam Chettiar. Man of impeccable honesty and administrative skills; as education minister, he must achieve Bharati's nationalization, cutting through the morass of legal issues and public opinion.

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Prologue

Copyright Claws

Copyright is a term that occurs only once in the writings of Subramania Bharati, and he would not have recognized the © symbol that figures in the imprint pages of every published book today. Bharati is not known to have listened to gramophone recordings, or sound recordings of any form, or ever stepped into a cinema hall. He would have been amazed to learn that poems could earn money by being used in these new media. A poet who died in poverty – with half his works uncollected or unpublished in his lifetime – he could not have imagined that his copyright would be the subject of legal wrangles, with film-makers and publishers vying to acquire it. He would undoubtedly have been pleased to know that the Tamil public at large appreciated his work, at least posthumously,

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and demanded that his works be made public property, free of copyright.

On 12 March 1949, when the education minister of Madras announced, ‘There is popular feeling that the works of . . . C. Subramania Bharati, the great Tamil poet of Modern Tamil Renaissance, should be acquired by the Government and made available for the use of the public generally at as cheap a cost as possible,’ it inaugurated a unique moment in the global history of copyright.

When five years later the minister’s successor declared in the Legislative Assembly that ‘the Government are proposing to . . . immediately releas[e] the entire right to the public so much so Bharatiar’s poetical works imprisoned in the hands of private individuals and subsequently within the four walls of the Secretariat will hereafter be completely released and will have complete freedom’, a revolution in that literary history was complete.

This was the first time ever, anywhere in the world, that the state acquired the copyright of a writer and put all his writings in the public domain. Since then no public figure – not Tagore, not Gandhi, not Nehru, not even Ambedkar – has had the honour of their works freed from the claws of copyright before the lapse of the stipulated time period. To comprehend this, an understanding of the meaning and basic legal features of copyright is essential.

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Copyright, simply put, is the right to own and make copies of a work of original expression. This right is vested in its creator and is internationally recognized, subject to relevant national laws. ‘Original work’ includes the efforts of a writer, composer, painter, or other such creative artist (although, in this book, we will be concerned only with the work of a writer). Copyright also includes ‘subsidiary rights’ such as broadcast rights, film rights, dramatization rights, performance rights and translation rights.

Although it is a property right, it is qualified by the fact that the purpose of creating a work is to disseminate it. In recent decades, with the acceleration of globalization, it has come to be clubbed with what are called intellectual property rights, or IPR, which include patents, trademarks, etc. As a property right, copyright can be traded, sold, assigned or bequeathed. The various subsidiary rights can also be disentangled and handled separately. The creator usually authorizes a publisher to print multiple copies of his/her works and in return gets a share of the revenue, termed as royalty. Making unauthorized copies of the work amounts to copyright infringement. Exceptions to this come under the ‘fair use’ doctrine that permits limited use for purposes of education, reporting, criticism, parody, etc. Infringement is usually a civil, and not a criminal, matter.

In addition, there are moral rights – the right to

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attribution and the preservation of the integrity of the work without mutilation or distortion – which cannot be alienated even by the author.

Copyright was born in late seventeenth-century England with the advent of print technology and the possibility of making identical copies in large numbers. Central to its emergence was the commodification of the work of art, and its commercial value in the market. With the mushrooming of ever newer forms of reproduction, the ambit of copyright continues to expand, and consequently has proved to be contentious.

The copyright of the creator over his/her work, when not sold or licensed to another, is passed on to the heir. It lapses only after a certain period of time following his/her death. According to present Indian copyright laws, it expires sixty years after the author's death. It is then that the work passes into the public domain for free and unrestricted use. This provision strikes a balance between protecting the creator's rights and the benefit afforded by the work to the public.

By acquiring the copyright of Bharati, the government of Madras short-circuited this process and put Bharati's works in the public domain a quarter of a century before January 1972, when, in the normal course of law in force at that time, the copyright would have lapsed. Rather than being a violation of a legal right, this action of

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the state was intended as an unprecedented honour to the author.



As mentioned, the word copyright barely occurs in Bharati's writings. It does not figure in the title pages of his books published in his lifetime, and in any case imprint pages were non-existent then. Subsidiary rights would have been unknown to him. If someone translated him into another language, he would have considered it an honour rather than as an infringement of his copyright. In fact, when the Irish poet James H. Cousins, evidently without prior express permission, translated him into English, Bharati advertised it proudly. Despite the fact that one of his books was published in South Africa, Bharati was innocent of terms such as 'territorial rights' – the right to authorize copies of a work for different geographical regions.

There is no proof of Bharati having listened to any sound recordings despite the gramophone having entered India by the time of his death. Talkies were only born in the Tamil cultural world ten years after his death, but there is no evidence of him having watched any silent films either, even though he could have easily done so if he had walked a mile from his office or from his home.

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Bharati may be excused for giving these new media a miss; after all, he had a tough enough time trying to make a living through writing, let alone pondering the potentialities of these budding forms of communication.

It is a sad irony that the works of such a man should trigger copyright tussles (involving Bharati's family, the eventual copyright holders, and the state) within a decade of his death.

How did Subramania Bharati, a man who died prematurely, in obscurity and impoverished, come to achieve this status and receive the posthumous honour of his copyright being nationalized? What were the social impulses and cultural forces that fuelled the campaign demanding Bharati's works be made public property? Can the copyright of a cultural icon be defined narrowly as property? What rights do family members have over an author's work after giving up their rights? What are the implications of someone unrelated to the artist's family acquiring copyright of a cultural icon? Who speaks for the moral rights of a cultural icon posthumously? What

* Nationalization usually refers to the takeover of ownership, with or without compensation, of a major firm or industry by the state. Contemporary activists who demanded that the Madras government acquire the copyright of Bharati's works and make it available for free public use employed this term – in English and in Tamil translation – and I therefore employ it to refer to this process.

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claim does the larger society have over his texts? What are the implications for the scholarly study of his texts in the public domain?

These are some of the questions thrown up by the drama that led to the nationalization of Subramania Bharati's works. To understand these questions, and to begin to answer them, we need to travel 135 years back in time to India's southern corner, Ettayapuram.