ADAPTING INDIAN COPYRIGHT LAW TO THE AGE OF ARTIFICIAL INTELLIGENCE: RECOGNIZING AI AS AUTHORS UNDER THE COPYRIGHT ACT OF 1957

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ABSTRACT

The advent of artificial intelligence (AI) sparked a great deal of discussion about whether or not current copyright laws should recognize works created by AI and its authorship rights. The Copyright Act of 1957 in India offers a broad legislative framework that could accept AI as an author. When applied to AI-generated works, traditional notions of originality and creativity—which are frequently based on human authorship—face difficulties. Common law jurisdictions struggle with the lack of specific provisions for non-human authorship, but Indian copyright law allows for broader interpretations because it is a statutory right established by Section 16 of the Act. This essay examines the Indian copyright laws and makes the case that non-human entities are not expressly barred from authorship by the Act. The paper examines the Indian copyright laws and makes the case that non-human entities are not expressly barred from authorship by the Act. It looks at sections like 2(d), which defines an author without requiring human participation, and 18 and 19, which describe the rights and assignments of copyright owners who are different from authors. The paper shows that AI can be acknowledged as an author without extending legal personhood by drawing a comparison between AI authorship and the legal treatment of works created by minors. This approach makes sure that copyright law is upheld even as the legal system changes to reflect new technological developments.

INTRODUCTION

The basic principles of copyright law has constantly been challenged by new technologies[1]. The creative industries have been greatly impacted by the swift development of artificial intelligence (AI) technology, which has led to the creation of innovative art, music, literature, and other forms of media. Complex legal issues have arisen as a result of this evolution, especially with regard to copyright law. The contributions made by non-human creators like artificial intelligence are proving to be too much for traditional copyright regimes, which are based on the idea of human authorship. The lack of explicit provisions for non-human authorship in common law jurisdictions has led to a heated debate about whether AI-generated works should be afforded the same protections as human-created works.

On the other hand, the Copyright Act of 1957[2], which governs copyright law in India, offers a statutory framework that may be more flexible in light of these technological developments. In India, copyright is regarded as a statutory right, in contrast to certain other jurisdictions where it is thought of as a natural or divine right inherent to human creators. No one shall be entitled to copyright or any similar right in any work except under or by virtue of the Act itself, as stated expressly in Section 16 of the Act. This legal foundation presents a special chance to redefine authorship in the context of artificial intelligence.

This paper examines how AI-generated works can be accommodated within the existing legal framework by delving into the statutory provisions of the Indian Copyright Act. It makes the case that the Act's adaptability and the lack of a clear exclusion of non-human entities offer a basis for acknowledging AI as an author. The paper shows that AI can be recognized as an author without being given legal personhood by looking at pertinent Act sections and making comparisons to how works created by minors or while employed are currently treated legally. This approach makes sure that the goals and integrity of copyright law are upheld while the legal system keeps up with technological advancements.

COPYRIGHT PROTECTION IN INDIA: A STATUTORY RIGHT AND NOT A NATURAL RIGHT

[1] Avishek Chakraborty, Authorship of AI Generated Works under the Copyright Act, 1957: An Analytical Study, 8 NIRMA U. L.J. 37 (2019).
[2] Copyright Act, 1957.

There are several situations where traditional concepts of 'originality' or 'creativity' of works as requirements for copyright protection appear difficult with the computer generative process behind certain types of work.[3] One of the most pressing issues is the concept of authorship and copyright protection for artificial intelligence-generated works. In common law jurisdictions, the traditional copyright regime makes no explicit mention of non-human authorship. This omission has sparked heated debate over whether AI-generated works can be afforded the same protections as those created by humans. However, in the context of Indian copyright law, this concern may not be particularly significant. In contrast to some jurisdictions, where copyright is regarded as a natural or divine right of an author, copyright in India is firmly established as a statutory right. Section 16 of the Indian Copyright Act, 1957 establishes that no person shall be entitled to copyright or any similar right in any work unless under, or under this Act.

In many jurisdictions, copyright is often viewed through the lens of natural law or moral rights, with the belief that creators have an inherent right to control and profit from their works. India, however, takes a different approach. The Indian Copyright Act defines copyright as a statutory right rather than an innate one. Section 16[4] of the Act reads:

"No person shall be entitled to copyright or any similar right in any work otherwise than under, or by virtue of, this Act."[5]

The Court has reaffirmed this statutory basis, emphasizing that, unlike trademarks, copyright is a right created solely under the Act, and the author can only assert rights within this statutory framework.[6] The Court has reiterated that copyright is a statutory right.[7]

Few Other Provisions of the 1957 Act That Confirms the Above

Section 13[8] of the Indian Copyright Act stipulates that works protected by copyright are subject to the Act's provisions. This demonstrates that copyright protection is fundamentally governed by statute, and if the statute restricts the types of work eligible for copyright, there can be no

[3] Maggiore, M., Artificial Intelligence, computer generated works and copyright. In Non-Conventional Copyright, EDWARD ELGAR PUBLISHING (2018).
[4] Copyright Act, 1957, s 16.
[5] Copyright Act, 1957, s 16.
[6] M/S. Entertainment Network (India) Ltd vs M/S. Super Cassette Industries Ltd, (2008) 13 SCC 30.
[7] Krishika Lulla vs. Shyam Vithalrao Devkatta, (2016) 2 SCC 521.
[8] Copyright Act, 1957, s 13.

natural copyright for works that fall outside of those parameters. Section 14[9] of the Act defines copyright and specifies that the exclusive rights granted are also subject to the Act's provisions. These rights include the authority to carry out or allow others to carry out specified actions in relation to the copyrighted work. Similarly, Section 2(m)[10] of the Act defines an "*Infringing Copy*", which implies that a reproduction of a work that violates the provisions of the 1957 Act is considered an 'infringing copy.' Sections 51[11] and Section 52[12] further suggest that in the event of an infringement, the author's rights are also subject to the Act's provisions.The Supreme Court of India has held that copyright infringement must be addressed strictly in accordance with the provisions of the Copyright Act, 1957[13]. This decision relied that common law rights to copyright were effectively nullified by Section 31 of the Copyright Act, 1911[14].

In the context of Indian copyright law, it is unwarranted to delve into the complexities and limitations of common law or other jurisprudence. The statutory provisions of the Indian Copyright Act provide a vivid understanding that copyright is a statutory right in India and nothing in common-law can aid or restrict copyright protection. This adaptable foundation of the 1957 Act supports AI authorship, ensuring that the legal system keeps up with technological advancements while continuing to protect and promote creative works in all their forms.

COPYRIGHT LAW AND THE ABSENCE OF HUMAN AUTHORSHIP MANDATE

Human authorship may not be an 'a priori' of the copyright law.[15] There is no statutory bar to recognizing an AI entity as an author under the Copyright Act of 1957, because the statute does not specify or mandate that the author be human. Section 2(d)[16] of the Copyright Act of 1957 defines the term "Author" in relation to various types of copyrightable works. Notably, the bare text of this section makes no explicit reference to a human author. Section 14[17] of the Copyright

[9] Copyright Act, 1957, s 14.
[10] Copyright Act, 1957, s 2(m).
[11] Copyright Act, 1957, s 51.
[12] Copyright Act, 1957, s 52.
[13] Time Warner Entertainment Company, L.P. vs. RPG Netcom, AIR 2007 DELHI 226.
[14] Copyright Act, 1911, s 31.
[15] Maggiore, M., 2018. Artificial Intelligence, computer generated works and copyright. In NonConventional Copyright. Edward Elgar Publishing.
[16] Copyright Act, 1957, section 2 (d) "author'' means,—(i) in relation to a literary or dramatic work, the author of the work;(ii) in relation to a musical work, the composer;(iii) in relation to an artistic work other than a photograph, the artist;(iv) in relation to a photograph, the person taking the photograph; (v) in relation to a cinematograph film or sound recording, the producer; and (vi) in relation to any literary, dramatic, musical or artistic work which is computer generated, the person who causes the work to be created.
[17] Copyright Act, 1957, s 14.

Act of 1957 defines copyright and lists the rights that arise once copyright protection is granted. The definition of copyright and the rights enumerated make no mention of human authorship. Moreover, the requirement that the author be a human is not stipulated in Chapter IV[18] of the Copyright Act, which addresses ownership. The requirements that the author or assignee must meet are covered in more detail in the sections that follow.

There is an argument that only natural persons are entitled to protection under the Copyright Act, 1957 as authors because the Act makes no mention of any artificial person in Section 2(d).[19] The conventional definition of authorship, which has traditionally been limited to human creators, serves as the foundation for this interpretation. It is crucial to remember that the Act does not specifically prohibit non-natural entities from being acknowledged as authors. The lack of explicit exclusion allows for flexibility in interpretation and adaptation to the latest developments in technology.

Inference Supreme Court's observation, an artistic, literary, or musical work is the product of the author's labor and therefore their property[20]. Consequently, the work can be protected by copyright as long as the author is the one who created it. In the light of the above, it can be can be contended that AI entities are entitled to authorship rights under the Copyright Act, 1957, as long as the work is the outcome of their labor.

Sec 2(d)(vi) can Accommodate AI as An Author for the Purpose of Copyright Act, 1957

2(d)(vi) of the Copyright Act, 1957[21], can accommodate AI as an author for the purposes of the Act. Section 2(d) of the Act defines who qualifies as an author and explicitly states in 2(d)(vi) that *"author means ... (vi) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created."*[22]

The definition of *"person"* as defined by the Act is not specified in its provisions. In such cases of contingencies, In accordance with Article 376[23] of the Constitution, unless the context dictates otherwise, the General Clauses Act, 1897, will be applied when interpreting the

[18] Copyright Act, 1957, chapter IV.
[19] Basheer, S. Artificial intelligence and intellectual property. See https://spicyip.com/2016/ 12/artificial-intelligence-and-intellectual-property-mind-the-machine.html (Last accessed on 02.02.2019).
[20] Gramophone Co. of India Ltd v. Birendra Bahadur Pandey, 1984 (2) SCC 534.
[21] Copyright Act, 1957, s 2(d)(iv).
[22] Copyright Act, 1957, s 2(d)(iv).
[23] The Constitution of India, art. 376.

Constitution and other legislative enactments. A "*person*" is defined as *"include any company or association or body of individuals, whether incorporated or not"*[24] by the General Clauses Act, 1897. It is not expressly required by this definition that a "*person*" be a human.

The Supreme Court ruled in *Karnataka Bank Ltd vs. State of A.P. & Ors*[25] that the General Clauses Act's definition of "*person*" is illustrative rather than exhaustive. The Court implied that the term "*person*" is inclusive rather than exclusive by pointing out that other entities might likewise be covered by this definition. Based on this reading, it follows that AI is not excluded from the definition of "*person*" under Section 2(d)(vi) of the Copyright Act, 1957, and is not strictly constrained by the relevant Act.

In light of this knowledge, AI qualifies as a "*person*" for the purposes of Section 2(d)(vi). Given that the definition is not all-inclusive and does not purposefully omit artificial intelligence, it makes sense that AI-generated works could be covered by copyright under this clause. This interpretation is consistent with the statutory framework's inclusive and adaptable structure, which is intended to support diverse forms of authorship and creation.

THE 1957 ACT IS EQUIPPED TO ACCOMMODATE AI AS AN AUTHOR

There is a contention based on the revolutionary school that acknowledging AI as an author would essentially give a non-human entity legal personhood from a "pure" legal standpoint.[26] This point of view is based on the copyright law principle that states the first author is usually regarded as the first owner of the copyrightable work, suggesting that the author must be a legal person in order to possess and administer these rights.

But this view ignores the room that currently exists in the legal system to differentiate between ownership and authorship without requiring AI to be granted legal personhood. The contention that the Copyright Act of 1957 equipped to recognize an AI entity as an author is based on the Act's inherent flexibility to allow for changing ideas about authorship.

[24] General Clauses Act, 1897, s 3(42).
[25] 2008 (2) SCC 254.
[26] Avishek Chakraborty, Authorship of AI Generated Works under the Copyright Act, 1957: An Analytical Study, 8 NIRMA U. L.J. 37 (2019).

Through the Exception, Under Section 17, of Author Not Being the First Owner Of Copyrightable Work

It is acknowledged that conventional legal personality requirements might not be compatible with newly developed technological entities like artificial intelligence (AI) systems under Section 17[27] of the Copyright Act, which designates the author as the first owner of a work. Because AI systems are not persons under the law, they cannot enter into contracts, which is a requirement for copyright ownership. Traditionally, intellectual property (IP) laws and, in particular, copyright laws have been based on a human creator, who creatively, originally, and independently creates a work from within his or her mind and soul in a way that reflects his or her personality[28]. As such, the traditional conception of authorship and ownership needs to be modified to include works created by AI.

AI Author Vis–a–via Minor: Notably, Section 17 provides a framework for defining authorship and ownership rights based on the relationship between the creator and the organization commissioning or using the creation. This is consistent with current legal precedents, including those concerning minors, in which the creator need not be the original owner of the work. The Act can also address situations where the creator's lack of legal personality requires different ownership arrangements by applying similar logic to AI-generated works.

Moreover, the comparison to the works of minors emphasizes how feasible it is to acknowledge AI authorship in the legal system. Similar to how minors who are incapable of entering into contracts can be considered authors even though they are not the original owners of their works, AI entities can also be granted authorship status. This strategy is in line with well-established legal precepts that emphasize acknowledging creative contributions regardless of the legal status of the creator. As such, the AI entity maintains authorial attribution while the proprietor takes on ownership responsibilities, guaranteeing fair acknowledgment of creative contributions.

Most importantly, the argument in favor of allowing AI authorship is strengthened by the claim that AI entities are not required to use their Act-granted rights and privileges exclusively. By

[27] Copyright Act, 1957, s 17.
[28] Colin R. Davis, An Evolutionary Step in Intellectual Property Rights – Artificial Intelligence and Intellectual Property, 27 COMPUTER L. & SECURITY REV. 601 (2021).

drawing comparisons to guardianship agreements for minors, in which custodians manage legal rights, owners can similarly oversee the rights of AI entities. While addressing questions about the entity's legal capacity, this framework makes it possible for AI-generated works to be protected by copyright. The Act gets around the inherent restrictions on the legal status of AI entities by transferring ownership to entities that are able to fulfill legal obligations, like companies.

AI Author Vis-à-vis Idols: In the case of *Pramatha Nath Mullick v Pradyumna Kumar Mullick*[29], it was established that the rights of Hindu idols are exercised by a manager who has powers similar to those of a manager handling an infant heir's estate. Likewise, AI need not a legal person, but with the programmer or user authorized to manage and exercise copyright over the AI's outputs on its behalf.

Further strengthening the viability of AI authorship are Sections 18[30] and 19[31] of the Copyright Act, which regulate copyright assignment. Through highlighting the function of the copyright owner, who is separate from the author, the Act allows for situations in which authorship and ownership are separated. When AI-generated works are owned by legally recognized entities that possess the ability to exercise rights and obligations, questions about the legal capacity of the AI entity become irrelevant. As such, the provisions of the Act facilitate the identification and handling of AI-authored works within the current legal framework by nature.

CONCLUSION

The Indian Copyright Act of 1957, with its statutory and flexible nature, is well-equipped to address the challenges posed by AI-generated works. By focusing on the statutory rights framework rather than natural law, the Act allows for a broader interpretation that can include non-human entities as authors. The analysis of sections such as 2(d), 17, 18, and 19 reveals that the Act does not explicitly require authors to be human, thereby opening the door for AI authorship.

Drawing parallels to the legal treatment of minors and works created under employment, it is evident that the Act can accommodate AI-generated works by distinguishing between

[29] Pramatha Nath Mullick v. Pradyumna Kumar Mullick (1925) 27 497 BOMLR 1064.
[30] Copyright Act, 1957, s 18.
[31] Copyright Act, 1957, s 19.

authorship and ownership. This ensures that while AI can be recognized as an author, the ownership and associated legal responsibilities can be managed by capable entities such as companies or individuals who own the AI systems. Such an approach maintains the balance between acknowledging creative contributions and managing legal rights and duties.

By extending copyright protection to AI-generated works, India can create a legal environment that is both progressive and conducive to innovation. This approach not only addresses the current realities of AI and machine learning but also prepares the legal framework for future advancements. Ensuring that AI-generated works are protected under copyright law will promote clarity, reduce legal ambiguities, and foster a robust ecosystem for creative and technological development.

In conclusion, the Indian Copyright Act, 1957, provides a flexible statutory basis that can accommodate AI authorship. There is no statutory requirement that limits authorship to humans, and the principles outlined in the Act support the inclusion of AI-generated works. Embracing this interpretation will not only align with technological advancements but also enhance India's position as a forward-thinking nation in the realm of copyright law and intellectual property rights.