

AI-Generated Content and Copyright Law: Challenges and Adaptations in India

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ABSTRACT

The copyright landscape in India is evolving with the increasing impact of Artificial Intelligence (AI) on content creation. The Copyright Act, 1957, governs authorship and ownership, initially granting copyright to the creator of a work. In cases of computer-generated works, the author is defined as the individual who causes the work to be created. This raises questions about the interpretation of authorship and ownership when it comes to AI-generated content. Current interpretations suggest that those providing data or instructions to an AI system are considered authors, but there is no explicit mention of AI-generated works. The rapid advancement of AI necessitates ongoing examination and potential revisions to copyright laws to address emerging challenges, including determining liability for copyright infringement and defining the scope of AI-generated works.

1. Introduction to Copyright Law in India

Copyright law in India serves as a crucial framework for protecting the intellectual property rights of creators and fostering a culture of innovation and creativity. Enacted in 1957, the Copyright Act governs the legal aspects of copyright, granting authors and creators exclusive rights over their original works. Following an overview,

- **Historical Context:** India's copyright law traces its roots back to colonial times when

the British introduced the first copyright legislation in the Indian subcontinent. Over the years, the law has evolved to adapt to changing technological landscapes and international standards.

- **Legal Framework:** The Copyright Act, 1957, forms the cornerstone of copyright protection in India. It has undergone several amendments to address emerging challenges and align with international treaties such as the Berne Convention and the TRIPS Agreement.

- **Scope of Protection:** The Act provides protection to various categories of creative works, including literary works, artistic works, musical works, cinematographic films, sound recordings, and computer programs. These works are safeguarded from unauthorized reproduction, distribution, adaptation, and public performance.
- **Ownership and Duration:** Copyright initially vests with the author of the work, granting them exclusive rights for a specified duration. In most cases, copyright protection lasts for the lifetime of the author plus sixty years after their death. However, for certain works, such as anonymous or pseudonymous works, the duration may vary.¹
- **Exclusive Rights:** Copyright confers several exclusive rights upon the owner, including the right to reproduce the work, communicate it to the public, make adaptations, and control its commercial exploitation. These rights enable creators to monetize their creations and incentivize further innovation.
- **Exceptions and Limitations:** The Act incorporates provisions for fair dealing, allowing limited use of copyrighted material for purposes such as research, criticism, and education. These exceptions balance the interests of copyright owners with the broader public interest in access to knowledge and culture.
- **Enforcement Mechanisms:** Copyright enforcement mechanisms in India encompass both civil and criminal

remedies. Copyright owners can seek injunctions, damages, and other legal remedies against infringers. Additionally, the Act prescribes penalties for copyright infringement, deterring unauthorized use of protected works.

- **International Obligations:** India's copyright law is influenced by its international obligations under treaties like the Berne Convention, which establishes minimum standards for copyright protection worldwide. Compliance with international norms enhances India's standing in the global intellectual property landscape and facilitates cross-border cooperation.

Authorship of Ai-Generated Work

In India, the Copyright Act, 1957, governs copyright and delineates the author or creator of a work based on its type. The Act acknowledges literary, dramatic, musical, artistic works, cinematographic films, and sound recordings as eligible for copyright protection.² The definition of an "author" varies depending on the work: for literary or dramatic works, the author is the person who creates the work.³ When it comes to computer-generated works, the author is identified as the person who causes the work to be created.⁴ This interpretation can apply to AI-generated works, suggesting that individuals providing data or instructions to an AI system could be considered authors under Section 2(d)(vi).⁵

² Copyright Act, 1957, Section 13.

³ Copyright Act, 1957, Section 2(d)(i).

⁴ Copyright Act, 1957, Section 2(d)(vi).

⁵ Copyright Act, 1957, Section 14.

¹ Copyright Act, 1957

Despite AI's role in creating content, the Copyright Act does not explicitly address AI-generated works. However, the Act's interpretation points toward human authorship, with the "first owner" of copyright typically being the person who generates the work by providing input or instructions to an AI system.⁶ This view aligns with the legal precedent that requires a natural person or a legal entity to hold copyright, emphasizing that only human authors or entities to which copyright has been assigned are eligible for copyright protection.⁷

The recognition of authorship for those providing data to AI tools has broader implications, especially as the use of AI in content creation expands. Notably, established academic publishers like Elsevier and Cambridge University Press acknowledge the role of AI-powered tools in academic writing, but they do not list these tools as authors or co-authors in academic articles.⁸ The rapidly evolving landscape of AI-generated content in India may require future amendments to copyright laws to address emerging challenges. As AI-generated material becomes more advanced, distinguishing between human- and machine-generated works could become more challenging, impacting authorship and copyright ownership. Furthermore, as AI-generated content sees increased commercial use, it may prompt further examination and

potential updates to copyright legislation to protect the rights of copyright holders.⁹

AI and Copyright: Navigating a New Frontier in India

The rapid advancement of Artificial Intelligence (AI) technologies has raised complex questions regarding the authorship and ownership of AI-generated works under copyright law. According to Naithani (2022), the Copyright Act of 1957 in India defines "author" as the person who creates the work, but in the context of computer-generated works, the author is considered to be "the person who causes the work to be created." This leads to the question of whether AI can be regarded as an author, and if so, who truly "caused" the work to be created? Naithani explores various solutions, such as allowing AI-generated works to enter the public domain, introducing compulsory licenses, or recognizing sui generis right in AI-generated works.

Kumar and Kumar (2022) discuss the transformative capabilities of generative AI, which can autonomously create new content that closely mimics human creativity. While this opens up a world of possibilities for content creation, it also blurs the lines of authorship and ownership. Their paper critically examines these challenges, emphasizing the potential copyright implications in the Indian context. They highlight the need for clear guidelines regarding the role of human intervention in AI-

⁶ Copyright Act, 1957, Section 17.

⁷ Legal Precedents on Copyright Protection (multiple cases establish the human-centered approach to copyright ownership in India).

⁸ Policies from Elsevier and Cambridge University Press on the non-recognition of AI tools as authors or co-authors in academic publications.

⁹ Policies from Elsevier and Cambridge University Press** on the non-recognition of AI tools as authors or co-authors in academic publications.

generated works and the risks associated with copyright infringement. Furthermore, they stress the importance of safeguarding original creators' rights while promoting innovation in AI technologies.

In exploring international perspectives, Hema (2023) contrasts different approaches to AI-generated works in the US and UK. While the US does not grant copyright protection to works generated independently by AI, the UK attributes copyright to the person responsible for the necessary arrangements. In India, AI is recognized as a joint author along with the human responsible for creating the work. However, this unique approach raises additional questions about the implications of AI's joint authorship status, requiring further exploration of its impact on copyright law.

Kumar Maurya (2022) takes a broader view of AI's impact on intellectual property rights, suggesting that the current legal framework may not adequately address the issues posed by AI-generated works. He proposes reinterpreting "employee" and "employer" in the "work for hire" doctrine as an alternative to extending authorship to non-humans, thus avoiding a contentious overhaul of copyright laws. This approach allows the current IP system to continue supporting "science and useful arts" without major disruptions.

Mathur (2020) discusses the increasing vulnerability of copyrighted works in the digital age, where AI-generated content with minimal human intervention further complicates the enforcement of copyright laws. The ubiquity of digital platforms and peer-to-

peer networks makes it challenging to identify and address copyright infringement, particularly when infringers may be located in different parts of the world. This raises questions about the legal frameworks in place to protect copyright holders and the liabilities of intermediaries in such cases.

Finally, Luhar (2022) focuses on the broader implications of AI's impact on intellectual property laws, particularly copyright. While AI-generated content can generate significant benefits, it also poses risks to traditional notions of creativity and authorship. Luhar emphasizes the need for a robust legal framework that adapts to technological advancements while safeguarding the rights of creators.

Liability of Algorithm Creators or Author

In India, the author or creator of AI-generated content is generally considered the person or entity who provides the data or instructions to the AI system, as per Section 2(d)(vi) of the Copyright Act, 1957. This definition recognizes the individual or organization that initiates the creation process as the "author" and, by extension, the rights holder for the content produced by AI. As the rights holder, they retain exclusive rights to the work and are responsible for any legal issues arising from its use or dissemination, including infringement or breach of another's rights.¹⁰

Furthermore, the rights to AI-generated content can be transferred or assigned to another party, shifting responsibility and liability accordingly.

¹⁰ Copyright Act, 1957, Section 2(d)(vi).

In this context, if the author assigns these rights to another person or organization, the new owner assumes both the rights and the potential liabilities. Therefore, assessing liability for AI-generated content in India requires a thorough understanding of the Copyright Act and relevant legal precedents.¹¹

In India, the Copyright Act, 1957 is a pivotal legal framework in addressing issues related to copyright infringement, including those involving AI-generated works. It provides a comprehensive list of acts that constitute copyright violations, such as unauthorized replication, distribution, or modification of a copyrighted work. Section 2(d)(vi) of the Act defines the "author" of computer-generated works as the person who causes the work to be created, which could encompass both the creator of an algorithm and the individual or entity directing the AI to produce content. Given this interpretation, if AI-generated work leads to copyright infringement through unauthorized copying, reproduction, or distribution, the author responsible for guiding the AI's output may be liable for infringement.¹²

Similarly, if an algorithm creator's design or operation causes copyright infringement, they too could be held liable. Determining who bears responsibility whether it's the algorithm creator, the author directing the AI, or another party—depends on the specific facts and circumstances of each case, and is subject to legal interpretation by the appropriate authority.

¹¹ Copyright Act, 1957, Section 18. Copyright Act, 1957

¹² Copyright Act, 1957, Section 2(d)(vi).

In contrast to copyright, the Indian Patents Act, 1970 explicitly restricts the rights and recognition of AI systems. It reserves patent rights and inventorship to human entities. Sections 2(1)(p) and 2(1)(t) define "patentee" as a person, and Section 6(1)(a) stipulates that only a person can apply for a patent. Additionally, Section 2(1)(ja) defines "inventive step" as one not obvious to a person skilled in the art, emphasizing the human aspect of inventorship. This limitation indicates that while AI can play a role in the creation of works, it does not possess legal standing for patent rights in India.¹³

Key Provisions of The Copyright Act, 1957

The Copyright Act, 1957, is India's primary legislation for governing copyright law. It outlines the scope of copyright protection, the rights granted to copyright owners, and the remedies available for infringement. Here's a summary of key provisions with relevant citations:

Subject Matter of Copyright (Section 13): This section specifies the types of works eligible for copyright protection, including literary works, musical works, artistic works, cinematographic films, and sound recordings.¹⁴

Ownership of Copyright (Section 17): Under this section, copyright initially vests in the author of the work. However, for works created during employment, commissioned works, and works created by the government,

¹³ Patents Act, 1970, Sections 2(1)(p), 2(1)(t), 2(1)(ja), and 6(1)(a).

¹⁴ Copyright Act, 1957, Section 13.

the ownership may be different.¹⁵

Term of Copyright (Section 22): This section defines the duration of copyright protection. Generally, it's the lifetime of the author plus 60 years after their death. For other works, like anonymous or pseudonymous works, and works of joint authorship, the term varies.¹⁶

Exclusive Rights of Copyright Owner (Section 14): The Act grants copyright owners several exclusive rights, including the right to reproduce the work, communicate it to the public, make adaptations, and perform or display the work publicly.¹⁷

Infringement of Copyright (Section 51): This section outlines acts that constitute copyright infringement, such as unauthorized reproduction, public performance, or communication to the public without permission from the copyright owner.¹⁸

Exceptions and Limitations (Chapter VI): The Act allows for exceptions to copyright protection, such as fair dealing for purposes like research, private use, criticism, review, and reporting of current events.¹⁹

Moral Rights (Section 57): This section grants authors certain moral rights, including the right to attribution (paternity right) and the right to the integrity of their work. These rights are separate from economic rights and cannot be

assigned.²⁰

Performers' Rights (Chapter VIII): This chapter gives performers certain rights over their performances, including the right to reproduce, distribute, and communicate their performances to the public.²¹

Copyright Societies (Chapter X): The Act provides for the establishment of copyright societies to manage and administer certain rights on behalf of copyright owners, such as collecting royalties and granting licenses.²²

Remedies and Enforcement (Chapter XII): This chapter outlines the civil and criminal remedies available for copyright infringement, including injunctions, damages, and penalties for offenses.²³

Conclusion

The intersection of AI and copyright law presents a complex landscape that requires careful consideration. As AI technologies continue to advance, India and other jurisdictions must adapt their copyright laws to address the unique challenges posed by AI-generated works. This will require balancing innovation and creativity with the protection of intellectual property rights to ensure a fair and equitable environment for all stakeholders involved. The rise of AI-generated content presents complex challenges for India's copyright framework. While the current Copyright Act, 1957, indirectly addresses AI-generated works by focusing on human

¹⁵ Copyright Act, 1957, Section 17.

¹⁶ Copyright Act, 1957, Section 22.

¹⁷ Copyright Act, 1957, Section 14.

¹⁸ Copyright Act, 1957, Section 51.

¹⁹ Copyright Act, 1957, Chapter VI.

²⁰ Copyright Act, 1957, Section 57.

²¹ Copyright Act, 1957, Chapter X.

²² Copyright Act, 1957, Chapter VIII.

²³ Copyright Act, 1957, Chapter XII.

authorship, it lacks explicit guidance on how to manage the unique aspects of AI-generated content. As AI technology becomes more sophisticated, differentiating between human- and machine-generated works could complicate copyright ownership. Further, increased commercial use of AI-generated content may require updates to copyright laws to protect intellectual property rights. Addressing these challenges will require a balance between fostering innovation and safeguarding creators' rights.

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