THE CONVERGENCE OF AI COPYRIGHT AND PERSONHOOD

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ABSTRACT

The rapid evolution of artificial intelligence (AI) systems poses a fundamental challenge to traditional legal frameworks that center around the concept of human personhood in terms of whether an AI can be an author under current copyright framework. As AI systems become increasingly autonomous and sophisticated, questions arise about their potential eligibility for legal personhood—a status that confers rights, duties, and liabilities. This research article delves into the theoretical debate surrounding AI personhood with emphasis on Copyright laws and accommodating AI within it, examining the jurisprudential justifications and the practical implications of granting or denying such a status. The analysis will consider the kinds of legal rights that can be vested with AI and how Copyright law may integrate AI into its framework.

Furthermore, the article will critically assess the current legal landscape, highlighting the shortcomings of existing frameworks in accommodating the unique characteristics of AI systems. Potential areas for reform will be identified, including the possibility of creating a sui generis (unique) legal personhood category tailored specifically for AI. The research will ultimately argue that addressing the issue of AI personhood is essential for ensuring accountability, transparency, and the protection of rights in a society increasingly shaped by AI technologies.

BACKGROUND AND STATEMENT OF PROBLEMS

The concept of legal personality, rooted in Roman law and traditionally restricted to natural persons, has evolved over time to include non-human entities such as corporations and, in India, even idols.[1] However, the advent of Artificial Intelligence (AI) has further challenged our understanding of legal personhood, particularly in the realm of intellectual property rights and copyright law.[2] AI's increasing role in various fields, including creative and intellectual pursuits, raises complex questions about the distribution of rights and liabilities. This is particularly evident in copyright law, where the notion of authorship is fundamentally tied to human creativity and originality. The Indian Copyright Act, for instance, presupposes human authorship, creating a significant gap when it comes to AI-generated works.

The United Nations general assembly in 2013 also commissioned a committee to investigate accidents caused by robots and AI, and in India the Govt of India has also expressed the intention to support research and adoption of the Technology. In view of the possible impact of AI on the economy and society and to come out with a policy framework on AI and constituted four committees for the same. Issues such as that of threat to privacy and no proper framework under the copyright act in terms of the material from which AI takes its input from require a more clear or separate framework for the same. The purpose of this study is to show the gaps in the present legislations and the need and requirement for AI specific laws.

RESEARCH QUESTIONS

1. Present status - what are the current copyright laws that address artificial intelligence and regulate it?
2. Adapting legal systems- how existing legal concepts (contracts, due process, culpability) may become problematic when applied to AI systems.
3. Juristic personhood- what may be the potential benefits and drawbacks from granting legal status to AI?
4. What are the copyright implications of the data used to train AI systems?

[1] Smith, B. (1928) Legal personality [Preprint]. Available at: http://www.jstor.org/stable/10.2307/789740?refreqid=fastly-default (Accessed: 01March 2025).
[2] Montes Franceschini M. Traditional Conceptions of the Legal Person and Nonhuman Animals. Animals (Basel). 2022 Sep 28;12(19):2590. doi: 10.3390/ani12192590. PMID: 36230329; PMCID: PMC9558555

RESEARCH OBJECTIVES

Evaluate potential societal impacts: Consider the broader implications of granting AI legal personhood for IPR matters such as human-AI interactions, ethical accountability, and the overall balance of rights and responsibilities within society.

Define the core attributes of personhood: Analyze the essential characteristics that have historically defined personhood and assess whether advanced AI systems could exhibit these qualities.

Examining the need for new privacy regulations: Analyze the necessity of specific legislative frameworks governing AI's development and use to protect personal information.

CURRENT POSITION OF AI AND INTELLECTUAL PROPERTY

The recently passed DPDP act does not directly make any mention of anything AI related, but the act's preamble allows for individual rights and safeguards personal data by making sure that such data can be processed for legitimate purposes only. AI systems are trained solely through data collecting, and the existence of a large enough data set is critical to a machine learning algorithm's outcome. To regulate the same, section 4 of the DPDP Act mandates that valid consent,[3] or legitimate users are required to process personal data. The primary piece of law guiding digital governance and electronic transactions is the Information Technology Act, 2000 (IT Act). Even though the Act doesn't specifically address AI, activities involving AI are covered by certain sections. Remedies can be given under Section 43A of the IT Act when the data is not taken care of in terms of privacy and personal data.[4] This clause is important when it comes to AI systems that handle user data. This right to privacy stems from the usage of existing data by AI to learn and generate new content. There lies an issue whether AI can use copyrighted content to learn through its large language modules. Therefore, the law should not remain rigid and should open doors for new development to ensure there can be enough development in this field of AI. In the case of Rabindra Singh v. Financial Commissioner,[5] Co-operation, Punjab and Others, it was stated that "with the development in science and technology, the ongoing statutes cannot be construed in such a manner so as to take the society backwards and not forward". The judiciary is also no stranger to AI, The Hon'ble supreme

[3] Section 4, THE DIGITAL PERSONAL DATA PROTECTION ACT, 2023 (NO. 22 OF 2023)
[4] Section 43 A, The Information Technology Act, 2000
[5] Rabindra Singh v. Financial Commissioner, Co-operation, Punjab and Others, (2008) 7 SCC 663

court of India has been using AI tools such as SUVAS (Supreme court vidhik anuvad software) which translates legal papers from English into vernacular languages and vice versa.[6]The Indian copyright act also has certain sections like Article 2(d)(vi) that could apply to AI in terms of authorship which is given only to legal persons.

GLOBAL TRENDS ON AI, COPYRIGHT AND PERSONHOOD

In India, as in many other jurisdictions, copyright law is predicated on the assumption of human authorship. The Indian Copyright Act, 1957,[7] while progressive in many aspects, does not explicitly address the issue of AI-generated works. This creates a significant legal gap as AI becomes more prevalent in creative industries. The AI "RAGHAV" was the first humanoid to be given co-authorship giving it the status of a legal person. In 2020, Ankit Sahni, an artist and lawyer, commissioned RAGHAV, or "Robust Artificially Intelligent Graphics and Art Visualizer," an AI-based program that creates artistic creations. In his application to the USCO for Suryast registration, Mr. Sahni identified both RAGHAV and him as co-authors of the "2-D artwork," emphasizing that the AI tool's contributions were separate and apart from his own. Sahni claimed to be the proprietor of two AI-generated artworks for which he had submitted two copyright applications. Registration was granted for the second application, in which the AI and Sahni were listed as co-authors. Although this is still under review in India and has been called back, it shows the potential for developing law to allow the same. However, in New Zealand and Canada, it received complete authorship for its work giving it partial juristic personality. The Whanganui River basin was acknowledged as a legal person in New Zealand by legislation that was passed by the government. The lengthy Treaty of Waitangi talks produced this important legislative reform, which formally recognizes the unique connection that the local Māori have with the river. The copyright act of India also requires amendments to include AI as an author to give protection to AI for the work it creates using its large language models.

Currently, no jurisdiction has granted full legal personality to AI systems. However, there have been certain different views. In 2017, Saudi Arabia granted citizenship to an AI humanoid robot named "Sophia", which had a lot of countries question about the legal implications of such a move.[8] The European Parliament has discussed the possibility of creating a specific legal status

[6] Supreme Court of India press release 25/11/2019. Available at: https://main.sci.gov.in/pdf/Press/press release for law day celebratoin.pdf
[7] The Indian Copyright Act, Ns. 14 of 1957, India Code (1957), §2(d)(vi).

for robots, termed "electronic personhood". A groundbreaking development in the realm of AI and copyright law occurred recently in China. In a landmark decision, the Beijing Internet Court addressed the issue of AI-generated works and their copyrightability in the case of Ren Jiayu v. Beijing Baidu Netcom Technology Co Ltd.[8] Two landmark cases in the United States have significantly shaped the legal landscape regarding non-human authorship and AI in copyright law: Naruto v Slater,[9] this case is called the "monkey selfie" case, whereby a monkey had used a camera to take a photo of itself, it addressed the question of animal authorship. The U.S. Court of Appeals for the Ninth Circuit ruled that animals lack statutory standing under the U.S. Copyright Act, as they are not human. The court emphasized that copyright law is designed to protect works with "humanness" or human authority. Thaler v Perlmutter,[10] in this case, the court addressed the question of AI authorship. The ruling clearly stated that "United States Copyright law protects only works of human creation." This decision shows how restricted copyright framework is and explicitly excludes AI. A major piece of legislation that aims to define artificial intelligence (AI), classify AI products according to their risk level, and introduce related restrictions is the EU AI Act, which the European Union is currently working on. The European Artificial Intelligence Board is also established by this legislation to supervise and implement these rules. Congress in the United States has enacted and is presently adding several legislative measures targeted at regulating aspects of artificial intelligence. The National AI Initiative Act, often known as the U.S. AI Act, was signed into law in January of 2021.[11] The National AI Initiative was founded by this act with the goal of advancing and coordinating AI-related research and development throughout the nation. In India, although a lack of any direct laws that address AI, according to a notification from the Ministry of Electronics and Information Technology platforms in India that are developing or testing artificial intelligence (AI) tools must obtain government approval prior to product launch. The Government of India must give its express consent before any under-tested or unreliable Artificial Intelligence model(s), LLM/Generative/AI, software, or algorithm is made available to users on the Indian Internet.

[8] Ren Jiayu v. Beijing Baidu Netcom Technology Co Ltd
[9] Naruto v David Slater, No.16-15469 (9th Cir. 2018)
[10] Thaler v. Perlmutter, No. 1:22-cv-22292, 2023 WL 2525191 (D.D.C. Mar. 10, 2023).
[11] Listed, N. (2024) India to introduce draft law regulating AI. Available at: https://iapp.org/news/a/india-to-introduce-draft-law-regulating-ai/ (Accessed: 01 December 2024).

POTENTIAL FOR DEVELOPMENT OF AI AS A LEGAL PERSON

For artificial intelligence entities to be held legally responsible in the same manner as companies, they must be given the status of legal persons. Legal personality was granted to corporations to reduce personal liability for corporations, which in turn would encourage individuals to conduct business through corporations. By this comparison, society would be able to embrace and encourage the use of AI in the routine tasks associated with human functioning if it were granted legal status. AI in border security, criminal justice system, smart policing, etc. are a few examples. When AI evolves to a point where it differs from its creator, it will engage in behaviours that aim to find responsibility. A recent incident of a self-driving car powered by AI had met with an accidentally, killing the driver of the vehicle, here due to lack of accountability and legal personality accredited to the AI, no one was held liable. Giving artificial intelligence legal recognition would allow the legal system to hold the machine accountable for its actions, absolving the creators of any liability. In terms of fair use, AI has always been trained on data that is copyrighted, and this would now allow AI to get a license to train from data available online amounting to fair use. This would be a solution to the problem. This will encourage the advancement of artificial intelligence while shielding the innocent AI developers and owners from responsibility resulting from actions they never anticipated. Additionally, it would aid in defining the responsibility gap between the machine's creators and users. It will prevent consumers and developers of AI from becoming discouraged and encourage further advancements in the field of artificial intelligence.

CONCLUSION

It is evident that there is a gap in the functioning of AI within the current framework of laws around the world and the lack of consensus on whether AI should be considered as a legal person. The model that is followed between an Idol and a Shebait should be followed with that of the AI and its developers. The developers remain responsible for all the activities carried out by the AI and simultaneously possess the rights such as copyright and remuneration rights that the AI cannot hold independently. In this mode, the rights and liabilities are well settle with the developers and the AI. The developers can continue to invest into the AI through the income that comes from its usage. There is more safety towards the public because now there is a party that can be held accountable for any acts of the AI. Artificial intelligence has the power to change the world for the better, but it is very important for the laws to allow it to do the same in a manner that is beneficial to the public as a whole. As AI technologies develop, more study

and monitoring will be necessary to address new and potentially amplified legal concerns, to recognize whether or not, the legal personality of AI is an issue that would trouble lawmakers constantly if not decided on soon.