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**THE NEED FOR AN IMPROVED LEGISLATIVE FRAMEWORK TO
DEAL WITH THE ADVENT OF AI-ART**- V.Harshavardan¹**ABSTRACT**

AI art is all the rage in today's digital environment. Social networks are abuzz with concepts and images that once resided in people's imaginations, considered impossible to execute. It has been rendered possible through the wonders of machine learning and computer programming. This has opened up a new world of possibilities for artists and creators. However, like any other innovation, it poses several challenges, such as the creator's rights and control over their works. Through this research paper, the case for a stringent and sophisticated legal framework to protect creators while facilitating their creativity will be proposed.

INTRODUCTION:

Artificial Intelligence (from now on referred to as 'AI') can be defined as a robust combination of computer science and data sets that leverages internet networks and machine learning to mimic human problem-solving. We have been warning ourselves of the possible threats of AI for several generations now, mainly through the medium of science fiction works. An oft-repeated counterpoint to those who were harping on about the potential dangers of AI were these stories themselves, as it was argued that AI could not imitate the 'human touch' requisite for crafting these stories, nor any of the other activities that humans indulge in, that supposedly existed outside of the cold, logical and purely rational state of mind exhibited by AI-equipped technology and were essential to our sustenance. As a result of this lack of 'human touch', it was argued that AI would always remain subservient to man. That fallacy can be put to rest now. AI-Art is here, and it's eerily close to the real thing. AI-Art can refer to computer-generated paintings/photographs/animations and even computer-composed pieces of music. These are created by programmed algorithms utilising

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in-built knowledge and machine learning.

These algorithms are instructed in a free-flowing manner to learn and analyse existing art and then to create their rendition of the same, using machine learning, drawing from the vast collection of already completed works of art. This process has given rise to a new facet of art, AI-Art, with vastly unique, differing and fascinating results.

Analysis of present status quo:

The Indian Art Industry is a unique and indelible part of world culture. Its influence is found throughout the annals of history and is omnipresent regarding its impact on the economy and politics. Indian art has endured and remains endearing to multiple generations. An approximate report by American experts pegs the approximate value of limited artistic works only to be between \$80 million and above. 'Indian Art' encompasses a smorgasbord of myriad art forms, from prophetic carvings engraved on cave walls to the latest state-of-the-art digital video reconstruction of a deceased celebrity's likeness. The growth of the Indian Art fraternity has been nothing short of meteoric, and the advent of AI technology appears likely to bolster that growth. As mentioned above, however, it brings multiple new complications and conundrums.

AI-Art is primarily created through the marriage of ideas between humans and machines. This gives birth to the problem child, the dispute about the actual creator of said work. Must credit belong to the AI or the human being? This uncertainty has bled into relatively grey areas, such as who must be the financial beneficiary of the AI-generated art/product. Another serious challenge faced by artists in today's internet world is multiplicity. The theft of art, ideas and innovation has never been more straightforward in human history. These problems will only be compounded by the impending AI revolution, particularly in art. Proper legislation must be passed so that the artists are immunized and protected from the tidal or seismic wave that AI will surely bring. Floodgates will be opened without proper protection, the artist's rights will be exploited, and existing laws protecting artists will be rendered obsolete.

The Indian Art fraternity has grown by leaps and bounds, with several artists experimenting and treading new grounds in their respective fields. The need for an all-encompassing legislative framework to ensure that the artists' rights are not forsaken is of utmost urgency

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and importance. It must shelter artists from exploitation while providing ample opportunity for boundless creativity and innovation.

Existing laws in our country need to be expanded in scope, thus ill-equipped to deal with the problem. The Copyright Act of 1957 and The Trademarks Act of 1999 are prominent examples of the laws in place regarding questions of authorship and ownership. A later amendment to the Copyright Act provides for the “person who caused the work to be created” to be given authorship. This remains the only piece of Indian legislation that provides a tangible answer as to whether AI can authorise a work of art.

An instance of the evident confusion in this regime can be comprehended in the case of granted and subsequently redacted authorship given to ‘AI-RAGHAV’. In this particular case, the copyright office rejected an application in 2020 that claimed AI-RAGHAV was the sole author of an art work; followed by another application in which a natural person and AI-RAGHAV were designated as co-authors for another painting in which the copyright office allowed registration. Soon after, the Copyrights office filed a withdrawal notice of the allowed registration. Currently, proceedings are in motion where the Copyright Office placed the onus on the applicant to “inform the Copyright Office on the legal status of the AI tool”, and the Human Co-Author claimed that once granted, “a copyright registration cannot be withdrawn”. Although the current status of this case is unknown, according to the Copyright Office's website, the quality of this application is still registered.

Symptomatic of the level of apathy and the unpreparedness of the Indian legal system about the impending deluge of AI-Art is the case of the AI author RAGHAV. After initially denying sole authorship by the AI. The copyright office was designed to grant the copyright during a subsequent application in which the AI was a co-author and a natural person. After much discussion in public forums, the copyright office moved to withdraw the allowed registration. Arguments made by the office include placing a burden on the applicant to inform the office of the status of an AI author in the eyes of the law. Cases like this highlight the woeful ineptitude of the existing legal structures and the urgent need for stringent legal frameworks regarding AI-Art.

Drawbacks of the current legislative framework in India concerning AI Art:

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It is apparent that the chemical status of AI, in a legal sense, is being deliberated and debated in our country and that the legal community is aware of the need for more secure, well-fortified laws to protect and preserve the creativity and individualism of artists. It is also apparent that the existing law is incompatible with Modern AI. An example is The Copyright Act, which categorises all work created through a computer or similar programmed interface, to be authored by the person responsible for the computer's functioning. This is an opaque and arbitrary distribution of authorship rights, as modern AI bots are no longer just a tool or a means to an end and are intrinsically involved in the creative process. As a result of this seeming contradiction caused by archaic law, there exists renewed uncertainty and doubt about who is the actual author of such art.

Despite being intended for a slightly different period, and somewhat less evolved technology with much simpler programmed purposes, specific Indian legislations provide a tangible framework for creating a prospective uniform structural framework concerning AI-Art. Examples include the Information Technology Act, The Indian Penal Code, and The Indian Contract Act, which serve as a valid foundational basis, a skeleton for a potential future framework for AI. It is clear, however, that these laws need to be equipped to deal with all the complexities and nuances that are apparent hindrances and roadblocks in the issue of AI. To go into particulars, it does not deal with the moral and ethical questions posed by AI, the inherent programmed input bias that can be exploited in the wrong hands, or the specifics of AI-based contracts. It also does not deal with potential invasions of privacy and blatant ripping off of existing work. These are some challenges the new legal and regulatory framework has to fix.

These drawbacks extensively showcase the necessity for new legislation to address the diverse and novel challenges the AI revolution poses. The new laws must decide on matters such as authorship/ownership rights over the art from the perspective of both the human and AI creators.

Proposed Solutions:

Possible solutions for the legal conundrum detailed above include focusing on the issue at hand from three different vantage points:

- **New and Improved Legislative Framework:** Updating the existing, archaic laws to

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make way for new and innovative legislations adeptly and equipped to deal with the manifold problems posed by AI in a multi-pronged manner are the need of the hour.

- **Regulatory Structure:** Forming a regulatory watchdog to guide and correct the development of AI Art, enforce legality and carry out dispute resolution. These functions would be of utmost importance as they would occur on the very precipice of AI evolution, is of utmost importance. The priority must be to protect the artist's rights and uphold a similar value system as always, one of equity and fairness, but also one accommodating of AI Art.
- **Tech-based solutions:** New technological software could help regulate, maintain and protect AI-created art. It also removes bias in the oversight of the same. These innovations enable creators to safeguard their creations, prevent unauthorised use and ensure control/authority over the monetisation of their products.

Mooted Changes to legislative structure:

The laws that protect and guide AI regulation must be multi-faceted to deal with the challenges posed by Artificial Intelligence. Some proposed inclusions are as follows:

- **Uniform Norms regarding rights and fixed regulatory authority:** Lay down the basis for proper authorship/ownership rights for artists about their work, with specific particularity to those that include the contribution of AI. A regulatory body to deal with these cases, preferably a government agency, can also be constituted.
- **Precise, clear and uniform laws about the accreditation of work for art:** Precise and clear information must be provided if a piece of art is AI-generated or involves AI. Specifics such as the artist's name, creation date, and the program/software used must also be included. These must be visible to the commoner and pointed out to the regulatory authority as soon as possible in case it is not apparent.
- **Well-defined revenue-sharing structure:** The law could provide for the constitution of a revenue-sharing model which distributes the revenue in a balanced/fair manner through a binding accord that could be enforced through judicial means.
- **AI Art Contract Laws:** A regulatory framework to prevent contracts from getting

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murky or exploitative. The future regarding AI is also uncertain, so there must not be unrealistic caveats. The primary purpose is to set a standard for contracts that is uniform, fair and is transient, and adaptable.

- **AI Art Consumer Protection Laws:** Constitution of a mechanism to protect the rights of consumers and ensure that rampant exploitation does not occur, nor does the dissemination of fake news or misleading claims. A regulatory agency to ensure the above doesn't just remain words but are appropriately executed.

These are a few illustrations of the regulations that might be implemented to control AI in India. The Government of India should establish Committees to advance research and development, consult with stakeholders, and keep an eye on global trends to guarantee that AI is developed and applied responsibly in India and that the rights of individuals and society are protected.

Conclusion

A diverse strategy is needed to address the complex and urgent problem of protecting artists against AI art. It is possible to guarantee that artists are safeguarded, and their rights are upheld in the digital era by combining legislative frameworks, regulatory organisations, and technological solutions. In conclusion, the effects of AI on the art market have brought about new difficulties for artists, such as concerns over the creation, ownership, and control of AI works of art. A comprehensive strategy involving the adoption of new legal frameworks, establishing regulatory organisations, and using new technologies is required to address these issues and safeguard artists' rights. Establishing such a strategy will promote innovation, the protection of artists' rights, and creativity in the AI Art industry.

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