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BEYOND HUMAN CREATIVITY: REIMAGINING COPYRIGHT LAW FOR AI-GENERATED CONTENT IN INDIA

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Abstract

The rapid advancement of artificial intelligence (AI), particularly generative AI, has fundamentally transformed the creation, dissemination, and commercialization of creative works by enabling the autonomous generation of text, images, music, software code, and audiovisual content. While these technological developments have accelerated innovation and democratized content creation, they have simultaneously challenged the foundational principles of copyright law, including authorship, originality, ownership, and liability. The Indian Copyright Act, 1957, enacted in an era premised on human creativity, does not explicitly address the legal status of AI-generated content or the use of copyrighted works in training AI systems. Consequently, the emergence of generative AI has exposed significant legal and regulatory uncertainties concerning copyright protection, infringement, fair dealing, and the allocation of rights and responsibilities among users, developers, and AI service providers. These challenges extend beyond the domain of intellectual property law and raise broader constitutional concerns relating to freedom of speech and expression, equality, the freedom to practise any profession or carry on any occupation, trade or business, and the need to balance technological innovation with the protection of creators' rights.

This article adopts a doctrinal research methodology by analysing the Copyright Act, 1957, constitutional principles, judicial precedents, international legal instruments, policy reports, and comparative approaches adopted in the United Kingdom, the United States, and the European Union. It critically examines the legal status of AI-generated content within the existing copyright framework, analyses the implications of AI training on copyrighted materials, and evaluates the adequacy of current legal doctrines in addressing questions of

authorship, originality, ownership, infringement, and liability. The article further explores how constitutional values may inform the interpretation and future development of copyright law in response to emerging technological realities.

The study argues that the existing Indian copyright framework is inadequate to effectively regulate the complex legal issues arising from generative AI and that reliance on conventional copyright doctrines alone is insufficient to address the evolving relationship between human creativity and machine-generated expression. It contends that a balanced and technology-responsive legal framework is necessary to provide greater certainty regarding AI-generated content while safeguarding the constitutional values of free expression, equality, innovation, and the legitimate interests of copyright holders. Accordingly, the article recommends a comprehensive legislative and regulatory framework that clarifies the legal status of AI-generated works, establishes transparent norms governing the use of copyrighted materials for AI training, allocates responsibility for AI-related copyright infringement, and harmonises intellectual property protection with India's constitutional commitment to fostering creativity, technological progress, and the public interest.

Keywords: Artificial Intelligence, Generative AI, AI-Generated Content, Copyright Law, Constitutional Law, Authorship, Originality, Copyright Infringement, Fair Dealing.

1. Introduction

1.1 Background of the Study

Artificial Intelligence (AI) has emerged as one of the most transformative technologies of the digital age, reshaping industries, economies, and creative practices across the globe. Among its recent developments, generative artificial intelligence (Generative AI) has attracted considerable attention for its ability to autonomously generate text, images, music, software code, and other forms of creative content with minimal human intervention.¹ Unlike conventional AI systems that primarily assist human decision-making, generative AI is capable of producing expressive outputs that closely resemble human creativity, thereby challenging long-established legal concepts governing intellectual property rights.²

The increasing integration of generative AI into sectors such as education, entertainment,

¹ World Intellectual Property Organization, *WIPO Technology Trends 2019: Artificial Intelligence* (2019).

² U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025).

publishing, journalism, software development, and legal services has significantly enhanced efficiency and innovation. At the same time, the rapid growth of AI-generated content has raised complex legal questions concerning the applicability of existing copyright laws to machine-generated works.³ Traditional copyright regimes, including India's Copyright Act, 1957, were developed on the assumption that creative works originate from human authors. Consequently, the emergence of AI-generated content has exposed uncertainties regarding the adequacy of the existing legal framework in addressing contemporary technological developments.⁴

The challenges associated with AI-generated content extend beyond conventional copyright principles and engage broader constitutional values. Any legal framework regulating AI-generated works must balance the protection of creators' rights with the constitutional guarantees of freedom of speech and expression under Article 19(1)(a), equality before the law under Article 14, and the freedom to practise any profession or carry on any occupation, trade, or business under Article 19(1)(g) of the Constitution of India.⁵ Therefore, the regulation of AI-generated content requires a balanced legal approach that promotes innovation while safeguarding the legitimate interests of copyright holders and the public.

Although several jurisdictions have initiated legislative reforms and policy discussions to address the copyright implications of artificial intelligence, India has yet to develop a comprehensive legal framework specifically governing AI-generated content.⁶ This regulatory gap presents significant challenges for creators, technology developers, policymakers, and courts in determining the legal status of AI-generated works within the existing copyright regime. Against this backdrop, the present study critically examines the emerging copyright challenges posed by AI-generated content in India, evaluates the adequacy of the Copyright Act, 1957 in addressing these issues, and proposes a constitutionally informed framework for future legal reforms.

1.2 Statement of the Problem

The rapid advancement of generative artificial intelligence has challenged the traditional principles of copyright law by enabling the creation of literary, artistic, musical, and

³ World Intellectual Property Organization, *WIPO Intellectual Property Handbook* (2d ed. 2004); U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025).

⁴ The Copyright Act, No. 14 of 1957, India.

⁵ INDIA CONST. arts. 14, 19(1)(a), 19(1)(g).

⁶ European Parliament & Council Regulation (EU) 2024/1689 of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), 2024 O.J. (L); U.S. Copyright Office, *Copyright and Artificial Intelligence* (AI Initiative).

audiovisual works with minimal human intervention.⁷ The Copyright Act, 1957 was enacted on the premise that copyright subsists in works originating from human creativity and does not expressly address the legal status of AI-generated content.⁸ Consequently, uncertainties arise regarding the determination of authorship, ownership, originality, infringement, and liability in relation to AI-generated works.

Further, the use of copyrighted materials for training generative AI models has intensified debates concerning unauthorized reproduction, fair dealing, and the protection of creators' rights. While several jurisdictions have initiated legislative and policy responses to regulate these emerging issues, India has yet to develop a comprehensive legal framework specifically governing AI-generated content.⁹ This regulatory gap creates legal uncertainty for creators, technology developers, users, and policymakers.

Accordingly, this study examines whether the existing copyright framework in India is capable of addressing the legal challenges posed by AI-generated content and explores the need for a balanced and constitutionally informed regulatory framework that safeguards innovation while protecting the rights of copyright owners.

1.3 Research Questions

The present study seeks to address the following research questions:

1. Whether the existing framework of the Copyright Act, 1957 adequately regulates AI-generated content in India?
2. Whether AI-generated content satisfies the traditional requirements of authorship and originality under Indian copyright law?
3. To what extent does the use of copyrighted works for training generative AI models raise issues of copyright infringement under the Copyright Act, 1957?
4. How have selected foreign jurisdictions addressed the copyright implications of AI-generated content, and what lessons can India derive from these approaches?
5. Whether a constitutionally informed and technology-responsive legal framework is necessary to regulate AI-generated content while balancing innovation, creators' rights, and the public interest?

⁷ U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025).

⁸ The Copyright Act, No. 14 of 1957, India.

⁹ European Parliament & Council Regulation (EU) 2024/1689 of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), 2024 O.J. (L); World Intellectual Property Organization, *WIPO Conversation on Intellectual Property (IP) and Artificial Intelligence*.

1.4 Research Objectives

The primary objectives of this study are:

1. To examine the legal status of AI-generated content under the Copyright Act, 1957.
2. To analyse the challenges relating to authorship, originality, ownership, infringement, and liability arising from AI-generated content.
3. To examine the copyright implications of using protected works for training generative AI models.
4. To comparatively analyse the legal approaches adopted by selected jurisdictions in regulating AI-generated content and identify best practices.
5. To propose a constitutionally informed and technology-responsive legal framework for regulating AI-generated content in India while balancing innovation, creators' rights, and the public interest.

1.5 Research Methodology

The present study adopts a doctrinal research methodology, primarily based on the analysis of primary and secondary legal sources. Primary sources include the Constitution of India, the Copyright Act, 1957, judicial decisions, international legal instruments, and relevant policy documents relating to artificial intelligence and copyright. Secondary sources comprise scholarly books, peer-reviewed journal articles, reports published by the World Intellectual Property Organization (WIPO), the United States Copyright Office, the Organisation for Economic Co-operation and Development (OECD), and other authoritative publications.

The study further employs a comparative legal approach to examine the regulatory frameworks governing AI-generated content in selected jurisdictions, namely the United Kingdom, the United States, and the European Union. By critically analysing these legal developments, the study evaluates the adequacy of the existing Indian copyright framework and proposes reforms that are consistent with constitutional principles, international best practices, and the evolving technological landscape.

1.6 Scope and Limitations

This study focuses on the copyright implications of AI-generated content under the Indian legal framework, with particular reference to the Copyright Act, 1957. It examines key issues relating to authorship, originality, ownership, AI training on copyrighted works, copyright infringement, and liability arising from the use of generative artificial intelligence. The study also incorporates a constitutional perspective by analysing the interplay between copyright

protection and the fundamental rights guaranteed under the Constitution of India. To provide broader insights, a comparative analysis of the legal approaches adopted in the United Kingdom, the United States, and the European Union is undertaken.

The study is limited to copyright law and does not comprehensively examine other areas of intellectual property law, such as patents, trademarks, or trade secrets, except where they are directly relevant to the discussion. Similarly, technical aspects of artificial intelligence are discussed only to the extent necessary for understanding the legal issues addressed in this study.

2. Artificial Intelligence and Copyright: Conceptual and Legal Foundations

2.1 Understanding Artificial Intelligence and Generative AI

Artificial Intelligence (AI) refers to the capability of machines to perform tasks that ordinarily require human intelligence, including learning, reasoning, problem-solving, decision-making, and language processing.¹⁰ AI has evolved significantly over the past decade due to advances in machine learning, deep learning, and neural networks, enabling computer systems to analyse vast amounts of data and continuously improve their performance. Among these developments, Generative Artificial Intelligence (Generative AI) represents a significant technological breakthrough, as it enables machines not merely to analyse information but also to create new content based on patterns learned from existing data.¹¹

Generative AI systems are powered by foundation models and large language models (LLMs), which are trained on extensive datasets comprising books, articles, images, music, software code, and other publicly available digital content. Using sophisticated algorithms, these systems generate outputs in response to user prompts that often resemble human-created works in quality and creativity.¹² Applications such as ChatGPT, Gemini, Claude, Midjourney, and Stable Diffusion have demonstrated the ability of AI to generate essays, legal documents, artistic works, computer programs, photographs, and multimedia content with minimal human intervention.

The rapid adoption of generative AI has transformed numerous sectors, including education, journalism, healthcare, software development, entertainment, legal services, and scientific research. Its ability to enhance productivity and reduce the time required for content creation has generated significant economic and social benefits. However, the increasing autonomy of AI systems has simultaneously raised important legal questions regarding the ownership,

¹⁰ World Intellectual Property Organization, *WIPO Technology Trends 2019: Artificial Intelligence* (2019).

¹¹ U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025).

¹² OECD, *Artificial Intelligence, Machine Learning and Generative AI: Policy Perspectives* (2024).

protection, and lawful use of AI-generated content. As AI increasingly participates in activities traditionally associated with human creativity, existing copyright laws are confronted with challenges that were largely unforeseen when they were enacted.¹³

2.2 AI-Assisted Works and AI-Generated Works

The increasing use of artificial intelligence in the creative process has necessitated a distinction between AI-assisted works and AI-generated works, as the extent of human involvement directly influences the application of copyright law.¹⁴ Although these terms are often used interchangeably, they represent fundamentally different modes of content creation with distinct legal implications.

AI-assisted works are those in which artificial intelligence functions as a tool that assists human creativity rather than replacing it. In such cases, the human creator retains substantial control over the conception, selection, arrangement, editing, and final expression of the work, while AI merely facilitates the creative process. For instance, an author may use AI to generate ideas, improve grammar, translate text, or suggest design elements before independently refining and finalising the work. Since human intellectual contribution remains the dominant element, AI-assisted works generally satisfy the traditional requirements of copyright protection under existing legal frameworks.¹⁵

In contrast, AI-generated works are created predominantly through autonomous AI systems with minimal or no meaningful human creative input. The user may provide only a simple prompt or instruction, while the AI independently determines the structure, expression, and final output based on patterns learned during its training process. Such works challenge conventional copyright doctrines because they blur the distinction between human creativity and machine-generated expression, making it difficult to identify the legal author or determine whether the work satisfies the originality requirement.¹⁶

The distinction between AI-assisted and AI-generated works has gained increasing recognition in international copyright discourse. The United States Copyright Office has emphasised that copyright protection extends only to the human-authored aspects of a work and that purely AI-generated content, without sufficient human creative control, is not eligible for copyright

¹³ World Intellectual Property Organization, *WIPO Conversation on Intellectual Property (IP) and Artificial Intelligence*.

¹⁴ World Intellectual Property Organization, *Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence* (WIPO Conversation on IP and AI, 2020).

¹⁵ U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025).

¹⁶ *Id.*

protection under U.S. law.¹⁷ Similarly, the World Intellectual Property Organization has recognised that the degree of human involvement is a crucial consideration in determining the copyrightability of works created using artificial intelligence.¹⁸

Although Indian copyright law does not expressly distinguish between AI-assisted and AI-generated works, the distinction assumes considerable significance in interpreting the Copyright Act, 1957. As generative AI systems become increasingly autonomous, determining the threshold of human creativity necessary for copyright protection is likely to become one of the most significant legal questions confronting Indian courts and policymakers. This distinction therefore provides the conceptual foundation for analysing the emerging challenges relating to authorship, originality, ownership, and infringement in the subsequent sections of this study.

2.3 The Creative Process in the Age of Generative AI

Generative AI has transformed the traditional creative process by enabling machines to produce original-looking content through computational learning rather than human imagination. Unlike conventional software that executes predefined commands, generative AI systems analyse vast datasets during the training phase to identify linguistic, visual, and structural patterns. Based on these learned patterns, the system generates new outputs in response to user prompts without directly reproducing existing works.¹⁹ The quality and nature of the output may vary depending on the specificity of the prompt, the architecture of the AI model, and the data on which it has been trained.

Despite the autonomous capabilities of generative AI, human involvement continues to play an important role in many instances. Users formulate prompts, refine instructions, evaluate outputs, and often edit or modify the generated content before its final use. The extent of such human contribution varies considerably, ranging from minimal interaction to substantial creative control. Consequently, determining whether a work is predominantly human-created or machine-generated has become increasingly difficult, giving rise to complex legal questions concerning authorship, originality, and copyright ownership.²⁰

The evolving nature of AI-assisted creativity has prompted policymakers and scholars to reconsider the traditional understanding of creativity itself. While AI can imitate artistic styles

¹⁷ Id.

¹⁸ World Intellectual Property Organization, *Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence* (2020).

¹⁹ World Intellectual Property Organization, *WIPO Technology Trends 2019: Artificial Intelligence* (2019).

²⁰ U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025).

and generate sophisticated content, it does not possess consciousness, intention, or independent legal personality. Its outputs are the result of algorithmic processing based on training data and user instructions rather than personal intellectual creation.²¹ Accordingly, the challenge for copyright law is not merely whether AI can create expressive works, but whether existing legal principles, developed for human authors, remain adequate to regulate creative processes involving increasingly autonomous technologies.

2.4 Copyright Law: Concept, Objectives, and Fundamental Principles

Copyright is a branch of intellectual property law that protects the original expression of ideas embodied in literary, dramatic, musical, artistic, cinematographic, and other eligible works.²² It grants authors a bundle of exclusive rights, including the rights to reproduce, publish, communicate, adapt, and commercially exploit their works for a limited period, while also enabling them to prevent unauthorized use by third parties.²³ The primary objective of copyright law is to encourage creativity and innovation by rewarding authors for their intellectual efforts, while simultaneously promoting the dissemination of knowledge and cultural development for the benefit of society.²⁴

The foundation of copyright protection rests upon certain fundamental principles. First, originality requires that a work originate from the author's intellectual effort and exhibit a sufficient degree of skill, labour, or judgment. Copyright protects the expression of ideas rather than the ideas themselves.²⁵ Secondly, authorship identifies the person who creates the work and serves as the basis for determining copyright ownership. Under the Copyright Act, 1957, authorship generally vests in the individual who creates the protected work, subject to statutory exceptions.²⁶ Thirdly, ownership determines the person entitled to exercise the exclusive rights conferred by copyright, including the rights to reproduce, distribute, license, and commercially exploit the work.²⁷

These principles have traditionally been developed on the assumption that creative works originate through human intellectual endeavour. However, the emergence of generative artificial intelligence challenges these assumptions by introducing machine-generated

²¹ World Intellectual Property Organization, *Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence* (2020).

²² The Copyright Act, No. 14 of 1957, § 13, India.

²³ Id. §§ 14–16.

²⁴ World Intellectual Property Organization, *Understanding Copyright and Related Rights* (WIPO Publication No. 909, 2020).

²⁵ *Eastern Book Co. v. D.B. Modak*, (2008) 1 S.C.C. 1; *R.G. Anand v. Deluxe Films*, (1978) 4 S.C.C. 118.

²⁶ The Copyright Act, No. 14 of 1957, § 2(d), India.

²⁷ Id. § 17.

expression into the creative process. Questions concerning whether AI-generated outputs satisfy the requirement of originality, who should be recognised as the author, and how ownership should be determined have become central issues in contemporary copyright discourse.²⁸ Consequently, the application of conventional copyright principles to AI-generated content requires a careful re-examination in light of technological developments and evolving constitutional values that seek to balance innovation, creativity, and the public interest.

3. Copyright Protection of AI-Generated Content under Indian Law

3.1 The Legal Framework under the Copyright Act, 1957

The Copyright Act, 1957 serves as the principal legislation governing copyright protection in India. It provides a comprehensive framework for the protection of original literary, dramatic, musical, artistic works, cinematograph films, and sound recordings.²⁹ Copyright protection under the Act is premised upon the existence of an original work expressed in a tangible form and grants the copyright owner a bundle of exclusive economic rights, including the rights to reproduce, publish, communicate to the public, adapt, and license the protected work.³⁰

Although the Act does not expressly regulate artificial intelligence or AI-generated content, certain provisions assume significance in determining the applicability of copyright law to works created using AI technologies. Section 2(d) defines the term "author" for different categories of works and, in relation to computer-generated literary, dramatic, musical, or artistic works, recognises the author as "the person who causes the work to be created."³¹ This provision was introduced to address computer-generated works produced through conventional computing systems and predates the emergence of autonomous generative AI technologies. Consequently, its applicability to AI-generated content remains uncertain.

Similarly, Section 13 provides that copyright subsists only in original literary, dramatic, musical, and artistic works, among other protected subject matter.³² Although the Act does not define the term "original," Indian courts have interpreted originality to require the exercise of skill, judgment, and intellectual effort by the author rather than mere mechanical labour.³³ This judicial interpretation assumes human creative involvement and therefore raises important

²⁸ U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025); World Intellectual Property Organization, *Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence* (2020).

²⁹ The Copyright Act, No. 14 of 1957, § 13, India.

³⁰ Id. §§ 14–16.

³¹ Id. § 2(d)(vi).

³² Id. § 13.

³³ *Eastern Book Co. v. D.B. Modak*, (2008) 1 S.C.C. 1.

questions regarding the copyrightability of works generated predominantly through artificial intelligence.

The Copyright Act further identifies the first owner of copyright under Section 17 and specifies the exclusive rights conferred upon copyright owners under Section 14.³⁴ However, these provisions are likewise premised upon the existence of a legally identifiable human author. Where an AI system autonomously generates expressive content, determining the first owner of copyright becomes increasingly complex, particularly when multiple actors—including developers, platform providers, and users—contribute to different stages of the creative process.

While the existing statutory framework provides a foundation for protecting creative works, it offers limited guidance on the legal status of AI-generated content. The absence of express legislative provisions has therefore necessitated reliance upon judicial interpretation and comparative legal developments to determine whether the existing copyright framework is capable of addressing the challenges posed by generative artificial intelligence. This issue is examined through the principles of originality and human authorship in the following section.

3.2 Originality and Human Authorship under Indian Copyright Law

Originality is the cornerstone of copyright protection under the Copyright Act, 1957. Although the Act does not define the term "original," Indian courts have consistently held that copyright protects the original expression of an idea rather than the idea itself.³⁵ The requirement of originality ensures that copyright protection is granted only to works that reflect the author's intellectual effort and creative contribution.

The Supreme Court of India, in *Eastern Book Company v. D.B. Modak*, rejected the traditional "sweat of the brow" doctrine and adopted the "modicum of creativity" standard, holding that a work must demonstrate the exercise of skill, judgment, and a minimum degree of creativity to qualify for copyright protection.³⁶ The Court clarified that mere labour or mechanical effort, without intellectual creativity, is insufficient to establish originality. Similarly, in *R.G. Anand v. Deluxe Films*, the Supreme Court reaffirmed the well-established principle that copyright protects the expression of an idea and not the idea itself, thereby preserving the balance between protecting creators and promoting public access to knowledge.³⁷

³⁴ The Copyright Act, No. 14 of 1957, §§ 14, 17, India.

³⁵ The Copyright Act, No. 14 of 1957, § 13, India.

³⁶ *Eastern Book Co. v. D.B. Modak*, (2008) 1 S.C.C. 1.

³⁷ *R.G. Anand v. Deluxe Films*, (1978) 4 S.C.C. 118.

These judicial principles have evolved on the assumption that originality is intrinsically linked to human intellectual creation. The Copyright Act, 1957 also adopts a human-centric approach by defining an "author" in relation to different categories of works and conferring copyright ownership upon identifiable legal persons.³⁸ Consequently, the existing statutory and judicial framework does not expressly contemplate creative works generated autonomously by artificial intelligence.

The emergence of generative AI challenges this human-centric understanding of originality. Modern AI systems are capable of producing sophisticated literary, artistic, and musical works that may exhibit novelty and aesthetic value, yet such outputs are generated through computational processes rather than human intellectual effort. While users may contribute by formulating prompts or refining AI-generated outputs, the extent of such involvement varies considerably, making it difficult to determine whether the resulting work reflects sufficient human creativity to satisfy the originality requirement under Indian copyright law.³⁹

This uncertainty exposes a significant limitation within the existing copyright framework. If originality continues to be interpreted exclusively through the lens of human creativity, fully AI-generated works may fall outside the scope of copyright protection. Conversely, extending copyright protection to purely machine-generated content without meaningful human contribution may dilute the traditional rationale of copyright, which is founded upon rewarding human intellectual labour and encouraging creative expression.⁴⁰ Accordingly, the challenge before Indian copyright law is not merely technological but normative: it must determine whether the concept of originality should evolve to accommodate AI-assisted creativity while preserving the fundamental objectives of copyright protection.

3.3 Authorship and Ownership of AI-Generated Content

Authorship constitutes the foundation of copyright law, as it determines both the existence of copyright and the identity of the person entitled to exercise the rights conferred under the Copyright Act, 1957. Section 2(d) of the Act defines the term "author" in relation to different categories of works and, in the case of computer-generated literary, dramatic, musical, or artistic works, identifies the author as "the person who causes the work to be created."⁴¹ While this provision was intended to address computer-generated works, it predates the emergence of

³⁸ The Copyright Act, No. 14 of 1957, §§ 2(d), 17, India.

³⁹ U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025).

⁴⁰ World Intellectual Property Organization, *Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence* (2020).

⁴¹ The Copyright Act, No. 14 of 1957, § 2(d)(vi), India.

modern generative AI and does not clarify its application to autonomous AI systems capable of producing creative content with minimal human intervention.

The expression "the person who causes the work to be created" has become particularly significant in the context of generative AI. One possible interpretation is that the user who provides prompts and initiates the generation of content may be regarded as the author. Another view is that authorship should vest in the developer or organisation responsible for designing and training the AI model. A third perspective suggests that where the AI system independently determines the expressive elements of the output without meaningful human creative control, no person may satisfy the traditional requirements of authorship under copyright law.⁴² Each interpretation presents practical and legal difficulties, demonstrating that the existing statutory language is ill-suited to address contemporary AI technologies.

Questions of authorship are closely linked to ownership. Under Section 17 of the Copyright Act, 1957, the author is ordinarily the first owner of copyright, subject to certain statutory exceptions.⁴³ Where authorship itself is uncertain, the determination of ownership likewise becomes problematic. The uncertainty surrounding ownership affects not only the commercial exploitation of AI-generated works but also the licensing, enforcement, and transfer of copyright. It may also discourage investment in AI-assisted creative industries by creating ambiguity regarding the legal rights of users, developers, and businesses relying upon AI-generated outputs.

From a constitutional perspective, the uncertainty surrounding authorship and ownership also implicates the balance between innovation and individual rights. Granting copyright protection without meaningful human creative contribution may undermine the traditional objective of rewarding intellectual labour, whereas denying protection altogether may discourage investment in AI-enabled innovation and creative industries. Therefore, any legislative response must strike a careful balance between protecting human creativity, encouraging technological development, and safeguarding the broader public interest in accordance with constitutional principles of equality, freedom of expression, and the freedom to carry on trade or business.⁴⁴

The absence of a clear statutory framework demonstrates that the existing provisions of the Copyright Act, 1957 were not designed to regulate autonomous AI-generated content.

⁴² U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025); World Intellectual Property Organization, *Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence* (2020).

⁴³ The Copyright Act, No. 14 of 1957, § 17, India.

⁴⁴ INDIA CONST. arts. 14, 19(1)(a), 19(1)(g).

Consequently, legislative clarification is necessary to determine the threshold of human creative contribution required for authorship and to establish clear rules governing the ownership of works generated through artificial intelligence. Such reforms would enhance legal certainty while preserving the fundamental objectives of copyright law in the digital era.

3.4 Copyright Infringement and AI Training Datasets

One of the most contentious issues in the regulation of generative artificial intelligence is the use of copyrighted works for training AI models. Generative AI systems are trained on vast datasets comprising books, journal articles, artworks, photographs, music, software code, and other digital content, a significant portion of which may be protected by copyright.⁴⁵ During the training process, AI models analyse these materials to identify patterns, relationships, and stylistic features that enable them to generate new content. This process has raised concerns regarding whether the reproduction and use of copyrighted works for AI training constitute copyright infringement.

Under the Copyright Act, 1957, the copyright owner enjoys the exclusive right to reproduce, communicate, adapt, and commercially exploit a protected work.⁴⁶ Any unauthorized exercise of these rights may amount to infringement unless it falls within a statutory exception. Although the Act recognises certain exceptions under the doctrine of fair dealing, these exceptions were enacted in a pre-AI era and do not expressly address the use of copyrighted works for machine learning or text-and-data mining.⁴⁷ Consequently, it remains uncertain whether the large-scale use of copyrighted content for AI training can be justified under the existing statutory framework.

Apart from the training process, infringement concerns may also arise where AI-generated outputs substantially reproduce protected expression contained in existing copyrighted works. While generative AI generally produces new outputs rather than exact copies, instances of close imitation or substantial similarity may expose users, developers, or platform providers to copyright claims.⁴⁸ Determining liability in such situations presents significant legal challenges, particularly where multiple actors contribute to the development, deployment, and use of AI systems.

The absence of specific legislative provisions governing AI training datasets and AI-generated

⁴⁵ World Intellectual Property Organization, *Generative Artificial Intelligence and Copyright* (WIPO Issues Paper, 2024).

⁴⁶ The Copyright Act, No. 14 of 1957, §§ 14, 51, India.

⁴⁷ Id. § 52.

⁴⁸ U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 3—Generative AI Training* (2025).

outputs highlights a significant gap in Indian copyright law. While the existing framework protects the interests of copyright owners, it does not provide clear guidance on the lawful use of copyrighted works for AI development or the allocation of liability where AI-generated content infringes existing rights. As artificial intelligence becomes increasingly integrated into creative industries, legislative clarification will be essential to balance technological innovation with effective copyright protection.

4. Comparative Approaches to AI-Generated Content and Copyright

The rapid advancement of generative artificial intelligence has prompted several jurisdictions to reconsider the application of copyright law to AI-generated content. While there is no universally accepted legal framework, the approaches adopted by the United States, the United Kingdom, and the European Union provide valuable guidance for addressing the legal challenges associated with authorship, ownership, originality, and AI training datasets.

In the United States, copyright protection is firmly grounded in the principle of human authorship. The U.S. Copyright Office has consistently maintained that copyright subsists only in works containing sufficient human creative expression and has refused copyright registration for works generated entirely by artificial intelligence without meaningful human involvement.⁴⁹ Recent guidance further clarifies that AI-assisted works may qualify for protection only to the extent that they incorporate original human authorship, while purely AI-generated outputs remain outside the scope of copyright protection.⁵⁰

The United Kingdom adopts a distinctive approach through Section 9(3) of the Copyright, Designs and Patents Act 1988, which provides that, in the case of computer-generated works, the author shall be "the person by whom the arrangements necessary for the creation of the work are undertaken."⁵¹ Although this provision predates modern generative AI, it offers statutory recognition for computer-generated works and provides greater legal certainty than many other jurisdictions. Nevertheless, its application to autonomous AI systems remains the subject of ongoing academic and policy debate.

The European Union has not created a separate copyright regime for AI-generated works but

⁴⁹ U.S. Copyright Office, *Copyright and Artificial Intelligence: Part 2—Copyrightability* (Jan. 2025).

⁵⁰ *Id.*

⁵¹ Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (U.K.).

continues to emphasise the requirement of human intellectual creation as the basis for copyright protection. In addition, the recently enacted Artificial Intelligence Act establishes a regulatory framework promoting transparency, accountability, and responsible AI development.⁵² Although the Act does not directly regulate copyright ownership, it complements existing intellectual property laws by introducing governance obligations for high-risk AI systems and promoting greater transparency in AI development.

Compared with these jurisdictions, India does not possess a comprehensive legal framework specifically addressing AI-generated content. While Section 2(d)(vi) of the Copyright Act, 1957 refers to the person who causes a computer-generated work to be created, the provision was enacted before the emergence of modern generative AI and provides limited guidance regarding autonomous AI systems.⁵³ Consequently, uncertainty persists concerning authorship, ownership, originality, infringement, and liability under Indian law.

The comparative analysis demonstrates that no jurisdiction has yet developed a complete solution to the copyright challenges posed by artificial intelligence. Nevertheless, international developments indicate the importance of legislative clarity, meaningful human involvement as a basis for copyright protection, and transparent governance of AI technologies. These developments provide useful guidance for India in formulating a balanced legal framework capable of fostering innovation while safeguarding the legitimate interests of creators and the public.

5. Recommendations

The rapid advancement of generative artificial intelligence necessitates a proactive and balanced legal response to ensure that copyright law remains effective in the digital era. Based on the foregoing analysis, the following reforms are recommended:

First, the Copyright Act, 1957 should be amended to expressly address AI-generated content. The existing provisions relating to authorship and ownership, particularly Section 2(d)(vi), should be revised to clarify the legal status of works created through generative AI and to specify the degree of human involvement required for copyright protection.

⁵² Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), 2024 O.J. (L).

⁵³ The Copyright Act, No. 14 of 1957, § 2(d)(vi), India.

Secondly, legislative guidance should be introduced regarding the use of copyrighted works for training AI models. A clear statutory framework governing text-and-data mining, licensing mechanisms, and permissible exceptions would reduce legal uncertainty while balancing the interests of copyright owners and AI developers.

Thirdly, the law should clearly define liability for copyright infringement involving AI-generated content. The respective responsibilities of AI developers, platform providers, and users should be determined based on the nature and extent of their involvement in the creation and dissemination of infringing content.

Fourthly, India should adopt greater transparency standards for AI systems. Developers should maintain appropriate records regarding the sources of training data and implement reasonable safeguards to minimise the generation of content that infringes existing copyrights. Such measures would promote accountability and facilitate effective enforcement of copyright law. Finally, any future legislative reforms should adopt a constitutionally informed approach that balances the protection of creators' rights with the promotion of innovation, freedom of expression, and public access to knowledge. A balanced regulatory framework would encourage responsible AI development while ensuring that copyright law continues to fulfil its objective of fostering creativity and cultural progress.

6. Conclusion

The emergence of generative artificial intelligence has fundamentally transformed the creation and dissemination of creative works, presenting unprecedented challenges to traditional copyright law. While AI has enhanced innovation and expanded opportunities for content creation, it has simultaneously exposed significant legal uncertainties relating to originality, authorship, ownership, infringement, and the use of copyrighted materials for training AI models. The existing framework under the Copyright Act, 1957, developed in a pre-AI era, does not adequately address these issues, thereby creating uncertainty for creators, technology developers, users, and policymakers.

This study has demonstrated that the principles of Indian copyright law continue to be largely premised on human intellectual creation. Consequently, the application of these principles to AI-generated content remains uncertain, particularly in the absence of specific legislative

provisions or judicial guidance. A comparative examination of the legal approaches adopted in the United States, the United Kingdom, and the European Union further indicates that, although no jurisdiction has yet evolved a complete solution, legislative clarification and regulatory oversight are essential to addressing the copyright implications of artificial intelligence.

Accordingly, India should adopt a forward-looking and technology-responsive copyright framework that clearly defines the legal status of AI-generated content, clarifies the rights and responsibilities of stakeholders, and regulates the use of copyrighted works for AI training. Such reforms should be guided by constitutional principles that balance the protection of creators' rights with innovation, freedom of expression, and the public interest. A balanced legal framework will not only provide greater certainty in the digital age but also ensure that copyright law continues to promote creativity, technological advancement, and equitable access to knowledge in an increasingly AI-driven society.

