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AUTHORSHIP OF AI- GENERATED WORK UNDER INDIAN COPYRIGHT LAW: EMERGING LEGAL CHALLENGES

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ABSTRACT

Artificial Intelligence, AI, plays an important role and is rapidly working in the creation of literature, art, speech, music and other creative works, which in the present day, with the development of AI, with little or no significant human intervention, are capable of creating various types of creations, thus raising many questions about the traditional, which is copyright law, based on authorship and human creation.

Under the Indian Copyright Act, 1957, the concept of authorship is closely linked to things created by AI. Section 2(D) specifically addresses computer-generated works, which identify the person responsible for the creation of the work and suggest its authorship, but in the present era, in the context of rapidly evolving AI systems, the Indian Copyright Act, 1957, is still unable to make a clear provision, because the AI that creates it may be based on various levels of human intervention, algorithms, training data, etc.

In the context of AI-generated works, the very essence of determining authorship under Indian Copyright Law has also become a major challenge, as it becomes difficult to attribute authorship to a work where human input is minimal. On the other hand, it is also unfair to grant copyright to a person who creates the work with his own skills and on the basis of this, other persons may, at such times, take advantage.

This research article will examine how the current copyright legal framework in India is able to determine authorship, and analyze the implications for AI-generated creations, focusing primarily on the relationship between human creativity and AI-generated creations, the legal understanding of computer-generated creations, and the new challenges and issues arising related to authorship and ownership based on them.

Based on this article, it will be seen that the current legal framework provides a primary basis for AI-generated creations, but does not provide a basis for fully addressing all the issues that

arise in the context of rapidly evolving AI, thus requiring a clear and robust legal framework that protects human creativity, while also promoting the responsible development and use of AI.

KEYWORDS: Artificial Intelligence (AI); AI-generated works; Authorship; Copyright law; Indian Copyright Act, 1957; Human creativity; Originality; Legal challenges.

INTRODUCTION

AI (Artificial Intelligence) is rapidly developing in the present time and is continuously developing creative processes, so that in the present time many tasks are becoming easier based on AI. With the use of AI, the creation of literary, artistic, musical, compositions, articles and other services is becoming easier, whose individual contribution may also vary. With this development, a new era has come for the creators, and the people who use technology, but with this development, many questions have arisen as challenges for copyright law, the main question is that of authorship, if a creation is made with the help of AI and based on AI, can someone become the author of that creation according to the law or not, and if someone can become the author, should he be considered the author according to the law?

Copyright law, traditionally, is based on the idea that creative works are the result of human skill and intellectual ability. The Indian Copyright Act, 1957, provides copyright protection for literary, dramatic, musical, artistic works, films, sound recordings, etc. Therefore, authorship, originality, ownership and creator are all important factors that should be protected by copyright and are important in determining copyright protection.

The development of AI-generated works has raised many questions about the applicability of traditional concepts. AI systems prepare content based on information provided by humans, such as instructions, training, algorithms, etc., but the degree of human intervention varies from case to case. In some cases, humans only give general instructions, while in other cases they make significant contributions, and pay attention to the selection of inputs within the AI. In this way, a person creates significant works based on AI and with his own intervention and has significant creative control, so keeping this difference in mind, adopting the same approach becomes questionable.

There is a provision in the Indian Copyright Act for computer-generated works, in which, based on Section 2(D) of the Copyright Act, if a literary, dramatic, musical, and other artistic works etc. are created based on a computer, if there is a personal contribution, that person is

included in the definition of author and given authorship. But this provision, mainly in the context of computer-generated works, does not specifically address the AI that is developing in modern times, and generative AI. Therefore, many questions arise about who among these three persons should be considered as the author: the person using AI systems, the person developing the AI system, and the person creating with AI.

The question of originality further complicates the legal situation. Section 13 of the Copyright Act provides protection to original literary, dramatic, musical and artistic works. According to the judicial understanding of Indian copyright law, originality does not mean a completely new creation, but rather a significant contribution of the author to the creation, and his/her necessary intellectual effort. Therefore, in the case of a creation created by AI, the extent of human contribution, and the nature of the creation, may be important for granting copyright protection and determining authorship.

The question of authorship is linked to the ownership of copyright, because under certain provisions and circumstances, the author can be the first owner of the copyright. The Copyright Act also provides a separate legal framework for the ownership of copyright and its registration, so uncertainties about authorship can raise various other issues such as determining ownership, licensing, enforcement of copyright, and commercial use of AI-generated works, and their implications.

Therefore, on the basis of authorship, the aim is to examine the concept of authorship of AI-generated works under Indian Copyright Law, and to analyse the legal challenges associated with it. This article will focus on the current legal framework, the importance of human creation, and its contribution, and the need for originality, and the problems that arise in identifying the author despite the significant contribution of AI, as well as whether the current Indian copyright legal framework is sufficiently clear. In view of the development of modern generative AI, and whether it provides for the protection of human creativity, while at the same time encouraging the development of new, evolving AI technologies.

RESEARCH OBJECTIVES

1. To study the concept of authorship of AI-generated works under the Indian Copyright Act, 1957, and to examine whether there are provisions for the same.
2. To study the extent to which the protection of copyright under Section 2 of the Copyright Act is applicable to works created with the help or contribution of Artificial Intelligence.
3. To know how to properly test human creativity and human contribution to determine the originality and copyright protection of AI-generated works.

4. To know the difficulties and challenges faced in determining the authorship and ownership of AI-generated works in India.
5. To suggest a legal approach that maintains a balance between protecting human creativity and developing AI.

Research Questions

1. Who should be considered as the author of a work generated by AI under the Indian Copyright Act, 1957?
2. To what extent can Section 2, Clause D, A of the Copyright Act be effectively applied to a work created with the help of, and with the contribution of, artificial intelligence?
3. How can human creativity and its contribution be properly assessed for determining originality and copyright protection for a work created by AI?
4. What are the main legal challenges that arise in India in terms of the concept of authorship and ownership of AI-generated works?
5. What legal approaches should India adopt to ensure that both human creativity is protected and AI develops, in a balanced manner?

Research Methodology

This research article adopts doctrinal and qualitative research methodology to examine the challenges and problems arising in determining authorship based on AI-generated works under Indian Copyright Law. This research article is primarily based on the current Indian legal framework, its provisions, judicial decisions, academic literature, etc., and other relevant legal, related studies and analysis.

The primary sources of this article include the Copyright Act, 1957, its related provisions, judicial decisions of Indian courts and other legal and policy documents related to copyright and AI, mainly the provisions related to authorship, originality and ownership of copyright, including Section 2(D) of the Copyright Act.

The secondary sources of this article include books, research articles, law journals, academic publications, and other reliable sources discussing government and parliamentary, online legal websites and artificial intelligence, and copyright law. All these sources have been used to understand the current academic and legal approach in the context of AI and its creation.

This research article adopts a qualitative analysis approach, so that by studying the collected legal and academic information, an attempt has been made to identify the current legal

situation, the relationship between human creativity and creation by AI, and the gaps and uncertainties in the current legal framework based on it.

This study is mainly limited to the framework of Indian copyright law, however, where necessary to understand the legal approach to creation by AI, reference has been made to relevant international legal developments in a comparative manner.

This research article is mainly based on legal and documentary analysis, and statistical data has not been used as the main basis.

Conceptual Framework

8.1, Artificial Intelligence and AI Generated Works

Artificial Intelligence is a computer-based technological system that can generally work in conjunction with human intelligence, including teaching a person, obtaining information, analyzing it, creating a structure, asking questions, getting help from AI in getting answers, etc. In the creative field, generative AI provides various types of help and prepares content such as text, images, music, composition, etc. based on training, algorithms, information, etc., but the creation made by each AI, and the contribution of humans to creativity may be different.

8.2, The concept of authorship

Authorship is important in copyright law, because copyright protection is traditionally associated with protected works. But the identification of the author of works generated by AI becomes complicated. The person who gives the command, the person who controls the AI system, and the person who develops the AI, or the person who processes it, among all these individuals, who should be considered the author of the work, and to whom should the copyright be granted, etc., arise questions, so this research author analyzes the concept of authorship in the situation of creation by AI.

8.3, Human Creativity and Human Contributions

Human creativity is important in determining copyright protection in works generated by AI, AI creates the final content, but the person gives it the command, selects the subject, makes creative decisions, and changes the output, and thus makes an important contribution to creating the final work, so the form and extent of human contribution may be appropriate to consider as an important factor in granting authorship and copyright protection.

8.4, Originality

Originality is important in copyright, in which originality is an important concept of law, generally the work must have the necessary originality to obtain copyright protection, but in the case of a work generated by AI, the question arises whether there is the necessary human intellectual contribution or not, or whether the work has been created by a completely automated AI technology. Therefore, an attempt has been made to understand originality by linking it to human creativity and human intervention in the work.

8.5, Copyright Ownership

Authorship and originality are closely related concepts, but they are not necessarily the same. Once the author is identified, issues such as ownership, control, licensing and commercial use of copyright may also arise. In AI-generated creations, when more people are involved in the creation process and their contributions are varied, this ownership may become more uncertain and questionable, and it may be difficult to determine ownership.

8.6, Legal Challenges, and Need for Legal Clarity

The relationship between all these concepts makes Indian copyright law capable of raising many challenges and legal questions. The current Indian copyright law has relevant provisions for computer-based creations, but the development of generative AI at present raises a question that is not clearly addressed in the current law. Therefore, the analysis in this article will provide a basis for analysis on how well the current Indian legal framework is suited to protecting AI-generated creations and the need for greater legal clarity and stronger reforms.

Legal Framework in India

The main legal framework for regulating copyright in India is provided by the Copyright Act, 1957, and the rules made thereunder. The Act provides legal protection to various works and provides principles relating to authorship, originality, and ownership and infringement thereof, but there is no separate and complete legal framework and no Act for the works generated by the emerging AI, Artificial Intelligence, systems, and hence the provisions of the existing law need to be understood in the context of creations generated by AI.

9.1, Copyright Act, 1957, under, Copyrighted Works

Section 13 of the Copyright Act, 1957, provides copyright protection to original literary, musical, dramatic and cinematographic works, including sound recordings, in view of the

requirements contained in the Act. Nowadays, many such works are being easily created by AI. Therefore, the legal question arises whether a work created by AI can get protection under this Act or not, and to what extent human contribution may be required for it.

9.2, Authorship under Section 2(D)

Section 2(D) of the Copyright Act defines author for various types of works, mainly computer-based works, including artistic, literary, dramatic, musical, etc. works. In the context, the Act defines the person who creates the work as the author. All these provisions are also relevant to AI-generated works, as they provide a legal basis for attributing authorship to computer-generated works,

But in the context of modern generative AI, these provisions are not entirely straightforward. In modern AI systems, developers, users, data providers, etc., and other individuals may have different contributions, while the final output may be generated automatically, so the phrase “person who causes the work to be created” may need to be interpreted carefully in relation to the differences in the various contributions.

9.3, Originality, and Section 13

Originality, which is important for copyright protection in India, protects the original work contained in the work, as defined in Section 13 of the Copyright Act. Indian jurisprudence has stated that originality must be the work originating from, and containing, the intellectual effort and contribution of, the author to the extent necessary. The work does not necessarily have to be completely new,

The question of originality becomes more complex In the context of AI-generated creation, because where the final expression is created by AI, where a human being has significant, creative control over the selection, modification, arrangement, and final presentation of the material based on AI, the possibility of copyright protection may be stronger. On the other hand, where the human contribution is very minimal, there is also a question of whether the finished work contains human creative contribution or not.

9.4, Section 17, Ownership

Section 17 of the Copyright Act generally provides that the author of a work is the first owner of the copyright, but this rule is subject to exceptions under Section 17, so the attribution of authorship of an AI-generated work may affect questions of ownership. If a person provides the legal framework for an AI-generated work, that person may become the first copyright

owner under the applicable provisions, but where there is uncertainty about authorship, various questions of ownership, licensing, assignment, etc. may also remain uncertain.

9.5, Copyright Ownership Rights

Section 14 of the Copyright Act sets out a framework of exclusive rights for copyright holders, which may include rights of reproduction, communication to the public, adaptations and other rights, depending on the creation. In the context of a creation made by AI, these rights will first accrue to the person who first obtains copyright protection for the creation. Thus, who is legally entitled to exercise these rights will be determined by the copyright protection, but uncertainties about authorship also create uncertainty in all these other rights.

9.6, Copyright Registrations and AI Generated Works

The Copyright Act provides a legal framework for the registration of a copyright, although registration, AI, is not the source of copyright. Registration of AI-generated works may raise further questions about the involvement of AI, the contribution of humans, and the person claiming authorship, so it is important to understand that the significance of the law of registration is separate, and should be kept separate from the fundamental question of whether AI-generated works are eligible for copyright protection.

9.7, Shortcomings in the current legal framework

The current provisions of the Copyright Act provide many legal bases for computer-generated works, but are not currently designed to take into account the capabilities of developed AI generative technologies. There is no detailed guidance in the statutes and legal framework on what specific levels should be adopted to determine authorship when AI makes a significant contribution to the creative process, and the extent to which humans contribute to various AI-assisted works.

These practices create a number of legal uncertainties for users, creators, developers and other stakeholders, hence a balanced and clear interpretation of the current provisions is required, and in the future, such challenges may not arise, which may require the development and amendment of appropriate legal provisions, which cannot be met by the current legal framework.

Thus, the Indian legal framework can provide an important basis for analyzing AI-generated works through traditional concepts such as authorship, originality and ownership, but in comparison with the rapid development of generative AI, it is also necessary to analyze

further whether these traditional legal concepts can fully address new forms of machine-assisted creativity.

Major Legal Challenges

There are several challenges in the existing copyright legal framework of India, which have arisen on the basis of AI and its derivatives in the field of literary, artistic, musical and images, creative works etc. The Copyright Act, 1957 has relevant provisions for computer generated works but does not have provisions for the currently developed AI systems and the creations generated by them.

10.1, Uncertainty about authorship

A major legal challenge is who is considered the author of an AI-generated work. Section 2(D)(VI) of the Copyright Act, 1957 provides that in the case of computer-generated works, such as dramatic, musical, literary or artistic works, “the person who causes the work to be created” is considered the author. However, in the case of AI-generated works, there are various roles of individuals, such as the person who developed the AI system, the person who gave instructions to the AI system, and the person who selected or modified the final output, making it difficult to determine which individual’s contribution is significant and which individual’s contribution is sufficient to grant authorship.

10.2, The Challenge of Determining Human Creativity and Contribution

Copyright traditionally places a premium on human input for copyright, however, in AI-generated works the role of humans can vary, with some simply giving commands to the AI, others giving it more detailed instructions, others selecting the appropriate output, making significant changes such as modifications, and maintaining control over the final creation. Therefore, taking all these factors into account, and based on this, determining the degree of human input and human intelligence required for someone to claim authorship and copyright protection, can be a significant legal challenge.

10.3, The Challenge of Originality

Originality is also an important legal challenge for AI-generated works. Section 13 of the Copyright Act, 1957, Originality, provides copyright protection to literary, dramatic, musical and artistic works. However, when a significant contribution to a work is made by AI, it is difficult to determine who contributed to the final work, a human or an AI system, and this

necessitates legal scrutiny of how to determine the originality requirement for AI-generated works.

10.4, The challenge of copyright ownership

The question of authorship is closely linked to copyright ownership, so for an AI-generated work to be considered eligible for copyright protection, it is also necessary to know who owns the copyright. Depending on the circumstances, the user of the AI system may claim ownership of the work, the creator, or another person entitled under the law. Section 17 of the Copyright Act provides for the first ownership of copyright, but its applications to the different types of works created on the basis of AI may require further clarification.

10.5, The Difference Between AI Assisted Works and Fully AI Generated Works

An important challenge is also to distinguish between AI assisted works and fully AI generated works. In AI assisted works, human control may be significant, while in other situations, human control and contribution may be limited to giving commands and selecting output. Therefore, treating these two situations equally or not paying much attention to them may increase legal uncertainty, making it necessary to also take into account the human contribution and its nature and extent when determining authorship, and copyright protection.

10.6, Ambiguity and Inadequacy of the Current Legal Framework

The current provisions of the Copyright Act, 1957 provide important provisions and basis for dealing with computer generated works, but modern, generative, AI have created situations that are beyond the provisions of the Copyright Act, 1957. This raises issues such as authorship, human contribution, originality and ownership, which cannot necessarily be addressed by the current legal framework, thereby creating legal uncertainty for creators, users of AI, and developers and copyright authorities. It is therefore necessary to examine the current legal framework further to answer questions such as whether it is flexible enough or not, and whether legal reforms are needed, etc.

Thus, the main legal challenges are that AI-generated works cannot be easily explained and addressed by traditional concepts of authorship and copyright. Given the increasing role of AI in the creative process, it is necessary to understand that there is a need for a balanced legal framework that protects genuine human contributions and promotes the responsible development and use of AI, and also informs the clarification and improvements needed in the legal framework.

Critical Analysis

The Indian legal framework provides a sound legal basis for computer-generated works and creations, but it is unclear in many respects for the current AI-generated works. Section 2(D)(VI) of the Copyright Act, 1957, provides that “the person who causes the work to be created” is considered the author of a literary, dramatic, musical or artistic work created by a computer. While these provisions may be important for AI-generated works, the development of generative AI has made it difficult and complicated to determine who actually causes the work.

A key Issue is the extent of human input into the creative process. When a person uses AI as a tool, and has control over the instructions, selection, arrangement, editing and modification that are used to produce the final work, then it may be easier to determine authorship and provide a strong basis for doing so. But where the entire work, or final creation, is done by AI, the human contribution may be limited. In such cases, determining authorship may be more difficult. It follows that a uniform legal approach cannot be appropriate for all AI-generated works.

Originality requirements also introduce important legal uncertainties. Indian copyright law protects original works, and Indian courts generally associate originality with original expression from the author of the work, not just novelty. But in AI-generated creations, it is difficult to determine the relationship between human intellectual contribution and machine-generated experience. Therefore, the law should consider the human contribution to the work rather than whether or not AI is used.

Another important issue is the relationship between authorship and ownership. If a person is recognised as the author under the current legal framework, questions may arise about who will own the resulting copyright. While AI is primarily used through contractual terms, or through commercial platforms, section 17 of the Copyright Act provides a general legal framework for first ownership, but these principles may need to be made clearer and more enforceable in the face of the diversity of AI-based creative arrangements.

At a time when only AI technology has been used, it is not appropriate to completely exclude AI-assisted works from copyright protection. AI can only act as a suitable creative tool for the human creator, just as other technologies assist human creativity, so the main focus should be on the final creation and work, including the nature and extent of the intellectual and creative contribution by the human. The development of a comprehensive legal framework in India should protect human creativity and promote technological innovation, and strike a balance between the two, so that such challenges can be addressed. While an overly restrictive

approach may discourage legitimate creative users of AI, granting too much copyright protection to machine-generated outputs may weaken the traditional relationship between copyright and human creativity.

The current legal framework, in particular Section 2(d)(vi), is an important starting point, but it is not sufficient to fully answer the questions that arise in relation to AI-generated works. Therefore, for greater legal clarity, the focus should be on human contribution, creative control, originality and the circumstances in which the works are generated, so that the users of AI and the developers of AI can have greater legal clarity and the fundamental objectives of copyright law are maintained.

From this entire critical analysis, it can be said that the main question is not whether AI can create and perform simple tasks, but how much human being, one, and how much human contribution has been made to the creation, so that in the future, the development of Indian copyright law should bring clarity to the legal status of AI-generated works, which will be necessary, along with encouraging technological development, development, development, and not placing unnecessary restrictions on it.

SUGGESTIONS

1. To bring clarity to the authorship rules, clear legal rules should be developed to identify the person who has meaningful creative contribution, control over AI-generated work.
2. To recognize human creative contribution, when a person makes substantial creative decisions, gives detailed creative instructions, selects the output of AI, makes arrangements, makes modifications, all such human contributions should be taken into account.
3. A clear distinction should be made between AI-assisted and AI-generated work, in which AI is used only as a tool, and the difference between the two should be clarified, which will help in determining copyright.
4. Guidelines for originality should be developed, including the use of AI as a tool, and a focus on large-scale use, so that human contributions can also be determined, so that guidelines should be developed to increase the clarity of originality.
5. More clarity should be brought about regarding copyright ownership, so that it is easier to determine ownership against various claimants such as users, developers, and employees, thus making the legal framework clearer.

6. Copyright law should be reviewed periodically, because AI is developing rapidly, with which copyright law remains capable and powerful, so it should be reviewed periodically, or should be.

CONCLUSION

Artificial intelligence has brought about significant changes in the way creative works are created. AI can open up new possibilities for creativity, but the increasing use of AI has also raised a number of questions for copyright law. The analysis of this article shows that the main question is how to determine human authorship in works created by AI. Issues such as human contribution, originality, ownership and the distinction between AI-assisted and substantial, AI-generated works have created some uncertainty in the current legal framework.

Section Thirteen of the Copyright Act grants copyright protection to original, dramatic, musical and artistic works, but where AI is used to create works in which the AI contribution is significant, it is necessary to take human contribution into account in order to apply the requirements of originality. Therefore, it is not appropriate to automatically consider AI as a substantial substitute for human authorship, and to exclude AI-assisted works from copyright protection. Instead, the nature and extent of the human creative contribution should be given importance, with the person who created the final work, and whose contribution is substantial and significant, having a stronger claim to authorship than someone whose contribution is very small.

The existing legal framework should also be such that it does not impose unnecessary restrictions on technological innovation. There should be clearer legal principles on issues such as authorship, originality, and disclosure of significant AI involvement, as well as greater clarity and certainty for creators, AI users, developers, and copyright authorities, and the legal framework should be able to keep pace with the rapid development of AI, and be subject to periodic review.

Finally, not creating undue barriers to AI technology, but recognizing the strong purpose of copyright law, and with it, the development of AI and its evolving creative practices, while balancing the protection of genuine human creativity, the importance of human input, and the appropriate legal understanding of AI-assisted creation, can help address the challenges of AI-generated work in India. With these approaches, technological development can move forward with copyright law, and, based on this, its strong rules can be maintained.

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 - Section 13, Copyright Act, 1957 — works in which copyright subsists, including original literary, dramatic, musical and artistic works.
 - Section 14, Copyright Act, 1957 — meaning and exclusive rights comprised in copyright.
 - Section 17, Copyright Act, 1957 — first ownership of copyright.