

about the application of Copyright law to AI works. AI generated works lack a direct human authorship which creates a challenge to its legality, originality and creativity under the Copyright law. In the Indian context, the Copyright Act, 1957 is the principal legislation that governs copyrights and aims to encourage the creativity and originality by granting rights exclusively to the owner or the author. The **Section 2(c) of the Act**, defines “author” as the creator of an artwork, leaving the AI generated art work in the grey area. This has been a serious issue since there need to be ownership, rights and legality for AI generated works as well. Throughout the world different jurisdictions have adopted various approaches to address this issue, ranging from assigning authorship to humans involved in AI operations to excluding AI-generated works from copyright protection. This paper examines the traditional human centric idea of creative work in- contrast to the autonomous output given by AI and highlights the absence of AI-generated artworks in Indian law. It explores the implications of AI generated works in Indian Copyright Act, interpretation of “author”, the challenges and potential solutions to balance the protection of original human creative works and AI generated artworks.

KEYWORDS

Copyright, Authorship, Originality, Ownership, Automation, Artificial intelligence, Digital Plagiarism

INTRODUCTION

The advent of Artificial Intelligence (AI) has revolutionized many industries including the creation of art and artworks. AI systems, which process through algorithms are now capable of generating any kind of art such as music, literature and paintings etc. These AI tools require prompts and few other inputs to create and also transform old ideas into entirely new creations. However, with the intersection of AI and creativity poses complex challenges of originality and creativity to traditional copyright law.

The **Copyright Act, 1957** in India is the primary legal framework that protects intellectual properties. Under the Copyright act, “author” is defined as a person who creates a work and also implicitly excludes authorship to AI or any other non-human creators. This exclusion leads to many questions as to who is the owner of AI generated works, can AI works qualify for protection under copyright laws and what role does human inputs play in determining the originality of the AI works and authorship to AI.

Around the world various countries have adopted various approaches such as United Kingdom, are granting copyright to individuals making the AI generated works, whereas countries like United States of America are only granting copyright, only if there is full and clear involvement of human creativity.

In India, the matter is different, the legal system is silent and AI generated works are not discussed at all as of now and the AI generated art works pose serious challenges to copyright in India. The law assumes a human author and emphasizes originality as a result of human effort and judgment. As AI-generated works lack direct human authorship, their legal standing within the Indian framework remains ambiguous.

RESEARCH METHODOLOGY

The researcher is applying a doctrinal study for this project which primarily involves the analytical and descriptive study of primary sources of data and the researcher is further adopting the qualitative analysis of the secondary data available.

Sources of Data:

a) Primary sources: The Copyright Act, 1957

Secondary sources: Articles, Journals, Legal data sources such as Hein online, Live Law, Manupatra, SCC Online, Jstor, etc.

REVIEW OF LITERATURE

Copyright: Law and Practice by Copinger and Skone James: This book provides an extensive analysis of the evolution of copyright law and legality of human creativity. The book highlights the concept of “originality” which originally excluded man-made creators for any authorship rights.

Intellectual Property Law in India by P. Narayanan: this book mainly, discusses the Copyright Act, 1957, a law that emphasizes and defines authorship which is exclusive for human artworks.

The Second Machine Age by Erik Brynjolfsson and Andrew McAfee: this explores the impact of AI on originality and creativity, and also argues that though AI systems are seemingly capable of producing original works, they lack the traditional human creativity associated with artworks. This is the main reason which makes the applicability of copyright law to AI complicated. The authors also propose a rethinking of the law in order to make the copyright law hybrid.

Law Relating to Intellectual Property Rights by V.K. Ahuja- in this book the author provides a comprehensive overview of intellectual property rights in India, including a detailed discussion on copyright law under the Copyright Act, 1957. Ahuja examines the concept of authorship and originality within the Indian legal framework and highlights the Act's reliance on human creativity as a prerequisite for copyright protection.

INTERPRETATION OF SECTION 2(C) OF THE COPYRIGHT ACT, 1957 IN INDIA

In the principal legislation that governs intellectual property rights related to literature, music, art works, sound recordings and dramatic works is the **Copyright Act, 1957**¹. The Indian Copyright Act, 1957 traditionally gives exclusive ownership and authorship rights to creators for using and distributing the art works. The Section 2 (c) of the act is an important section as it defines the term “author”. Author is the first and fundamental concept to establish the originality and ownership rights to the owner/ creator of the artwork under the copyright law. The definition states that an author is an identifiable human being who is the creator of the copyrighted work. Human creativity is the basic principle of originality and authorship under copyright law.

Section 2(c)² of the Copyright Act, 1957, defines “author” as:

- I. For literary or dramatic works: the person who creates the work.
- II. For musical works: the composer.
- III. For artistic works other than photographs: the artist.

¹ The Copyright Act, 1957, No. 14 of 1957, India Code (1999), <https://copyright.gov.in/>.

² Copyright Act of 1957, § 2 (c)

IV. For photographs: the person taking the photograph.

V. For cinematograph films: the producer.

VI. For sound recordings: the producer.

The copyright law is human centric and works in traditional scenarios by giving authorship to humans only³ and AI is nowhere mentioned in the act or in the section. The AI systems are autonomous, they can create copies of original works, modify the works and can even change the works completely. AI generated works which lack direct human creativity do not fit in the definition provided in Section 2(c).

For example:

- If an AI creates a painting or a piece of music independently, there is no “artist” or “composer” in the traditional sense.
- The absence of a human “author” raises questions about whether such works qualify for copyright protection under Indian law.

AI GENERATED ART IN INDIA

India has embraced the global rise of AI-generated art, with its impact increasingly visible across social media platforms. Indian creators are using AI to reimagine cultural icons and landmarks, blending tradition with cutting-edge technology.

The integration of AI into Indian art is further demonstrated by artists like Tapan Aslot and initiatives such as the Times of India's “History meets AI” Instagram posts, which pair AI-generated visuals of historical events with educational captions. These developments reflect India’s rapid adoption of AI in art, aligning with global trends. Indian artists are increasingly leveraging AI to address themes such as ecology, gender, politics, and the human-machine interface. Recognizing AI’s transformative potential, the Indian government has launched initiatives to democratize AI knowledge. The “AI For ALL⁴” program seeks to make AI education widely accessible, while India's AI initiative promotes public access to AI technologies through a dedicated research team focused on dissemination and development.

Despite its popularity, AI-generated art in India presents both opportunities and challenges, particularly in the realm of intellectual property (IP). The nation’s Copyright Act of 1957

³ V.K. AHUJA, LAW RELATING TO INTELLECTUAL PROPERTY RIGHTS 45 (3rd ed. 2017).

⁴ AI for All, <https://ai-for-all.in/#/home>

addresses computer-generated works, but issues of authorship and originality in AI-driven creations remain unresolved. As AI models become more advanced, distinguishing human contributions from machine autonomy complicates matters of ownership, licensing, and fair use. Legal scholars have noted the urgency of addressing these issues. Chakraborty and Gaffar argue that without clear guidelines, the IP landscape for AI-generated art will remain fraught with uncertainties, potentially stifling innovation and creativity.⁵

In India the courts have upheld that copyright is tied to human creativity only and emphasized on the authorship to humans. This principle was affirmed in the case of **Rupendra Kashyap vs. Jiwan Publishing House Pvt. Ltd**⁶, by the Delhi High Court, where it was held that education boards such as Central Board of Secondary Education (CBSE), cannot claim copyright with individual human involvement as it is an artificial entity. The question in this case is related to question papers, and the court held that ownership and authorship requires a human input. Similarly, in the case of **Navigators Logistics Ltd. vs. Kashif Qureshi & Ors**⁷, the court has stated that copyright cannot be claimed on a list generated by a computer as there is no human involvement and that absence of such human input in the creation of the list rendered it ineligible for copyright protection, highlighting the challenges of applying traditional copyright laws to AI-generated content.

In the case of **Institute of Chartered Accountants of India vs. Shaunak H. Sayta & Ors**⁸, the Supreme Court held that exam model papers, question papers can be classified as literary works and can be protected under copyright law. This decision underscored the importance of human authorship, even within institutional frameworks, as the foundation of copyright protection. By attributing copyright to individuals, the Court reaffirmed that human creativity remains central to the legal understanding of authorship.

HUMAN VS AI: COMPLEXITIES OF COPYRIGHT OWNERSHIP

When discussing AI-generated works, two primary scenarios arise: works created by AI with human guidance and those created by AI without human guidance. In the first scenario copyright can be attributed to human creator who guides the AI to produce the output i.e. the

⁵ Ranjan Chakraborty & Naureen Gaffar, Navigating Copyright Challenges in the Age of AI, 10(3) Indian J. Intell. Prop. L. 45, 46–49 (2021).

⁶ Rupendra Kashyap vs. Jiwan Publishing House Pvt. Ltd, 1996(38)DRJ81

⁷ Navigators Logistics Ltd. vs Kashif Qureshi & Ors, (2018) DEL 1483

⁸ Institute of Chartered Accountants of India vs. Shaunak H. Sayta & Ors., AIR 2011 SUPREME COURT 3336

art work, as human involvement will ensure that there is originality, creativity and it is a product of knowledge, skill, judgement of human. But this is not the case in second scenario, as the current legal framework do not recognize AI as an author of artwork. This is because the work of AI is not original as it relies on already existing data and inputs by humans. These AI tools only have the capacity to replicate, rewrite or redo the already existing copyrighted work. Determining whether AI possesses the necessary creativity to meet the threshold of originality remains a challenge, raising concerns about potential copyright infringement.

One of the core challenges lies in defining authorship. The Indian Copyright Act recognizes “natural persons” as authors under **Section 17⁹ of the Indian Copyright Act 1957**. a non-human entity does not fit this definition leading to not having any legal copyrights. This poses a significant hurdle in determining authorship for AI-generated works, as AI systems are not natural persons. The question of originality, another crucial element for copyright protection, also becomes complex in the context of AI. Determining whether an AI-generated work is truly original or merely a derivative of existing data and algorithms is a nuanced task.

To address these complexities, the Copyright Act was amended in 1994 to include computer-generated works, defining authorship under **Section 2(d)(v)** as “the person who causes the work to be created.” The interpretation of the term “person” plays a key role in determining whether AI can be regarded as an author. **Section 57¹⁰** of the Act, which protects the moral rights of authors including the right to paternity and integrity, was designed to safeguard the personal and reputational interests of human creators. Applying these rights to AI, which is presumed to be the author, proves challenging since AI lacks human emotions or subjective experiences. This raises important questions about the relevance and practical application of moral rights in cases involving AI. While current copyright laws under **Section 18¹¹** of the Indian Copyright Act protect human author’s rights to royalties, the application of these laws to AI-generated works is unclear. Determining fair royalty amounts and ensuring equitable distribution is particularly problematic when AI is involved, as traditional mechanisms for assessing authorship and value may not apply.

“Developing a comprehensive framework that balances the rights of AI developers, content users, and the public interest is essential.” This framework should address issues such

⁹ Copyright Act of 1976, § 17

¹⁰ Copyright Act of 1976, § 57

¹¹ Copyright Act of 1976, § 18

as ownership, licensing, and liability in the context of AI-generated content, ensuring that the evolving landscape of digital creation is navigated with clarity and fairness.

AI, A THREAT TO HUMAN CREATIVITY

AI's rapid integration into creative fields presents both opportunities and challenges, sparking debates about its impact on human creativity and copyright. While AI tools enable new forms of artistic expression, they also pose significant risks to traditional notions of originality, ownership, and the role of human creators. On one hand, AI paves the way for creative expression; on the other, it brings ethical concerns about copyright infringement and the effect on human creativity.

It is argued that AI could diminish the value of human creativity by automating artistic processes. AI models can generate visually stunning works, but they lack the emotional depth, cultural context, and personal experiences that underpin human art. This absence of genuine creativity raises concerns that AI might devalue human contributions, leading to a cultural landscape dominated by technically proficient but soulless creations. Additionally, the accessibility and speed of AI tools may discourage individuals from pursuing traditional artistic skills, potentially eroding the depth and diversity of human artistic expression over time. The critics have claimed that AI models do not seek permission to cite copyright material from databases. This has been leading to “digital plagiarism” which makes the AI generated works similar or look like an exact replica of the original creation.

A major issue is that image datasets used for training AI models many times include copyrighted works without permission from or compensation of the original artists. This has provoked criticism, such as companies like OpenAI and Meta facing backlash for using those datasets without paying creators. Some companies have launched opt-out programs for artists, allowing them to request removal of their work from datasets, but the scope is very limited. Ideally, setting an equilibrium between the AI's function in the creative arts and human creativity will mark the way forward for the future of the arts and culture.

CHALLENGES

AI's ability to autonomously create or transform works raises unprecedented legal and ethical challenges. Key issues include identifying the author of an AI-generated work, determining ownership rights, and reconciling these new realities with existing definitions of originality. For instance, the Indian Copyright Act assumes that a work must originate from human

creativity, leaving a significant legal vacuum when AI systems produce works independently or with minimal guidance.

Originality and creativity: The copyright law protects works that have original and unique outcome of human creativity. The AI works are created through algorithms and data which generate materials based on patterns given by humans. This raises the questions on the uniqueness, inventiveness and creativity of AI generated work. There have been questions as to whether AI can generate unique works or they just replace the already existing work. This is especially true when AI is employed to create music, writing, or visual art.

Authorship and ownership: it is very difficult to determine the authorship and ownership of AI generated works. The creator of a work is both its author and the first owner of copyright under classical copyright law.¹² So here the question will be whether the creator should be acknowledged or the owner of the AI tool i.e. whether the programmer who created the AI algorithm is the artist or the AI should be recognised as the artist.

Copyright and its duration: it is also difficult to copyright AI generated works. Copyright ownership is given to the author of the work which last throughout the life of the author along with 60 years as per **Section 22¹³ of the Copyright Act, 1957**. In AI generated works there is no human author as such which raises the concern as to whether copyright can be given to AI works and the length of such works. One of the debates is that the AI generated works can have copyrights longer than that of human authored works as they do not have a particular life span or duration.

SUGGESTIONS

AI will keep evolving and becomes more sophisticated which will lead to giving ownership, authorship and creative rights to AI generated works. The current laws in India do not recognize AI as a legal author and also there is no new legal framework to address such issues. This legal ambiguity has led to uncertainty among creators, developers, and users, stifling innovation and complicating dispute resolution. To bridge these gaps, it is essential to consider reforms and policy measures that align copyright law with the realities of AI-driven creativity. These reforms should aim to balance the rights of human creators, the interests of AI developers, and

¹² Subhajit Basu and Ankeeta Dutt, AI-Generated Art: A Challenge to Creative Integrity (2016), <https://www.ijlt.in/post/ai-generated-art-a-challenge-to-creative-integrity#:~:text=The%20Indian%20Copyright%20Act%201957%20does%20not%20provide%20explicit%20guidance,enabling%20content%20creation%20that%20may>

¹³ Copyright Act of 1976, § 22

the broader goal of fostering innovation while ensuring equitable protection for all stakeholders. As the influence of AI will grow there needs to be a new interpretation of Section 2 (c) or new amendments must be introduced to address AI.

Classifying AI as a tool: AI should be treated as an instrument where the authorship must be given to the human who uses the tool to create the artwork.

Authorship to developers and programmers: assessing authorship to the person who developed and designed the AI systems, responsible for generating the work.

A new Copyright category: a distinct category in Copyright law must be introduced for AI generated works with specifications related to ownership and authorship rights.

CONCLUSION

Over the past few years, the legal issues related to AI have become more complicated and there is a growing call to reform the Indian Copyright Act in light of these issues. The most popular recommendation suggests that AI should be considered a means rather than an author, thus ensuring that a human or a legal entity will own any creation produced by AI. Such changes would create a much better understanding and responsibility, as well as a better match between the law, and the current state of AI integration in people's lives. The integration of artificial intelligence in the creative process transforms the boundaries of art, authorship, and copyright. AI-generated works challenge the foundational principles of copyright law, particularly the concepts of originality and human authorship, which have been the cornerstones of intellectual property rights for decades. On the one hand, AI enables unprecedented innovation and accessibility in artistic creation. However, this also raises a series of significant legal, ethical, and practical issues.

In India, the Copyright Act, 1957, which is based on human-centric definitions of authorship, cannot easily accommodate the complexities that AI has brought in. There are no explicit provisions regarding works generated by AI, thus creating a legal vacuum in issues of ownership, authorship, and rights. The lack of clear law is not only a source of uncertainty for creators, developers, and users of AI tools but also risks stifling innovation in a rapidly evolving technological landscape.

To overcome these issues, India needs to reconsider its copyright laws in light of the changed realities of creativity with the help of AI. The country may draw on global practices that have

adopted authorship rights for humans involved in the AI process or have recognized new forms of intellectual property.

At the same time, careful attention must be paid to ethical considerations and the need to balance innovation with public access to creative works. Ultimately, the intersection of AI and copyright presents both challenges and opportunities. By fostering an adaptive and inclusive legal framework, India can ensure that its copyright laws remain relevant, equitable, and capable of supporting both human and machine-driven creativity in the years to come.

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