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Artificial Intelligence and the Future of Women's Creative Rights a Legal Inquiry into the Changing Copyright Framework

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Authorship, ownership, and the protection of intellectual property are becoming increasingly complex as artificial intelligence (AI) transforms the creative industries; producing music, generating literary works, creating visual art, and even replicating human voices. This technological shift presents both unprecedented opportunities and significant challenges for women artists, who have historically faced systemic barriers in the cultural and creative sectors. While AI tools can facilitate the creation, distribution, and accessibility of women's work, they also blur the lines between human and machine authorship, complicating recognition, protection, and fair economic reward for women creators. This study critically examines how the copyright regime is adapting to AI-generated works and its implications for women's creative rights. It explores the legal ambiguities and gaps surrounding AI authorship, with reference to both international legal instruments and Indian copyright legislation. The paper evaluates whether current legal frameworks adequately safeguard women creators in the digital era and argues for a gender-sensitive, inclusive approach to copyright reform. It calls for clearer statutory definitions, stronger protections for human authors, and legislative measures that recognise the unique position of women in the digital creative economy. Ultimately, the paper seeks to contribute to the broader goal of empowering women in the AI age by ensuring equitable access to legal recognition and creative rights.

Key Words : Artificial Intelligence, Women Creators, Copyright Law, AI-generated Content, Gender Justice, Intellectual Property, Digital Empowerment, Creative Authorship Rights.

Introduction

The twenty-first century has witnessed two revolutions shaping human creativity the increasing recognition of women's voices in cultural production and the rapid emergence of artificial intelligence (AI) as a tool of artistic expression. Each development, in its own way, challenges the boundaries of copyright law. Together, they present one of the most pressing questions for contemporary jurisprudence how can legal systems protect women's creative rights while accommodating the disruptive potential of AI?

For centuries, women's role in literature, art and science was restricted by legal and cultural barriers. Property laws and marital doctrines denied them ownership rights, while social prejudice rendered their contributions invisible. Many women writers published under male pseudonyms, and others worked in household or collective spaces where their intellectual labour went unacknowledged. The intellectual property systems that

developed in the eighteenth and nineteenth centuries placed the 'author' at the centre of protection an image shaped largely by male-dominated creative spheres. Consequently, forms of expression associated with women were consistently undervalued. Although feminist critiques and social reform have moved copyright law toward greater inclusivity, gaps in recognition and remuneration remain.¹

The arrival of artificial intelligence adds a new dimension to this historical struggle. Generative AI models whether producing images, text or music can replicate human creativity with remarkable precision.² These tools are trained on vast collections of works, many authored by women, often without permission or payment.³ The outputs often echo distinctive artistic styles, voices or rhythms, raising troubling questions. For women who have long fought for acknowledgment, the prospect of machines reproducing their work without credit feels like a return to invisibility. Current legal frameworks offer little certainty. International treaties such as the Berne Convention assume a human author,⁴ while domestic laws diverge: the United States requires human authorship,⁵ the United Kingdom accepts 'computer-generated works,'⁶ India refers ambiguously to the person 'who causes the work to be created,'⁷ and Chinese courts have begun to recognize AI-assisted creations.⁸ This fragmented approach leaves women creators vulnerable across jurisdictions.

Yet AI is not only a threat, if governed wisely, it can democratize creativity and lower barriers for women who face financial, geographic or social constraints. The challenge for law and policy is to ensure that AI supports cultural equity rather than undermines it.

This research is situated at the intersection of copyright law, AI regulation and gender justice. It asks whether existing legal frameworks are adequate to safeguard women's creative rights in the age of AI and what reforms might be necessary. The study proceeds in four steps.

First, it examines the theoretical foundations of copyright authorship, originality and ownership and how these doctrines interact with feminist critiques of women's exclusion. Second, it surveys the global legal landscape, analysing how the United States, European Union, India, the United Kingdom, China, and Japan address AI and copyright.

Third, it explores the specific risks and opportunities that AI poses for women creators, from training-data appropriation to algorithmic bias and new possibilities for visibility. Finally, it offers doctrinal and policy recommendations for a copyright system that balances innovation with inclusivity.

The stakes are high, if left unaddressed; AI could accelerate the erasure of women's voices from cultural production, undermining decades of progress in intellectual property and gender equality. But with thoughtful legal reform and ethical design, AI could also become a tool of empowerment, amplifying women's contributions and enabling more diverse forms of expression. The future of copyright law in the AI era will reveal not only how societies value creativity but also how they value justice, dignity and equality. To protect women's creative rights is therefore to affirm that technology should serve humanity, not erase it.

Copyright Law Basics Ownership, Originality and Authorship

Copyright law rests on three foundational pillars ownership, originality and authorship. These categories serve as the entry points for legal recognition and protection of creative expression. Ownership in most copyright systems, the owner of a work is presumed to be the author unless the work is made under employment or commissioning agreements. This principle is embedded in the Berne Convention, which recognizes authors as the original rights holders. National statutes often expand ownership to employers or commissioners in 'work made for hire' contexts. In India, Sec.17 of the Copyright Act, 1957 establishes that the author is the first owner of copyright, subject to exceptions for employment or commissioned works. In the United States, 17 U.S.C. Sec. 201(b) similarly allocates ownership to employers for works made for hire. Ownership matters not only for economic exploitation such as licensing and royalties but also for moral recognition of the creator's contribution.

Originality has traditionally been the threshold criterion for copyright protection. Courts have wrestled with its definition. In *Feist Publications, Inc. v. Rural Telephone Service Co.* the U.S. Supreme Court required 'a modicum of creativity' beyond mere labour or 'sweat of the brow'.⁹ Indian courts, influenced by British precedent, initially followed a more labour-oriented approach in *Macmillan Co. v. K. & J. Cooper*, recognizing originality in skill and judgment.¹⁰ However, the Supreme Court of India in *Eastern Book Co. v. D.B. Modak* refined this to require a standard akin to creativity, aligning more with the Feist test.¹¹

Human definitions of authorship have been used historically. The author is the natural person who uses their judgement and intellectual prowess to create the piece. Authorship also confers moral rights in civil law nations, such as the right to attribution and the right to protest when the work is disparaged. The inability to protect works created without human authorship has been reaffirmed by the U.S. Copyright Office. In the era of artificial intelligence, when outputs conflate human creativity with machine autonomy, this human-centric approach is currently under pressure.

Creativity and Gender Feminist Jurisprudence and Women's Access to Creative Spaces

Historically, women's participation in the creative economy has been limited by structural barriers. Feminist jurisprudence offers a lens to interrogate how copyright law, while formally neutral, has operated in contexts marked by gender inequality. Women were historically excluded from educational and professional spaces necessary for developing artistic careers. Legal systems reinforced covertures and denied women independent economic agency. For instance, 'A woman must have money and a room of her own if she is to write fiction,' according to Virginia Woolf's well-known statement¹² underscores how material conditions shaped access to creativity. Even when women did create, their works were often published under male pseudonyms or attributed to male relatives.

Feminist scholars like Rosemary Coombe argue that intellectual property regimes often privilege dominant cultural expressions while marginalizing women's contributions.¹³ The undervaluation of 'domestic' or 'applied' arts fields where women predominated illustrate this bias. Similarly, moral rights, particularly the right of attribution, are vital to women creators whose identities have often been erased or overshadowed.¹⁴

Feminist legal theory challenges the assumption that copyright law operates in a gender-neutral vacuum. Martha Fineman's 'vulnerability theory' emphasizes that structural inequalities shape individuals' capacities to access rights and protections.¹⁵ Applied to copyright, this means recognizing how women creators, especially from marginalized groups, face disproportionate risks of exploitation in the digital and AI economy. In today's AI-driven creative spaces, these concerns are amplified. Women creators' works may be scraped into datasets without consent and their styles imitated by generative models, compounding long histories of under-recognition. Thus, feminist jurisprudence not only illuminates past inequities but also frames the normative urgency for reforms in AI-era copyright.

AI and Creativity Philosophical Debates on Whether AI Can Be an 'Author'

The rise of generative AI has reignited an old philosophical question: can non-human entities be 'authors'? The dominant tradition insists that copyright is anthropocentric. Courts have consistently refused protection to works lacking human authorship. In the U.S, the Ninth Circuit in *Naruto v. Slater* denied copyright to a monkey that took a 'selfie,' holding that copyright requires a human author.¹⁶ The U.S. Copyright Office similarly denied registration to AI-generated art lacking meaningful human input.¹⁷ Some scholars contend that if originality is judged by the output rather than the process, AI works that are novel and valuable should qualify for protection.¹⁸ Recognizing AI authorship could incentivize investment in developing creative AI systems. It might also provide clarity in allocating rights to those who design or deploy AI. Opponents argue that copyright's normative foundation lies in human creativity, personality, and labour. Machines lack consciousness, intent, and moral interests, making the concept of 'AI authorship' incoherent. Further, granting copyright to AI outputs may dilute the pool of human-created works, undermining the incentive structure copyright is meant to protect.¹⁹

Recognising human authorship in AI-assisted works is a more frequently accepted strategy, as long as the human maintains significant creative control. This is in line with new guidelines issued by the U.S. Copyright Office, which guarantee that only human contributions are protected and require applicants to reveal the degree of AI use. This workable option accommodates new technology while maintaining the human-centric philosophy of copyright.

AI and Copyright Global Legal Landscape

I. International Copyright Treaties:

The starting point for any discussion of copyright in the age of AI is the international treaty framework. Three treaties are particularly relevant: the Berne Convention, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the WIPO Internet Treaties.

The Berne Convention of 1886 (as revised) remains the backbone of international copyright law. It establishes core principles such as national treatment, automatic protection without formalities, and a minimum term of protection. Most importantly,

Berne recognises moral rights in Article 6b is, granting authors the right of attribution and integrity.²⁰ While Berne is deliberately technology-neutral, its repeated use of the word 'author' assumes a human subject, leaving no space for autonomous AI systems to qualify as authors.

The TRIPS Agreement, which incorporates much of Berne by reference, reinforced this human-centred understanding. TRIPS sets enforceable standards for WTO members, emphasizing that copyright protects the expression of ideas, not the ideas themselves.²¹ This distinction becomes crucial in AI debates about whether 'styles' or 'training data' are protectable.

The WIPO Internet Treaties the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) modernised copyright for the digital era by addressing computer programs, databases and online dissemination.²² But like Berne and TRIPS, they stop short of recognizing non-human authorship. Together, these treaties provide a floor of human-centric copyright but deliberately leave room for national governments to shape how new technologies, including AI, are treated.

II. Comparative Review:

The strongest stance against AI authorship has come from the US. Human authorship is a requirement set by the U.S. Copyright Office. In *Thaler v. Perlmutter* (2025), the D.C. Circuit upheld the denial of copyright for a piece of art that was wholly produced by Dr. Stephen Thaler's 'Creativity Machine,' concluding that 'all eligible works must be authored by a human being in accordance with the Copyright Act.' This follows a long line of decisions, including *Feist Publications, Inc. v. Rural Telephone Service Co.* (1991), which emphasised that copyright exists to encourage human creativity.

That said, the Copyright Office permits registration of works that are AI-assisted, provided the human applicant can show meaningful creative control such as selection, editing, or arrangement.²³ Thus, U.S. law draws a hard line no copyright for purely AI-generated works, but protection remains for the human components of mixed creations.

The European Union has not declared AI to be an author but has focused instead on regulating AI's use of existing works. The Copyright in the Digital Single Market (DSM) Directive 2019/790 introduced mandatory exceptions for text-and-data mining (TDM) for research (Article 3) and conditional TDM exceptions for commercial purposes (Article 4), subject to opt-outs by rights holders.²⁴

More recently, the EU Artificial Intelligence Act requires general-purpose AI providers to adopt copyright-compliance policies and publish summaries of training data.²⁵ This framework does not grant AI outputs copyright protection but seeks to ensure that creators' rights are respected at the input stage. In effect, the EU model is process-oriented it regulates training and transparency rather than re-defining authorship.

India's Copyright Act, 1957 recognises 'computer-generated works' in Section 2(d)(vi), designating 'the person who causes the work to be created' as the author.²⁶ This provision, however, has never been tested in the AI context. Indian courts have not clarified whether a generative AI system falls under 'computer-generated work,' nor what level of human intervention is necessary for authorship. Scholars note that India's originality doctrine,

articulated in *Eastern Book Co. v. D.B. Modak* (2008), requires a minimum degree of creativity, which may prove difficult to apply to autonomous AI outputs.²⁷ For now, India's framework is best described as silent the law offers hooks but no interpretive guidance.

The UK is unique in that it specifically grants authorship for 'computer-generated works.' 'The author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken,' according to Section 9(3) of the Copyright, Designs and Patents Act 1988. The copyright period for certain works is shortened to fifty years. The clause, which was first created in the 1980s for algorithmic or generative art, is currently being examined for its applicability in the age of generative artificial intelligence. Critics wonder if the 'arrangements' test offers useful recommendations for intricate AI systems.

China's courts have taken a pragmatic, case-by-case approach. In 2023, the Beijing Internet Court recognised copyright in certain AI-generated images where the human user demonstrated intellectual input in prompt design and selection.²⁸ This reflects a willingness to protect AI-assisted works, but it stops short of granting authorship to machines. Other jurisdictions illustrate the diversity of approaches. Japan allows broad TDM under Article 30-4 of its Copyright Act, effectively immunising much AI training from infringement claims. This positions Japan as permissive at the input stage, contrasting with the EU's more protective stance.

Ultimately, without international harmonisation, AI copyright will remain patchy. The treaty framework ensures minimum protection for humans but leaves vast discretion to states. As AI becomes embedded in cultural production, reconciling these divergent approaches balancing innovation with fairness to creators will be among the most pressing challenges in global copyright law.

Women's Creative Rights in the Age of AI

I. Historical Barriers to Women's Recognition as Authors

For centuries, women have faced structural and cultural barriers to recognition as authors and creators. Until well into the nineteenth century, legal regimes such as coverture in England and colonial India denied married women independent property rights, including rights in intellectual property.²⁹ Women writers like Mary Ann Evans published under the pseudonym 'George Eliot' to escape prejudices against female authorship.³⁰ Virginia Woolf captured this exclusion with her observation that a woman 'must have money and a room of her own' to write fiction.

Even when women did create, their contributions were often undervalued or erased. Craft and 'domestic arts,' traditionally associated with women, were not given the same legal or cultural recognition as 'fine arts' dominated by men.³¹ Copyright law, by formalising the categories of 'author' and 'work,' reflected these biases, privileging certain types of output while side-lining others. As Rosemary Coombe argued, intellectual property systems often reproduce existing social hierarchies, rather than dismantling them.³²

II. Impact of AI Tools on Women Creators:

The arrival of generative AI tools image generators, text assistants, music composers

presents a double-edged sword for women creators. On the one hand, AI has the potential to democratise creative expression by lowering technical barriers. A young filmmaker with limited resources can now experiment with editing software enhanced by AI, while independent artists can reach global audiences through AI-curated platforms.

On the other hand, AI also risks marginalising women further. Generative systems are trained on massive datasets scraped from the internet, often without consent. Many women artists, writers, and musicians find their works ingested into these datasets without attribution or compensation.³³ For a group historically denied recognition, the prospect of their voices being replicated by machines without credit exacerbates long-standing inequities.

Moreover, AI platforms tend to amplify pre-existing visibility gaps. Male creators dominate in many training corpora, leading to outcomes where AI models disproportionately reproduce male-coded styles and narratives.³⁴ Without corrective design, this dynamic may deepen the under-representation of women in cultural output.

III. Risks of Algorithmic Bias and Gender Stereotyping:

Algorithmic bias is perhaps the most urgent risk in the AI era. AI systems reflect the data on which they are trained. If training corpora over-represent male authors, or if internet archives perpetuate gender stereotypes, AI outputs will reproduce these biases. For example, AI image generators have been shown to depict doctors as men and nurses as women, reinforcing harmful stereotypes.³⁵

These patterns matter not only in representation but also in opportunity. Women creators attempting to use AI for inspiration may find themselves constrained by narrow gendered outputs. Such bias perpetuates the invisibility that copyright and cultural recognition regimes have historically imposed.

Key Legal Challenges

I. Authorship & Ownership:

The first and most pressing question is who owns AI-generated works. Copyright systems worldwide are built around the assumption of a human author. The Copyright Office in the United States has made it clear time and time again that only human-made works are protected by copyright. In *Thaler v. Perlmutter*, the D.C. Circuit reaffirmed this stance, concluding that the Copyright Act requires all eligible works to be authored by a human being.

Other jurisdictions, however, leave more ambiguity. According to the Copyright, Designs and Patents Act 1988 of the United Kingdom, 'the person by whom the arrangements necessary for the creation of the work are undertaken' is the author of "computer-generated works" that do not have a human author. In a similar vein, the author of computer-generated works is defined as 'the person who causes the work to be created under India's Copyright Act, 1957. These statutory fictions may allow AI-assisted works to be claimed by programmers, users, or companies. For women creators, this raises an acute risk. If the law does not require substantial human input, the ownership of AI outputs could default to corporations or developers, side-lining women's creative

labour and reinforcing existing inequalities in cultural industries.

II. Moral Rights:

Moral rights attribution and integrity are especially significant in the context of women's creative rights. The Berne Convention recognizes authors rights to claim authorship and to object to derogatory treatments of their works.³⁶ In jurisdictions like India and continental Europe, these rights are enforceable even after the transfer of economic rights.

AI poses two related challenges. First, AI-generated outputs can imitate the 'style' of women artists without attribution, depriving them of recognition.³⁷ Second, such outputs may distort or sexualize their work, infringing their moral interest in integrity. For example, AI systems trained on online art have produced sexualized imitations of women illustrators' portfolios, undermining both their professional reputation and their dignity.³⁸

Because women have historically fought for recognition as authors, the loss of attribution in an AI-driven world is more than a technical problem; it revives older patterns of erasure that copyright law was meant to overcome.

III. Economic Rights:

Beyond recognition, the economic stakes are considerable. Copyright grants authors exclusive economic rights to reproduce, distribute, perform, and license their works.³⁹ But when women's works are absorbed into AI training datasets without consent or payment, these rights lose practical meaning.

The subject of whether training on copyrighted works is considered fair use or infringement is brought up by continuing legal actions against AI developers like OpenAI and Stability AI in the United States. A more balanced strategy is offered by the DSM Directive in the EU, which permits text and data mining while allowing rights holders to choose not to utilise it for commercial purposes. For women creators, whose works are often under-licensed or undervalued royalties from training and derivative uses could provide meaningful economic recognition. Without a clear mechanism for licensing and compensation, however, the benefits of the AI economy may bypass them entirely, widening existing gender pay gaps in creative industries.

IV. Bias and Data Training:

A further challenge is bias in training data. AI systems are only as good as the data they consume. If training datasets disproportionately contain works by men, or if they reflect gender stereotypes, AI outputs will perpetuate these imbalances. Studies show that generative image models often depict doctors as men and nurses as women, echoing entrenched biases.

The problem is compounded when women's works are used without consent or credit. Many AI developers scrape data from digital platforms, including women's art, writing, and music, with no acknowledgment. This undermines not only their economic rights but also their agency over how their works are used.

The solution lies in requiring dataset transparency and consent mechanisms. The European Union's AI Act, for example, obliges general-purpose AI providers to publish

summaries of their training data and demonstrate copyright compliance. Such measures, if effectively enforced, could provide women creators a way to monitor and reclaim control over their contributions.

The legal challenges posed by AI intersect directly with long-standing struggles for women's recognition in the creative sphere. Questions of authorship and ownership determine whether their contributions are acknowledged or erased. Moral rights safeguard their dignity, but are undermined by AI's ability to imitate and distort styles. Economic rights promise fair compensation, but without licensing frameworks, women's works risk exploitation. Training-data practices reproduce bias and strip women of control, while weak enforcement mechanisms leave them without remedies. The stakes are clear if copyright systems adapt to embed inclusivity, transparency and fair remuneration, AI could become an enabler of women's creative futures. If not, it risks repeating the past where women's voices are heard only faintly, if at all, in the legal record of authorship.

Conclusion

The rise of artificial intelligence in creative industries is not just a technological milestone it represents a profound social and legal shift. For centuries, women creators have struggled for recognition, fair remuneration and respect for their contributions to culture. Copyright law, while imperfect, has been one of the few mechanisms offering them protection and visibility. In the present AI era, however, that fragile recognition faces fresh challenges, making it urgent to reaffirm women's creative rights within frameworks of innovation, inclusivity, and justice.

History reveals that women's authorship has long been systematically undervalued. In common law systems, doctrines like coverture once denied married women the right to own property in their name. Artistic and literary history is full of examples where women's contributions were erased, ignored or credited to male counterparts. Even after formal equality was introduced in copyright statutes, women continued to face barriers: weaker bargaining power in negotiations, industries dominated by men and gendered assumptions that relegated women's work to 'less serious' artistic forms.

AI risks magnifying these inequities. Generative models are trained on vast quantities of creative data, much of it scraped without consent. Women's works poetry, music, art or design are often replicated, imitated, or stylised by AI systems without acknowledgement or remuneration. For creators who already face a long history of invisibility, such unaccredited imitation feels like a continuation of the same cycle of erasure. Protecting women's rights in this context is not only about legal entitlements but also about safeguarding their identity, dignity and place in cultural memory.

Central to this protection are moral rights, particularly the right to attribution and the right to integrity. When AI outputs distort, trivialise, or sexualise women's work, the harm is reputational and personal, not merely economic. Similarly, access to licensing and fair remuneration mechanisms is essential if women are to benefit rather than be disadvantaged by AI systems. Unless deliberate safeguards are implemented, the gender pay gap in creative industries will deepen further.

At the same time, law and policy must not stifle the opportunities AI can offer. Many

women artists already use AI tools to expand their creative practice, whether experimenting with visual design, refining written work, or composing music with limited resources. A blanket rejection of AI would risk excluding women from these new possibilities. The challenge is to distinguish AI as an enabler from AI as an appropriator ensuring that technological progress empowers rather than exploits.

Copyright law must therefore adapt with nuance affirming the value of human authorship, requiring meaningful creative input for legal protection, mandating transparency in dataset use and introducing collective licensing systems to fairly compensate creators. Beyond neutrality, inclusivity must be an explicit goal of reform. Gender-sensitive safeguards such as mandatory credit where styles are imitated, mechanisms for women's collective bargaining, and auditing tools to identify bias are essential to ensure that innovation promotes cultural equity.

Future research and reform must also extend beyond technical fixes. Ethical questions about whose works are included in datasets, whose styles are imitated, and whose voices are amplified must be openly debated. For women creators, this translates into rights to know, to opt out, to license and to contest outputs. Feminist legal theory and intersectional perspectives can guide how authorship, originality and fair use doctrines evolve in this digital age. For countries like India, where women create across diverse traditions and languages, the issue is tied to cultural sovereignty ensuring that their contributions are not absorbed into global AI systems without recognition.

Ultimately, the task is clear to ensure that AI innovation does not repeat old injustices but instead becomes a force for empowerment. Protecting women's creative rights at the heart of AI regulation is not only a matter of fairness but also of cultural justice.

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