Legal Drafting in the Age of ChatGPT: Who holds the Copyright?

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This article offers an in-depth look at the relationship between artificial intelligence (AI) and copyright law within the domain of legal drafting, specifically addressing AI-generated contracts. As language models such as ChatGPT and other language models become deeply integrated into legal processes, with them come such complicated issues involving authorship, ownership, and copyrightability in AI-generated legal documents. The piece starts by highlighting the increased contribution of AI in the law sector, particularly in automating and augmenting legal content development. It proceeds to analyse the underlying principles of copyright law and its historical application to legal documents. The main critical interest is whether such AI-created content meets the requirements for copyright protection in Indian law and, if indeed it does, who, by law, owns the rights to such works. The article also discusses the peculiar character of contracts, which are mostly seen as functional or utilitarian instruments, and deconstructs whether AI-produced versions of such tools qualify as being creative enough to be copyright-protected. Practical examples and moral challenges are employed to describe the existing legal uncertainties and possible dangers at play. Lastly, the article provides anticipatory suggestions about how current regulatory frameworks should evolve to better capture and enable the changing role of AI in legal drafting.

Keywords: *artificial intelligence, legal drafting, ChatGPT, copyright law.*

INTRODUCTION

The incorporation of artificial intelligence (AI) in the legal profession is transforming the way legal professionals handle core activities, most notably legal drafting. One of the most popular AI tools is ChatGPT. It is a large language model chatbot which is created by OpenAI that uses natural language processing to engage in human-like conversations. It understands and responds to a wide range of prompts. In India, legal professionals and law firms are increasingly employing such tools to prepare contracts, agreements, and other legal documents, especially for repetitive and routine work. Although this technological change brings about efficiency and accessibility, it also raises a major legal issue: Can an AI-generated contract be copyrighted under Indian copyright law? And if it can, who is the owner of the copyright: the user, the developer, or the AI itself? Original literary, theatrical, musical, and creative works, among others, are protected by copyright under the 1957 Copyright Act.[1] It is a given under the law that the author must be a natural or legal person.

The author, according to Section 2(d) of the Act[2], is the one who creates the work and, in the case of computer-generated works, the one who makes the work come to life. However, this definition is unclear when thinking of autonomous tools such as ChatGPT that can produce content with little human intervention.

Contracts, as legal instruments, are in a grey area, with some artistic contracts eligible for copyright protection as literary works. Most legal contracts are functional documents, and their copyright protection is limited. Contracts generated by AI could not be protected by copyright unless a human input satisfies the requirements for originality and innovation. AI is not expressly recognised as a legitimate author or owner under Indian law. This piece discusses the legal and policy issues involving AI-produced contracts in India concerning copyright ownership, originality, and authorship. It seeks to determine if the Indian law permits copyright protection for these publications and, if so, who would be entitled to the protection.

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[1] The Copyright Act 1957
[2] The Copyright Act 1957, s 2(d)

The Rise of AI in Legal Drafting: The legal profession, traditionally conservative and resistant to change, is currently experiencing a technological revolution fuelled by AI. One of the most powerful instruments in this revolution is ChatGPT, a language model created by OpenAI, which has attracted global attention for its capacity to produce human-like text in response to prompts. Within legal drafting, essentially a central activity of legal practice, AI tools such as ChatGPT are starting to have a major impact, changing how legal documents are generated and examined.

HOW AI TOOLS LIKE CHATGPT WORK IN CREATING LEGAL CONTENT?

1. ChatGPT is founded on a deep learning model based on the Transformer architecture, more specifically on one called GPT-Generative Pre-trained Transformer. The model aims to process and create human-readable text by looking at large databases and identifying advanced patterns in language. ChatGPT has been trained on a large and diverse corpus of knowledge, such as books, web pages, law books, and publicly available documents. From this training, the model has become highly capable of syntax, grammar, and contextual understanding, thus making it competent to produce fluent and contextually relevant responses.

2. Within the legal field, ChatGPT has demonstrated the capability to carry out tasks that are concerned with drafting, reading, and providing recommendations for legal documents of diverse kinds. It can be utilised to draft complete-length contracts and agreements specific to requirements, for example, a non-disclosure agreement between an investor and a startup, an employment contract that adheres to Indian labour laws, or a lease contract with early termination clauses and security deposit provisions.

3. The model may also be able to help at the clause-level drafting, providing generic or tailor-made language according to the information given in the prompt. The major advantage of ChatGPT is that it reacts very well to specific and well-structured queries.[3] The response will be more accurate, relevant, and customised if the instructions are more detailed. Its ability to understand legal jargon and imitate formal legal writing's tone helps users, lawyers, law students, and start-ups alike to produce professional-sounding legal content more quickly

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[3] Theodor-Fabian Niculae, 'The ChatGPT Effect: An Analysis of Topic Modelling and User Interaction on Stack Overflow' (Theses, University of Twente 2024)

and easily. This can go a long way toward streamlining the draft stage, eliminating tedious repetition, and enhancing productivity.

4. It is also important to note the tool's limitations. No matter how advanced, ChatGPT does not have legal awareness or consciousness. It does not know the law in the manner that an experienced legal expert knows it; instead, it responds based on predicting the statistically most probable word sequence from what it has been trained on.

5. It cannot read legal precedents, grasp legislative intent, or consider case-specific variations the way a human expert might. This differentiation is crucial when one considers applying AI to legal practice. Legal practice tends to demand interpretation, contextual examination, ethical analysis, and jurisdiction-based reasoning, all of which rely on human judgment, critical thinking, and professional education.

6. While ChatGPT may provide aid with automation and streamlining, it must be regarded as an assistive tool rather than a substitute for trained legal professionals.[4] The incorporation of AI into legal processes must thus be done with caution, with human review and verification of outputs to ensure accuracy, compliance, and ethical standards.

EXAMPLES OF AI-GENERATED CONTRACTS AND THEIR USAGE IN LAW FIRMS

AI-drafted legal documents already form part of the process in most law firms globally. Though ChatGPT is not yet ready to replace lawyers, it is increasingly employed to support them, especially for:

First Drafts of Ordinary Contracts: Lawyers and in-house counsel employ ChatGPT to produce first drafts of agreements like NDAS, employment contracts, service contracts, and license agreements.[5] The drafts are thereafter reviewed and edited by human attorneys to comply with jurisdictional and client-specific requirements.

Legal Templates and Clause Libraries: Certain legal tech platforms embed AI models such as GPT in their platforms so that lawyers can enter significant contract terms and receive

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[4] *Ibid*

[5] Joseph J. Avery et al., 'ChatGPT, Esq.: Recasting Unauthorised Practice of Law in the Era of Generative AI' (2023) 26(1) Yale Journal of Law & Technology <https://yjolt.org/sites/default/files/avery_abril_delriego_26yaleljltech64.pdf> accessed 03 May 2025

instantly generated custom clauses. Contract lifecycle management tools have thus become smarter and responsive.

Startups and Solo Practitioners: For single attorneys and small law firms with few resources, AI software assists in drafting legal documents for customers quickly and at a lower expense. Legal tech startups are now providing AI-based drafting platforms customised for Indian users.

In-house Use in Law Firms: Some large Indian law firms are testing the waters with AI-drafted versions for in-house documents and routine legal memoranda, leaving human attorneys to concentrate on strategic work. Although AI-generated contracts are not yet employed as end documents without human inspection, their application in initial-stage drafting and client-facing templates is increasing consistently.

Basics of Copyright Law - Copyright is arguably the most basic branch of intellectual property law. It regulates the rights related to original literary, artistic, musical, and dramatic works and such. Although it is commonly used for books, motion pictures, songs, and paintings, it can apply to writings of a more utilitarian kind, such as legal writings, if only they fulfil certain conditions. To realise whether AI-produced legal contracts are eligible for copyright protection, one should first comprehend the fundamental principles of copyright law.

What is Copyright? - The only legal power granted to the original author of a work is copyright, which allows them to make copies, distribute them, perform them, exhibit them, and alter them. That is, what it essentially boils down to is that once you create something in a fixed manner that is original, such as writing a poem, painting, or writing a legal document, you have the right to it, and others have no right to use it unless you give your consent.

The Copyright Act 1957[6], which has been modified periodically to keep up with international commitments and technical advancements, provides copyright protection in India.

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[6] Copyright Act 1957

Copyright exists automatically from the time a work is created; registration is optional, although it is conclusive proof in court in case of infringement.[7]

The most fundamental rights conferred to the holder of the copyright are:

- Right of reproduction of the work.
- Right to make it available to the public.
- Right to issue copies or translate/adapt the work.
- Right against unauthorised use or reproduction.

Nevertheless, not all written works or creations are entitled to protection by default. Copyright legislation prescribes certain criteria that a work has to fulfil so that it can be deemed protectable.

CAN LEGAL DOCUMENTS BE COPYRIGHTED TRADITIONALLY?

Whether legal documents can be copyrighted is a complicated and multi-layered issue. On the surface, legal documents seem to meet the definition of literary works under the Indian Copyright Act 1957[8]. However, things are not always that simple. Legal documents, by their nature, are largely functional and utilitarian. They are written not as creative outputs but as tools for special legal or commercial ends.

Agreements, contracts, and the like, legal documents are generally formed using standardised layouts or templates found and applied through broad industry support.[9] The documentation typically consists of standard provisions, payment terms, indemnity conditions, a confidentiality agreement, and grounds for termination to follow industry protocols and standards dictated by the law. As that content is readily available and universally necessary to effect compliance, its use by a court will never be found or held original, creative, or otherwise new or novel. In such situations, legal documents are viewed as functional vehicles and not creative works, and thus, they are outside the boundary of

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[7] Anatolii P. N. Getman et al., 'The Impact Of Artificial Intelligence On Legal Decision-Making' (2023) 9(2) International Comparative Jurisprudence <https://ojs.mruni.eu/ojs/international-comparative-jurisprudence/article/view/7898> accessed 04 May 2025

[8] Copyright Act 1957

[9] Michele Soavi, 'From Legal Contracts to Formal Specifications: A Systematic Literature Review' (2022) 3 SN Computer Science <https://link.springer.com/article/10.1007/s42979-022-01228-4> accessed 04 May 2025

copyright protection.[10] Indian courts, as per international legal principles, have always been of the view that arranging standard legal clauses in a specific order or preparing routine legal material does not qualify as being original under the law of copyright. Such legal documents are treated as utilitarian and are made for a functional purpose rather than artistic expression.

The legislation is intended to make sure that legal formats widely used are not monopolised by a person or organisation but are kept open to the public for use. It doesn't mean, however, that all legal writings are beyond copyright protection. Exceptions exist, particularly where the process of drafting demands original thinking, distinctive wording, or creative organisation. If an attorney or other legal practitioner spends intellectual effort on peculiarly preparing a document, utilising personal expertise, judgment, and flair, then the document or at least those original portions thereof can earn copyright protection.

For instance, a sophisticated joint venture agreement that is bespoke to the requirements of the parties, with specialised clauses and individually worded provisions, can indicate a high level of creativity. In these types of situations, the author will be able to assert copyright in the expressive components of the document, although not in the legal ideas or concepts contained therein. The copyright would apply only to the particular language, phrasing, and form used to convey those ideas, not to the underlying legal rules or concepts themselves.[11] This is a critical distinction. A concept's expression is protected by copyright, but the idea itself is not. Thus, whereas legal principles, procedures, and the usual legal phrases cannot be protected, the original and creative expression of those ideas on a legal document possibly can.

AI-Generated Content and the Copyright Dilemma: The growing adoption of generative AI applications such as ChatGPT in the legal profession has raised complicated questions about authorship, ownership, and copyrighting of AI-generated material. As AI can now generate everything from articles to legal agreements, perhaps the most critical legal question is: Are AI-generated works copyrightable under Indian law? And if they are, who is the owner of these rights: the AI, the user, or the creator?

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[10] Kenneth D. Crews and Dwayne K. Buttler, *Copyright Law for Librarians and Educators: Creative Strategies and Practical Solutions* (American Library Association 2005)
[11] Anne Barron, 'Copyright Law and the Claims of Art' (2020) SSRN
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=346361> accessed 04 May 2025

DO AI-GENERATED WORKS QUALIFY UNDER COPYRIGHT IN INDIA?

As per Indian law, for a work to qualify under copyright, it must meet two essential requirements:

Requirement of Originality: The Indian judicial concept of originality under copyright was settled by the Supreme Court in the seminal case Eastern Book Company v D.B. Modak (2008).[12] Under this case, the Court overturned the previous sweat of the brow doctrine that granted copyright for effort or toil alone. Rather, the Court took a middle ground approach and held that for a work to be deemed original, it should entail skill, judgment, and at least some degree of creativity. Such an interpretation provides the foundation on which the copyrightability of many types of work, including works facilitated by AI, is to be determined.

With the global application of AI tools such as ChatGPT in content writing, the legal fraternity is today confronted with questions of authorship and originality.[13] Content that is created with AI, albeit seemingly new, is created using algorithms trained on existing data. The tools are not generating from scratch; rather, they work on the pattern, probability, and the provided information to offer responses.

Originality of AI-generated work is not possible to evaluate alone since the work does not function with human creativity or purpose.[14] The Indian copyright law will determine the degree of human intervention in the process, and two such factors have emerged as determinative: human intervention and direction, and creative contribution and expression.

User engagement in the structuring of AI output, e.g., offering prompts, editing them, choosing outputs, and consciously refining content, could show skill and judgment to meet the requirement of originality. Judges can also consider whether the user infused a personal, creative element over and above the mechanical or routine utilisation of the tool.

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[12] *Eastern Book Company v D B Modak* (2008) 1 SCC 1

[13] Ibrahim Halwachi, 'The dilemma of authorship for AI-generated work in the EU and US' (*University of Gothenburg*) <https://gupea.ub.gu.se/bitstream/handle/2077/79957/halwachiibrahim_131327_8134193_Ibrahim_Halwachi-3.pdf?sequence=1&isAllowed=y> accessed 07 May 2025

[14] Johnathon Hall and Damian Schofield, 'The Value of Creativity: Human Produced Art vs. AI-Generated Art' (2025) 13(1) Art and Design Review <https://doi.org/10.4236/adr.2025.131005> accessed 07 May 2025

Human Authorship Requirement: The legal definition of author for various types of works is stated in Section 2(d) of the Copyright Act, 1957[15]. The Act specifies that the author of a literary work is the natural person or human being who created the work, including books, articles, judgments, contracts, and legal documents. This definition gives support to the conventional concept of authorship as being based on human creativity, intellectual labour, and personal expression. But the picture gets complicated when one deals with computer-generated works or AI-generated works.[16]

Section 2(d)(vi) of the Act addresses this issue by stating that the author is the one who causes the production of a computer-generated literary, dramatic, musical, or artistic work. Because it does not clearly define who can be categorised as the one who causes the task to be done, this phrase produces uncertainty. In the case of AI-generated material, for example, that generated by programs like ChatGPT, this provision throws up some significant legal issues. For example, if someone puts in a specific prompt and the AI creates an output based on the prompt, is it possible to say that the user caused the work to be created? Or should the creation be credited to the developers or programmers of the AI model who enabled the generation to happen in the first place? With the fast-paced development of AI and its increasing usage in content creation, the uncertainty under the law allows for different interpretations. It raises calls for revised legal frameworks that give clear definitions to authorship of AI-assisted or AI-generated works so that rights and obligations are suitably attributed.

WHO OWNS AI-GENERATED WORKS IN INDIA?

If AI content is not eligible for protection under copyright law in and of itself, and AI cannot be held to be an author, then the question is who owns such content?

There are three possible claimants –

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[15] Copyright Act 1957, s 2(d)(vi)

[16] Barron Oda, 'No Ghost in the Machine: On Human Creativity and Why AI-Generated Images from Text Prompts Are Not Protected by Copyright' (2023) 20(1) The SciTech Lawyer <https://go.gale.com/ps/i.do?id=GALE%7CA779131062&sid=sitemap&v=2.1&it=r&p=AONE&sw=w&cookieConsent=true&analyticsOptout=false&userGroupName=anon%7Ef76989d0&aty=open-web-entry> accessed 07 May 2025

The User (Prompt-Giver): Because ChatGPT and other AI models rely on user input, authorship is a significant yet challenging issue in these efforts. As per Section 2(d)(vi),[17] in the case of literary, dramatic, musical, or artistic works prepared or made by a computer, the author is the person who causes the work to be produced.[18] This provides the door to viewing the user as the one who interacts with the AI and guides its output as the true author, assuming some conditions are satisfied. On a practical level, if the user gives explicit prompts, makes conscious decisions, revises the AI-generated product, and maintains creative control during the process, they might be understood as having caused the final piece to be created.[19] That kind of engagement transcends passive generation and entails an amount of intellectual work, judgment, and originality. When the user actively contributes by organising content, working through ideas, or choosing between variants, the end product carries his or her creative signature. Typing a generic or one-line prompt is not likely to cross the test of originality or fulfil the legal test of authorship. Thus, although the Copyright Act does not directly define works generated by AI, Section 2(d)(vi) provides a structure that, when applied to new technologies, can maintain user ownership but only if the user actively contributes to substantially shaping the work. As the tools of AI continue their development, courts and lawmakers might need to further codify and define the limits of such authorship.

The Developer (AI Creator/Platform Owner): There is a debate currently about whether creators of AI models, like ChatGPT, can be called authors of content created by them. However, this argument's strength under Indian copyright law is limited, particularly when viewed in light of Section 2(d)[20]. According to the nature of work, Section 2(d) defines the author in a context-specific manner. In this case, the author is the one who causes the work to be created in computer-generated works. According to Indian law, it is highly improbable. Developers design the underlying structure and algorithms but do not produce individual outputs or have creative control over individual interactions with the model.[21] The AI operates independently on user input, and developers generally have no real-time role in the content creation process. Therefore, courts would be hesitant to acknowledge developers as

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[17] Copyright Act 1957, s 2(d)(vi)
[18] Crews (n 10)
[19] Niculae (n 3)
[20] Copyright Act 1957
[21] Jeba Rezwana and Mary Lou Maher, 'Designing Creative AI Partners with COFI: A Framework for Modeling Interaction in Human-AI Co-Creative Systems' (2023) 30(5) ACM Transactions on Computer-Human Interaction

authors of the output unless there is an explicit and enforceable contract to that end. In addition, the position of end users then becomes decisive for determining authorship. Where users supply customised inputs, control information flow, or significantly impact produced content, they can be held to have caused the work to be created, under Section 2(d)(vi). This is a weakening argument for developers being the default rights holders. Exceptions are possible, though. If the terms of service between the user and AI provider specifically allocate or reserve rights over the outputs, then developers or the firm that owns the AI can claim ownership on the grounds of contract over statutory authorship.

The AI (As an Author): As noted above, AI cannot be identified as a copyright author in Indian law. This is mainly because AI systems, no matter how advanced, have no legal personality. They are neither natural persons nor juristic persons who can own property, enter into valid contracts, or acquire intellectual property rights. Without legal personhood, AI cannot enforce or hold rights, nor can it be held responsible for any breach or infringement, and hence, the idea of attributing authorship to machines is legally untenable under the prevailing legal regime.[22]

Indian copyright law, as enshrined in the Copyright Act 1957[23] and interpreted by Indian courts, admits only human authors or legally recognised persons as rightsholders. The provisions that currently apply in the Act, such as Section 2(d), rest on the hypothesis that the author is an individual capable of exercising skill, judgment, and creativity.[24] AI, having only algorithmic prediction and data output, devoid of independent will or intention, is not capable of satisfying the quality of authorship contemplated under law. In addition, Indian law on AI and copyright is still in its nascent stages. The courts have not yet definitively ruled on the intricacies of works created by machines, particularly the question of ownership and liability. With the development of AI and its increasing influence in the creation of content, it can be expected that legislators and the courts will be pressed to offer more definitive guidance.[25] Formally acknowledging AI as an author would necessitate a fundamental transformation in the legal framework, either legislative reform or the establishment of an

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[22] Isaac Christopher Lubogo, *Legal Personhood of Artificial Intelligence* (Jescho Publishing House, 2022)

[23] Copyright Act 1957

[24] Lu Bingbin, 'A theory of 'authorship transfer' and its application to the context of Artificial Intelligence creations' (2021) 11(1) Queen Mary Journal of Intellectual Property <https://doi.org/10.4337/qmjip.2021.01.01> accessed 06 May 2025

[25] Crews (n 10)

entirely new regime. Any change would have to address very cautiously questions of ownership, responsibility, enforcement, and rights management in a manner that preserves the equilibrium between innovation and protection.

Copyright and Contracts: Special Considerations: Within the changing world of legal tech, the use of AI to craft contracts presents fraught questions regarding authorship, originality, and ownership. When legal professionals find themselves relying on tools such as ChatGPT to help prepare contracts, there is a question at the core: Are contracts copyrightable, even in Indian law? And if they are, who is the owner, particularly when using AI?

Are Contracts Copyrightable? - Protection under the Copyright Act 1957[26] is afforded to original literary works (Section 13). The definition of literary work encompasses written works like books, manuals, articles and theoretical texts. However, originality is the most important need for a contract to qualify for copyright protection. Described in the classic case, Eastern Book Company v D.B. Modak (2008),[27] originality in India is tested with the modicum of creativity test. That is, the work should exhibit some intellectual endeavour, skill, and judgment, and not be a product of mechanical or routine endeavour only.

Contracts, being what they are:

1. Structured and standardised.
2. Usually modelled on boilerplate clauses.
3. Written with functional, legal compliance in mind.

Because of these features, most ordinary contracts fall short of the level of originality necessary for copyright protection.[28] Only in exceptional instances, like highly tailored contracts, negotiated deals, or intricate legal agreements, could a contract demonstrate enough creativity to be considered a copyrightable literary work. In practice, standard contracts are treated as functional documents and are not usually afforded copyright protection.

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[26] Copyright Act 1957

[27] *Eastern Book Company v D B Modak* (2008) 1 SCC 1

[28] Kenneth D. Crews and Dwayne K. Buttler, *Copyright Law for Librarians and Educators: Creative Strategies and Practical Solutions* (American Library Association 2005)

Functional Documents v Creative Expression:

The difference between functional material and creative expression lies at the heart of copyright law.

1. Functional documents are drafted for functional or operational intent. Examples of these documents are forms, templates, legal notices, and typical contracts. They are valuable for utility, not novelty.

2. Creative expression, however, encompasses novel structure, selection of words, organisation, and presentation reflecting intellectual endeavour and ingenuity.

Indian copyright principles state that plain legal provisions are not protected, but annotations, explanatory comments, and commentary on legal instruments can be protected as they are creative. However, standard lease contracts or NDAS may not meet the threshold of originality, while well-negotiated shareholder agreements with separately phrased clauses can. This idea was established in Govindan v Gopalakrishna (1955)[29], where the Madras High Court noted that the mechanical arrangement of legal provisions cannot attract copyright unless the author plays a dominant role in content form and presentation.

Who Owns an AI-Generated Contract? - When using a tool like ChatGPT to prepare contracts, issues arise regarding the ownership of the final document, user claims of authorship under Indian law, and OpenAI's rights over generated content. Copyright in India typically belongs to the creator, but in employer-employee scenarios, it might be the employer in work made for hire cases.[30] Ownership varies depending on freelance or commissioned work terms. As far as contracts produced by AI go, three alternatives are conceivable:

1. Ownership by the User (Prompt-Giver): Indian law allows users who engage with AI to be considered the creators of computer-generated works. Section 2(d)(vi) supports this interpretation, but only if the user is creatively contributing by controlling AI output and the output is original and not completely generic or copied. This implies users have rights over tailor-made contracts drafted with AI tools, but only when human contribution and creative

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[29] *Govindan v Gopalakrishna* (1955) AIR 1955 Mad 391
[30] Bingbin (n 24)

structuring are present. This interpretation is supported by Section 2(d)(vi) for computer-generated works.

2. Ownership by the Developer (e.g., OpenAI): It could be argued that the generated output belongs to the developer or the AI platform. Nevertheless, most AI platforms, such as ChatGPT, have licensing conditions that transfer rights over content to the user. For instance, OpenAI's terms of use convey full rights on the generated content to the user, provided there is adherence to their policies. Therefore, in India, the user owns, unless otherwise stated by the platform's terms, and not the creator of the tool.

3. No Ownership (Public Domain): If a work is created solely by AI without human creativity, then, according to some legal experts, such material can enter the public domain, i.e., no one owns it. Because Indian law has not yet directly dealt with authorship by machines, this is one of these areas of greyness. The more prudent legal standpoint is that AI-generated content with human input that has some kind of meaning can belong to the user. But without human creativity, the work can be uncopyrightable.[31]

CASE STUDIES

As AI goes on to impact the legal sector, real-world instances and fictional situations can illustrate how the law could resolve issues of copyright and ownership about AI-generated legal documents. In India, where the usage of AI applications such as ChatGPT is not very old, a few early instances and conjured cases can illuminate how legal principles would function in practice.

AI-generated work refers to material that has little to no human involvement and is fully generated by an AI technology. A lawyer may, for example, type in a prompt like Draft an NDA for a startup and utilise the exact text of the result. In this case, the lawyer only serves as a conduit; the AI is the main creator. In contrast, AI-assisted works entail a lawyer utilising AI results as a starting point or point of reference while applying professional judgment to significantly edit and improve the material. For instance, a lawyer may use AI to create an initial employment contract and subsequently modify it to accommodate a client's unique legal requirements, jurisdictional nuances, and compliance standards.

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[31] Halwachi (n 13)

Example 1: A Law Firm Using ChatGPT for NDAs and Employment Contracts: Lex Intel Legal LLP, a mid-tier Indian law firm, has integrated AI platforms like ChatGPT into its operations to streamline legal drafting for start-up clients. The technology is used for establishing NDAS and employment contracts, which are frequently requested by start-ups with tight deadlines and low budgets. A junior Lex Intel associate uses ChatGPT to input mundane client data, producing a customised legal draft in minutes. The draft is then edited and completed by the associate, saving time and effort. The AI-drafted versions are precise, consistent, and free from grammatical or structural flaws, allowing junior attorneys to focus on more strategic tasks.

A client presents an AI-drafted contract to another law firm, who accuses Lex Intel of using a publicly available template instead of producing bespoke legal work. The client, unaware of the AI-produced draft, complains about its uniqueness and worth, inferring that the company used a generic template from the internet. This raises legal and ethical concerns regarding authorship, originality, and disclosure in AI legal drafting. The question arises whether Lex Intel can argue originality if the AI-produced draft bears similarities to existing templates, whether it was necessary for the firm to disclose AI employment, and whether the client's sense of value can be undermined by the machine's creation.

Legal Analysis: In cases involving the originality of AI-created legal documents like non-disclosure agreements (NDAS), it is crucial to determine the level of originality under Indian copyright law. NDAS are inherently functional legal documents that tend to be based on standard, widely used clauses. If two agreements have almost identical language and structure, it is usually not enough to qualify as original.

Indian copyright law does not grant protection to boilerplate clauses, standard forms, or generic legal language unless there is clear evidence of creative effort, personal judgment, or new expression by a human author. In the case where an NDA generated by ChatGPT is contested because it is so radically similar to a draft by another company, copyright infringement is not likely to be substantiated.

AI-generated material is not owned and is not protected by copyright when it is based on work that is in the public domain, such as publicly accessible templates, recognised file naming conventions, or conventional legal norms. Indian courts have always upheld that

effort or toil alone will not get protection; there has to be a minimum level of creativity or innovation, as enunciated in Eastern Book Company v D.B. Modak (2008)[32].

In addition, if the law firm has utilised AI tools within the parameters of ethical and professional guidelines, without plagiarising from protected or licensed templates, then it is working within valid legal practice. Employing ChatGPT or other tools to produce simple legal drafts is not in itself infringing, as long as the product is not misrepresented or presented as a firm's proprietary work without merit. However, things would stand differently had a company harvested material from an officially licensed legal database or pay-to-use template like those from commercial websites such as Manupatra, SCC Online, or Westlaw, then passed them off as generated through AI.

There would then be a potential claim of copyright violation based on unauthorised utilisation of guarded material and even a possible fraud involving source or authorship. Therefore, whereas AI can be a helpful efficiency and standard drafting tool, originality and source clarity continue to be key considerations when making assertions of rights or fending off allegations of infringement.

Example 2: Dispute Over AI-Assisted Draft – A Contractual Conflict: A senior partner at Sharma & Co., an Indian corporate law firm based in Delhi, used ChatGPT to prepare a shareholder agreement on behalf of a client, and included special clauses that were shaped with the law firm's experience. Months afterwards, the client showed the agreement to a new firm, K&V Associates, which incorporated several clauses into a different transaction.

Sharma & Co. asserts that the clauses were authored creatively using AI prompts and honed by their lawyers; thus, the draft was original and copyrightable. They contend that their use of their words without permission constitutes unauthorised use of their intellectual property. The case presents serious legal issues of originality, authorship, and ownership of AI-generated legal documents, particularly where such documents are shared within firms.

Legal Analysis: Under Indian copyright law, human authorship and originality are the sine qua non for availing protection over any literary work, including legal documents. Section 13 of the Copyright Act of 1957[33] States that only original works are protected by copyright.

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[32] *Eastern Book Company v D B Modak* (2008) 1 SCC 1
[33] Copyright Act 1957

The meaning of original has been explained by Indian courts, particularly in Eastern Book Company v D.B. Modak (2008), in which the Supreme Court ruled that a work should at least possess a minimum level of creativity, skill, and judgment to be eligible for copyright protection.

In the scenario of AI-drafted legal documents, like a shareholder agreement drafted with ChatGPT, this legal principle gets even tougher. ChatGPT generates material based on patterns observed in large datasets, without there being any genuine understanding or creative desire. AI-generated work by itself, therefore, does not cross the threshold of originality under Indian copyright law. For a law firm such as Sharma & Co. to assert copyright over such a draft, it needs to show that human authorship contributed significantly to the formulation of the final document.

This may involve revising the output of the AI, rephrasing clauses innovatively, arranging the structure in a novel way, or incorporating legal insights based on professional judgment and expertise. Without such human effort, the paper would probably be regarded as an output of automatic processes instead of a copyrightable literary work.

Additionally, Indian law does not, at this time, regard AI as a legal person, nor does it recognise authorship to machines. Therefore, exclusive rights cannot automatically come into existence from the mere use of ChatGPT or like tools, unless the user creatively converts the content into something novel. Hence, if Sharma & Co. cannot prove that their lawyers imbued the AI-drafted document with a unique layer of originality and human creative input, their case of unauthorised use or copyright infringement is not likely to hold water in court. The onus rests on establishing that the final agreement embodies more than mechanical reproduction; it has to demonstrate intellectual labour and innovative expression of a human author.

LEGAL AND ETHICAL RISKS

Even though ChatGPT and other AI technologies save legal practitioners a lot of time and help with writing, they also raise serious data protection issues that need to be handled carefully, particularly in countries like India, where data privacy laws are changing quickly. Entering private or sensitive information into AI systems is one of the main hazards.

There is a genuine risk of unintentional data exposure or abuse when attorneys or other legal professionals submit lengthy prompts that contain personally identifiable information (PII), case details, client names, contract conditions, or other private data. Since the majority of AI platforms rely on cloud infrastructure, user inputs may be kept, accessed, or processed in ways that are not within the user's control unless the tool specifically says that they are not saved or utilised for model training.

A lawyer may be in breach of their confidentiality responsibilities under both statutory law and the Bar Council of India's professional conduct standards if they upload identifying client information into an AI tool without anonymising it or getting the required approval. Additionally, it can make people legally liable for data breaches or the unlawful transfer of personal information, particularly when dealing with AI systems that are not within Indian jurisdiction.

PROFESSIONAL OBLIGATION OF LAWYERS EMPLOYING AI

The Bar Council of India Rules and the Advocates Act of 1961[34] provide strict ethical and professional obligations for Indian attorneys. These consist of steadfast principles of honesty, hard work, privacy, and client-centred ethics. Serious concerns regarding ethical delegation are brought up by the growing integration of AI technologies like ChatGPT into legal workflows.

Can or should a lawyer delegate any of their intellectual responsibilities to a non-human tool? AI does not hold a legal license. It is not subject to moral or legal responsibility. As a result, its use has to be closely monitored, and its results need to be examined through the prism of professional accountability. The main moral obligations that might be impacted by relying on AI are listed below:

Duty of Competence: Advocates must behave with appropriate competence, skill, and care according to Indian legal principles. Professional carelessness may result from relying blindly on AI-generated material without comprehending or confirming its authenticity. If AI is not thoroughly screened, it may provide results that seem convincing but are factually or legally incorrect, which might mislead clients and attorneys alike.

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[34] Advocates Act 1961

Duty of Confidentiality: There is a chance that this obligation will be broken when private customer information is input into openly accessible AI systems like ChatGPT. Particularly in free or open-access versions, these tools may save prompts for internal review or training and usually process data on cloud servers. The Digital Personal Data Protection Act 2023[35], which requires that all personal data be collected and processed with informed consent, data minimisation, and sufficient protections, has made this issue even more serious. A lawyer may be held accountable under the DPDP Act and professional standards if they enter case-specific or personal data into an AI system without anonymising it or getting express consent.

Risks of Plagiarism, Errors, and Unenforceable Contracts -

Plagiarism and Intellectual Property Infringements: AI software such as ChatGPT is trained on massive datasets, some of which contain pre-existing legal content. This poses a risk of accidental plagiarism. An AI-generated clause may closely resemble language from a proprietary agreement, legal textbook, or another company's template, resulting in possible infringement problems.[36] Indian copyright law protects original literary works, including tailored contracts and manuals. Uncredited copying can breach Section 51 of the Copyright Act, 1957[37], leading to civil suits or criminal prosecutions. To prevent plagiarism, use plagiarism tools and consistently edit AI outputs to ensure they accurately represent your legal knowledge and uniqueness.

Legal Mistakes and Inaccuracies: AI models are criticised for lacking legal reasoning and contextual awareness, potentially misinterpreting Indian laws, providing outdated clauses, and providing content that is not jurisdiction-wise valid. For instance, ChatGPT can prepare a non-compete clause that is enforceable in the U.S. but void in India under Section 27 of the Indian Contract Act, 1872. Such mistakes can render the contract partially or wholly unenforceable and put the client at risk of legal liability. The preventive measure involves regularly cross-checking AI-generated clauses with statutory law, recent case law, and jurisdictional principles.

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[35] Digital Personal Data Protection Act 2023

[36] Colin E. Moriarty, 'The Legality of Generative AI— Part 2' (*Intellectual Property Law*, 19 August 2023) <https://cl.cobar.org/wp-content/uploads/2023/08/Sept2023_Features-IP.pdf> accessed 07 May 2025

[37] Copyright Act 1957, s 51

Overly Generic or Incomplete Contracts: AI-generated outputs are probabilistic and pattern-based, not legal strategy. AI-generated documents often lack industry-specific clauses, non-compliance with regulations like SEBI, RBI, and IT Act, and miss subtleties like dispute resolution mechanisms, indemnity, or force majeure suitable for the Indian scenario. Employing such incomplete documents can compromise enforceability, raise litigation risk, or adversely affect client interests. The proposed preventive measure is to exclusively use AI for initial structuring, after which human expert judgment will be required.

Steering Clear of Over-Dependence on AI: The potential threat to legal judgment and critical thinking lies in the delegation of AI tools, which may lead to a copy-paste lawyering culture, a tendency to overlook nuances in drafting, and a decrease in the development of fundamental legal expertise. Indian legal education and practice traditionally have laid significant stress on the use of manual research, interpretive reading, and case-by-case analysis.[38] AI can assist but cannot replace a lawyer's role in evaluating contractual equilibrium, interpreting ambiguous terminology, and providing advice on fact, precedent, and strategy.

The Road Ahead: What Should Change? As AI applications such as ChatGPT become more integral to legal drafting and other intellectual work, Indian law stands at a juncture. The Copyright Act, 1957[39], passed in an era before AI, is not well-suited to deal with issues of authorship, ownership, and originality when machines are used to assist or create content on their own. Although current provisions focus on human creativity, the increasing role of AI necessitates new legal thinking.

The Need for New Copyright Rules for AI-Generated Works: In Indian law, the concept of author under Section 2(d) of the Copyright Act[40] applies only to natural individuals or legal persons in limited circumstances, like companies. The law makes no provision for AI systems to be treated as authors or co-authors of any work of art. The law also demands some originality and input of human intelligence on the part of the author for a work to qualify for protection under copyright. But AI-written content partially or fully written, doesn't always

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[38] Christopher J. Baldacci, 'The Common Law Of Interpretation' (2022) 108 The Common Law Of Interpretation <https://virginialawreview.org/wp-content/uploads/2022/09/Baldacci_Book.pdf> accessed 07 May 2025

[39] Copyright Act 1957

[40] Copyright Act 1957, s 2(d)

meet these standards. If a lawyer just inputs a prompt on ChatGPT and gets a legal document ready to go, can the lawyer be considered the author? And if not, to whom does the copyright belong, if any? India needs new guidelines to recognise the increasing power of AI in creative and legal industries, as unclear ownership, unprotected documents, and potential conflicts regarding re-use, adaptation, and attribution can lead to choked creativity and hinder the growth of AI-composed work.

POSSIBLE SOLUTIONS

Acknowledging Human Supervision as Central to Protection: The proposed solution is to acknowledge copyright in AI-generated works only when a human has creative control or judgment, preserving human authorship integrity, promoting responsible human involvement, and allowing AI to function as a tool. For instance, where a lawyer writes a contract with ChatGPT but makes heavy amendments, includes jurisdictional conditions, or adjusts the tone and language, the lawyer should be credited as the author of the final product.[41] This is how Indian courts are already treating editing work. This method would reconcile innovation with legal responsibility and is a practical short-term measure until sweeping reforms are implemented.

Legal Reforms to Meet New Realities: India could amend the Copyright Act to clarify the definition of AI-generated and AI-assisted works, provide clear attribution guidelines, establish rules for commercialising AI-generated material, and ensure data protection due to the potential for sensitive information. In addition, industry-specific rules could be necessary for legal services, media, academia, and publishing sectors where AI is fast emerging. These could comprise professional standards, opt-in disclosure requirements, and ethical codes of conduct governing AI usage. India can learn from global models like the UK's Section 9(3) of the Copyright, Designs and Patents Act, which grants copyright to computer-generated works, and the EU's high-risk AI regulations focusing on transparency and accountability. Even if AI-created works do not need the same safeguards as creative works, an adapted framework is necessary for clarity, protection, and innovation.

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[41] Mark L. Shope, *The Ai Writing Assistant Handbook For Law* (Indiana Press 2022)

CONCLUSION

In India, artificial intelligence (AI) is transforming the legal profession, particularly in creating standard documents like shareholder agreements, employment contracts, and non-disclosure agreements. Although ChatGPT and similar tools have increased productivity and efficiency in law offices, their usage brings up unsolved legal concerns related to ownership, authorship, and originality. Only original works written by human writers are protected under the Indian Copyright Act 1957. AI cannot be acknowledged as a creator or owner of rights since it lacks legal personality. The Supreme Court made it clear in Eastern Book Company v D B Modak (2008) that copyright demands a minimum level of human intellectual endeavour and originality, and that simple labour is insufficient.

This need is frequently not met by content produced only by AI, particularly when it is based on generic templates or standard clauses. Potential changes to the Copyright Act should include a category for AI-assisted works to close this gap and define rights in situations when machine aid and human contribution coexist. The originality standards and the function of human intervention in such material must be specified in these modifications. In order to guarantee the ethical use of AI, identify ownership in joint works, and set accountability criteria, law firms and AI policy boards must also create institutional norms.

The distinction between outputs that are entirely automated and those that are influenced by legal knowledge may be made with the use of internal protocols. In order to adapt current IP doctrines to AI circumstances, legislative reform must be backed by judicial interpretation. Courts should uphold the necessity of human creativity even in AI-assisted work and define the parameters of copyright in standard legal documents. In the end, even though AI improves legal writing, human authorship is still necessary for accountability and originality in the law. To preserve a just balance between innovation and intellectual property rights protection, India's legal structure must change.