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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE PARADOX OF PROGRESS: AI AND THE MODERN JUSTICE SYSTEM

AUTHORED BY - JYOTI*[1]

Abstract

Historically, art has served as the ultimate reflection of human expression and emotion. However, the 21st century has ushered in a transformative era where the modern justice system must confront the "creative" autonomy of Artificial Intelligence. As algorithms evolve from simple tools into independent creators of poetry, music, and visual art, they challenge the foundational pillars of jurisprudence: authorship, originality, and intent. This paper examines the critical intersection of AI-driven creativity and the modern justice system, focusing on how legal institutions must adapt to a landscape where the "creator" lacks legal personhood.

Central to this study is the tension within the Indian legal framework, specifically the **Copyright Act of 1957** and the **Patents Act of 1970**, both of which were drafted under the assumption of human-centric labor. By contextualizing the problem within international treaties like the **Berne Convention** and **TRIPS**, this research compares how modern courts in the U.S., U.K., E.U., and China are redefining the "author." A significant portion of the analysis is dedicated to Indian landmark cases—such as *Eastern Book Company v. D.B. Modak* and the recent *Kanchan Nagar (2024)*—to determine if the modern judiciary is equipped to handle "algorithmic infringement."

The paper argues that the modern justice system faces a "legal vacuum" regarding whether rights should be assigned to the developer, the end-user, or remain in the public domain. Ultimately, the research emphasizes that the modern justice system must move beyond reactive measures and establish a dynamic, adaptable framework. This is essential to ensure that while the tools of art evolve, the justice system continues to protect the moral and economic rights of the human spirit against the tide of automated expression.

Keywords: Modern Justice System, Artificial Intelligence, Indian Statutes, Algorithmic Authorship, Intellectual Property Rights (IPR), Judicial Interpretation.

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[1] PRACTICING ADVOCATE IN SOHNA

Introduction

Artificial intelligence is advancing at an unprecedented pace, reshaping industries, automating tasks, and even redefining creativity. These days, AI models such as DALL·E, Stable Diffusion, and Chat GPT now create images, poems, and stories that rival human works in originality and complexity. While these breakthroughs are exciting, they also raise a complex and unresolved issue: copyright and ownership. This has sparked global debate on the pretext that can a non-human entity qualify as an author. If so, who should be entitled to intellectual property (IP) rights; the AI itself, its developer, or the user who provided the prompts.

Legal frameworks worldwide are struggling to keep up with these questions, as current copyright laws do not clearly account for non-human creators. Some argue that AI-generated content should be in the public domain since no human creativity is directly involved, while others believe AI is merely a tool that enhances human creativity and should be treated as such. As AI continues to evolve, the legal system faces a crucial challenge as how to balance innovation with the rights of original creators. Should AI-generated works receive copyright protection? How can we prevent AI from exploiting existing copyrighted content without proper attribution? These are the pressing questions that policymakers, artists, and tech companies must navigate in this rapidly changing digital landscape.

Statement of Problem

The central problem is the **systemic legal vacuum** within the modern justice system regarding the governance of non-human creativity. Traditional jurisprudence hinges on the "human-centric" doctrines of originality, personality, and sweat-of-the-brow labor. AI disrupts this framework, posing significant challenges to the administration of justice in the following ways:

1. **Jurisprudential Deadlock on Authorship:** Modern courts lack a standardized test to determine whether "autonomous creation" by an AI can satisfy the statutory requirement of a "natural person" as an author, leading to inconsistent judicial outcomes.

2. **Evidentiary and Infringement Complexity:** The "Black Box" nature of AI training makes it nearly impossible for the justice system to trace derivative use, creating an evidentiary hurdle for plaintiffs seeking to prove unauthorized reproduction from vast datasets.

3. **Fragmented Judicial Accountability:** In collaborative Human-AI creations, the justice system struggles to apportion liability and rights, leading to fragmented ownership that complicates litigation and dispute resolution.

4. **Erosion of Moral Rights:** The modern justice system is built to protect an artist's "moral rights" (integrity and attribution). AI's ability to mimic styles without "intent" threatens to render these protections obsolete, leaving human artists without a remedy in court.

Objectives

This research paper aims to conduct a comprehensive legal study to:

1. **Examine the Judicial Evolution:** Analyze how the modern justice system is shifting its interpretation of "creative agency" in response to AI's transition from a tool to a collaborator.

2. **Critically Evaluate Indian Statutes:** Perform a doctrinal study of the **Indian Copyright Act (1957)** and **Patents Act (1970)** to identify specific legislative blind spots that hinder the modern justice system from resolving AI-related disputes.

3. **Comparative Jurisdictional Study:** Contrast the "human-authorship" rigidity of the U.S. justice system with the "computer-generated" recognition in the U.K. and the emerging regulatory frameworks in the E.U. and China.

4. **Formulate a Justice-Oriented Framework:** Propose a "Human-in-the-Loop" legal model and policy recommendations for the Indian judiciary that balance technological innovation with the protection of human intellectual dignity.

Literature Review

Legal scholarship on AI authorship represents a fundamental struggle within the modern justice system to define "legal personality." Current academic thought is divided between **Instrumentalists**, who maintain that the justice system must remain human-centric, viewing AI as a mere tool, and **Autonomists**, who argue that for the justice system to remain relevant, it must evolve to recognize the independent output of algorithms.

1. The Judicial Philosophy of Authorship

The roots of this debate in the modern justice system date back to the 1980s. Pamela Samuelson argued that computers should be treated as extensions of human authorship, a view that favored

judicial simplicity.[1] However, modern scholars like Annemarie Bridy suggest that this "simplicity" is no longer sustainable. Bridy argues that AI challenges the very "human-centric" assumptions upon which the modern justice system was built, requiring a **doctrinal evolution** rather than a simple interpretation of existing laws.[2]

2. Global Judicial Divergence

The modern justice system lacks a unified global approach, leading to "forum shopping" where creators seek jurisdictions with the most favorable judicial interpretations:

- **United States (Judicial Rigidity):** The U.S. justice system, led by the U.S. Copyright Office (USCO) and federal courts, maintains a "Human Authorship" requirement. In the landmark case *Thaler v. Perlmutter (2023)*, the modern justice system affirmed that it would not extend legal personhood to machines, emphasizing that the law is designed to protect human dignity, not mathematical output.[3]

- **United Kingdom (Statutory Pragmatism):** In contrast, the UK justice system operates under **Section 9(3)** of the CDPA 1988, which creates a legal fiction allowing the "person who made the arrangements" to be the author. This provides a clear judicial pathway for ownership that the U.S. lacks.

- **European Union & China (Regulatory Oversight):** The E.U. and Chinese justice systems are increasingly focused on **platform liability**. Rather than just deciding who owns the art, their modern justice frameworks focus on who is *accountable* when an algorithm infringes on human rights, shifting the judicial focus from "property" to "policing."

3. Ethical Jurisprudence and the Public Domain

The modern justice system also faces an ethical crisis regarding **"Derivative Injustice."** Andres Guadamuz highlights that while AI art may appear original to a court, it often relies on "exploitative" datasets.[4] This raises a question for modern judges: *Is it "just" to grant protection to a machine that was trained on the stolen labor of human artists?* Some scholars argue that the justice system should relegate AI works to the **Public Domain** to prevent a corporate monopoly over creativity, while others warn that this would leave the justice system without a mechanism to incentivize technological investment.

Gaps in Literature: The Indian Justice Perspective

Despite the growing global scholarship, significant gaps remain that this paper seeks to address:

1. ***Judicial Silence on AI-Human Joint Authorship:*** *While cases like Suryast (where the Indian Copyright Office briefly recognized an AI as a joint author) made headlines, there is a lack of deep study on how the* **Indian judiciary** *will handle the withdrawal of such recognitions or the "Human-in-the-Loop" requirement.*

2. ***The Impact of Recent 2024-2025 Litigation:*** *Most literature does not yet account for the* **Delhi High Court's** *2024-2025 proceedings in* **Kanchan Nagar & Ors v. Union of India**. *This case is a landmark for the modern justice system as it specifically addresses "unauthorized scraping" and "personality rights" of models being mimicked by AI.*

3. ***Procedural Gaps in Evidence:*** *There is minimal research on how the* **Indian Evidence Act** *(or the new* **Bharatiya Sakshya Adhiniyam***) will handle the admissibility of "AI-generated logs" to prove a human's creative contribution in a courtroom.*

4. ***Constitutional Morality vs. Property Rights:*** *Literature often misses the unique Indian perspective of "Dharma" and* **Moral Rights (Section 57)**. *This paper fills the gap by analyzing whether an AI can ever truly satisfy the "integrity" requirement of a human artist.*

Modern Justice Concern	TraditionalLaw Approach	AI-Era Requirement
Identity of Author	Must be a "Natural Person"	"Legal Fiction" or "Arranger" status
Originality	Modicum of Creativity (*Modak* Case)	"Prompt Engineering" as creative labor
Infringement	Direct Copying	Algorithmic "Mimicry" and Style Theft
Remedy	Damages & Injunctions	Dataset purging and "Algorithmic Disgorgement"

Evolution of AI in Art

Evolution of AI Art and the Judicial Response

1. Early AI Art (1950s–1990s): The Tool Paradigm

The foundations of AI-generated art were laid by rule-based systems like **AARON**, developed by Harold Cohen. These systems followed predefined logical "if-then" statements provided by the artist.

- **Technological State:** No deep learning; the machine strictly followed human-coded instructions.

- **The Justice System's View:** During this era, the judiciary viewed the computer as a **mere tool**, akin to a more complex paintbrush or a camera. The legal focus was straightforward: the human programmer was the "intellectual master," and authorship was never in doubt.

2. Rise of Machine Learning (2000s–2010s): The Complexity Crisis

The introduction of **Convolutional Neural Networks (CNNs)** and projects like Google's **Deep Dream** allowed AI to identify and replicate patterns without explicit rules.

- **Technological State:** AI began "learning" from datasets, creating surreal imagery that seemed to possess its own "aesthetic."

- **The Justice System's View:** This period marked the beginning of **judicial uncertainty**. As the "human touch" became more removed, the modern justice system began questioning the "modicum of creativity" (*Modak* test) required for copyright. Courts started seeing cases where the "creative labor" was split between the programmer (who built the network) and the user (who provided the data).

3. Generative AI (2020s–Present): The Authorship Paradox

Modern tools like **DALL-E, Midjourney, and Stable Diffusion** use text-to-image prompts to generate high-fidelity art with minimal human intervention.

- **Technological State:** AI can now create original compositions by "synthesizing" millions of human works.

- **The Modern Justice System's View:** We are now in a state of **active legal confrontation**. The modern judiciary is grappling with three core systemic challenges:

o **The Human-Centric Barrier:** Courts (e.g., *Thaler v. Perlmutter*) are strictly reinforcing that the justice system exists to protect *human* dignity, currently barring AI from being a legal author.

o **The Evidentiary Challenge:** Judges now face "Deepfakes" and AI-generated evidence, requiring new forensic standards to maintain the integrity of the courtroom.

o **Derivative Justice:** Modern litigation (like the **2024-2025 Delhi High Court cases**) is moving beyond ownership to **accountability**, asking how the justice system should punish "style theft" and unauthorized data scraping.

Era	AI Role	Modern Justice Focus
1950s–1990s	Obedient Tool	**Ownership:** Total human control.
2000s–2010s	Pattern Replicator	**Originality:** How much human input is "enough"?
2020s–Present	Creative Partner	**Liability & Personhood:** Can a machine be a defendant or an author?

Legal Frameworks and AI-Generated Works

Copyright laws vary across countries, but many legal frameworks share common principles due to international treaties. Here are some of the most notable legal frameworks governing copyright worldwide:

1) *International treaties and Conventions*

These agreements establish baseline standards for copyright protection among signatory countries.

a) Berne Convention for the Protection of Literary and Artistic Works[2]

i. One of the most influential copyright treaties.

ii. Establishes the principle of automatic protection, meaning copyright is granted without formal registration.

iii. Requires member states to provide a minimum copyright term of the author's lifetime plus 50 years (many countries extend this to 70 years).

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[2] Adopted in 1886 in Berne, Switzerland

    iv.   Introduced the principle of "national treatment," ensuring foreign works receive the same protection as domestic ones.

b)   Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)[3] (1994)

    i.   Enforced by the World Trade Organization (WTO).

    ii.   Mandates all WTO member states comply with the Berne Convention (except for moral rights provisions).

    iii.   Introduces enforcement measures, including civil and criminal penalties for copyright infringement.

    iv.   Requires software and databases to be protected as intellectual property.

c)   WIPO Copyright Treaty (WCT) & WIPO Performances and Phonograms Treaty (WPPT) (1996).

    i.   Administered by the World Intellectual Property Organization (WIPO)[4].

    ii.   Addresses digital copyright issues, including the protection of digital content and technological protection measures (e.g., DRM).

    iii.   Expands rights for authors, performers, and producers of sound recordings.

2) *Foreign Jurisdiction Copyright Laws*

Many countries have their own copyright legislation, often shaped by international treaties.

a)   United States – Copyright Act of 1976 & DMCA (1998)

    i.   The Copyright Act of 1976 established the foundation of modern U.S. copyright law, defining exclusive rights and fair use.

    ii.   The *Digital Millennium Copyright Act (DMCA)* strengthened copyright enforcement in the digital era, criminalizing circumvention of digital rights management (DRM) and establishing safe harbor protections for online platforms.

b)   European Union – Copyright Directives

    i.   The EU Copyright Directive (2001/29/EC) harmonized copyright across EU nations.

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[3] Adopted at Uruguay Round of GATT
[4] Established in 1967 as Specialized agency of UN

    ii. The Directive on Copyright in the Digital Single Market (2019) introduced controversial rules like Article 17[5], making online platforms more liable for copyright infringement.

    iii. The Database Directive (1996) grants protection for databases, including those without creative input.

c) China – Copyright Law of the People's Republic of China (Revised 2021)

    i. Strengthened copyright protections, especially for digital content.

    ii. Increased penalties for infringement.

    iii. Requires platforms to take a more active role in monitoring copyright violations.

d) United Kingdom – Copyright, Designs and Patents Act 1988

    i. Forms the primary copyright law in the UK.

    ii. Extended protection to software, databases, and digital media.

    iii. Adapted post-Brexit to align with but not fully adopt EU rules.

3) Provisions in Indian Statutes

India does not have explicit AI-related copyright provisions, but existing intellectual property laws apply:

a) Indian Copyright Act, 1957

The Indian Copyright Act, 1957, does not explicitly address AI-generated content, as it was enacted long before artificial intelligence became a significant issue. However, certain provisions can be interpreted in the context of AI-generated works.

    i. Authorship and Ownership of AI-Generated Content

The Act defines an "author"[6] as a natural person for different types of works. Since AI is not a natural person, it cannot be considered an author under the Act.

Ownership in AI- Generated Works – If an AI tool generates content, its ownership would generally belong to the person or entity that programmed or trained the AI or the person who provided the inputs to generate the content.

    ii. Infringement and AI-Generated Content

If AI creates content that copies existing copyrighted material, it may lead to copyright infringement.[7] AI-generated outputs that substantially reproduce copyrighted content could be considered unauthorized reproductions.

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[5]Formerly, Article 13

[6] Section 2(d) of copyright act, 1970

[7] Section 51 of copyright act, 1970

iii.   Fair Use of AI-Generated Content

Under Section 52, some uses of copyrighted content (such as research, teaching, or criticism) may be considered fair use, even if AI is involved. However, AI's large-scale data scraping from copyrighted sources may not always fall under fair use.

b) The Indian Patents Act, 1970

This act does not explicitly mention AI-generated inventions, but certain provisions can be analyzed in the context of AI-generated content and patentability.

i.   Inventor ship and AI-Generated Inventions

A patent application can only be filed by a natural person[8], their assignee, or a legal entity. Since AI is not a legal person, it cannot be listed as an inventor under Indian law. If an AI-assisted invention is created, the human who developed or trained the AI may be considered the inventor.

ii.   Patentability of AI-Generated Inventions

The Act excludes "computer programs per se" from patentability[9]. Since AI operates on algorithms and software, AI models themselves may not be patentable. However, an AI-related invention with a technical application or industrial use (e.g., AI in medical diagnostics, autonomous systems) may be considered patentable.

Several Indian case laws have addressed copyright and authorship in artistic works, which can be relevant to AI-generated content:

1) In *R.G. Anand v. Deluxe Films[10]*, Supreme Court held that mere similarity in artistic works does not constitute copyright infringement unless a substantial reproduction is proven.

2) In *Amarnath Sehgal v. Union of India[11]* (2005), the moral rights of an artisthave been reinforced under Section 57 of the Copyright Act, 1957, protecting artistic integrity and ownership.

3) In *Eastern Book Company v. D.B. Modak[12]*, the court ruled that creativity must involve a minimal level of originality, reinforcing human intellectual contribution in artistic works.

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[8] Section 6 of Patent act, 1970
[9] Section 3(k): Exclusion of Mathematical and Computer Programs ofPatent act, 1970
[10] AIR 1978, 1979 SCR (1) 218
[11] Delivered on February 21, 2005
[12] 2008 1 SCC 1

4) *Krishika Lulla v. Shyam Vithalrao Devkatta (2016):* This case highlighted that substantial artistic expression and originality are key to copyright protection under Indian law.

5) *M.T. Jonnavithula v. Telugu Film Industry (2021)*: Addressed ownership disputes concerning artwork used in film production, emphasizing proper credit and copyright enforcement.

6) In *Jatin Das v. Union of India[13]*: Renowned artist Jatin Das filed a lawsuit against the Union of India, alleging distortion of his artwork "Flight of Steel" by the Steel Authority of India (SAIL). The Delhi High Court upheld the artist's moral rights under Section 57 of the Copyright Act, 1957, restraining SAIL from further modifying the artwork and emphasizing the protection of an artist's integrity and reputation.

7) In *Kanchan Nagar &Ors v. Union of India &Ors.* (2024): A Public Interest Litigation (PIL) was filed before the Delhi High Court, raising concerns about the unauthorized use of original artistic works by artificial intelligence (AI) software. The petitioners sought judicial intervention to regulate AI technologies that appropriate copyrighted material without permission, particularly photographs and images created by professional artists and models.

These cases collectively underscore the evolving legal landscape surrounding artistic works in India, addressing issues of copyright infringement, moral rights of artists, and the challenges posed by emerging technologies like AI.

Case Studies

Several landmark cases highlight the complexity of AI ownership:

- The *Portrait of Edmond de Belamy[14]*: Sold for *$432,500*in October 2018 raising ownership debates among programmers, data contributors, and AI itself.

- *Théâtre D'opéra Spatial* (2022): AI-assisted artwork won a competition, sparking controversy about AI's role in art.

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[13] CS(COMM) 599/2018
[14] Paris-based Collective Obvious in 2018

Proposed Solutions

As AI continues evolving, potential solutions include:

1) *New Copyright Laws*

   a) Updating frameworks to acknowledge AI contributions while ensuring human oversight.

   b) Governments should create laws that protect both content owners and fair-use rights for creators.

   c) Creating a sui generis category for AI works.

   d) Exceptions for AI training and research should be explicitly defined.

2) *Licensing Models*

   a) Developers and users could co-own rights through licensing agreements.

   b) Implement licensing agreements where AI companies fairly compensate creators.

   c) Develop public domain and open-license datasets for AI training.

3) *Hybrid Authorship Models*

   a) For collaborative works, ownership could be shared between the user and developer, reflecting joint creativity.

   b) Courts can assess the degree of human input to determine authorship.

4) *Judicial Interpretation*

   Indian courts may interpret existing provisions dynamically, extending ownership principles to cover AI-assisted works while reinforcing human originality.

5) *AI as a Legal Entity*

   a) A radical approach involving AI recognition as an entity with limited ownership rights. Legal responsibility would always rest with the creators, users, or owners.

   b) This approach treats AI like software or machinery rather than an independent actor.

The Final Synthesis: Justice in the Digital Age

- **From Property to Accountability:** The modern justice system is shifting its focus from simple "ownership" to **liability**. Rulings in late 2024 and 2025 (such as the *Kanchan Nagar* proceedings in the Delhi High Court) emphasize that the justice system must prioritize the **personality rights** and **integrity** of human creators whose works are ingested as training data.

- **The Legislative Mandate:** As analyzed through the **Indian Copyright Act (1957)** and the **Patents Act (1970)**, the "legal vacuum" is being filled by emerging doctrines like

the **"Acquisition-Use Dichotomy"**—separating the legality of data scraping from the legality of the final output.

- **The Future of Jurisprudence:** The modern justice system must adopt a **"Human-in-the-Loop"** standard, where legal protection is granted only when human intellectual effort remains the "proximate cause" of the work.

In conclusion, AI is undeniably reshaping the creative process, forcing the modern justice system to reconsider the very definition of art and authorship. To maintain the **innovative integrity** of the digital age, our courts and policymakers must forge a dynamic, adaptable framework—one that balances the cold efficiency of the algorithm with the warm, irreplaceable spirit of human expression. The justice of tomorrow will be defined not by who owns the tool, but by how we protect the mind behind the prompt.

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