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India at the crossroads: Charting a Hybrid Path for AI Copyright Between U.S. Formalism and Chinese Pragmatism

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Abstract

The rapid advancement of generative artificial intelligence (AI) fundamentally challenges copyright law's foundational human authorship requirement, creating legal uncertainty across global jurisdictions. This paper conducts comprehensive comparative analysis of how the United States, China, and India approach AI-generated content protection, with additional examination of developments in the European Union and United Kingdom. The comparative analysis reveals three distinct regulatory models. The United States exemplifies formalist doctrine, categorically denying copyright protection for works lacking substantial human creative control, grounded in constitutional text and economic incentive theory. China has developed pragmatist, technology-neutral frameworks through landmark judicial decisions that recognize AI-assisted works when humans demonstrate meaningful creative involvement. India occupies an ambiguous position, possessing explicit statutory provisions addressing "computer-generated works" under Section 2(d)(vi) of the Copyright Act, 1957, but lacking definitive judicial interpretation for modern generative AI contexts. Through detailed examination of landmark cases Thaler v. Perlmutter[2] (United States), Tencent v. Yingxun[3] and Li Yunkai v. Liu Yuanchun[4] (China), and India's unresolved RAGHAV[5] controversy, the paper reveals divergent philosophical foundations while identifying emerging consensus principles: no jurisdiction recognizes machines as authors, purely

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[2] Stephen Thaler v. Shira Perlmutter, Registrar [2023] Civ Action No. 22-1564 (BAH).
[3] Shenzhen Tencent Computer System Co. Ltd. v. Shanghai yingxun Technology Co. Ltd. 0305 Civil First Trial No. 14010.
[4] Li v. Liu, Beijing Internet Ct., Case No. (2023) Jing 0491 Min Chu No. 11279 (Nov. 27, 2023) (China).
[5] Ankit Sahni, Registration of "SURYAST," U.S. Copyright Office Review Board Decision (Dec. 11, 2023). Microsoft Word - 2023-12-11_SURYAST Review Board Decision Letter final.

autonomous outputs lack protection, and documentation requirements increasingly govern authorship claims. India's statutory language defining authors as "the person who causes the work to be created" requires urgent judicial clarification. This paper proposes hybrid policy recommendations combining Chinese-style contemporaneous documentation requirements with U.S. substantive creative control standards. This approach would create administrable rules balancing innovation incentives, human creativity protection, international harmonization, and doctrinal coherence, positioning India as leader in thoughtful AI copyright policy rather than passive follower of foreign developments.

Keywords: artificial intelligence (AI), copyright, authorship, policy recommendations.

I. INTRODUCTION

The rapid growth of the Artificial Intelligence has disrupted the traditional Creativity process in a way that allows AI tools to produce literary work, artistic and musical work without or with limited human input. While these technological advances hold out considerable promise, they also raise fundamental challenges to long-standing copyright principles historically grounded in human authorship and originality. Copyright law treats expression not just as a finished product but as an extension of human thought and existence. It is built on the philosophical assumption that authorship arises from conscious, intentional human creativity.[6] This onto-epistemological foundation, rooted in Enlightenment conceptions of individualist creativity, contributes to understanding why AI-created works challenge copyright doctrine at its most basic level.[7]

The more autonomous AI systems become in creating works, the more legal systems around the world face questions such as whether such works are entitled to copyright protection, who should be considered an author, and in whom the ownership rights should vest. While copyright law has successfully adapted to earlier technologies shift from printing press to digital reproduction, but this time AI presents a fundamentally different challenges, because it has a potential to replace,

[6] Wenwei Guan, *The Origin of Copyright: Expression as Knowing in Being and Copyright Onto-Epistemology* 2-15 (Routledge 2021).
[7] *Id.* at 18-24.

rather than merely assist, human creativity. Past technologies changed how creative works were reproduced or distributed but AI tools threaten to fully automate the creative process itself.[8] This recent development creates legal uncertainty and undermines both the incentives to innovate and the proper operation of creative markets.

This paper presents a comparative study of how the concept of AI-generated content has been addressed within the realm of copyright law in the US, China, India, and EU/UK. The US represents a formalist approach, rigidly requiring the input of human authors. China is developing a pragmatist framework, as reflected in recent judicial decisions that recognize certain AI-created works under specific conditions. The law is ambiguous in India, whose statutory language could accommodate AI authorship but lacks definitive judicial interpretation.[9] These diverging approaches underscore the lack of international consensus on basic questions regarding the authorship of AI, standards for originality, and ownership.[10]

II. TRADITIONAL COPYRIGHT PRINCIPLES AND THE AI CHALLENGE

A. Human Authorship and Originality

Copyright protects only "original works of authorship" and requirement for getting copyright is originality which must come from human creative skill.[11] Although the originality requirement is fairly modest, it is the constitutional and philosophical foundation of the copyright. In the *Feist Publications, Inc. v. Rural Telephone Service Co.,* the U.S. Supreme Court stated that originality requires at least minimum degree of creativity and independent authorship. These elements observed by the court, answers the question that what matters most to claim copyright protection.[12] And it is also essential that work must be created by the author, not copied from someone else.[13]

[8] James Huston, The Evolving Role of Copyright Law in the Age of AI-Generated Works, 2 J. Digital Techs. & L. 886, 895-98 (2024).
[9] Yiheng Lu, Reforming Copyright Law for AI-Generate CONTENT: Copyright Protection, Authorship and Ownership, TechReg 81, 88-90 (2025).
[10] *Id.* at 92-94.
[11] 17 U.S.C. § 102(a) (2018).
[12] Feist Publications, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340, 345 (1991).
[13] *Id.* at 352-60.

This standard reflects a deeper belief that creativity is essentially a human trait. Since the eighteenth century, the law has treated originality as an expression of an author's intellectual creation and personality, basically an idea that has long formed the foundation of copyright.[14] The doctrine assumes that authorship is rooted in conscious human thought and intentional creativity, qualities that traditional copyright frameworks have never attributed to non- human entities.[15]

The requirement of human authorship is usually implicit, rather than explicit, in statutory language, but nonetheless pervasive in the jurisprudence on copyright in various jurisdictions. The Courts and copyright offices around the world have repeatedly emphasized that a work must come from a human mind to receive protection. But this principle has been questioned in cases involving animals, natural phenomena, and automated processes, but the outcome has been consistent that is copyright only applies when there is some involvement of human creativity and skill.[16]

B. How AI Challenges Traditional Principles.

Traditional copyright frameworks are fundamentally disrupted by generative AI systems in multiple ways. First, they can produce works that are as creative and unique as those written by humans, but without the deliberate intentionality that has traditionally been connected to authorship. While copyright law has adapted to technological shifts from printing presses to digital reproduction, AI introduces a qualitatively different disruption by automating creative decision-making itself rather than merely facilitating reproduction or distribution.[17]

Second, AI systems create content by running algorithms that analyses enormous amounts of training data, it detects patterns and then recombine those patterns to produce a new output. This method of creation is vastly different from how humans think, imagine, or express ideas. Because of this, an important question arises that can something produced through automated, pattern-based computation really be considered an "intellectual creation" in the way copyright law understands

[14] Guan, *supra* note 1, at 25-32.
[15] *Id. at 33-38.*
[16] See Naruto v. Slater, 888 F.3d 418 (9th Cir. 2018) (denying copyright to photographs taken by a macaque); *see also* U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence*, 88 Fed. Reg. 16,190 (Mar. 16, 2023).
[17] Hutson, *supra* note 3, at 896-900.

it?[18] Many Scholars believe the answer is no. They argue that AI does not think, feel, or make choice in the way humans do, and therefore its outputs lack the human originality and creative intention that copyright protection is meant to reward.[19]

Third, AI-generated works are difficult to attribute because they are created through a collaborative and distributed process. Many people play a role in producing an AI's output: the engineers who design the model and how it functions, the individuals whose works form part of the training data, and the users who give prompts or instructions. When so many contributors are involved, it becomes hard to fit AI creation into copyright's traditional idea of a single author. This raises complicated questions about who should be recognized as the rights holder and how those rights should be shared fairly.[20]

C. The Spectrum of AI Involvement

AI's involvement in creative work falls along a spectrum, from situations where it plays only a small supporting role to cases where it operates almost entirely on its own. Recently scholars highlights that the resolving copyright issues in this area requires a tiered framework that adjusts according to how much human creativity is actually involved.[21] Instead of applying blanket rules that reject all AI-assisted creations, this approach focuses on whether there is a clear, meaningful human contribution to the final work.[22] Such a tiered model will recognizes that AI does not participate in every creative process in the same way, and therefore copyright protection should depend on the extent of human input rather than automatically excluding any work touched by AI.[23]

At one end of the spectrum, AI functions merely as a tool similar to a word processor or photo-editing software, while the human creator retains full control over all the meaningful creative choices. For example, a writer might use AI to check grammar or suggest synonyms while

[18] Lu, *supra* note 4, at 86-87.
[19] Jane C. Ginsburg, *The Concept of Authorship in Comparative Copyright Law*, 52 DePaul L. Rev. 1063, 1075 (2003).
[20] Rachel So, *Authorship and Attribution of AI Generated Content* 3-6 (2025).
[21] WooJung Jon, Prompting Creativity: *Tiered Approach to Copyright Protection for AI-Generated Content in the Digital Age*, 13 Media & Comm'n, 2025, Article 9420, at 8-12.
[22] *Id.* at 12-15.
[23] *Id.* at 15-18; *see also* Lu, *supra* note 4, at 87-88 (discussing spectrum of AI involvement).

composing an original story through his own creative skill. So, in such cases, the work is clearly a human-authored creation, and copyright protection applies because the AI's role is purely mechanical and supportive.[24]

At the opposite extreme, AI systems can generate the content autonomously, based on minimal or basic prompts or sometimes without any real human direction. For instance, an AI may produce thousands of variations of abstract artwork or musical pieces without any specific human input beyond the initial programming and system design. Now these kinds of outputs raise the most difficult questions: should they receive copyright protection at all, and if so, who should be considered the author or rights holder?[25]

Between these two extremes lies a substantial middle ground where human and AI contributions become closely intertwined. In such situations, a user may provide detailed prompts, select and refine the AI's outputs, make repeated adjustments, and combine several AI-generated components into a larger creative work. The degree of human creativity involved in these processes can vary widely, which makes it difficult to establish strict, one-size-fits-all rules. As a result, courts and copyright authorities are increasingly faced with the challenge of deciding when a person's contributions are significant enough to qualify as copyrightable authorship in works created through human and AI collaboration.[26]

III. THE UNITED STATES: STRICT HUMAN-AUTHORSHIP FORMALISM

A. Judicial Foundations: Naruto and Thaler

U.S. courts have consistently refused to extend copyright protection beyond human creators. In *Naruto v. Slater* (9th Cir. 2018), a macaque monkey triggered a photographer's camera, producing widely circulated "monkey selfies."[27] PETA filed a lawsuit on behalf of the monkey's claiming that it should hold the copyright. The Ninth Circuit Clearly rejected this argument, and reasoned that animals do not have standing under the Copyright Act.[28] The court explained that

[24] U.S. Copyright office, Copyright and Artificial Intelligence Part 2: Copyrightability 46-52 (Jan. 2025), https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf.
[25] *Id.* at 21-23.
[26] So, *supra* note 15, at 8-12.
[27] Naruto v. Slater, 888 F.3d 418, 420 (9th Cir. 2018).
[28] *Id.* at 426.

statutory references to authors' "children," "widows," and "widowers" inherently assume human authorship, as only humans marry, reproduce, and die in ways recognized by law.[29] This reasoning is often applied to AI as well, machines, like animals, lack legal personhood and cannot respond to the economic incentives that copyright is designed to provide.

In the case of *Thaler v. Perlmutter*, the courts directly addressed the question of AI authorship.[30] Dr. Stephen Thaler sought copyright registration for "*A Recent Entrance to Paradise*," a visual artwork created entirely by his AI system, the "Creativity Machine," without any human input. Both the district court and the D.C. Circuit rejected his claim, reasoning that the text, structure, and constitutional basis of the Copyright Act all assume human authorship.[31] The judges highlighted that copyright protection exists to incentivize human creativity, which is basically a purpose that makes no sense when applied to machines, which cannot respond to economic rewards.[32] And the Thaler's argument that he should own the copyright simply because he owned the AI was also rejected. The court made it clear that owning a tool does not grant authorship over the work it produces autonomously.[33]

B. The Copyright Office's Practical Framework: Zarya of the Dawn

While courts consistently deny copyright protection for works created entirely by AI, the U.S. Copyright Office has clarified when humans using AI tools can claim authorship. In *Zarya of the Dawn* (2023), artist Kristina Kashtanova used Midjourney to generate images for a graphic novel.[34] The Office granted copyright protection for her text, as well as her creative selection and arrangement of the images, but denied protection for the Midjourney-generated images themselves.[35] The decision introduced two important concepts. The first one is, the "distance test," assesses how much control a user has over an AI output, because prompts alone cannot fully predict

[29] *Id.* at 425-26.
[30] Thaler v. Perlmutter, 2023 WL 5333236 (D.D.C. Aug. 18, 2023), aff'd, No. 23-5217, 2025 WL 678945 (D.C. Cir. Mar. 15, 2025).
[31] *Id.* at 4-6.
[32] *Id.* At 5.
[33] *Id.* at 7.
[34] U.S. Copyright Office, *Re: Second Request for Reconsideration for Refusal to Register Zarya of the Dawn* (Registration No. VAu001480196; Correspondence ID: 1-5T5320R) (Feb. 21, 2023), https://www.copyright.gov/docs/zarya-of-the-dawn.pdf.
[35] *Id.* at 6-10.

or determine what an AI produces, simply providing prompts does not constitute authorship.[36] The second thing is, the "hiring artist analogy," compares prompting an AI to hiring a human painter, giving instructions does not make you a co-author of the painter's work.[37]

The Copyright Office's January 2025 Report (Part 2) formalized these principles after reviewing over 10,000 public comments, 90% of which supported maintaining human authorship requirements.[38] The report identified three situations where human authorship exists: (1) when human-created inputs are still recognizable in AI outputs; (2) when users make meaningful creative decisions through editing, arranging, or selecting outputs, and (3) when AI functions purely as a tool to support human creative choices, rather than making expressive decisions independently.[39]

IV. CHINA: PRAGMATIC TECHNOLOGY-NEUTRALITY

A. From Scepticism to Flexibility: Feilin and Tencent

Chinese courts initially denied protection for AI-assisted works but quickly reversed course. In *Beijing Feilin Law Firm v. Beijing Baidu Netcom* (2019), the Beijing Internet Court held that a legal research report generated using AI analytics lacked sufficient human creative control to qualify for copyright.[40] The court emphasized that neither the software developer nor the user exercised enough creative influence over the final expressive form.[41]

Eight months later, the Shenzhen Nanshan District People's Court reached the opposite conclusion in *Tencent v. Yingxun* (2019).[42] Tencent's "Dreamwriter" AI had generated over 300,000 automated financial news articles. When a competitor copied one article, Tencent sued for infringement. The court granted protection, holding that while AI cannot be an author, Tencent's human team exercised creative control by selecting data sources, designing algorithmic triggers,

[36] *Id.* at 8-9.
[37] *Id.* at 9.
[38] U.S. Copyright office, Copyright and Artificial Intelligence Part 2: Copyrightability, *supra* note 19, at 3.
[39] *Id.* at 46-52.
[40] Beijing Feilin Law Firm v. Beijing Baidu Netcom Sci. & Tech. Co., Beijing Internet Ct., Case No. (2018) Jing 0491 Min Chu No. 239 (Apr. 25, 2019) (China).
[41] *Id*.
[42] Tencent v. Shanghai Yingxun Tech. Co., Shenzhen Nanshan Dist. People's Ct., Case No. (2019) Yue 0305 Min Chu No. 14010 (Dec. 24, 2019) (China).

building linguistic templates, and choosing stylistic conventions.[43] The court recognized Tencent the corporate legal entity as the author under Article 11 of Copyright Law of the People's Republic of China, which permits organizations to claim authorship when a work is created under their direction and responsibility.[44]

The Tencent decision reflect an indispensable principle which state copyright protection does not depends on how much or how little AI is involved instead it depend on how much human actually exercised creative control.

B. Expanding Protection: Li Yunkai and Lin Chen

In the case of *Li Yunkai v. Liu Yuanchun (Beijing Internet Court 2023),* the court extended the copyright protection to AI-generated visual art.[45] Li used Stable Diffusion to create *Spring Breeze Brings Tenderness*, and refining the output through an extensive and iterative prompting process li provided 20 positive prompts, 75 negative prompts, and 10 refinement terms.[46] When the defendant copied and republished the image, Li filed suit. The court ruled in Li's favour, finding that Li's iterative prompting reflected a "personal intellectual achievement" involving aesthetic judgment about composition, style, colour, and emotional tone.[47] The decision explicitly rejected the U.S. Copyright Office's approach in *Zarya of the Dawn*, concluding that detailed and repeated prompting can constitute sufficient creative control even if users cannot predict the exact output of the AI system.[48]

In the case of *Lin Chen v. Hangzhou Gauss Air Film Technology Co., Ltd.,* the Changshu People's Court, reinforced this emerging trend.[49] Lin created a "Half-Heart" image using a hybrid workflow he prompted Midjourney, edited the result manually in Photoshop, and then fed the edited versions back into Midjourney for further refinement. Considering this effort court held that this mix of AI generation, manual editing, and repeated adjustments showed enough human creativity to qualify

[43] *Id*.
[44] Copyright Law of the People's Republic of China, art. 11 (2020).
[45] Li v. Liu, supra note 3.
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Lin Chen v. Hangzhou Gauss Airfilm Technology Co.,* (2024) Su 0581 Min Chu No. 2361 (Changshu People's Ct. Apr. 22, 2024).

the work for copyright protection.[50] Increasingly, Chinese courts view generative AI as a powerful creative tool which is more advanced than Photoshop, but still just a tool that supports human expression when the user plays an active, meaningful creative role.

C. Evidentiary Standards and Policy Rationale

In September 2025, the Beijing Internet Court introduced strict documentation rules for anyone seeking copyright protection for AI-assisted works.[51] Claimants must now keep detailed, real-time records showing their creative contribution such as explanations of their artistic intent, logs of the prompts and parameters they used, evidence of how they selected one output over another, and records of each iterative adjustment they made.[52] So, these requirement helps to stop people from making false ownership claims later and encourage users to stay actively involved in the creative process.

China's practical approach serves several government objectives. It supports and encourages domestic AI innovation by ensuring that creators can commercialize AI-assisted works. It also prevents the economic problems that might arise if enormous amounts of AI-generated content automatically fell into the public domain. And it fits with China's broader national priorities of promoting technological progress while maintaining social and economic stability.[53]

V. INDIA: STATUTORY AMBIGUITY AND THE PATH FORWARD

A. Legislative Framework and Interpretive Challenge: Section 2(d)(vi):

India's Copyright Act, 1957, contains explicit provisions on "computer-generated works," something not found in U.S. or Chinese law. Section 2(d)(vi) states that the author means "in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person

[50] *Id.*
[51] Beijing Internet Court Requires Evidence of Creative Effort to Claim Copyright Protection Over AI-Generated Content, Nat'l L. Rev. (Sept. 2024, https://natlawreview.com/article/beijing-internet-court-requires-evidence-creative-effort-claim-copyright-protection.
[52] *Id.*
[53] State Council of the People's Republic of China, *New Generation Artificial Intelligence Development Plan* (July 20, 2017), http://www.gov.cn/zhengce/content/2017-07/20/content_5211996.htm.

who causes the work to be created"[54] These provisions, introduced in 1994, predate modern generative AI and were designed for deterministic software, not probabilistic neural networks.

Section 2(d)(vi)'s language creates interpretive challenges. In today's evolving era of AI, it has become exceedingly difficult to identify who is behind the AI output. when AI produce output multiple actors are involved such as one crafting prompts, developers training the models, data providers supplying datasets, investors funding infrastructure, so it becomes very unclear who should count as "the person who causes the work to be created. Courts might apply three different theories of causation to answer this. first, "but-for Causation" this would treat anyone involved in the chain of events as a potential author, which could lead to unmanageable claims of co-authorship. Secondly, "Proximate causation" this would identify the most direct contributor usually the user who provides the prompts but this approach risks overlooking the creative and technical contributions of developers who design the system. Lastly, "Substantial creative causation" this would require proof if someone exercised real aesthetic control over the final expressive output. And causation aligns most closely with traditional authorship ideas, but it may exclude many AI-assisted works where human control is limited.[55]

Whatever approach the court adopts will significantly affect the development of the Indian copyright law. A but-for test could create administrative chaos and frequent disputes over joint authorship and Proximate causation may overly favour users and unsettle the expectations of developers and investors in the AI sector. But the substantial creative causation would best fit global norms, but it demands that courts craft new ways to assess the degree of human creative control in AI-generated works.

B. The RAGHAV Controversy: Institutional Uncertainty

The RAGHAV case highlights the India's uncertainty around regulating AI. In November 2020, the Copyright Office granted registration for an artwork called "*Suryast*," an AI-generated artwork, which is created using an AI system named RAGHAV (Robust Artificially Intelligent Graphics and Art Visualizer) while registration RAGHAV was allowed to listed as co-author along with its

[54] The Copyright Act, 1957, No. 14 of 1957, § 2(d)(vi) (India).
[55] Astha Ojha, *AI & Copyright in India: Bridging the Digital Divide*, 3 World Intell. Prop. J. 145, 152-54 (2025).

developer, Ankit Sahni.[56] This registration seemed as Indian copyright office was treating AI as a legal author.

But just a year later, in November 2021, the Copyright Office suddenly issued a withdrawal notice, asking for clarification and questioning whether RAGHAV could legally be considered an author at all.[57] This abrupt change reflects how uncertain and inconsistent the system is. The office has still not made a final decision, leaving RAGHAV status unclear and also didn't provide any guidance for others who want to register AI-generated works.[58] Many Legal scholars have criticized the first decision, and pointed out that AI systems lack the legal personality required for authorship under Indian law hence cannot qualify as author.[59]

C. Judicial Silence and Its Implications

Indian courts have not clarified the interpretation Section 2(d) (vi) related to generative AI. This silence brings a lot of uncertainty to the creators, developers, and the users. Lacking judicial direction, the applicants do not know whether their AI-aided works will be granted protection. The risk of liability is impossible to evaluate when the users produce infringing materials. And the Copyright Office does not have authoritative criteria in assessing registration applications.

This judicial vacuum is directly opposite to what happened in other jurisdictions. Whereas the U.S. and Chinese courts have passed dozens of rulings defining the standards of an AI author, the Indian courts have yet to reflect their views. This reticence can be attributed to a number of factors. The relative novelty of the use of generative AI tools in India reduces the number of disputes that have been taken to court. Plaintiffs fear the excessive cost of court filing and the time-consuming backlog of cases. And the Indian legal system has always been conservative in addressing modern technologies and would rather use case-by-case development of doctrine than a grand proclamation.

[56] *See* Ankit Sahni, Registration No. A-145750/2020, Copyright Office, Government of India (Nov. 2020).
[57] U.S. Copyright office, re: Second Request for Reconsideration for Refusal to Register SURYAST (SR 1-110016599571; Correspondence ID 1-5PR2XKJ) 1-3 (Dec.11, 2023).
[58] *Id.*
[59] Ojha, *supra* note 50, at 155-56.

D. Comparing Indian Patent and Copyright Approaches

India's approach to the AI and the intellectual property shows an interesting split between how patents and copyrights are tested in patent law, Indian courts have been clearer that algorithms on their own cannot be patented, but if they are used by the user in a technical way to solve a real, practical problem then they may qualify for the protection.[60] This focus on the real world functionality instead on abstract categories which offers a useful lens that could also help and guide how copyright should deal with AI-generated works.

Applied to AI authorship, a more Functional reading of section 2(d)(vi) would focus on what the human contributor actually did. It would ask questions like, Did the person's input lead to an expressive result that is not just random or generic? Did they make meaningful choices that shaped how the final work looks or feels? Can they explain and repeat the creative steps they took? These kinds of inquiries mirror patent law's focus on reproducibility and technical contribution, suggesting that similar reasoning could influence how copyright doctrine evolves in the AI context.

E. Policy Considerations for Indian Law

India has special policy issues in the development of AI copyright doctrine. Being a big software exporter and having increasingly advanced AI, India enjoys the advantage of transparent regulation that promotes local innovation. However, being a developing country and as a creative country with a thriving creative sector, India must strike a balance between technology and ensuring that human creators do not lose their jobs to automated systems.

Indian courts and legislators should be guided by a number of policy objectives. To start with, transparency and consistency, authors must have consistent criteria of copyrightability. Second, technological neutrality, regulations must be uniform in relation to changing AI structures. Third, incentive building, protection must encourage the real contribution to creativity as opposed to windfalls of purely mechanical action. Fourth, international harmonization, India enjoys the advantage of doctrinal consistency with most of trading partners, but blindly imitating would overlook local situations.

[60] Ferid Allani v. Union of India, 2019 SCC OnLine Del 10832.

The pragmatic approach of China will present an attractive package to India. The documentation requirement offers objective demonstration of creative involvement, hence lessening subjective judicial discretion. Technology-neutral standards can support fast AI development, without necessarily having to update legislations every day. And commercialization by provisions of corporate authorship evades metaphysical argument on machine consciousness.

It is, however, not supportable that India should blindly follow Chinese doctrine. The greater state-driven innovation and weaker individual rights in China could be incompatible with the constitutional norms in India that focus on individual liberty and property rights in India. Indian law could take the hybrid way by incorporating Chinese-type documentation requirements, but through adopting American-style substantive standards of demonstrable creative control.

VI. The European Union and United Kingdom: Regulatory Intervention And Evolving Standards

A. The EU AI Act and Copyright Interface

Recently the European Union has introduced most comprehensive regulatory framework across its all-member state titled "Artificial Intelligence Act in June 2024."[61] This act mainly focuses on safety and protecting fundamental rights, but it also contains provision that directly affect copyright. Article 53(1)(c), requires general purpose AI (GPAI) providers to implement copyright policies using state-of-the-art technologies to identify and respect rightsholders creation choice under the Digital Single Market (DSM) Directive.[62] Additionally, despite protecting trade secrets, Article 53(1)(d) mandates public disclosure of sufficient detailed summaries of training data content, including copyrighted works.[63]

This transparency requirements position the EU somewhere between the U.S. formalism and Chinese pragmatism. Instead of strictly denying copyright protection or recognizing AI assisted authorship, they prominence the process. It requires the proper documentation subsequently respect for creation and mechanisms that allow rightsholders to trace possible infringement. The

[61] Regulation 2024/1689 of the European Parliament and of the Council of 13 June 2024 on Artificial Intelligence, 2024 O.J. (L178) 1.
[62] *Id.* art. 53(1)(c).
[63] *Id.* art. 53(1)(d).

European commission's July 2025 Code of practice for GPAI goes further, requires developers to ensure lawful access to training materials and prevent outputs from reproducing protected works. [64]

When it comes to authorship, EU copyright law still maintains traditional requirements. The Court of Justice of the European Union (CJEU) has contentiously held that a works is protected only if it reflects the author's own intellectual creation.[65] This approach grounded in traditional believe regarding copyright that value author creative expression rather than economic incentive. Content which is fully generated by AI autonomously cannot satisfy this test, but AI-assisted works may qualify when humans exercise sufficient creative control, it is a standard that similar to U.S. doctrine justified through different theoretical frameworks.[66]

B. UK Computer-Generated Works Regime

The case of the United Kingdom is different. Section 178 of the Copyright, Designs and Patents Act 1988 explicitly recognizes "computer-generated works" which defined as works created "in circumstances such that there is no human author."[67] Copyright is given to the person by whom the arrangements necessary for the creation of the work are undertaken[68] This provision is similar to India's Section 2(d)(vi) which could potentially cover AI-generated works.

But in January 2025, the government of the UK suggested major changes to the copyright of AI-generated works.[69] The consultation document suggest along with making it clear that protection for computer-generated works should apply only when there is some human involvement in the arrangements, even if that involvement is not sufficient to qualify as traditional authorship. Copyright protection may be not granted for the fully autonomous AI outputs, and the government

[64] European Commission, *Code of Practice on General Purpose AI Models* (Nov. 2024), https://digital-strategy.ec.europa.eu/en/policies/contents-code-gpai.
[65] *See* Case C-5/08, Infopaq Int'l A/S v. Danske Dagblades Forening, 2009 E.C.R. I-6569, ¶ 45.
[66] *See Eleonora Rosati, Copyright and the Court of Justice of the European Union 98-100 (Oxford Univ. Press 2019).*
[67] Copyright, Designs and Patents Act 1988, c. 48, § 178 (UK).
[68] *Id.* § 9(3).
[69] UK Intellectual Property Office, *Artificial Intelligence and Intellectual Property: Copyright and Patents* (Consultation Paper, Jan. 2025), https://www.gov.uk/government/consultations/artificial-intelligence-and-ip-copyright-and-patents.

is also proposing mandatory labelling for the AI generated content which is similar to the transparency requirements introduced in the EU.[70]

These proposals underscore UK's mixed stand on protecting computer-generated work. It is true that the wording of the CDPA, Act 1988 could theoretically, support the broad recognition of AI-generated authorship but the current lawmakers are re-evaluating whether such wide protection will truly benefit the public. In the post Brexit era where UK is no longer bound by EU rules but still wants to keep some alignment with EU regulation to facilitate trade and cooperation easier, this gives the government space to creates its own copyright approach that encourages technological innovation while also ensuring that human creator interest and rights remain protected.

VII. COMPARATIVE ANALYSIS: DIVERGENCE AND CONVERGENCE

A. Three Models of AI Authorship

The three models of AI authorship are identified as global approaches to AI authorship. First is the formalistic model, the United States is a formalist model that strictly rejects protection of media that do not have substantial human creators. This approach is based on the theory of constitutional text and economic motivations in order to view AI as something that never can be an author, despite the quality of output. Prompts are not protectable on their own but hey only gain protection when a human contributes creative editing, selection, or arrangement.

The pragmatist Model, a technology neutral approach. China has adopted this particle approach that looks for a real human involvement. Court focuses whether a human really made real creative decision that shaped the final result. This approach helps to protect genuine human creativity while staying flexible as technology.

Lastly, the ambiguity model, which is reflected in India. it has a provision that talk about the computer-generated work, but its meaning is not clear in the age of AI. Although it has a legal structure to deal with AI authorship, but there is lack of clear guidance on how to interpret this old

[70] *Id.* at 18-22.

legal language for modern technologies. This uncertainty creates challenges, but it also keeps the door open for flexible future legal development.

B. Underlying Jurisprudential Divides

These different approaches to copyright arise from deeper philosophical views about what copyright is for. In the U.S. copyright is treated as an economic incentive with the clear constitutional limits. It is seen as way to encourage human creativity by giving creators limited monopiles over their work. Copyright exists to motivate human innovation, but machines need no such motivation.

The Chinese doctrine values Practical innovation and economic growth, which considers copyright. It is considered as one of the mechanisms among from the many things that aid in advancing the national technological capacity. Here protection helps to promote the commercialization, to avoid market disruption, and indicative of state support for developing sectors instead of just rewarding individual founders. Because of this perspective, China is more open to recognizing AI- assisted authorship when doing so advance development goals.

India and Europe approaches reflect mixed influences. India's traditional law heritages suggest that it has similarity with U.S. formalism, but its provision related to the computer-generated work indicate that lawmakers are open to moving beyond a purely human authorship requirement. The EU, on the other hand, its law on copyright reflects the personal creative expression, which makes AI authorship less acceptable. But its regulatory emphasis on detailed transparency requirement creates a pathway for safeguarding AI-supported works when creators can meet high documentation standard.

C. Emerging Consensus Principles

There is some similarity in all the countries even if there are gaps in doctrine. First, AI systems cannot be authors. No jurisdiction treats machines as legal entities who can obtain copyright. Even China's flexible system grants authorship only to human users and corporate bodies, not to the AI system itself.

Second, there is a total absence of protection for outputs that are purely autonomous. If there is no human creative input in the content produced by the AI, then there is no copyright protection in all jurisdictions. The only disagreement is around what is meant by "creative involvement." No principle is in contention. It is universally accepted that some involvement is necessary.

Third, authorship can be claimed by humans who are using AI mere as tools. Where the AI is on the same level as Photoshop or a camera which simply follow instructions from a human without making independent expressive decision. The only disputes are in the borderline case where the AI's involvement is more than execution, but the human control is significant.

Fourth, there is more emphasis on documentation. The evidential requirements of China, the transparency obligations of the EU, and the recommendations of the U.S. Copyright Office all converge in the focus on contemporaneous evidence of the creative process. This convergence is pragmatically driven by the understanding that claims of authorship over the content AI systems distinguish from human creative content should be supported by evidence.

VIII. POLICY RECOMMENDATIONS AND FUTURE DIRECTIONS

A. Recommendations for India

As the technology keeps changing, Indian courts and policymakers need to explain how AI authorship should work, while also still remaining flexible as circumstance to evolve.

Judicial interpretation of Section 2(d)(vi):

Courts such as the Supreme Court and High Courts should hear the cases that deal with the meaning of the phrase 'the person who causes the work to be created' when it comes to generative AI. Judges should use a standard that looks at whether a person had real creative control over the final output rather than merely relying on the AI. This step would ensure the balance between the traditional idea that authorship must involve human creativity with the law which allow protection for computer generated work.

Documentation requirements:

India should form evidentiary standard for the claim of AI authorship by blending China's documentary requirement approach. The copyright office should mandate the applicant to provide records such as a statement explaining their creative goals, history of prompt that reflect how they refined the AI inputs, and evidence which shows they made edits after generation and any document that prove their claim. These steps would help the court to decide the author effectively.

Legislative clarification:

The parliament should consider that there is need for amendment of section 2(d)(vi) of the Indian copyright act to clearly cover generative AI. Such amendment could make it clear that "causing a work to be created" requires demonstrable creativity control exercised through iterative engagement instead of mere an act of providing a prompt. Another option would be, adaptation of tiered protection framework which grant full copyright when human contribute real creativity, similarly limited protection when human involvement is minimal and no protection when AI creates the work itself.

Regulatory guidance:

Copyright office should provide a clear guideline that clearly address how they are going to review the AI assisted work for the registration. These guidelines should clarify what documents applicant need to submit, grounds which decide whether applicant had enough creative control, how the cases will be treated if humans and AI worked together, and importantly how applicant challenge registration. Clear rules like these would reduce and help the law to develop gradually over time.

B. Learning from U.S. Formalism

India can learn from the U.S. doctrine and can adopt part of it, but it should avoid applying these rules too rigidly. The "distant test" which means if a person does not control the specific details of what the work looks or sound like, if they do not, they probably should an author. So, Indian courts could use this test to evaluate AI related authorship but apply should apply it more flexible than U.S. authorities do.

The U.S. focus on constitutional purposes is also worthy of consideration. There are no clauses in the Constitution of India that are similar in meaning to Article I, Section 8 of the U.S. copyright law but the free speech provision of Article19(1) (a) and the cultural considerations in Directives Principles might guide copyright policy. Courts may consider that the purpose of copyright is to serve constitutional values and thus protect human creative expression and we should be careful about extending copyright protection to machine-created content that has no human author.

However, India should not follow the U.S. approach too strictly. The blanket rejection of all prompt-based content even when the prompts are incredibly detailed or created through multiple refinement, is not good. It would be beneficial if India incorporate flexible and nuanced approach that recognizes the content created through multiple refinements, thoughtful prompting, and editing of AI outputs as genuine human contribution.

C. Learning from Chinese Pragmatism

China's approach to AI and authorship offers extremely useful insight for India. Chinese court more focuses on question that, did a human make meaningful creative choice? Instead of worrying about how advanced the AI is or what AI did, this practical, technology neutral method suits best because it adapts modern technologies without needing frequent changes to the law.

India should adopt documentation-focused evidentiary standards system a China's recent perspective. This approach not only ensure genuine participation by the author in the creative process, rather than relying entirely on AI, but also facilities to judiciary with concrete evidence when resolving the authorship claims.

Furthermore, India needs to be cautious, it should adopt China's idea but must not copy them. China's preference for the corporate authorship stems from its state centric ownership model, might not align with India's mixed economy and stronger protection for individual property rights. The recognition to individuals as author along with allowing them to transfer their rights to employers through agreements will be more suitable for India it balance personal authorship with commercial needs.

D. Addressing Future Challenges

The issues that AI brings toward us is not uniform. This emerging issue will evaluate evolving AI framework. Multimodal AI tools that are capable of generating image, audio, text, and video create complex authorship scenario. For instance, when the users prompt to generate a video with original song which is already in public domain then it creates a confusion that who own which element. Considering this court will need clear rules to break down this different element and decide who is responsible for which part.

Using AI collaboratively raise a difficult question about who should count as joint author. If several users provide prompts that feed into one AI-generated work, should they all be treated as co-authors? Under traditional copyright rules, joint authorship requires both an intention to work together and meaningful, protectable contributions from each person. Uncovering how these principles apply when AI is involved will require looking closely at what each user actually did and whether they meant to collaborate.

Cross-border authorship disputes will increase as AI systems trained in one country generate content for users in another, and that content is then shared or distributed elsewhere. So, Courts will need to decide which country's authorship rules apply through conflict-of-law analysis. International agreements or model laws could help reduce this uncertainty, but reaching common ground will be difficult because different countries take different approaches to AI authorship.

The copyright status of training data is still unsettled. The U.S. Copyright Office's January 2025 Report stated that fair use applies to training data, but only through the case-by-case analysis. In contradiction, the EU requires developers to follow opt-out rules. India has not clarified its position at all, leaving AI developers uncertain about what is allowed. Clear guidelines that balance the interests of developers with the rights of creators might help India's AI industry grow along with protecting intellectual property right.

IX. CONCLUSION

Generative AI has compelled the copyright systems across the world to re-examine their basic assumptions about creativity, authorship, and the very purpose of intellectual property law. In the

United States, the legal framework remains firmly tied to the idea that only humans can be authors, and both the Constitution and copyright statutes are treated as clear barriers to granting protection for AI-generated works. But China, on the other hand, follows a more flexible and technology-neutral approach, allowing copyright protection as long as a human makes a meaningful creative contribution, even if AI is heavily involved in the process. India is in a more uncertain position, while its law explicitly mentions computer-generated works, the courts have yet to clarified how these provisions should apply to advanced AI systems. However, the European Union and the United Kingdom follow hybrid models that combine regulatory requirements for transparency with developing case law that continues to refine the standards for authorship.

With the growing size of generative artificial intelligence, jurisdictions must strike a balance between conflicting interests: they must encourage the creativity of humans, drive technological progress, avoid economic instabilities, and preserve the consistency of doctrines. No single approach would meet all stakeholders. The U.S. model safeguards human creative primacy but could kill innovation aided by AI, as it refuses to grant protection to the works that require significant amount of human labour together with AI implementation. The pragmatism promoted in China promotes innovation but can be extended to a level that is overprotective, and this can steal the benefits of copyright in its original purpose of rewarding true creativity. India's ambiguity creates flexibility for future development at the cost of unacceptable uncertainty for the contemporary creators and developers.

Currently India really needs a clear rule on how its copyright law specially section 2(d)(vi) applies to content created with generative AI. This clarity could come from judicial interpretation, legislative amendment, or administrative guidance, but some direction is necessary. Till now a balanced solution would be to combine China’s idea of document requirement, with a rule that copyright applies only when a human shows real, meaningful creative involvement. So, this kind of system would support the technological growth, give businesses more confidence in planning, and this will also help to position India as leader in AI policymaker instead of waiting for other nation to set the standard. India stands at important turning point right now. It has a chance to learn from the other mistakes and what they have done well along with creating its own approach that fits India’s unique social, legal, and constitutional values.