

A Robust copyright protection for the Artificial Intelligence generated Audio Visual Content: special reference to Sri Lankan copyright law

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Abstract

This research discusses the ever-evolving issue of copyright protection of audiovisual content generated by Generative Artificial Intelligence with particular focus on the legal system of Sri Lanka. The existing copyright legislation, particularly the Intellectual Property Act No. 36 of 2003 of Sri Lanka, lacks clear provisions on AI-generated audiovisual content primarily because of the lack of an established judicial paradigm on authorship and ownership in the context of non-human creativity. The research problem here how Sri Lankan copyright law addresses authorship and ownership of AI-generated audiovisual contents. The objective of this study is to analyze and clarify the authorship and ownership rights of AI-generated audiovisual contents under Sri Lankan copyright law. Qualitative research method was used for this in-depth interviews and Sri Lankan Intellectual Property Act No. 36 of 2003 were used as primary data sources. In-depth interviews were conducted with scholars in several fields such as law, art, technology and books, research articles, and the internet were used for the compilation of secondary data related to these subjects. Data were thematically coded under five broad categories of protective works, authorship, ownership, exclusive rights, and moral rights. This study finds that AI-generated audiovisual contents introduce heightened authorship challenges. The fact that the author of the AI generated work has not yet been clearly defined under copyright law of Sri Lanka has become the main problem in providing protection. Although AI systems carry out the technical process, the involvement of the user in initiating and influencing output through prompts demonstrates creative intent. Therefore, authorship has to be attributed to the user. Assigning rights to the AI machine contravenes the purpose of public availability and stifles innovation. Despite the fact that creators hold patent rights, copyright has to be attributed to the user. Ethically, AI tools need to be acknowledged for its contribution to the creative process. In summary, a serious legal framework is imperative to face the special character of audiovisual content generated by AI. It must provide clear definitions of authorship, support hybrid creativity, and guarantee ethical use, keeping local law aligned with international standards in order to facilitate innovation and defend rights in the digital creative era.

Keywords: *Copyright , Audio-visual content , Generative Artificial Intelligence , Sri Lankan Intellectual Property Act, Authorship*

1. Introduction

Artificial intelligence has ushered in a booming new era of technological advancement. Although AI has been discussed in society as a popular topic in the twenty-first century, its history began to be discussed only in the middle of the twentieth century. With roots in ancient times, artificial intelligence (AI) has a long history. At the Dartmouth Conference in 1956, the phrase "Artificial Intelligence" was created, marking the beginning of the modern discipline of AI. Neural networks, symbolic logic, and machine learning algorithms were among the early AI techniques. The 1970s and 1980s saw the emergence of knowledge-based AI and expert systems. Due to reductions in funding and a lack of growth, the discipline had difficulties in the 1980s and 1990s, a time known as the "AI winter". But in the 2000s and beyond, developments in deep learning, big data, and machine learning brought AI research back to life (Haenlein & Kaplan, 2019).

This research studies artificial intelligence-generated art. Artificial intelligence that can produce novel, unique content is known as generative AI. It creates data that matches the training data it was trained on using machine learning models, which are frequently based on techniques like generative adversarial networks (GANs). Applications for this technology include generating text, generating images, music composition, and others. It makes it possible to provide novel, realistic material with a range of creative practical uses. It is also important to create different types of software to create artworks that are generated using artificial intelligence. Generative AI generates relevant artwork by training data sets and providing relevant prompts upon receiving certain input. But while these artworks have not yet surpassed human creativity, there are signs in the technological world that they will soon.

The intersection of generative artificial intelligence and creative production is reshaping the traditional boundaries of authorship and copyright. The World Intellectual Property Organization has defined copyright, 'Copyright (or author's right) is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, and films, to computer programs, databases, advertisements, maps, and technical drawings. To safeguard artists' intellectual property, provide them with exclusive rights to their creations, and encourage innovation, copyright legislation is essential. In addition to supporting lives and economic progress, copyright enhances the creative industries' economic worth. Copyright laws have been enacted to protect human creations and creators around the world, and there is no systematic legal system to protect artificial intelligence-based creators and artworks. AI-generated art is opposed to copyright protection for several reasons. Some argue for the automatic release of AI artwork into the public domain, highlighting authorship issues brought forth by the lack of direct human contribution. Further concerns include possible barriers to technical advancement, ethical issues such as biases in AI algorithms, and how appropriate current copyright laws are to the unique characteristics of artworks

generated by AI. Essentially, the discussion suggests that copyright concerns about AI art be approached with great care and adaptation.

In a background where artificial intelligence is expanding rapidly to many fields, a strong conversation has been created in the world about the authenticity of copyright law, especially for generative AI audiovisual contents. Although there is still no globally accepted copyright legal framework for generative AI artworks, some countries are working to provide copyright protection for generative AI creations under existing copyright laws. Several well-known court cases have arisen about generative AI artworks. Some of these have been refused copyright by the courts, and some cases are still pending. However, in the future, generative AI creations will be used in many industries such as entertainment and creative industries. Preventing or countering it will never be possible in a digital society and the entire society will have to adapt to it. Therefore, there should be legislation for artificial intelligence and through this research, it is specially emphasized the necessity of a special copyright law for generative AI artworks.

While there has been international controversy concerning AI generated works and copyright, Sri Lankan jurisprudence and scholarship on the subject remain nascent. The literature focusses largely on traditional copyright principle with minimal theoretical or practical discussion of how generative AI technology interconnects with or challenges such principles. There has not been adequate study of the consequences in audiovisual contents, a rapidly evolving and powerful industry within Sri Lankan copyright law.

This research attempts to bridge this divide by critically exploring the predictions of effective copyright protection of generative AI Audiovisual content in Sri Lanka. The research is framed by the need to evaluate the sufficiency of existing legislation with the nature of AI-generated audiovisual content, both considering international considerations and local legal context. The research also aims to help inform the wider debate around authorship, moral rights, and ownership in post-human creative environments, particularly in audiovisual contents.

2. Literature Review

2.1. Human Creativity and Generative Artificial Intelligence

The Britannica encyclopaedia defines art as "The arts, modes of expression that use skill or imagination in the creation of aesthetic objects, environments, or experiences that can be shared with others" (The Arts | Creative Expression, Visual Arts & Performing Arts | Britannica, 2023). According to Leo Tolstoy, interpreted art, "To evoke in oneself a feeling one has experienced, and having evoked it in oneself, then, using movements, lines, colours, sounds, or forms expressed in words, so to transmit that feeling that others may experience this same feeling- this is the activity of art. Art is a human activity

consisting in this, that one man consciously, using certain external signs, hands on to others feelings he has lived through, and that other people are infected by those feelings and also experience them”(Tolstoy,1897). An artist can refer to any individual who engages in the creation or expression of art. Artists can come from various backgrounds, cultures, and disciplines. They can be professional artists who make a living from their artistic efforts, or they can be amateurs or hobbyists who create art for self-enjoyment or self-expression. Artists can include painters, sculptors, dancers, musicians, actors, writers, poets, photographers, filmmakers, and individuals working in other creative fields. The term "artist" is broad and encompasses a diverse range of individuals who use their experiences, creativity, and imagination to produce art in all its manifestations (Introduction to Indian Arts, n.d.).

Generative Artificial Intelligence (AI) is a network of technical AI systems that can generate new content that is not explicitly programmed and can generate text, audio, imagery, and synthetic data. The technology, it should be noted, is not brand new. According to the TechTarget article, 'Generative AI was introduced in the 1960s in chatbots. But it was not until 2014, with the introduction of generative adversarial networks, or GANs a type of machine learning algorithm that generative AI could create convincingly authentic images, videos, and audio of real people" (What Is Generative AI? Everything You Need to Know, 2023). When the model is trained, the method can generate new relevant content according to the input prompts. According to literature reviews, generative AI technology is used to generate a wide range of audiovisual content. The capability of generative AI models to produce realistic images and videos has clear and noteworthy practical implications across a multitude of domains, such as art (Elgammal et al., 2017), entertainment , gaming (Liu et al., 2021), design , (Piumantha.O, 2024), medicine (Jing et al., 2023), and data augmentation (Yasin Shokrollahi et al., 2023) for machine learning tasks. Legal researchers throughout the world are currently debating whether using copyrighted images to train AI is against the law. According to the research conducted by Adam Buick , to fully grasp the significance of the debate around copyright and training data, it is necessary to first understand how such data is used to train a modern generation AI model. While AI models that could be described as ‘generative’ in some senses have existed for decades, the current wave of popular generative AI models such as OpenAI’s GPT series or Stability AI’s image generators are based on a subtype of machine learning known as ‘deep learning’. As generative AI reshapes creative expression, it also fuels legal discussions about the implications and enforcement of copyright law.

2.2. Intellectual Property Law and Copyright Protection

Legal protection is required for the original work that are guided by human intelligence, and for that reason, legal arrangements have been made to protect intellectual property at the global level. Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period (Kanturi, n.d.).

Intellectual property is discussed under two main sections, the first of which is 'Copyrights and Related Rights' and the second is 'Industrial Property Rights' (Tewari & Bhardwaj, 2021).

Copyright has been defined by the World Intellectual Property Organization 'Copyright (or author's right) is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, and films, to computer programs, databases, advertisements, maps, and technical drawings' (Copyright, n.d.). Protecting and compensating artists for their work is the aim of copyright. It encourages authors to produce fresh work continuously. Work must fulfill two primary requirements to be eligible for copyright protection:

- a) Originality: The work should be inspired by something, not just a copy of something that already existing. It must be an original work of art.
- b) Fixation: The work must be written down, saved on a computer, or otherwise documented in a concrete format. By doing this, the work's tangible presence is guaranteed (Reddy N M, 2016).

Although WIPO often defines copyright as the protection of original works, scholars such as Reddy (2016) argue that AI-generated works lack the human intent typically required for protection. A major problem is that there is no clear protection for generative AI creations by Sri Lanka's copyright law, and there are no clear research written about it. Although global discussions on AI and copyright have progressed, there has been minimal academic investigation into how these issues operate within Sri Lanka's legislative framework, an area addressed by this study.

3. Research Method

This research used a qualitative method to explore whether Generative AI artworks can be protected by the Sri Lanka Intellectual Property Act No. 36 of 2003. The qualitative approach was adopted to collect data using the interview method. Gill et al. (2008) state that interviews provide a deeper understanding of a social phenomenon. In other words, detailed insights into a particular subject or an area can be collected from individual participants using the interview method. The primary aim of this study was to examine important legal and conceptual issues such as ownership, authorship, moral rights, and exclusive rights over audiovisual contents generated by AI.

Data was collected by conducting in-depth, semi-structured interviews with 12 experts in various fields such as creative arts, law, and AI. The research participants included Artists, Television producers, AI experts and Legal Academics. Important areas such as whether AI artworks can be legally protected, who should be considered as the author, who owns the work, and the application of exclusive and moral rights were the focus of the in-depth interviews. These in-depth interviews and discussions were

conducted face-to-face, via telephone, and Zoom meetings to collect data. Participants were also given codes to uphold ethical reflections, and no names were revealed without consent, following the typical qualitative research ethics. Purposive sampling was used to select participants, who were chosen for their backgrounds in the arts, media, AI, and law. The Sri Lankan Intellectual Property Act No. 36 of 2003 was used as a primary source in the compilation of qualitative data related to this research. Chapter 2 of the IP Act, which deals with copyright protection, was given special consideration. In the compilation of qualitative data, books, research articles, Web articles compiled related to the subject were studied as secondary sources. The analysis was based on thematic analysis and included Authorship, ownership, exclusive rights, moral rights, and protected works were the main focuses of the analysis. The narrative analysis method was used to analyse interviews with field experts while studying AI-based creations and copyright law and it provided depth to this by discovering the insightful opinions of experts on AI's significances in the legal and creative arenas.

The analysis and discussion of their findings, which are in line with the recognised themes and compliant with ethical research guidelines, are provided below. To ensure confidentiality, interviewees have been anonymised using role-based codes.

Table 1: Interview Participants by Field and Role

Interviewee Code	Field	Role/Expertise
P1	Music Industry	Veteran Lyricist
P2	Music Industry	CEO, Local Music Company
P3	Art & Design	Professor
P4	Film Industry	Veteran Director, Screenwriter
P5	TV Media	Senior Program Producer
P6	TV Media	Senior Producer
P7	TV Media	Senior News Producer
P8	Legal Studies	Professor & Head, Legal Studies Dept.
P9	Legal Administration	Director, National Intellectual Property Office
P10	AI & Computing	Senior Lecturer, Computer Science
P11	AI & Design	Senior Lecturer, Industrial Design
P12	AI Arts	Independent AI Artist

4. Interview Analysis and Discussion

Regarding this research, in-depth interviews were conducted with several experts in the fields of legal, technical, art, and audio-visual media. In this section, the ideas contained in the in-depth interviews will be analysed and discussed according to the Natural Right Theory. The analysis and discussion will be conducted under the following themes. In-depth interviews will be analysed and discussed under the Protective works, Authorship, Ownership, exclusive right relevant themes and the copyright law of Sri Lanka will also be comparatively discussed.

Copyright law in any country clearly defines which works are protected and which are not. Especially for creating generative AI artworks, the basic mechanical tool called a computer is essential. Protection of 'Computer Works' It should be investigated whether the protections available under Sri Lanka copyright law can protect generative AI works. Regarding in-depth interviews, P8 and P9 from Legal Perspective stated that there is no provision for the protection of AI creations referred to as 'computer works' in the Sri Lanka copyright law. "Computer program" is a set of instructions expressed in words, codes, schemes, or in any other form, which is capable, when incorporated in a medium that the computer can read, of causing a computer to perform or achieve a particular task or result" (Intellectual property act Sri Lanka, 2003)

According to P8, the definition of "computer program" in the IP Act applies to the concept of computer software and emphasizes copyright protection for original expressions of software functionality or outputs rather than the specific results it produces. Consequently, generative AI works are not eligible for copyright protection under this classification. P9 further states that software cannot be registered as a patent or copyright work in Sri Lanka and that the Act focuses on protecting unique processes or embedded devices rather than software. This implies a lack of clear copyright protection for specific results or outputs generated by AI systems within the provisions of the Act. According to the IP Act No. 36 of 2003 Sri Lanka, 6 (1) The following works shall be protected as literary, artistic, or scientific work (hereinafter referred to as "works") which are original intellectual creations in the literary, artistic and scientific domain, including and in particular—

(a) books, pamphlets, articles, computer programs, and other writings.

(b) speeches, lectures, addresses, sermons, and other oral works.... (2003)

Since AI creations are generated by mechanical means such as computers, people who do not have a clear understanding of the law have the idea that the term 'computer work' mentioned in the Act is protected. But on a clear perusal of the Act, the term 'computer program' does not represent generative AI creations. Although some countries have taken steps to protect AI works under 'Computer Programmes', Sri Lanka's Copyright Act doesn't imply such a thing. P10 has mentioned what aspects of computer programs are protected by copyright and protected by patents.

Copyrightable parts - The executable object code in digital format, the source code is written in high-level languages, The algorithms (steps of solving the problem)

Patentable part - The algorithms (or source codes in addition to algorithms) that are steps of solving the problem that can be used in another process, The processes involving mathematical equations, Products, and processes that embed computer programs are patentable.

Accordingly, AI systems, generative AI works, are not represented by computer programs designated as protected works according to Sri Lanka's copyright law. This research focuses on copyright protection as it affects artworks generated by artificial intelligence. AI Artworks, which are created for audio-visual media, are special. Whether these generative AI works can be protected as 'protected works under the Intellectual Property Act No. 36 of 2003 can be discussed with reference to data from in-depth interviews. The following are listed as protected works in the Intellectual Property Act of Sri Lanka.

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6. (1) The following works shall be protected as literary, artistic, or scientific work (hereinafter referred to as "works") which are original intellectual creations in the literary, artistic and scientific domain, including and in particular (a) books, pamphlets, articles, computer programs, and other writings, (b) speeches, lectures, addresses, sermons, and other oral works, (c) dramatic, dramatic-musical works, pantomimes, choreographic works, and other works created for stage productions, (d) stage production of works specified in paragraph, (c) and expressions of folklore that are apt for such productions, (e) musical works, with or without accompanying words, (f) audiovisual works, (g) works of architecture, (h) works of drawing, painting, sculpture, tapestry, and other works of fine art, (j) photographic works, (k) works of applied art, (l) illustrations, maps, plans, sketches, and three-dimensional works relative to geography, topography, architecture, or science. (Sri Lanka, 2003)

Among the works designated as protected works in the copyright chapter, underlined are the types of artistic works that can be used for audio-visual media. Those human creations can also be generated by generative AI technology. The features of the works underlined above are very clearly set out in the section containing the definitions of the Act. Those features are also available in AI-generated creations for audio-visual media.

According to Intellectual Property Act No. 36 of 2003, "Audiovisual work" means a work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible, and where accompanied by sounds susceptible of being made audible, "photographic work" means the recording of light or other radiation on any medium on which an image is produced or from which an image may be produced, "sound recording" means any exclusively aural fixation of the sounds of a performance or of other sounds...

In the definition section of the Intellectual Property Act, several audio-visual works are defined as mentioned above. The characteristics of those creations are also present in generative AI artworks (Since AI images cannot be defined in the same way that photographic works are defined, it seems that a new definition should be included). Therefore, the problem of whether generative AI artworks cannot be protected can be answered with the help of in-depth interviews.

The comments made by P8 and P9 from a legal perspective regarding AI-generated artworks and their copyrights are more important for discussion. The essence of their ideas is the same. They claim that existing copyrights protect AI-generated artworks. Even if it is generated by AI, there is copyright protection for its final output, they further state that the main problem is that it is not clear who is the author of those artworks.

One of the main points to be noticed here is that there must be an author to provide IP protection for creation. But still, there is a dilemma regarding the authorship of AI artworks. When the authorship is determined, if legal amendments or a new law is drafted, protection can be given to AI creations without any problem.

4.1. Ownership and Authorship

Authorship and ownership should be interpreted separately. An author is the creator of the work but may not always be the owner. An author is someone who creates a work either alone or at the direction of another person. In the context of copyright law, an author is usually the person who brings the original work into existence. Writers, artists, musicians, filmmakers, programmers, and other creators may fall under this category. Under copyright law, an author is often allowed specific rights and protections, such as the exclusive right to make copies, distribute the work, and give public performances or exhibitions of it.

In the Intellectual Property Act No. 36 of 2003, "author" is defined as follows: "Author" means the physical person who has created the work (IP Act Sri Lanka, 2003). According to that, one who contributes to a certain creative work, directs his creativity, and creates a certain creation as a fixed medium can be identified as a tool.

Some works may have several authors and may be referred to as joint authorship. A creative work produced by two or more authors who collaborate to become joint authors is referred to as a "work of joint authorship". According to copyright law, joint authorship usually happens when multiple individuals work together on a single piece of work and their contributions are so interwoven that it is hard to identify the authorship of the work as attributable to just one person. In the Sri Lanka Intellectual Property Act, 'joint authorship' is defined as follows: 'Work of joint authorship' means a work to the creation of which two or more authors have contributed, provided the work does not qualify as "a collective work" (IP Act Sri Lanka, 2003).

Each person involved expects to be acknowledged as a joint author, which means they each own a portion of the rights and credit for the work. It's difficult to separate their contributions since they are so blended. Each joint author has an equal ownership stake in the work's copyright, even if they all contributed to it jointly, so they all benefit from its advantages and protections. It was discussed above about how copyrights are mentioned in the Sri Lanka copyright law. Also, the authorship of generative AI artworks can be discussed according to the in-depth interview data related to the research.

P8 argues that in giving authorship to AI creations, authorship should be given to the user/generator who prompts the creation. If other creations are used for the training process, it is indicated that proper copyright permission should be obtained from those creations or open-access creations should be used. He has stated that if all the necessary legal factors are fulfilled, there is no problem in attributing the authorship to the person prompting the AI artwork. He offers a counterargument to the argument made by some that authorship of the AI artworks should be given to a company/AI system developer creating and developing the AI software or model. It is according to the concept of the **doctrine of exposition/exhaustion**.

According to Michael V. Sardina, in intellectual property law, there is a concept known as the theory of exhaustion/exposition, which is often referred to as the first sale doctrine. It refers to the idea that the rights of a person to regulate the use of a certain work, device, or good are exhausted if the owner of a copyright, patent, or trademark sells a particular copy of that item. It means that the intellectual property owner will not be able to prevent the consumer from using, selling, or disposing of the product how they see fit (Sardina, 2011). Before discussing the Doctrine of Exposition and Generative AI comparatively, we should pay attention to the idea of AI authorship by **P4**. He points out that in generating AI work, the AI service does a lot of work, so the user and the AI system share 50%. Also, **P11** stated that the authorship of AI artworks should belong to the user.

If we discuss the data obtained through in-depth interviews and the doctrine of exposition/exhaustion, it will be possible to build some basic ideas regarding the authorship of generative AI artworks. Let's take an example of the Doctrine of Exhaustion: a consumer has the right under the Doctrine of Exhaustion to highlight, fold pages, and tear pages from a book purchased for money. But this can only be done with the copy he bought, and the customer is not able to get any kind of financial benefits.

Sales of AI software - The doctrine of exhaustion may limit the copyright holder's power to regulate what the buyer does with the copy of the software if it is sold to an end user. For example, depending on the terms and conditions of the license agreement, a customer of AI software for image generating may be allowed to use the software without any further limitations on distribution or use.

Terms of Use and Licence Agreements: It is important to consider that the doctrine of exhaustion could be subject to agreements made in agreement between the end user and the copyright holder. Most software licenses have restrictions that place further limitations on how the software may be used and

distributed, as well as how it may be used for generating works. These agreements could go beyond what the doctrine of exhaustion permits. There is no need to attribute authorship to the AI system or the company that created it under the doctrine of exhaustion for creations that are generated using a generative AI service as a free version or a paid version in a legal way (from the relevant official website). However, users should be aware of any license agreements or conditions of use connected to the AI software/system since they may impose additional restrictions or limits on top of what the doctrine of exhaustion provides.

According to the Doctrine of Exhaustion, when using the AI Service/Software provided for the Customer's use, authorship doesn't need to be attributed to the parties that created it or the Service. Therefore, the idea given by **P8** under the Doctrine of Exposition was discussed above as a counter to the argument presented by some that the copyright related to AI works should be given to the AI service/system or company.

In order to determine the authorship of AI artworks, **P9** has expressed the opinion that the amount of human input and machine input applied to the relevant artwork should be precisely measured and accordingly an accepted decision should be reached regarding authorship. In her comments, it has been stated that there is a problem with authorship in the 'AI system'. She stated: "One can argue that since the AI model was created and trained by humans, the person or organization creating the AI model should have the rights. But if we draw a character, someone can also present the counterargument that the person who made the pencil or brush is not given the right of creation. Another person can say that even if there is an AI tool, artwork cannot be generated automatically without human involvement. The creative right of any creative work should belong to its creator. When developing an AI model or system, the relevant company or person owns the relevant rights. However, the rights of the creations generated using that technical method (AI) should belong to the respective creators. If the relevant AI system is created for the customer, the person providing the creative input related to the creation should own the authorship right to the creation."

However, the comments make it clear that since an AI system provides more input than traditional software, it must adhere to a certain standard of authorship. **P3** states that the authorship of a work should be given to the person who uses his creative thinking and skill to prepare a certain artistic work as a fixed medium. He responds to the notion that authorship for AI creations is given to the AI system or to the company/individual creating it by referring to Pablo Picasso's 'Bull's Head'. He states "Even if other creations are used to generate art, there is no problem in giving the authorship to that creator because the final creation is a new output". The reality that is clear from this is that even if other existing artworks are used to create an art piece, even if it is inspired by them, if the final creation is original and unique, then the creator should own the authorship.

A problem that arises here is that many creations must be used for training an AI system. In order to generate artwork from an AI system, the user has to give it a small input (prompt). The entire creation is generated using the trained artworks in the respective system. Although a big task is done by the AI system, some creative output can be obtained from the creative input applied by the user. Thus, if the user does not apply creative input (prompt), all the creations in the system will be just a dataset. Therefore, using the data of thousands of those creations, even though the AI system has done a great job of getting a creative output, it is clear from **P3**'s comments that the user who creates it as an output should own its authorship.

P7, a news producer of National Television who created AI-generated presenters for TV programs for the first time, is of the opinion that if authorship is offered for AI-generated works, it should be given to the user. His argument becomes that once an AI tool is offered to the public for use, the person who performs any work using it should own the right to it.

Many of the experts involved in the in-depth interviews thought that the user should receive the authorship for the AI artwork. But that is their opinion. According to the Doctrine of Exhaustion, since many rights belonging to an AI service are lost once it is made available for consumer use, it is understood that the AI service does not receive copyright for an AI-generated artwork. But it is also clear that there are times when this factor is subject to limitations according to the regulations and terms agreed by the customers while using the AI service.

An owner of a work protected by copyright is the person or organisation that possesses the legal rights to it. At first, the author is usually regarded as the only owner with the authority to decide how the work is used and distributed. Owners have the power to protect their rights against unauthorised use and can transfer ownership through agreements. Ownership has the same problem as authorship in generative AI artworks. The issue of ownership can also be resolved if the authorship is clearly disclosed.

P4 indicates that the ownership of a work generated by a free version of Generative AI should be 50% owned by the AI service and the user. He stated that "But if I pay and buy an AI service, I must have the right to publish, recreate, and distribute the artwork generated by it". The argument he presents here is that the rights of a creation generated through a free AI service are 50% owned by the user and the AI service. Although the user has some rights related to authorship, he further states that the AI service has 50% rights related to its ownership. He commented on the ownership of such a creation after it is generated by a free AI service "If I generate art from a free AI service, the right can be mentioned as 'Art by Chanux', or 'Generated by Midjourney'". In his opinion, the generative AI service should have the ability to make decisions related to display, distribution, and reproduction related to that creation (free version). However, he points out that if you use a paid premium version, you should have full ownership of the creations generated from it.

According to the creative input used for a creation and the originality of that creation, the ownership of that creation should be received by the person who creates the final output. Whether it is a free version or a premium version, it is the nature of IP law that ownership belongs to the person who generates it for the creation or to the person who obtains the legal rights from him. According to the creative input used for an artwork and the originality of that artwork, the ownership of that artwork should be received by the person who creates the final output. Whether it is a free version or a premium version, it is the nature of intellectual property law that ownership belongs to the person who generates it for the creation or to the person who obtains legal rights from him.

P12, an AI artist, has the same idea as **P4** about giving copyright ownership and authorship for AI creations. His idea is, if the AI service is purchased and used for a fee, then there is no problem in giving full authorship to the person who generates a creation using that service. But even if the copyright is given to the user, its ownership should be shared 50% between the user and the AI service company. In the nature of AI technology, the AI service plays a major role in generating design. Although some human intervention is done by the user, the AI service contributes more to the task of generating a new creation from the existing works. Therefore, in his opinion, it is fair to divide 50% of the ownership of an AI-generated work between the user and the AI service. Operational issues arise when users and AI are given 50% of the rights each. This brings up useful considerations regarding licensing, distribution, and modification decision-making. Due to AI's lack of agency, the complexity of the law, accountability concerns, and the requirement for considerable legislative and regulatory reforms, a 50/50 balance of rights between AI and the user is not practicable.

By analyzing the interview data of **P10**, a discussion about AI authorship and ownership can be built. His argument becomes that there is no creativity in AI creations and the prompt provided by the user cannot be called creativity. Even if the user gives a prompt to generate an AI artwork, the AI system doesn't have the imagination or experience that a creator should have in creating one of them. Also, artwork is generated by an AI system, by a user's prompt, and by using the existing data and existing creations in the AI service. The argument he presents is similar to **P9**'s argument.

He states that if it is possible to measure the human input and machine input applied to an AI creation in some way, it is fair to grant copyright if the user who created it has made a significant contribution to the AI-generated artwork. The basic problem of granting copyright for AI works in copyright law is the dilemma of who is the author of an AI work. The factor of 'lack of human creativity', which is contained in his idea, creates problematic situations in the granting of copyright. Because artistic works are protected by copyright, the generated artworks must also contain at least a minimum of creativity. It is also mentioned in the use of copyright law as a 'modicum of creativity'.

But according to this analysis, it is clear that there is some practical logic in the opinion of **P10**. His idea is that the AI system lacks creativity. Questions arise about what creativity exists in applying such

a prompt by the user. The AI system truly plays a major role in generating AI creation. No matter how creative a prompt is given to the AI service by the user applying the prompt, the AI system takes the lead in generating the final output. However, it cannot be denied that there is creativity in AI creations deserving copyright. For that, the entire world must come to a mandatory discourse. If the creativity in AI creations cannot be determined by the concept of 'human creativity', then it should be encouraged to focus on the concept of 'machine creativity + human creativity'.

The Chief Operating Officer of well-known Sri Lankan music company, **P2**, comments on authorship and ownership. He claims that musicians around the world have been using AI technology to create songs for some time. He states that AI is used for chord progression, instrumental sound generation, etc. for those creations, and there is a lot of human intervention in those creations, so giving copyrights to the creators of those songs is not a problem. He says that if the songs are generated by AI technology, similar to other copyrighted songs, it is a copyright violation of the original musical work, otherwise it is not a problem to give a copyright authorship if the AI technology is used for song creation. He is particularly concerned that "If a 100% AI-generated creation has to be given authorship, then the problem will be". If **P2**'s statement is discussed, several interesting facts can be revealed. In relation to that, a survey conducted by Ditto Music, a world-famous music streaming, download and social platform, has revealed that AI technology is used by almost 60% of the musicians who deal with their platform (Hetherington, 2025). This makes it clear that many musicians in the world are using AI technology for their song creations. But since these creations are not 100% AI generated and have clear human input, there seem to be no copyright issues.

P8 points out that if AI technology is used for a certain creation for tasks such as changing colors, shaping music, then a clear human input is reflected in it. He states that it is not problematic to use AI technology to shape a creation because it is not completely AI generated and there is a clear human intervention. Although AI technology was used for Sri Lanka's first deepfake advertisement, it is relatively less than the human contribution used in that creation. AI technology has been used to recreate the appearance and voice of four Sri Lankan artists. However, although AI technology is used for this advertisement, there is a clear human input for it. Reconstructing old photographs, shooting dummies, using dummy models, studio shooting, post-production work has been created with human contribution, so getting copyright protection for this kind of work does not become a problem.

Once certain legal agreements are reached regarding the authorship of AI artworks, ownership issues are also over. If such a specific agreement is reached, there are clear provisions in the IP Act of Sri Lanka regarding the legal protections related to the copyrights of the owners of those creations. Therefore, if there is sufficient and identifiable human input for creation, it is necessary to enact a special copyright law to give authorship and ownership to the person making the creation, and protection can be provided through existing copyright law.

4.2. Exclusive Rights

Original works of authorship, fixed in tangible forms of expression like music, dramatic, painting, or literature, are protected by copyright law. Owners of copyright are the only ones with the authority to make copies of their original works and to reproduce, distribute, perform, exhibit, and create derivative works from them. While copyright protection lasts for various durations, it covers the author's lifetime plus an additional number of years in many countries. The author of a creation does not always own its exclusive rights. The author of a creation can legally transfers its exclusive rights to another person or organization through an agreement.

P8 believes that the exclusive right of an AI artwork should belong to the user who creates that artwork. He points out that AI software is merely a facilitating tool and cannot be entitled to exclusive rights after applying the doctrine of exhaustion. Therefore, if the authorship of AI artworks are correctly interpreted and included in copyright law, it will be possible to solve the problems related to exclusive rights. Determining who owns the exclusive rights to reproduce, rent, distribute, and display an AI-generated artwork in particular becomes easier after determining precisely who owns the authorship of AI artworks.

The IP Act No. 36 of 2003 in Sri Lanka (09(1)) provides the holder of rights the primary economic rights, which include the exclusive rights to reproduction, distribution, public communication, importation for commercial purposes, rental/lending, and public performance, for specific types of works. By granting the right to reproduce, distribute, publicly perform, rent, or lend, transmit to the public (public display/public perform), and prohibiting the importation of copies that infringe their copyrighted works or subject matter, these exclusive rights provide the holders of the rights control over the commercial use of their creations. The Act's economic rights framework attempts to give owners of intellectual property the ability to profit financially from their ideas and to be compensated when others misuse their works.

P1 says that there is no originality in AI creations because existing creations are used for it. Also, when studying exclusive rights, it is important to discuss his views. He states that “Many television channels earn money by promoting our songs. But paying royalties to the original creators of those songs is deliberately avoided. In such a situation, a strong discussion should be built to protect the copyright of human creations before creating a discussion about the protection of creations created by AI. The owners of the work should have economic rights. It is questionable whether the copyrights of the authors/owners are protected in a country like Sri Lanka”.

Especially for musical compositions in Sri Lanka, the copyright belongs to the lyricist and the composer. However, there is a big allegation in Sri Lanka that the relevant parties do not receive royalties under their economic rights regarding song creations. His statement is confirmed by comments made by two senior television producers, **P5** and **P6**. They stated that currently there is no proper system to pay

royalties to song creators from the channels they work for, and there have been no legal problems related to royalties so far.

Therefore, the argument brought by **P1** is reasonable. In order to protect AI creations, it is necessary to prepare a proper legal system for the proper protection of human artworks and how economic rights should be owned by the relevant parties before the creation of copyright law for AI work. There is a period of copyright protection for a work, which is not the same globally. According to the copyright law of Sri Lanka, copyright protection of creation can be enjoyed only during the lifetime of the author and up to 70 years after his death. Then it becomes public domain. Also, a 50-year protection for related rights has been provided by the act. Therefore, the author can enjoy exclusive rights within the copyright protection duration.

P8 presents a suggestion regarding the protection period to be given to AI creations in copyright legislation. He states “This is because related rights are created based on copyright. Since AI artworks are created based on copyright, it can be argued that they can be given a protection period of 50 years”. Based on related rights, he proposed to provide a 50-year protection for AI creations, but it may change according to the internal laws, international conventions, and agreements of each country. However, there is no problem with the IP Act of Sri Lanka granting exclusive rights to AI works. But to grant exclusive rights, it is necessary to first decide who the author is. After reaching a unanimous decision regarding authorship, it is not a problem to give exclusive rights to AI creations. . But even though AI technology has been used for certain parts of songs, since there is a clear human involvement in the process of those musical works, exclusive rights can be offered to those musicians under copyright law. A problem arises here when the entire creation is generated by AI.

4.3. Moral Rights

In copyright law, moral rights are a different kind of rights from economic (exclusive) rights. Protecting the non-economic interests and reputations of creators or authors of works is their focus. Moral rights are divided into three main parts: the right of attribution, the right against false attribution, and the right of integrity. The right of attribution grants authors acknowledgment and identification of their work, and they are protected from fraudulent attribution by the right against false attribution. Lastly, authors can have the ability to shield their work from derogatory remarks that might damage their reputation according to the right to integrity. Authors may give up these moral rights, but they are nontransferable and exist independently (copyrightLibGuides: Module 1: Copyright Basics: Moral Rights, 2023).

It is important to discuss the idea presented by **P8** regarding the moral rights of AI artworks. He claims that the author owns moral rights based on the originality of the creation and if it is included under protected works. In particular, some people allege that since a large amount of existing AI works are trained to generate AI creations, it is not reasonable to grant moral rights to AI creations. But **P8** also

comments on that and states that “Moral rights are not something that we get because we have done the work fairly, and it belongs to the final creation”.

Whether existing works used for a particular creation are copyrighted or open access, if originality is demonstrated by the final creation, the author owns the moral rights. Under Section 10 of the IP Act of Sri Lanka, the provisions regarding Moral Rights are given. According to the IP Act 2003: (a) to have his name indicated prominently on the copies and in connection with any public use of his work, as far as practicable, (b) the right to use a pseudonym and not have his name indicated on the copies and in connection with any public use of his work, (c) to object to any distortion, mutilation, or other modification of, or other derogatory action in relation to, his work which would be prejudicial to his honor or reputation.

Accordingly, the author can obtain moral rights based on the originality of an AI work and if there is no copyright violation in that creative work. Also, the author's name must be used for the related creation, even if the author assigns its ownership to someone else. It is a right received for the creative work and creative labor of the author. Also, it is stated that the creation should be used without harming the fame, honor, and final creation of the original author. Accordingly, even though the author of an AI artwork also inherits moral rights for the creator, it should be determined who is the ‘author’ to be given moral rights for an AI creation.

P8 points out that, to give moral rights to an AI creation, it is necessary to define the author precisely, but the use of AI technology to make a certain design sharp is not a reason to refuse to offer copyright protection. **P8** also states that the authorship, exclusive and moral rights can be granted under copyright law to the person who uses AI technology for voice adjustments, color changes, etc., and is not fully AI generated and has a clear human intervention. **P9's** opinion also contains the points discussed above. She states that if the author of an AI artwork is determined specifically—whether the user, the AI system, or the entity/person who created the AI service—the author can be granted moral rights under the Sri Lankan IP Act.

According to **P2**, AI technology has been used for musical works for many years. Here, human intervention is very high compared to AI technology in musical works. Therefore, those creations belong to human creations and for that, they get copyright protection. There, those creations' authors will have exclusive and moral rights. In this way, providing moral rights is problematic for fully AI-generated or relatively low human intervention creations.

Accordingly, when discussing the data obtained through in-depth interviews, there are provisions in the existing IP Act to provide moral rights for AI creations. When someone uses an author's creation, the original author is entitled to moral rights to mention the name of the author of that creation, to give the corresponding credit to the author, and to protect the expression of the creator and the creation from

distortions. However, the main problem in providing exclusive rights for AI-generated artworks as well as in providing moral rights is that the IP Act has not properly defined who should be given those rights.

5. Conclusion

According to the analysis of the data obtained in conducting this research, final conclusions can be drawn regarding certain matters. The direct answer to whether AI generated works can be protected by existing copyright law in Sri Lanka, which became the research problem of this research, is 'no'. There is the possibility of protecting AI generated works (Audio-visual works) under the categories of works specified as 'protected works' by Sri Lanka copyright law. However, since the authorship of AI generated works is not clearly legally defined, it cannot be protected.

The reason is that in order to provide protection for a certain work by copyright law, the work must have a clear authorship. But the fact that the author of the AI generated work has not yet been clearly defined has become the main problem in providing protection. It became clear through the analysis.

Art is constantly changing and the latest trend in this evolution is AI art. It is technical art. According to the results of this research, future developments in AI art could bring about a lot of changes. Also, it will become another common art at some point in the future. Therefore, the problem of authorship of AI artworks must be solved. The authorship of an AI artwork must belong to the user. Some scholars are against giving the authorship of AI works to the user because the AI system does a big task related to generating the artwork and the human involvement is less in comparison. However, any service is offered to the public for their use and Generative AI tools are created for people to use. Therefore, once a person generates an artwork through an AI tool, if the authorship of that creation is assigned to the AI tool, there is no point in making it available to the public. When copyright is granted to AI tools or systems rather than users, the fundamental justification for public accessibility and creative agency conflict. Although the majority of the technical generation process is performed by AI systems, this study argues that the user who initiates and controls the output through queries should be considered the legitimate author, if the originality and intent can be demonstrated. In this way, the creators of AI artworks will be crippled by not giving the authorship of AI artworks to the user who is prompted for it. Also, there will be no creation and innovations through AI technology. The alternative is to assign authorship and ownership to the person or organization that designs, trains, and develops the AI tool or service, and grants the necessary patent rights for that. But once it is made available for public use, the person who generates an artwork using that tool should get the copyright related to his creation. However, compared to other services or tools, the AI tool/service makes a great contribution to the work generated, so ethically the relevant tool or service should be mentioned.

Finally, a clear and specific copyright law should be prepared for AI generated artworks. This study was conducted to examine whether the Intellectual Property Act of Sri Lanka No. 36 of 2003 adequately protects AI-generated works of art. The analysis confirmed the hypothesis that current legislation is inadequate due to the lack of a legal definition of authorship in AI contexts. Especially, clearly confirming the authorship of AI works will make the legislative work easier. Future studies should explore the legal definition of machine creativity and the adaptation of global best practices for countries like Sri Lanka. The qualitative scope of this study and the lack of case law in the local setting at this time are its limitations. In conclusion, Sri Lanka urgently needs a functional and well-defined legal framework to address the new problems posed by generative AI. For such a framework to promote innovation while protecting rights, it must strike a balance between user innovation, ethical considerations, and global best practices.

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