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AN INSIGHT OF AI INTO LAW FIELD¹**ABSTRACT**

Artificial Intelligence (AI) as defined by “John McCarthy is the science and engineering of making intelligent machines”. It also defined the intellectual human behaviour. AI is basically a computer program that includes algorithms and it works according to a human mind. There are many examples of AI such as Google search engine, Alexa, Siri and many more application are there. AI has been adopted by many countries and many are in progress of adopting it totally. And in some countries robots have been made that are based on AI applications. There are many sectors in India too that are using AI works such as healthcare, education sector is also leaning towards AI, software industry and as well other sectors. In India AI is also been used in legal field. AI when used in legal field by lawyers, judges, researchers will help them a lot. Here is an attempt to discuss the issue related to AI in law field such as whether AI will prove to be effective if we use it to provide justice and legal. And mainly the paper will focus on AI in copyright as to whether the AI generated works will have the copyright protection or not. And the outcome of the paper is that the work of AI should be given copyright and they should be regarded as a legal entity.

INTRODUCTION

Artificial Intelligence is an automated machine. Man- made intelligence could likewise be characterized as “psychological advances”. However, named, the field has numerous branches, with numerous huge associations and shared characteristics among them. The main fields are as of now AI including profound learning and prescient investigation, regular language preparing, involving interpretation, characterization and grouping methods.

ARTIFICIAL INTELLIGENCE

AI is a very intelligent machine, it as a human work efficiently, learn from its own mistakes, make quick decisions and work without any human interference. It is like a artificial human kind which is more focused, objective and efficient in making decisions also. And so it works almost like a human mind. It is a suggestive tool which helps a person in making a decision. AI

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has gone far in development and implementation also. We see AI in various sectors such as healthcare, software industry, education, human recruitment process, medicine, manufacturing, communication, entertainment and in our few countries for giving criminal justice, and we see AI in legal sectors also. And so, there are many AI applications that help lawyers to work more efficiently. So, while discussing this there are many issues raised up that whether AI will replace the lawyers, should AI be used and developed more in legal sector, and very importantly in copyright and whether AI will be proven to be effective in delivering legal justice. These all questions will be discussed in the further paper.

- Whether implementation of AI in criminal justice and justice delivery system will be effective or not.

If we see AI is currently deployed and is used in many corporate law firms across the world. But when the scope of AI in criminal justice system comes then we see its very scarce. Due to the reason of lack of objective data set in the criminal cases, insufficient infrastructure and a lack of understanding within the criminal justice system over the use of AI. But still AI can be effectively implemented in some of the area of criminal justice, such as main task under criminal justice is the process of investigation to determine the truth which may lead in reduction of crimes. We can apply Manual facial recognition as used in USA and China with the help of this technique as it can identify facial pattern without human error. And similarly, the Punjab Artificial Intelligence system does the function of storing the records and all and also performs facial recognition. AI can also help and assist the judge in determining whether the person in near future is likely to commit a crime on the basis of AI analysis.

In USA they use COMPAS to predict the risk of an accused to commit a crime. And these all can be used to determine the bail proceedings and the sentencing of the accused. With the help of AI, we can also predict the hotspot of crime. In India the National Crime Records Bureau is working in co-ordination with ADRIN based in Haryana to imply predictive analysis.

Legal Aid is an important element of our justice system. And in India the right to Legal aid is under Article 39-A and it is the obligation of state to provide legal aid to the needy. The parliament has also passed the Legal Service Authorities Act, 1987, for the implementation of Legal aid in India. And so, we can provide Legal Assistive system for legal aid and with this people will get justice easily.

AI will be very effective in providing justice in India. As the use of AI will loosen the time taken at different stages of a trial and the judges also assisting them will reduce the ordinarily length of time taken in trial. And in India it is a much-needed thing because there is a lot of

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pendency of cases and this result in delay of justice.

We don't want to replace the lawyers with AI and neither can it happen but AI with assistance of judges will be very good. And there are some privacy concerns and other issues with AI. But cautious deployment of AI will prove to be very effective and for a noble cause.

Artificial Intelligence and Copyright Law.

- Whether the work of AI will be given the copyright protection or not?

There are certain instances where computers are used by humans as a tool in making of works of authorship and the works from them are considered as Computer Assisted Works (CAW_s). The dilemma here starts from the conception that only human beings are the only source of creativity and they are only capable of producing original work in copyright law. And the term author also includes a natural person, and whereas machines are not a legal person or entity. And so, no copyright can be there if there is no natural person behind the work. And the laws are still silent that whether non-humans can pass for authorship and this has open doors for judicial interpretations. Thus, this raises a question whether there is a need to change the law so that a provision can be included for non-human authorship.

The concept of authorship in United States of America, we see in recent litigations that they looked into the issue of human and non-human authorship. In case of *Naruto v. Slater*², the district court of California dealt with the question of animal ownership in photographic works. But in 2016, the Court dismissed the case and refused the claim of monkey for the photographic authorship. As to qualify for Copyright person should be involved. The case was settled outside the court in 2017. But still this case raised the issue whether non-human authors should be provided copyright protection or not.

And in section 2(d) of the Copyright act, 1957³ also does not include anything related to non-human author. And if the non-human authors get their copyright protection then who will claim their moral and economic rights, how a suit of infringement will be filed in a court. The works created by Artificial Intelligence satisfy the needs of humans. And I also think that Artificial Intelligence works should be given protection under the copyright law. Artificial intelligence at present is designed in a way that they can produce work on their own.

Artificial Intelligence doesn't always copy but also creates work that is original and new. And so, it's very important in the scope of Intellectual property. They are capable of working

²*Naruto v. Slater*, 888 F.3d 418(9th Cir. 2018)

2. The Copyright Act, 1957(Act of 1957), s.2.

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without any human intervention. They can process large amount of data.

In Germany they say that works created by individuals are protectable and thus works of Artificial Intelligence will not be protected. In Copyright law of Japan, it's said that they also don't protect the works created by Artificial Intelligence machines. But in United Kingdom there is opposite of this there the copyright act protects the work created or generated by Artificial Intelligence machines.

And in India we see that the works have to pass the test of originality, and so when we talk about whether the work created by machines can pass the test of originality then we see that there is a Modicum of Creativity a doctrine of test of originality. And as indicated by Modicum of Creativity, innovation remains alive in a work where an adequate measure of scholarly imagination and judgement has gone into the production of that work. The level of imagination need not essentially be high however a base degree of inventiveness ought to be generated for copyright. The Indian courts have restricted a bit of inventiveness test on account of Eastern Book Company v. D.B Modak⁴. After a careful reading of the doctrine, it cannot be said that the machines cannot achieve the modicum of creativity and the machines generated work can pass the test of originality.

And these all things are of very much importance and the amendments must be done to suit the requirement of the emerging scientific system and society. And so, the AI works should be provided copyright protection.

- Can AI be called as a legal entity?

The very first challenge is that whether Artificial Intelligence can be termed as a legal entity. Section 2(d) of the Copyright act defines the term 'author'. And it says that for the ownership of any copyright work the person should come under the heading of "author". And then there is a complexity regarding this AI is not regarded as a legal person. According to Sec 2(d) (vi)⁵ "author" "means in relation to any literary, dramatic, musical, or artistic work which is computer generated, the person who causes the work to be created;". The issue under this definition is the expression 'the person who causes the work to be created'. For an individual to make a work be made closeness of the individual with the work is significant and with the end goal of this act individual here methods a human or a legitimate individual. Hence, the current Copyright Act isn't comprehensive of AI frameworks. Along these lines, with regards to work that are made by AI, their initiation would be conflicted under Indian Copyright Laws. Law

⁴ Eastern Book Company v. D.B Modak, 2008 1 SCC 1

⁵ The Copyright Act, 1957 (Act of 1957), s.2(d)

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awards rights to just the individuals who are perceived by law either as common or counterfeit people. Till now statute around the globe has not formally acknowledged the proposition to concede legitimate personality to these non-bionic people. In spite of the fact that new patterns will in general show that such lawful personhood can be given to machines. As of late in 2017 an artificial robot named Sophia was conceded as the world's first robot and was granted full citizenship.

It is an idea of Common law that only individuals can sue or be sued and it absolutely additionally applies to Intellectual Property Rights. To be capable to apply for Intellectual Property Rights and furthermore to sue for any encroachment of such rights, the body must be a Legal Person. The Supreme Court in many cases have given the idols the authority of holding property and so this process can be applied to artificial intelligence also. Accordingly, we see that Artificial Intelligence is fit for holding the tag of legal entity. As it is smarter than humans, animals and others, and so it can be presented as corporation by individuals. And thus, Artificial Intelligence must get their work copyrighted.

- Some of the obstacles while applying copyright frameworks to the work created by AI machines.

We can give authorship rights to the work created by AI machines, but artificial intelligence is not a legal entity and so the courts will not grant authorship rights that is not a legal person. And then if authorship right is given to the programmer, then the incentives will be given to them and then they will further increase and improve the works of artificial intelligence.

Nova Productions ltd v. Mazooma Games ltd⁶, in this case the parties were the electronic pool games creators, and the UK royal court gave the authorship rights to the programmer as he was the creator of the infringed element of a video game. But if this happens then it will be wrong to the programmer as the works were created by the machines. And if we give authorship rights to the end users then it will be injustice to the programmer as no incentives will be given so to make new works.

Other obstacle is that we can put the work created by Artificial Intelligence is to put the work in public domain. It says that well one thinks about that it costs AI essentially nothing to make work. When AI has been created to make a specific sort of work, it can make endless emphases of it without bringing about any expenses.

Yet, there are issues with putting the AI produced work out in the open area. Engineers don't have motivators to grow more AI, or improve its capabilities. For individuals and organizations

⁶Nova Productions Ltd v Mazooma Games Ltd, 2007 EWCA Civ 219

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will in general put a ton of cash for improvement of AI innovation, and placing them in broad daylight area neglects to urge them to put resources into AI research bringing about decrease of AI just as development in technological sphere. Thus, quickly putting the work of machines in the public place is undesirable as it diminishes the measure of works entering the public space thus counter-gainful. It turns out to be progressively hard to credit a creator to its maker. An individual can basically change the work made by AI and guarantee it his own. It is difficult to find the maker of a craftsmanship. Aside from dis-booting designers to cause AI to make work more it would likewise prompt IP burglary, numerous cases of possession for same work.

But when we talk about putting the generated work in public domain then the above were drawbacks of the same but it gives a possible solution also that it implies that the creator is simply the machine. It is programming that is anything but a legitimate substance thus no rights will be denied off of it in the light of the fact that there were no rights at all. Additionally, the developer will get his code copyrighted and due to that it will get satisfactory security and will likewise be made up for. So, giving the work in public domain might be a possible solution to this.

Conclusion

Much intricate types of AI frameworks that make human existence a lot simpler is around and we can't stand to disregard this turn of events. Artificial Intelligence based frameworks will assumingly control over the world sooner. This outlook change is now unavoidable for human mankind. So we now need to work along with them. And the amendments in law must be done regarding providing legal entity to Artificial Intelligence and copyright protection to their works too. And this an important requirement as it will also boost our economy.

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