Artificial Intelligence (AI) and Copyright Law in Nepal: Bridging Legal Gaps in the Digital Era

Giri Raj Aryal

Faculty of Humanities and Social Sciences, Pokhara University, Nepal
Email: girisharyal123@gmail.com

Abstract

This study examines the adaptation of copyright law to emerging technologies, with a focus on artificial intelligence (AI) and digital platforms in Nepal. It explores the Nepalese Copyright Act of 2002, identifying its inadequacies in addressing AI-generated content and online piracy. Using a comparative legal approach, the research contrasts Nepal's framework with international standards, such as the Berne Convention and the WIPO Copyright Treaty. Findings reveal that Nepal's legislation lacks provisions for AI-generated works, resulting in ambiguities in authorship and ownership due to the non-human nature of AI. Global approaches vary, with countries like the UK and China adopting different models, highlighting the need for harmonized standards. Nepal's enforcement is hindered by limited resources and outdated systems, exacerbating challenges in protecting creators from digital infringement. The study recommends amending the Copyright Act to define authorship for AI works, strengthen anti-piracy measures, and align with global best practices. Proposed measures include implementing notice-and-takedown procedures, enhancing enforcement mechanisms, and increasing public awareness to balance creator rights with innovation. These reforms aim to reinforce Nepal's copyright system, ensuring it supports a competitive digital economy while promoting equitable access to knowledge and fostering innovation on a global scale.

Keywords: Copyright law, artificial intelligence, digital technology, Nepal, WIPO Copyright Treaty

Introduction

Throughout history, copyright law has developed in tandem with technical advancements, bringing with it both new opportunities and obstacles for the protection of artistic creations. As evidenced by the United Kingdom's early copyright regulation in 1557, copyright law was first created to control the duplication of written content following the development of the printing press in the 15th century (Goebel, 1998). By giving authors temporary ownership of their works, the Statute of Anne (1709) established the groundwork for contemporary copyright (Craig, 2021). Standardized guidelines for the worldwide protection of literary and creative works were eventually created by international agreements such as the Berne Convention (Craig, 2021). The ability of copyright law to control the reproduction and distribution of new media, such as photocopiers, VCRs, CDs, and DVDs, was put to the test as technology developed. Of artistic creations. The internet created previously unheard-of difficulties for copyright enforcement because of its capacity to swiftly and affordably distribute enormous volumes of copyrighted content. This sparked debate regarding the conventional division between public and private use as well as the parameters of "fair use" (Hutchison, 2016). The World Intellectual Property Organization (WIPO) issued the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) in 1996 in response to these issues; these agreements are referred to as the "Internet treaties." By addressing topics including digital transmission, anti-circumvention strategies, and rights management systems, these treaties modernized copyright safeguards for the digital era (Hutchison, 2016). New difficulties emerge as we go into the era of artificial intelligence (AI). AI is currently capable of producing creative literature, music, and visual art, posing important queries regarding copyright law's concept of authorship, ownership, and responsibility. Since present copyright rules were generated for human artists and might not fully protect machine-generated content further complicates the legal environment (Vishnu,2024). The Copyright Act of 2002 in Nepal is generally in accordance with international agreements, such as the WIPO treaties and the Berne Convention. But like many other countries, Nepal's legal system is unprepared to handle the problems posed by the digital era and artificial intelligence-generated content. Although traditional types of creative works are protected by the law, digital and AI-generated products are not specifically regulated. Reforms to improve copyright protection are therefore becoming more and more necessary, especially considering digital media and artificial intelligence (AI) technology (Vishnu, 2024).

Copyright is defined in the Oxford English Dictionary as an exclusive right given by the law for a certain term of years to an author, composer, etc. (or his or her assignee) to print, publish, and sell copies of the original works (Wedehra, 2007). Copyright provides the authors with three types of rights, like moral rights and economic rights

(Wedehra,2007).

Copyright law of Nepal grants authors, composers, software writers, website designers, and other creators' legal protection for their literary and artistic creations, which are usually referred to as "works" (Copyright Act, 2002). This copyright incorporates a wide variety of original and creative expressions, such as novels, poetry, drama, music, paintings, photographs, sculptures, architecture, films, computer programs, video games, original databases, etc. The copyright gives the author a bundle of exclusive rights over his work for a limited period (Copyright Act, 2002). However, the Copyright law of Nepal is silent regarding the right of the author who generates content through digital technology, and AI-generated content.

As this article will examine, the constant advancement of technology—from the internet to artificial intelligence—requires that copyright laws be updated frequently to strike a balance between the rights of authors and the general public's access to knowledge. To ensure efficient copyright protection in this rapidly evolving digital environment, Nepal and other countries must revise their legal systems.

Significant gaps still exist in the Nepalese Copyright Act of 2002's provisions pertaining to the protection of digital content and AI-generated works, even if these rules are in line with international norms. Artificial intelligence, the internet, and digital technology have all grown quickly, posing problems that the current legal system is ill-prepared to address. The law does not contain specific measures for controlling the use and ownership of AI-generated work, preventing online copyright infringement, or enforcing copyright protection in the digital sphere. Because of this, Nepalese artists are unable to stop illegal use of their creations, and the enforcement systems in existence are inadequate to handle the volume and complexity of digital copyright infringements. Nepal's copyright framework is ill-equipped to address the complexities of AI-generated content and online piracy, with no clear guidelines on authorship, ownership, or enforcement in the digital realm. This creates legal uncertainties and hinders effective protection for creators. The following research questions are discussed in this research. Does the Nepalese Copyright Act of 2002 include provisions for AI-generated content and digital technologies? 2. How does Nepal's copyright law align with international standards like the Berne Convention? 3. What reforms can strengthen Nepal's copyright enforcement mechanisms?

Literature Review

A key international agreement that sets basic requirements for the protection of literary and artistic works is the Berne Convention for the Protection of Literary and Artistic Works (1886). It makes sure that works produced in one member state have the same protection in other member states without the need for formal registration by emphasizing concepts like automatic protection and national treatment (Berne

Convention, 1886). It also gives writers moral rights, enabling them to assert their authorship and protest when their works are disparaged. However, there are no specific rules for digital or AI-generated content under the Berne Convention, which mainly deals with traditional types of intellectual property (Vishnu,2024).

Performers, phonogram manufacturers, and broadcasting companies are all granted copyright protection under the 1961 Rome Convention. It gives artists the ability to stop their performances from being aired or reproduced without permission. Like the Berne Convention, the Rome Convention was created before the digital era, which means that it does not adequately address modern concerns like internet infringement and works produced by artificial intelligence (Rome Convention, 1961). To address the issues raised by digital technology, the WIPO Copyright Treaty (1996) was established. It gives writers the sole authority to permit the reproduction, dissemination, and public dissemination of their works through digital channels, extending copyright protection to works distributed in digital formats (WIPO Copyright Treaty, 1996). Although this pact is an important step in the protection of digital information, it falls short in addressing the difficulties of AI-generated works, suggesting that more legal development is necessary (Vishnu,2024).

A comprehensive law designed to prevent digital copyright infringement is the Digital Millennium Copyright Act (1998) (DMCA) in the United States. The DMCA, which was passed in 1998, forbids evading technological safeguards and offers internet service providers (ISPs) "safe harbor" protections, which shield them from liability for illegal content hosted on their platforms if they take prompt action to remove the content after receiving legitimate takedown notices. Addressing copyright infringement in the digital sphere, especially on websites like YouTube, requires the DMCA. It has been criticized, meanwhile, for failing to sufficiently safeguard user rights and failing to address AI-generated content (Litman, 2006).

The Copyright Act of 2002 in Nepal gives writers both financial and ethical rights, but it falls short in addressing the problems presented by digital content and works produced by artificial intelligence. Nepal has ratified international agreements such as the WIPO Copyright Treaty and the Berne Convention; however, enforcement of these agreements is still lacking. Due to the act's inadequate controls over the use of AI and digital technologies in content production, creators are left vulnerable in a world that is becoming more digital. While incorporating traditional creative and literary works, the Nepalese Copyright Act of 2002 also included measures about digital technologies, including YouTube, Facebook, Instagram, computer hardware, the internet, big data, and online piracy (Thapa, 2018).

When it comes to tackling the modern issues brought about by digital technologies and AI-generated content, the international copyright protection tools now in place show notable shortcomings. These contemporary concerns are not sufficiently covered by the

Rome and Berne Conventions. In today's quickly changing technical environment, further legal frameworks are required to assure comprehensive protection for all kinds of creative expression, even though legislation like the DMCA and treaties like the WIPO Copyright Treaty reflect progress toward protecting digital works.

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The legal obligations placed on hosting Internet service providers (ISPs) about copyright infringement are thoroughly examined in Jie Wang's (2016) dissertation, Regulating Hosting ISPs' Responsibilities for Copyright Infringement: The Freedom to Operate in the US, EU, and China. As social media sites like Facebook and YouTube expand, they come under more scrutiny for the content they contain, which may be both legal and illicit. The dissertation aims to strike a balance between the necessity of safeguarding copyrighted works and making sure ISPs are allowed to function without being overly constrained by the law (Wang, 2016).

Wang's research focuses on three main jurisdictions that address ISP liability for copyright infringement differently: China, the European Union, and the United States. The Digital Millennium Copyright Act (DMCA) in the United States' "Safe harbor" provisions are advantageous to ISPs. These clauses shield ISPs from legal responsibility if they adhere to certain protocols, like taking down illegal information after being alerted through the notice-and-takedown mechanism (Wang, 2016). ISPs are legally protected under the DMCA if they act quickly after being informed of the infringement and do not know about it.

Similar liability exclusions are provided by the EU's E-commerce Directive, but each member state is free to establish its frameworks without a standardized notice-and-takedown process (Wang, 2016). While some EU member states, such as France and Germany, have created stricter regulations for tracking down and eliminating content that violates the law, others have more lax guidelines. ISPs operating around the EU face legal uncertainty as a result of this disjointed approach.

China has embraced a notice-and-takedown procedure that is comparable to that of the United States, although it is applied very differently. Under some circumstances, Chinese ISPs must take proactive steps, like filtering content or identifying users engaged in infringement (Wang, 2016). Although this strategy has assisted in the fight against copyright infringement, it also puts more strain on ISPs.

The dissertation makes the case that whereas "safe harbor" clauses in certain nations are meant to protect ISPs from excessive liability, they impose restrictions that

may jeopardize their capacity to operate freely (Wang, 2016). The main obstacle is that different countries have varied interpretations of these restrictions, which makes it challenging for ISPs to adhere to diverse rules in global marketplaces. Furthermore, courts in China, the EU, and the US have different ideas about what "expeditious" content removal, "specific knowledge" of infringement, and repeat infringer rules (Wang, 2016). For example, EU courts may impose stronger monitoring responsibilities, while U.S. courts may be more liberal about the amount of time ISPs have to remove information.

Wang (2016) also examines the conflict between advancing e-commerce and the significance of intellectual property protection. The development of new Internet technologies can be hampered by excessively strict liability regulations for ISPs, which can also lower content transmission efficiency, impede innovation, and increase compliance costs. Wang supports a more uniform strategy for enforcing copyright in all nations.

The dissertation also looks at self-regulation as a substitute for laws enforced by the state. In collaboration with copyright holders, hosting ISPs have created second-level agreements and codes of conduct that permit revenue-sharing and content management techniques. Without turning to expensive legal action. Self-regulation may not always give copyright owners enough protection, even while it offers flexibility (Wang, 2016).

To sum up, Wang's research offers a comparative analysis of the effects of copyright responsibility laws on ISPs in China, the EU, and the US. According to the dissertation, further standardization of these regulations would guarantee ISPs' freedom of operation while maintaining copyright rights and lessen legal ambiguity. In the digital age, this well-rounded strategy would promote economic expansion, innovation, and improved copyright enforcement (Wang, 2016).

Research Methodology

This study employs a qualitative doctrinal legal research methodology to evaluate the Nepalese Copyright Act of 2002 in the context of digital technologies and artificial intelligence (AI)- generated works. The doctrinal approach systematically analyzes legal texts to assess their applicability to emerging technological challenges. A comparative legal analysis is integrated to examine how Nepal's copyright framework aligns with international standards, such as the Berne Convention and the WIPO Copyright Treaty, focusing on gaps in addressing AI and digital content. Primary sources include the Nepalese Copyright Act of 2002, the Berne Convention for the Protection of Literary and Artistic Works (1886), the WIPO Copyright Treaty (1996), and relevant legal precedents (e.g., Walter v Lane, 1900; CCH Canadian Ltd v Law Society of Upper Canada, 2004). Secondary sources comprise peer-reviewed legal journal articles (1; 2), reports from the World Intellectual Property Organization (WIPO), and scholarly commentaries on copyright law, AI-generated content, and digital infringement. These materials

were selected for their authority and relevance to copyright law in the digital era. 1.3 Procedure The research process involved a systematic review of primary and secondary sources. Legal texts were analyzed to identify provisions related to digital content and AI-generated works in Nepal's Copyright Act. Comparative analysis contrasted these provisions with international treaties to pinpoint inconsistencies. Best practices from jurisdictions like the United States (e.g., Digital Millennium Copyright Act) were reviewed to inform recommendations. No human subjects were involved, negating the need for ethical approvals such as informed consent or IRB review.

A qualitative thematic analysis was conducted to synthesize findings from legal texts and scholarly literature. Themes included authorship, ownership, enforcement challenges, and compliance with international standards. The analysis evaluated the extent to which Nepal's copyright laws address AI and digital technologies, identifying gaps and proposing reforms based on comparative insights. No statistical methods were employed, as the study focused on interpretive legal analysis.

Findings

Traditional copyright law faces significant issues because of the proliferation of AI-generated content, particularly with relation to authorship, ownership, and originality. AI, powered by machine learning algorithms, can analyze enormous databases and produce content on its own. However, there are intricate legal issues because this content creation method is very different from human creativity.

Attributing authorship to AI-generated works is one of the main obstacles. Conventional copyright rules acknowledge that people are creators and that originality and inventiveness are essential requirements for ownership (Abbott & Rothman, 2023). However, this perspective is complicated by AI, which lacks human intent and judgment. Current legal frameworks in countries like the United States and the European Union do not recognize AI as an author because AI-generated content does not entail human authorship in the traditional sense (European Parliament,2017; Vishnu,2024). For instance, it is challenging for authors or developers to assert ownership of AI-generated works because the U.S. Copyright Office has declared that it will not register works written by non-human authors (Vishnu, 2024).

Further, when AI systems are trained on previously published copyrighted content, the ownership issue becomes even more complicated. In many instances, it is uncertain if the engineers who trained the algorithm or the person or entity that owns the AI system can assert copyright over the generated work (Vishnu, 2024). The way that various nations have addressed this issue has varied. For example, the UK allocates copyright to the people or organizations that commission the AI-generated output, whereas China grants copyright to AI developers (Vishnu, 2024). This discrepancy demonstrates the absence of international agreement on how to generate AI-generated works.

Additionally, the problem of authorship may be resolved by including human input into AI content creation. Human creators may be regarded as co-authors and the work may be protected by conventional copyright if they meaningfully advise or oversee AI during the creation process (Abbott & Rothman, 2023). But it's still quite difficult to tell the difference between AI's autonomous decisions and human involvement.

The employment of technical protection mechanisms (TPMs) to restrict access to AI-generated works is also discussed. Although TPMs can prevent unwanted access, they also pose questions about knowledge access, especially in educational settings (Pistorius & Mwim, 2019). Restrictive policies that forbid access to copyrighted content could further disadvantage developing countries. People from developing countries are trying to obtain them, and the application of artificial intelligence-generated content in educational settings is another burning issue for developing countries (Pistorius & Mwim, 2019). As a result, there is a conflict between upholding the rights of authors and guaranteeing that the public has access to crucial knowledge resources.

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In conclusion, changes are required to meet the difficulties presented by AI-generated content since the advancement of AI technologies has surpassed the development of copyright law. According to researchers like Abbott and Rothman (2023), giving AI-generated work copyright protection could encourage creativity while maintaining authorship and ownership transparency. Finding a balance between defending the rights of human creators and recognizing the expanding role of AI in content creation is still crucial, though. The intricacies of AI-generated works will keep posing problems for the fundamentals of conventional copyright law in the absence of such modifications.

Discussion

The current copyright legislation in Nepal is insufficient to handle the evolving nature of digital technologies, such as user-generated content: Copyright violations on YouTube, Facebook, Instagram, and other websites. The complexity of contemporary digital content, including internet piracy and AI-generated works, is not sufficiently addressed by Nepal's current copyright regulations. Provisions for managing these new technical issues are absent from the current legal system, which concentrates on conventional types of content.

Despite adhering to international copyright treaties like the WIPO accords and the Berne Convention, Nepal does not adequately enforce these norms, especially when it comes to digital content and cross-border internet piracy. Due to a lack of technology frameworks, infrastructure, and resources required to prevent digital copyright infringement, Nepal confronts serious enforcement issues.

Furthermore, AI-generated work makes things even more difficult. Nepal's existing copyright law is not enough to enforce since there aren't any explicit legal rules governing who can write and own these kinds of works. Additionally, AI-generated works are more complicated to enforce due to the absence of clear legal guidelines regarding

authorship and ownership of such works.

To effectively address the complexities of copyright regulations for content produced by AI, Nepal must establish precise legal frameworks that clarify authorship, ownership, and culpability for AI-generated works. This includes explicitly defining who holds the copyright for content created by AI, particularly when such systems are trained on previously published copyrighted material. Aligning Nepal's copyright legislation with global norms, such as the WIPO Copyright Treaty and the Berne Convention, is essential to fill existing legal loopholes in the protection of digital content. The 2002 Copyright Act should be amended to specifically address the challenges posed by the internet, online piracy, and AI-generated works. Implementing enforcement procedures like the DMCA will help safeguard creators' rights and prevent copyright infringement on digital platforms. Additionally, public awareness campaigns and training programs should be launched to educate consumers, developers, and producers about AI-generated content and digital copyright laws. Technological protection measures (TPMs) should be utilized to manage access and prevent unauthorized duplication of digital and AI-generated content.

Transparency in AI systems must be encouraged to ensure proper attribution and address potential copyright violations. Furthermore, fair use principles should be re-evaluated to accommodate AI-generated content while balancing authors' rights with public access to information. Stakeholder participation is vital in constructing effective copyright frameworks for AI, necessitating collaboration among legal professionals, AI developers, and legislators. Investment in digital copyright monitoring tools is crucial for detecting online infringements, especially concerning AI-generated and digital art. Strengthening enforcement mechanisms through enhanced legal and technological infrastructure will improve copyright law enforcement in Nepal. Guidelines should clarify the role of human input in AI-generated content and establish co-authorship where appropriate. Ongoing participation in policy debates with support from international organizations will help address emerging copyright issues related to AI. Finally, regular reviews of AI advancements are necessary to adapt copyright regulations, accordingly, ensuring innovation while protecting authors' rights.

Conclusion

Nepal's Copyright Act of 2002, while aligned with international frameworks like the Berne Convention and WIPO Copyright Treaty, fails to address the complexities of AI-generated content and digital piracy. The absence of provisions for AI authorship and ownership creates legal uncertainties, and weak enforcement mechanisms exacerbate online infringements. These gaps undermine creator protections and hinder innovation in Nepal's digital economy. To bridge these deficiencies, Nepal must amend its copyright legislation to define authorship for AI works, implement notice-and-takedown procedures,

and adopt technological protection measures. Aligning with global best practices will enhance enforcement and foster stakeholder collaboration. Public awareness campaigns and transparency in AI development are essential to build trust and support innovation. These reforms will strengthen Nepal's copyright system, ensuring it safeguards creators' rights while promoting equitable access to knowledge. By addressing these challenges, Nepal can establish a resilient copyright framework that drives economic growth and enhances its global competitiveness, balancing the needs of creators with the demands of a rapidly evolving digital landscape.

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