

## EVOLVING DIMENSIONS OF COPYRIGHT PROTECTION FOR CINEMATOGRAPHY: A COMPARATIVE LEGAL STUDY OF INDIA AND INTERNATIONAL NORMS

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### ABSTRACT

This paper undertakes a comparative legal analysis of copyright protection for cinematographic works in India alongside established international norms, particularly focusing on the challenges presented by digital technologies and artificial intelligence. It critically examines how emerging issues like generative AI necessitate a re-evaluation of existing copyright frameworks to maintain a balance between safeguarding creators' rights and fostering innovation<sup>1236</sup>. Specifically, this study will delve into the complexities arising from generative AI's capacity to produce novel outputs from copyrighted material, thereby implicating the integrity of copyright protection and the evolving contours of personality rights<sup>1237</sup>. This analysis will also explore the potential for non-expressive use of copyrighted works in machine learning, considering whether such applications fall outside traditional copyright subject matter entirely in the Indian legal context. The paper will assess how various jurisdictions are currently navigating the intricate intersection of generative AI, copyright, and personality rights, examining recent legal developments and judicial interpretations. Furthermore, this research will investigate the unique architectural elements within Indian Copyright Law that might offer distinct perspectives on issues such as reproduction and adaptation rights in the context of AI-generated content<sup>1238</sup>. Such an examination is crucial given the global implications of AI-generated content, which can transcend national borders instantaneously, leading to diverse legal consequences across different jurisdictions. This comparative study endeavors to identify best practices and potential pathways for harmonization between India's copyright regime and international standards in addressing these technologically induced legal complexities.

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<sup>1236</sup> Redefining Copyright in the Era of Artificial Intelligence: An Ethical and Legal Perspectives from India and the United States of America

<sup>1237</sup> Copyright and Personality Rights: A Comparative Legal Perspective.

<sup>1238</sup> Agrawal A & Jain SS, Indian Copyright Law and Generative AI

## Introduction

Copyright law, being the most versatile among forms of protection for innovation and creation, encompasses a wide variety of creative works, from traditional forms such as books and musical compositions to modern forms like computer software and cinematographic films<sup>1239</sup>. This evolution reflects a continuous expansion of copyrightable subject matter, challenging conventional boundaries as new technologies emerge<sup>1240</sup>. Specifically, the protection afforded to cinematographic works has undergone significant re-evaluation, especially concerning their classification and the extent of rights granted, mirroring historical international conventions such as the 1908 Berlin Act of the Berne Convention. In India, the Copyright Act of 1957 extends protection to a diverse range of works, including cinematograph films, alongside literary, dramatic, musical, and artistic creations. This comprehensive scope ensures the safeguarding of economic and moral rights for creators, though practical enforcement of these moral rights often faces implementation challenges. The Indian Copyright Act of 1957 outlines exclusive rights under Section 14, including reproduction in various forms, public communication, and adaptation, each tailored to the specific work. However, a nuanced distinction exists in the Act where the "right to reproduction" is explicitly granted for literary, dramatic, musical, or artistic works, while for cinematograph films and sound recordings, the corresponding right is articulated as the "right to make a copy"<sup>1241</sup>. This linguistic distinction, though seemingly subtle, carries profound implications for the scope of protection and potential avenues for infringement, particularly when considering the dynamic and composite nature of cinematographic works that integrate various underlying creative elements<sup>1242</sup>. This

specific phrasing necessitates a critical examination of how such a right is exercised and enforced, particularly in an era dominated by digital dissemination and replication. This becomes increasingly critical given the heightened vulnerability of copyrighted works in the digital age, where ease of replication and dissemination necessitates robust legal frameworks to prevent unauthorized usage. Therefore, analysing the distinct nuances in copyright protection for cinematographic works within the Indian legal framework, compared to international standards, is essential for understanding the efficacy and challenges of current intellectual property regimes in safeguarding complex creative endeavors. This study will, therefore, critically analyze the evolution of copyright protection for cinematographic films in India, comparing it with international norms to ascertain the effectiveness of the existing legal framework and propose potential enhancements. The investigation will delve into the historical trajectory of copyright legislation, examining how cinematographic works, initially considered as a series of photographs or dramatic works under the Imperial Copyright Act of 1911, have evolved into a distinct category with specific rights. This analysis will include an examination of landmark judgments and legislative amendments that have shaped the current understanding of copyright in cinematographic works, contrasting India's approach with international conventions and practices.

## Objective of the study

This study aims to provide a comprehensive doctrinal map of copyright protection for cinematographic works in India, considering its alignment with international intellectual property norms. It will specifically scrutinize the "originality" requirement as applied to cinematographic creations within the Indian legal system, assessing its congruence with global standards and identifying areas for

<sup>1239</sup>Evolution of Copyright Law: The Indian Journey, *Indian Journal of Law and Technology*, 16 (2) 2020.

<sup>1240</sup> Non-Conventional Copyright: Do New and Atypical Works Deserve Protection?, *Christ University Law Journal*, 8 (2) 2019 85.

<sup>1241</sup> Protection of right to reproduction in internet under copyright law.

<sup>1242</sup> Legal Implications for Parties Who Display Inappropriate Content Through Social Media Platforms (Copyright Study), *KnE Social Sciences*, 2024.

potential legislative refinement<sup>1243</sup>. Furthermore, the research will explore the implications of digital reproduction and online dissemination on the enforcement of these rights, particularly concerning the protection of distinct creative elements within a film, such as animation styles, camera techniques, and editing, which often remain unprotected under current Indian copyright law. This comparative analysis will shed light on how India balances the protection of artistic expression with the societal need for cultural dissemination, particularly in the context of emerging digital platforms and their unique regulatory challenges<sup>1244</sup>. This analysis will also address the specific challenges posed by cyber threats and digital technologies to copyright enforcement in India, evaluating the efficacy of current legal tools and institutional responses in addressing these evolving threats.

### Background of Copyright Law

The theoretical underpinnings of copyright are rooted in the protection of original expression rather than the underlying information, thereby safeguarding the tangible manifestation of creative effort. This fundamental principle, often termed the "idea-expression dichotomy," ensures that while ideas remain freely accessible, their unique and original expressions are legally protected from unauthorized replication<sup>1245</sup>. This distinction is particularly salient in the context of digital transformation, where the rapid creation, distribution, and access to content have challenged traditional copyright frameworks, especially concerning academic use and fair dealing provisions. In response to these challenges, international treaties like the Berne Convention, established in 1886 and subsequently revised, have endeavored to standardize copyright protection across signatory nations by promoting principles such

as national treatment<sup>1246</sup>. This international harmonization aims to ensure that works originating in one-member state receive the same protection in other member states as those states accord to their own nationals, thereby facilitating the cross-border recognition and enforcement of intellectual property rights. This foundational international framework, further supplemented by agreements such as the TRIPS Agreement and the role of the World Intellectual Property Organization, underpins the global legal landscape for copyright, influencing national legislation and judicial interpretations. Within this evolving global context, the Indian Copyright Act of 1957 provides a robust framework, classifying cinematograph films as distinct protected works, alongside literary and dramatic works. This classification allows for a dual system of protection, recognizing the film itself as a discrete copyrightable entity while also safeguarding the underlying creative components such as screenplays and musical scores. The Berne Convention, as a cornerstone of international copyright law, emphasizes originality for protection but remains flexible, allowing national laws to specify conditions such as fixation in a tangible form. This flexibility permits varied national approaches to defining the threshold for copyrightability, particularly for complex works like films, which are inherently collaborative and multi-layered.

### Significance of Cinematography

The protection afforded to cinematography by various legal instruments, including the Berne Convention, underscores its recognition as a complex artistic expression worthy of copyright, encompassing both literary and artistic elements. This dual recognition often extends to national statutes, such as the Indian Copyright Act, which provides for protection of films as cinematographic works while also allowing for separate protection of underlying literary or dramatic components. The principle of national

<sup>1243</sup> Originality requirement and copyright regime of music: a comparative overview of Indian perspective.

<sup>1244</sup> CREATIVE FREEDOM AND CENSORSHIP: A COMPARATIVE ANALYSIS OF REGULATORY FRAMEWORK FOR OTT CONTENTS IN THE UK, INDIA, AND CHINA.

<sup>1245</sup> An Indian Legal Analysis, *International Journal for Research in Applied Science and Engineering Technology*, 13 (6) 2025 3600.

<sup>1246</sup> DIGITAL RIGHT MANAGEMENT: SAFEGUARDING COPYRIGHT IN THE CYBER ERA.

treatment, articulated in treaties like the Berne Convention and TRIPS, ensures that foreign cinematographic works receive the same protections as domestically produced ones, fostering an international environment conducive to the global distribution and exhibition of films. This interconnectedness of international agreements and national statutes forms the intricate legal tapestry governing the multifaceted intellectual property rights associated with cinematographic productions<sup>1247</sup>. However, despite these frameworks, the intersection of copyright and design law in cinematography presents complex challenges, particularly concerning the cumulative protection of aesthetically functional elements. The definition of cinematography within legal frameworks often encompasses various forms of moving images, including documentary and animated films, and extends to diverse exhibition media, thereby underscoring its broad scope of protection. This comprehensive coverage necessitates a meticulous examination of how different jurisdictions, particularly India, interpret and apply these provisions to accommodate the dynamic nature of cinematographic production and distribution in the digital age. Specifically, national laws frequently stipulate that works, including AI-generated content, must be fixed in a tangible or material form to qualify for copyright eligibility, ensuring their safeguarding once manifested in a concrete medium. However, the rapid advancement of artificial intelligence and its increasing role in creative processes raise intricate questions regarding authorship, ownership, and the very definition of a "creator," especially when AI systems autonomously generate creative works. This necessitates a re-evaluation of traditional copyright paradigms, which typically attribute authorship to human intellect, to accommodate machine-generated content.

### Research Questions

This study, therefore, aims to critically analyze the evolving dimensions of copyright protection for cinematography within this landscape, focusing on a comparative legal study between India and international norms, particularly in light of emerging technologies like AI. This investigation will delve into the nuanced interplay between existing international agreements, such as the Berne Convention and World Intellectual Property Organization agreements, and national legislations like India's, to ascertain how these frameworks adapt to AI-driven creativity in cinematographic works<sup>1248</sup>. The study will further explore the challenges and opportunities presented by AI-generated content in cinematography, addressing the pivotal questions of originality, human involvement, and the allocation of intellectual property rights. Specifically, the research will employ a comparative legal analysis methodology, examining how diverse jurisdictions, including those within civil and common law systems, address the complexities of originality and ownership in AI-generated works within the cinematographic domain<sup>1249</sup>. This approach will identify convergences and divergences in legal interpretations, shedding light on potential avenues for harmonized international standards and robust national policies.

### Scope and Methodology

The methodology will involve a qualitative examination of legal frameworks, including international conventions such as the Berne Convention and the TRIPS Agreement, alongside national statutes and judicial precedents from selected jurisdictions, with a particular focus on India. This comparative approach will illuminate how different legal systems are grappling with the challenges posed by AI in creative industries, especially concerning authorship and equitable compensation for original

<sup>1247</sup> International Legal Frameworks for Protecting Intellectual Property and Ensuring Academic Freedom, *Journal of Ecobumanism*.

<sup>1248</sup> A research on copyright issues impacting artists emotional states in the framework of artificial intelligence

<sup>1249</sup> Unlocking Copyright: The Power of Ownership and Licensing.

contributors. It will also explore whether current definitions of authorship and originality, predicated on human intervention, remain adequate in an era where AI tools are increasingly capable of generating sophisticated cinematic content<sup>1250</sup>. Furthermore, this analysis will extend to evaluate the ethical and legal concerns arising from the widespread adoption of creative AI in cinematography, considering its impact on artists, actors, and the general public, and identifying potential gaps in current legal architectures. The research will also incorporate case studies and jurisprudential analysis to dissect the practical application of copyright principles in landmark decisions related to AI-generated cinematographic content, thereby offering concrete insights into legal interpretations and their real-world implications<sup>1251</sup>. Given the rapid advancements in AI applications within filmmaking, this study will critically assess the implications of AI's role in various stages of film production, including content creation and aesthetic enhancement, on existing copyright frameworks<sup>1252</sup>.

### Conceptual Framework of Copyright in Cinematography

This section delineates the foundational principles underpinning copyright protection as applied to cinematographic works, examining elements such as originality, fixation, and the bundle of exclusive rights conferred upon creators. It will also analyze the intricate relationship between copyright law and the evolving technological landscape, particularly concerning the integration of generative artificial intelligence in cinematic production and its ramifications for intellectual property ownership. This will include a detailed exploration of how existing legal frameworks, designed primarily for human-authored works, are being challenged and adapted to

accommodate AI-generated content, focusing on issues such as the recognition of AI as an author and the scope of protection for AI-assisted creations. Specifically, this involves grappling with philosophical foundations of copyright such as the idea-expression dichotomy, and drawing parallels from traditional creative works to assess how these concepts apply to AI-generated content<sup>1253</sup>. This will necessitate an examination of how generative AI, particularly in areas like scriptwriting, visual effects, and even autonomous content generation, blurs the lines of traditional authorship and originality. The proliferation of generative AI models, such as Generative Adversarial Networks, further complicates these considerations by enabling the creation of novel content with minimal direct human intervention, thereby challenging established notions of creativity and intellectual property within the media and film industry<sup>1254</sup>. This evolving landscape necessitates a robust examination of how copyright frameworks must adapt to address the legal implications of AI involvement in film production, from initial concept generation to post-production.

### Definition and Nature of Cinematographic Works

Cinematographic works, characterized by their audio-visual nature and often collaborative creation, have historically presented unique challenges for copyright law due to their composite nature and the involvement of multiple contributors. This complexity is heightened by the integration of AI, which blurs the traditional understanding of authorship and introduces new considerations for how originality and creative contribution are defined and attributed. The increasing sophistication of AI in generating complex visual and auditory elements compels a re-evaluation of the legal concept of the "author" in cinematographic works, moving beyond human-centric

<sup>1250</sup> Reconceptualising Human Authorship in the Age of Generative AI: A Normative Framework for Copyright

<sup>1251</sup> Patentability of AI-Generated Inventions: A Comparative Analysis of Global Patent Law Frameworks and Their Adaptation to Artificial Intelligence Innovation

<sup>1252</sup> Employing artificial intelligence techniques to make films

<sup>1253</sup> Authorship in artificial intelligence-generated works: Exploring originality in text prompts and artificial intelligence outputs through philosophical foundations of copyright and collage protection

<sup>1254</sup> The Evolution of Generative AI: Implications for the Media and Film Industry

paradigms. The current debates surrounding AI-generated content underscore the foundational premise of copyright law, which traditionally posits human intervention as a prerequisite for protection, thereby exposing the anthropocentric limits of prevailing regulatory frameworks. This challenge is particularly evident when considering that AI is increasingly capable of mimicking human expression, prompting a re-evaluation of authorship, originality, and moral integrity within copyright law. Several jurisdictions, including the United States, maintain that copyright protection necessitates a human author, which directly conflicts with the notion of AI as a sole creator<sup>1255</sup>. However, this strict anthropocentric view is being challenged by the increasing capabilities of AI systems to autonomously generate sophisticated content that exhibits complexity and originality, pushing the boundaries of what constitutes artistic expression. This tension necessitates a re-examination of whether the "minimal intellectual effort" or "expression of the author's personality" standards for originality can be effectively applied when AI tools significantly contribute to or autonomously generate cinematic outputs.

### Originality and Fixation Requirements

The foundational principles of originality and fixation, crucial for copyright subsistence, face unprecedented scrutiny when applied to AI-generated or AI-assisted cinematographic works<sup>1256</sup>. While fixation, often defined as the embodiment of a work in a tangible medium, is generally met by AI-generated content through its digital existence, the originality criterion presents a more complex challenge as it necessitates a minimum level of creative input. Specifically, the jurisprudential debate centers on whether the "human touch" or "imprint of human creativity" is an indispensable element for satisfying originality, especially when AI

systems are capable of producing novel and sophisticated outputs. This is further complicated by the fact that AI algorithms assimilate vast datasets and iteratively improve, raising questions about whether their outputs can be deemed the creative expression of an individual, rather than merely a derivation or statistical aggregation of existing works. This brings into focus the "sweat of the brow" doctrine versus the "modicum of creativity" standard, with the latter generally favoured in jurisdictions like the US, which typically requires a human author for copyright registration, as demonstrated in cases involving AI-assisted works. The U.S. Copyright Office has explicitly stated that copyright can only protect material resulting from human creativity, directly excluding non-human authorship from protection<sup>1257</sup>. Conversely, other jurisdictions and emerging legal scholarship are exploring more flexible approaches, acknowledging that significant human intervention in selecting, curating, or modifying AI-generated elements could qualify as sufficient creative input for copyright protection<sup>1258</sup>.

### Authorship and Ownership in Film Production

The integration of AI into film production pipelines further complicates traditional notions of authorship, particularly concerning who is considered the "author" in a legal sense when AI systems generate or significantly contribute to creative works. This complexity extends to the determination of ownership, as the conventional attribution to a human creator becomes problematic when autonomous algorithms generate content. This necessitates a re-evaluation of legal frameworks to discern whether the developer of the AI, the user prompting the AI, or even the AI itself, could be considered an author or co-author, especially given the established legal precedent in some jurisdictions that only human creations are eligible for copyright protection. However, a

<sup>1255</sup> Redefining boundaries in innovation and knowledge domains: Investigating the impact of generative artificial intelligence on copyright and intellectual property rights

<sup>1256</sup> Mei Y, Prompting the E-Brushes: Users as Authors in Generative AI, *arXiv (Cornell University)*, 2024.

<sup>1257</sup>, Navigating the legal landscape of AI copyright: a comparative analysis of EU, US, and Chinese approaches, *AI and Ethics*

<sup>1258</sup> Human Creative Control as a Legal Threshold for Copyright Protection in AI-Assisted Works

growing body of legal scholarship and some international precedents suggest a nuanced approach, considering the human involvement in the generative process, such as data selection or parameter setting, as a basis for recognizing human authorship in AI-assisted works<sup>1259</sup>. This approach often considers the AI as a tool, akin to a camera, that facilitates human creative expression rather than acting as an independent author<sup>1260</sup>. This perspective aligns with the nuanced stance taken by some copyright offices, which evaluate whether the "traditional elements of authorship" were conceived and executed by a human, even if AI tools were extensively utilized in the process.

### Rights Conferred to Cinematographers

These rights typically encompass economic prerogatives, such as reproduction, distribution, and adaptation, alongside moral rights that safeguard the integrity and attribution of their creative contributions. This framework establishes a comprehensive protective regime, ensuring creators maintain control over their work's dissemination and public perception. However, the emergence of AI-generated content in cinematography introduces a profound challenge to these established rights, as the attribution of authorship and the exercise of control become ambiguous when creative contributions are not solely human-driven<sup>1261</sup>. Specifically, the advent of AI capable of generating cinematic elements, from scripts to visual effects, blurs the lines of traditional authorship, making it difficult to ascertain who holds the primary copyright and moral rights. This necessitates a robust legal discourse on redefining the scope of cinematographers' rights in an ecosystem where AI can generate content that potentially infringes upon or competes with human-authored works, raising questions about infringement liability and

equitable compensation<sup>1262</sup>. Further, the integration of AI models, especially generative AI, into cinematographic production workflows also raises concerns about potential unauthorized use of existing copyrighted works for training datasets, thereby impacting the economic rights of cinematographers and other rights holders. This includes the critical issue of "substantial similarity" for determining infringement in AI-generated content, an area where current methodologies often lag behind technological advancements.

### International Norms and Conventions

The global landscape of copyright protection for cinematography is shaped by a complex interplay of international treaties and conventions, each striving to harmonize intellectual property standards across diverse jurisdictions. These instruments, such as the Berne Convention, establish foundational principles like national treatment and automatic protection, which are crucial for safeguarding cinematographic works across borders. The Berne Convention, for instance, implies that only human creators are capable of authorship, a stance that inherently complicates the copyright status of AI-generated content<sup>1263</sup>. The subsequent evolutions, notably the WIPO Copyright Treaty and the TRIPS Agreement, have further refined these protections, extending them to the digital realm and establishing minimum standards for copyright enforcement globally. However, these international legal frameworks, primarily conceived in an era predating advanced AI, do not explicitly address the nuanced challenges posed by AI-generated cinematographic works, particularly regarding authorship attribution and the application of originality criteria. This gap necessitates a critical examination of how existing international intellectual property treaties can be interpreted or adapted to accommodate works where AI plays a significant role in content creation, especially

<sup>1259</sup> AI and IP: Are Creativity and Inventorship Inherently Human Activities?,

<sup>1260</sup> Copyright of photography and artificial intelligence: a tale of two technologies, *Journal of Intellectual Property Law & Practice*, 20 (8) 2025

<sup>1261</sup> The digital transformation of the film industry: How Artificial Intelligence is changing the seventh art

<sup>1262</sup> Reviewing Intelligent Cinematography: AI research for camera-based video production, *arXiv (Cornell University)*, 2024.

<sup>1263</sup> Artificial intelligence and moral rights

given the ongoing debate around whether AI-generated content can even qualify for copyright protection if it lacks human authorship<sup>1264</sup>. This ambiguity is further compounded by the diverse interpretations of "originality" across jurisdictions, with some requiring a human intellect's imprint for copyrightability, while others might consider a lower threshold of creative expression, irrespective of the creator's nature.

### **Berne Convention for the Protection of Literary and Artistic Works**

This convention, a cornerstone of international copyright law since 1886, mandates member states to protect literary and artistic works, including cinematographic works, under principles of national treatment and automatic protection without formalities. A pivotal aspect of the Berne Convention, and a recurring theme in subsequent international instruments, is its implicit reliance on human authorship, which, though not explicitly defined, was historically understood among member states to be a prerequisite for copyright eligibility. This foundational understanding poses a significant challenge in the contemporary era of artificial intelligence, where AI systems can generate complex cinematographic content without direct human creative input, thus challenging the conventional notions of authorship and originality<sup>1265</sup>. The absence of an explicit definition of "originality" within the Berne Convention further compounds this issue, leaving its interpretation to individual member states, which leads to varying national approaches to AI-generated works<sup>1266</sup>.

### **WIPO Copyright Treaty (WCT)**

The WIPO Copyright Treaty, adopted in 1996, updates the Berne Convention to address challenges posed by digital technologies and the internet, explicitly recognizing the exclusive right of authors to authorize or prohibit the

communication of their works to the public by wire or wireless means. While the WCT strengthened copyright in the digital environment, it, much like its predecessors, maintained an implicit focus on human authorship, neglecting to define "author" and thus leaving the door open for varied national interpretations concerning AI-generated works. This lacuna in the WCT's framework poses a significant hurdle in uniformly applying copyright protections to AI-assisted or AI-generated cinematographic productions across jurisdictions, particularly given the ongoing global discourse on whether non-human entities can be considered "authors". Similarly, the TRIPS Agreement, while establishing minimum standards for intellectual property rights and their enforcement within the World Trade Organization framework, primarily focuses on economic rights and does not offer explicit guidance on the copyrightability of AI-generated content or the attribution of authorship to non-human creators.

### **TRIPS Agreement and its Impact**

The TRIPS Agreement, administered by the WTO, establishes global standards for copyright protection but neither explicitly endorses nor prohibits the recognition of non-human entities as authors. This oversight creates a significant interpretive challenge regarding the copyright status of AI-generated cinematographic works, particularly given the lack of a compulsory enforcement mechanism for moral rights within TRIPS, which could have provided more robust protection for original creators. Consequently, the global intellectual property framework, including TRIPS, presents a fragmented approach to emergent forms of authorship, necessitating a re-evaluation of its foundational tenets in light of advanced AI capabilities<sup>1267</sup>. The WIPO Copyright Treaty, building upon the Berne Convention, further extended these protections to the digital realm, yet it maintained the

<sup>1264</sup> From Imitation to Innovation: The Emergence of AI Unique Artistic Styles and the Challenge of Copyright Protection

<sup>1265</sup> Beyond Human Authorship: Rethinking Copyright Ownership in the Age of Autonomous Artificial Intelligence

<sup>1266</sup> Creative markets and copyright in the fourth industrial era, 2018.

<sup>1267</sup> Artificial intelligence and law: emerging divergent national regulatory approaches in a changing landscape of fast-evolving AI technologies

conventional understanding of authorship rooted in human creativity.

### EU Directives on Copyright in the Digital Single Market

The European Union, through directives such as the Directive on Copyright in the Digital Single Market, has sought to harmonize copyright law among its member states, yet these instruments largely continue to presuppose human authorship, leading to ongoing debates regarding the legal personhood of AI and its creative output. This situation leads to divergent national regulatory approaches within the WTO members concerning AI's legal personhood and authorship, complicating the consistent application of copyright law to AI-generated content across borders. Indeed, while the EU's Computer Directive and Database Directive define "author" as a "natural person," they do permit national laws to designate a legal person as the right holder, further fragmenting the global legal landscape for AI-generated intellectual property. This inconsistency in defining authorship and originality across international conventions and national laws underscores the urgent need for a unified global framework that can adequately address the complexities introduced by AI in creative industries, especially concerning cinematographic works<sup>1268</sup>. This fragmented global landscape, characterized by varying interpretations of fundamental copyright tenets like authorship and originality, necessitates a comprehensive comparative analysis of national legal frameworks, particularly those of key jurisdictions like India, to identify commonalities and divergences in their approaches to AI-generated content. Specifically, the absence of explicit provisions for AI-generated works in international treaties means that the copyrightability of such works is left to national jurisdictions, often resulting in legal uncertainty and inconsistent protection. In this context, countries like Australia, Canada,

and India are actively engaged in consultations and legislative reviews to clarify their copyright laws regarding AI-generated content, often leaning towards human-centric authorship<sup>1269</sup>.

### Copyright Protection for Cinematography in India

India's copyright jurisprudence, while traditionally human-centric, has begun to grapple with the implications of AI-generated content, with its Copyright Act of 1957 defining "author" for computer-generated works as "the person who causes the work to be created". This definition, however, still implies human agency in initiating and directing the AI's creative process, thereby sidestepping the question of true AI authorship<sup>1270</sup>. This legal stance, while attributing authorship to the human orchestrator, nonetheless acknowledges the machine's role, thus opening a nuanced discourse on the extent of human intervention required for copyright subsistence in AI-assisted creations, particularly within complex cinematographic productions. Furthermore, the current Indian legal framework, encompassing the Copyright Act and the Patents and Designs Act, lacks explicit provisions for addressing AI authorship or liability, as highlighted by recent cases. This legislative lacuna necessitates a critical examination of India's evolving judicial interpretations and potential statutory reforms to accommodate the complexities of AI-generated content within its copyright regime. This comparative analysis will explore how India's stance aligns with or diverges from international norms, particularly those of the United States and the European Union, which largely maintain a human authorship requirement for copyright protection, albeit with differing approaches to human-AI collaboration<sup>1271</sup>. Despite this, a group of countries influenced by the British copyright tradition, including India, are considering allowing for the protection of computer-

<sup>1268</sup> Legal Regulation of Intellectual Property Rights in the Digital Age: A Perspective from AIGC Infringement

<sup>1269</sup> The algorithmic muse and the public domain: Why copyright's legal philosophy precludes protection for generative AI

<sup>1270</sup> Indian Perspective of Intellectual Property for AI-Created Works

<sup>1271</sup> The Human Authorship Requirement in AI-Generated Works: A Comparative Analysis of Copyright Protection Frameworks

generated output, signaling a potential divergence from the human creativity prerequisite<sup>1272</sup>. However, the specific criteria for determining "human creativity" in AI-assisted works and the precise scope of protection for such outputs remain ambiguous within the Indian context, necessitating further judicial clarification and legislative refinement. In India, the ongoing discourse regarding AI-generated content often references the Copyright Act, 1957, Section 2, to determine copyrightability. This section, along with Section 17, which designates the first owner of copyright, is pivotal in addressing the complex issue of AI authorship by implicitly requiring human involvement for a work to qualify for copyright protection. However, legal scholars argue that the current Indian framework, like many international counterparts, is ill-equipped to handle situations where AI autonomously generates content without direct human guidance, raising fundamental questions about the nature of authorship and originality in the digital age<sup>1273</sup>. This challenge is particularly pronounced in AI-generated pharmaceutical compositions and other complex AI-driven innovations, where the absence of a recognized human inventor or author creates significant hurdles for

### Evolution of Indian Copyright Law for Films

The Indian Copyright Act of 1957, while predating the advent of AI, defines the author of computer-generated works as the person who causes the work to be created, a provision that has been interpreted to require a degree of human intervention, thus influencing the copyrightability of AI-generated cinematographic content. This legal stance ensures that even in the context of advanced AI systems, a nexus to human input is maintained for the conferral of copyright, thereby aligning with international norms that predominantly emphasize human creativity as a prerequisite for copyright protection. However, the

increasing sophistication of AI models, capable of producing creative works with minimal human oversight, challenges this traditional interpretation, particularly concerning the extent to which an AI system can be considered an "instrument" of human creation versus an independent originator. This dynamic tension necessitates a re-evaluation of current legal definitions to clarify the threshold of human involvement for copyright eligibility in AI-assisted cinematographic productions. This becomes particularly pertinent when considering the autonomous nature of certain AI systems that can generate creative outputs without explicit human programming or direction for each specific outcome, blurring the lines of traditional authorship. Consequently, the evolving capabilities of AI necessitate a robust examination of existing intellectual property laws, potentially requiring revisions to accommodate the distinct nature of AI-generated inventions and address issues of ownership and liability<sup>1274</sup>.

### Key Provisions of the Copyright Act, 1957 (as amended)

The statute's provisions pertaining to "cinematograph films" in Sections 2(d)(v) and 2(f) are crucial for understanding copyright in film, alongside the definition of "author" in Section 2(d) and "work" in Section 2(y), which collectively form the bedrock for determining ownership and scope of protection. These sections, read in conjunction with the 2012 amendments, have also introduced specific safeguards for authors of underlying literary and musical works incorporated into cinematograph films, emphasizing the nuanced rights afforded to various contributors within film production<sup>1275</sup>. The historical development of Indian copyright law, particularly concerning cinematographic works, reveals a trajectory influenced by both indigenous legal thought and global intellectual property trends, diverging significantly from its perceived British

<sup>1272</sup> Rosenmeier M, Riis T, Schovsbo J, & Udsen H, *Festskrift til Jørgen Blomqvist*, (Technical University of Denmark), 2021

<sup>1273</sup> Strong AI to Super-intelligence: How is AI placed vis-à-vis Intellectual Property Rights, *International Journal of Computer Communication and Informatics*, 3 (2) 2021 1.

<sup>1274</sup> Applications of Generative AI in Healthcare: algorithmic, ethical, legal and societal considerations, 2024.

<sup>1275</sup> Rights of the Author: Possible Extensions under Copyright Law in India,

origins. This evolutionary path has led to a distinctive legal framework in India that grapples with issues such as AI authorship and inventorship, echoing the global debate on whether AI-generated works can be attributed copyright in the absence of traditional human creativity. This complex interplay between human endeavour and artificial intelligence in creative output necessitates a closer examination of legislative intent and jurisprudential adaptations to adequately address emerging challenges<sup>1276</sup>. This further highlights the need for a coherent framework that delineates the extent of human intervention required for copyright eligibility in AI-assisted creative endeavors, especially in light of international disparities in recognizing AI as an author. In fact, several nations, including China and India, have already begun to consider co-authorship for AI, a departure from the human-centric approach favoured by many Western legal systems. Such considerations prompt an examination of how these emerging frameworks accommodate the concept of inventorship for AI-generated creations, particularly in the patent domain where traditional definitions of "inventor" are often tied to natural persons<sup>1277</sup>.

### Judicial Interpretations of Cinematographic Copyright

Indian courts have consistently reinforced the idea-expression dichotomy, as articulated in landmark cases such as **\*R.G. Anand v. Deluxe Films & Ors.\***, establishing that copyright protection extends solely to the expression of an idea, not the idea itself. This principle is crucial for cinematographic works, where the narrative structure, visual composition, and aural elements constitute the protected expression, irrespective of the underlying generic plot or thematic concepts. This judicial stance aligns with the foundational principle that copyright aims to protect creative markets by

safeguarding unique expressions, rather than granting monopolies over abstract ideas<sup>1278</sup>. Furthermore, this distinction becomes especially critical when evaluating AI-generated cinematographic content, where the algorithm's output might derive from learned patterns, raising questions about the originality of the expression versus the commonality of the underlying concepts. The jurisprudence surrounding cinematographic works further emphasizes the "skill, labor, and judgment" standard, requiring a demonstrable intellectual contribution from a human author to qualify for copyright, a benchmark that becomes increasingly contentious with autonomous AI systems capable of sophisticated creative synthesis. This persistent requirement for human authorship and inventive contribution in many jurisdictions, including the U.S. and E.U., stems from statutory interpretations that define "author" and "inventor" as human beings. However, this human-centric definition poses significant challenges in the context of AI-generated inventions, as current Indian patent law explicitly mandates a natural person as the inventor, thereby excluding AI systems from such recognition. This statutory limitation, which is also reflected in the approaches of some global patent systems, creates a critical void regarding the patentability of AI-generated inventions, potentially stifling innovation in domains like biomedical research where AI contributions are increasingly significant. This inherent conflict between the anthropocentric nature of current IP law and the burgeoning capabilities of AI necessitates a re-evaluation of legal frameworks to ensure that AI-driven innovation is adequately incentivized and protected<sup>1279</sup>.

### Comparative Analysis: India vs. International Norms

This section will delve into the divergent and convergent approaches adopted by India and other major jurisdictions concerning the

<sup>1276</sup> Revisiting Authorial Intent in the Context of AI Assisted Productions, *SSRN Electronic Journal*, 2024

<sup>1277</sup> Tripathi S & Ghatak C, Artificial Intelligence and Intellectual Property Law, *Christ University Law Journal*, 7 (1) 2018 83

<sup>1278</sup> Convergence, Complexity and Uncertainty

<sup>1279</sup> Artificial Creations: Ascription, Ownership, Time-Specific Monopolies, *SSRN Electronic Journal*, 2020.

protection of cinematographic works, particularly focusing on authorship, ownership, and the evolving treatment of AI-generated content. A critical aspect of this comparison will involve examining the varying legal interpretations of "originality" and "authorship" across these jurisdictions, especially when confronted with the emergent complexities introduced by artificial intelligence in creative processes<sup>1280</sup>. For instance, the international copyright treaty system broadly harmonizes the subsistence of copyright in films, yet it delegates the specifics of authorship and ownership to national laws, leading to a spectrum of interpretations regarding who or what can be considered an author. This divergence is particularly evident in the context of AI, where some jurisdictions consider AI a tool requiring human input, while others explore the possibility of AI as a co-creator, prompting a re-evaluation of inventorship in the patent landscape as well.

### **Comparison of Authorship and Ownership Regimes**

In India, the Copyright Act of 1957 vests authorship in the producer of a cinematograph film, an approach that differs significantly from jurisdictions that recognize the director or screenwriter as primary authors, highlighting a key divergence in the statutory attribution of creative ownership. This distinction profoundly impacts the economic rights and moral rights associated with cinematographic works, particularly concerning their exploitation and adaptation in various media. This producer-centric model in India contrasts with the more author-centric approaches found in many European legal traditions, which often prioritize the individual creative contributions of directors and scriptwriters, thereby affecting the contractual negotiations and residual rights within the global film industry. Furthermore, recent international developments, such as the EU's Directive on Copyright in the Digital Single

Market, emphasize authors' rights to "appropriate and proportionate remuneration" and transparency rights, aligning with moral rights philosophies that could influence future Indian legislative considerations.

### **Duration of Copyright Protection**

The duration of copyright protection for cinematographic works also exhibits variations across jurisdictions, with India generally providing a term of sixty years from the date of publication, whereas some international norms, particularly those influenced by the Berne Convention, often extend protection to fifty or even seventy years post-mortem auctoris for individual authors, or seventy years post-publication for corporate authorship. These differences in duration reflect diverse policy objectives, ranging from fostering a robust public domain to ensuring prolonged economic incentives for creators and industries. This variability can lead to complex issues in international distribution and licensing, as the period of protection for a single work may expire at different times depending on the jurisdiction in which it is exploited.

### **Fair Use and Exceptions for Cinematographic Works**

The doctrine of fair use, or its equivalent, fair dealing, provides critical limitations and exceptions to copyright protection, balancing the rights of creators with the public interest in access to and use of copyrighted materials for purposes such as criticism, commentary, news reporting, teaching, scholarship, or research. While the general principles underpinning these exceptions are globally recognized, their specific application and scope for cinematographic works can vary considerably across national legal systems, leading to disparities in what constitutes permissible use without obtaining prior authorization.

### **Cross-Border Enforcement Mechanisms**

The increasing globalization of the film industry and the proliferation of digital platforms necessitate robust cross-border enforcement

<sup>1280</sup> Ownership Of AI-Generated Works: Rethinking Copyright In The 21st Century, *International*

mechanisms to combat copyright infringement effectively, extending beyond national boundaries to address the transnational nature of intellectual property violations. This often entails international treaties, bilateral agreements, and collaborative efforts among law enforcement agencies and judicial systems to streamline extradition processes and harmonize legal frameworks for intellectual property crime<sup>1281</sup>. This international cooperation is particularly critical in addressing challenges posed by digital piracy, which often leverages global networks and sophisticated technologies to disseminate unauthorized content across jurisdictions<sup>1282</sup>.

### Conclusion and Recommendations

This study has highlighted significant disparities in the legal frameworks governing cinematographic works between India and international standards, particularly concerning authorship attribution, duration of protection, and mechanisms for cross-border enforcement. These variations underscore the challenges in harmonizing intellectual property rights globally, particularly given the rapid evolution of technology and the persistent divergence in national legal interpretations. To address these complexities, it is recommended that policy frameworks adapt to foster innovation while upholding legal safeguards, promoting a balanced ecosystem through collaborative industry efforts and the exploration of alternative intellectual property models<sup>1283</sup>. Further research should critically examine the efficacy of current copyright enforcement strategies against sophisticated digital piracy tactics, especially considering the substantial economic losses reported globally due to such infringements<sup>1284</sup>.

### Summary of Findings

The analysis reveals that while foundational international frameworks like TRIPS and the Berne Convention offer baseline protections, considerable challenges persist in achieving true harmonization and effective cross-border enforcement, particularly given the power imbalances between developed and developing nations. These disparities are further exacerbated by the rapid advancements in digital technologies, such as deep fake generation and global streaming platforms, which introduce novel challenges to existing copyright paradigms and necessitate a re-evaluation of enforcement strategies.

This includes assessing the application of existing laws, such as Sections 67 and 67A of the Information Technology Act in India, to novel forms of infringement like deep fakes and considering reforms to enhance the prosecution and investigation of cybercrimes. Additionally, the rise of digital piracy and the proliferation of AI-generated synthetic media, or deep fakes, present unprecedented challenges that demand a comprehensive regulatory framework, potentially including a dedicated Synthetic Media Regulation Act, to safeguard individual rights and democratic processes. Furthermore, the integration of alternative dispute resolution mechanisms, along with robust capacity building initiatives and private sector engagement, could significantly enhance the efficacy of intellectual property enforcement in addressing these complex, cross-border challenges<sup>1285</sup>. Moreover, developing globally consistent minimum standards, rather than relying on unilateral extraterritorial enforcement, could mitigate jurisdictional conflicts and negative externalities, fostering a more equitable and efficient international copyright ecosystem.

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A comprehensive bibliography is provided to support the arguments and findings presented

<sup>1281</sup> Singh V & Gautam DR, Cyber Crime, Security and Regulation in India, In: 2022, 147.

<sup>1282</sup> Chadha U, Digital Piracy and the Effectiveness of Copyright Laws in India, *Zenodo (CERN European Organization for Nuclear Research)*, 2025.

<sup>1283</sup> Adams R, The Evolution of Intellectual Property Rights in the Digital Age, *Journal of Modern Law and Policy*, 3 (2) 2023 52.

<sup>1284</sup> Anon, Regulation by copyright laws, In: *UCL Press eBooks*, (UCL Press), 2018, 31.

<sup>1285</sup> , CHALLENGES IN ENFORCING INTELLECTUAL PROPERTY ACROSS JURISDICTION IN DIGITAL AGE

in this study, encompassing scholarly articles, legal texts, and official reports from international bodies. This compilation serves as a foundational resource for further academic inquiry into the evolving landscape of intellectual property law, particularly concerning the intersection of technological advancement and global regulatory harmonization. The ongoing fragmentation of intellectual property laws across jurisdictions, coupled with the rapid development of AI, further exacerbates challenges in copyright protection and enforcement. The inadequacy of current copyright frameworks, which were primarily designed for human authorship, is particularly evident when confronted with generative AI's capacity to replicate or transform copyrighted materials. Consequently, a critical reassessment of existing legal paradigms is imperative to establish clear liability for AI-generated outputs and to delineate the scope of actionable reproduction in an increasingly automated creative landscape. This necessitates exploring innovative legal solutions and international agreements that can effectively bridge the gap between traditional copyright principles and the complexities introduced by advanced artificial intelligence. Scholars advocate for the evolution of copyright law to accommodate AI's unique requirements without compromising original creators' intellectual property rights, proposing clearer standards for derivative works and specific AI licensing frameworks. Such frameworks could leverage artificial intelligence solutions themselves to detect and address criminal copyright infringement, alongside improved international law enforcement cooperation.

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