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Safeguarding Creative Expressions: Evaluating the Adequacy of Pakistan's Copyright Law in Light of the Berne Convention and WIPO Standards

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Abstract

This article examines the adequacy of copyright protection of visual artists in Pakistan, focusing on the originality, digital reproduction, enforcement, and emerging artificial intelligence technologies. It adopts a qualitative doctrinal and comparative legal methodology, analyzing the Copyright Ordinance 1962, relevant amendments, and applicable legal provisions concerning artistic works, ownership, infringement, and remedies. It assesses the domestic framework against three distinct international instruments. These are the Berne Convention for the protection of literary and Artistic Works, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the WIPO Copyright Treaty (WCT). The analysis finds that domestic law provides a statutory basis for protecting original artistic works, and existing copyright law may apply to certain forms of digital reproduction and unauthorized uses. However, questions concerning the application of established copyright principles to AI-assisted and AI-generated artworks require further clarification. The study also highlights the importance of effective enforcement, clear attribution rules, and accessible remedies for infringements. It recommends targeted legislative clarifications and institutional improvements to strengthen practical protection for visual artists while maintaining consistency with Pakistan's international copyright obligations.

Keywords: copyright, visual artists, artistic work, Pakistan, Copyright Ordinance 1962, Berne Convention, TRIPS Agreement, WIPO, digital art, Artificial intelligence.

Introduction

According to the World Intellectual Property Organization, intellectual property rights are legal rights governing the use of creations of the human mind. Copyright is one kind of intellectual property right given in the form of legal protection. It is a form of lawful protection allowed to creators of original works, ensuring that they have exclusive rights over their creation. According to the World Intellectual Property Organization (WIPO), "it is a legal term used to describe the rights that creators have over their works". In 2006 researcher in international copyright and neighboring rights highlights that all development made in piracy of copyright work seems simple but in actual it is difficult to control. The development of Artificial Intelligence technologies has transformed and changed the global landscape of art creation and intellectual property. Therefore, examining Pakistan's copyright framework in light of international standards such as the Berne Convention and the WIPO Copyright Treaty is essential to ensure that visual artists' creative expressions are truly safeguarded. (Sam Ricketson and Jane C. Ginsburg 2006)

Visual Art is an important form of creative expression that reflects individual creativity and intellectual effort. Visual arts are not only artistic creations but may also have substantial professional and economic value. A guide to the Berne Convention for the Protection of Literary and Artistic Works (2021) highlights that in the current global economy, creativity and intellectual labor have become a central component of growth, innovation, and cultural identity. The works of artists encompassing literature, music, paintings, films, digital art, and other creative expressions represent not only individual talent but also the cultural heritage of nations. Protection of artists' copyright is essential to ensure both the recognition of creators and the economic sustainability of creative industries. The legal frameworks of copyright protection give creators sole control over their works, allowing them to use, reproduce, and profit from them for a specific period. (Paris Act, 1971)

In Pakistan, the Copyright Ordinance (1962), while derived from Berne Convention principles, doesn't address the legal status of AI-generated content and also does not give protection to human artists against digital imitation. The increasing circulation or images through social media market place, websites raises questions about how effectively the existing framework addresses contemporary forms of artistic use. The central issue is not whether Pakistani law recognizes artistic copyright but whether its substantive provisions and enforcement mechanisms provide sufficiently clear and effective protection in circumstances involving digital reproduction and emerging artificial intelligence technologies. Due to the international nature of copyright, countries have formed various agreements to protect the copyrights of their citizens in other countries. Berne Convention for the Protection of Literary and Artistic Works (1866). Others are the Rome Convention 1961 for the protection of performers and the World Trade Organization Agreement (TRIPS Agreement) on trade-related aspects of intellectual property; all are results of such joint efforts.

However, in 2024, S. A. Mushtaq discussed that Pakistan has signed international copyright agreements, but implementation and enforcement of copyright law remain weak. The country faces widespread issues of piracy, counterfeiting, and unauthorized reproduction across several sectors, including publishing, film, and software. The rise of digital technology has made it harder to safeguard creative works from unauthorized copying or distribution where artists' permission and consent are not obtained. With the advent and rise of social media, as well as online platforms, creative works are more easily accessible. Artist now face complex issues such as unauthorized digital reproduction and use of their works in artificial intelligence-generated content. Unfortunately, Pakistan's existing legal framework is not adequate to deal with such developments; for example, the Copyright Ordinance (1962) lacks specific

provisions addressing digital reproduction, technological protection measures, etc. (S. A. Mushtaq 2024)

In 2021, WIPO publications discuss that, from the socio-economic perspective, the lack of adequate copyright enforcement in Pakistan directly affects the economic welfare of artists. The creative sector contributes significantly to employment, as recognized in WIPO's 2021 report, and detailed information is available, particularly on the economic contribution of copyright-based industries in Pakistan, which emphasizes that effective legal protection can substantially enhance economic growth. Many artists, especially in the visual arts and music, constantly struggle financially because of the frequent unapproved use of their work and the lack of institutional support or legal protections. In the end, by reducing creative incentives and promoting infringement, such behavior compromises artistic protection, ultimately leading to a decline in the quality and diversity of artistic expression.

The contradiction between Pakistan's copyright laws and its international obligations is another important problem. On the other hand, the Berne Convention upholds the idea of automatic protection without the need for official registration. For registration and enforcement, Pakistan's system still relies on convoluted processes and administrative roadblocks. Similarly, despite the TRIPS Agreement's requirement for comprehensive remedies against copyright infringement, Pakistan's current legal system is still relatively weak, with inadequate sanctions for infractions. (TRIPS, Art 41-61)

Several specific legal questions arise; the first concerns the scope of artistic works under national law. Section (2) of the Copyright Ordinance 1962 defines artistic work categories. Section (10) addresses the subsistence of Copyright in original works. These provisions establish the domestic starting points for determining whether the visual creations qualify for protection. The comparative standard is found in Articles 2 and 5 of the Berne Convention for the Protection of Literary and Artistic Works, which address protected categories of works and the protection afforded to qualifying works. The second question concerns reproduction and communication rights: visual images can be copied, reposted, and downloaded, which may affect the artist's ability to obtain financial benefit from their works. Under the Copyright Ordinance, the exclusive rights applicable to an artistic work must be considered with statutory provisions governing infringement and exceptions. At the comparative level, Article 9 of the Berne Convention establishes the rights of reproduction. Articles 8 and 10 of the WIPO Treaty address communication to the public. The comparison asks whether the domestic framework and its implementation adequately address the reproduction and online dissemination of visual works while recognizing that the precise legal character of a digital act depends on the acts and applicable statutory provisions.

The next question concerns the remedies for online infringement. The Copyright Ordinance provides civil and criminal mechanisms for addressing Copyright infringement. An artist may find it difficult to identify who first uploaded the image, preserve evidence of unauthorized use, or obtain relief before the work is copied further. The comparison with TRIPs is relevant because Part III of that agreement, including articles 41–61, addresses the enforcement of intellectual property rights. These instruments do not eliminate the need to examine Pakistan's own procedural rules, available remedies and institutional capacity.

The research problem is whether Pakistan's existing copyright legislation, interpreted in light of its amendments and relevant legal principles, provides sufficiently clear and effective protection for visual artists in relation to the scope of artistic works, online infringement remedies, and AI-assisted creative outputs. The article does not assume that the absence of technology-specific wording necessarily means that digital works lack protection. Instead, it investigates the reach of existing law, identifies

areas of uncertainty and practical weakness, and assesses where clarification and reforms may be justified.

There are still significant gaps in law implementation, enforcement, and regulations notwithstanding Pakistan's commendable efforts to modernize its copyright system and ratify international accords. To remedy these shortcomings, comprehensive plans that include both international plans and local legal reforms are needed. This thesis will function as both a critical evaluation and policy blueprint to enhance the protection of artists' copyright in Pakistan in an increasingly digital and global context.

Literature review

Copyright law gives authors and artists the right to create, share, and make their works available to the community easily. According to the World Intellectual Property Organization, copyright not only promotes creativity but also contributes to national cultural and economic development. (WIPO, Geneva 2020) To modernize intellectual property administration, the government of Pakistan established the Intellectual Property Organization of Pakistan (IPO- Pakistan) in 2005, which was given legal status under the IPO Act 2012. This act includes registration and policy development across different agencies. (IPO Act 2012)

Rai et al. (2025) proposed a royalty framework to improve copyright protection and accountability in AI-generated art. Their study focused on identifying the influence of existing artistic works on AI-generated images and developing a mechanism for attribution. Although the proposed framework offers a potential approach to protecting artists' economic interests, it primarily addresses the technical and financial aspects of AI-generated art rather than the adequacy of national copyright legislation. The research gap remains regarding how such mechanisms could be accommodated within Pakistan's copyright framework, particularly the Copyright Ordinance 1962, and whether existing legal provisions adequately address authorship and enforcement for visual artists in the digital environment.

Bomba and De Angeli (2025) examined how artificial intelligence is transforming traditional concepts of creativity and authorship in artistic production. They explained that AI-generated artworks may result from interaction with human artists and AI systems, creating uncertainty about creative ownership. The study highlights the role of human involvement in promoting and modifying AI-generated outputs. These issues provide the foundation for examining the adequacy of Pakistan's Copyright framework in protecting visual artists in the age of artificial intelligence.

Several international treaties form the backbone of global copyright protection. The most imperative and effective among all these is considered "The Berne Convention for the Protection of Literary and Artistic Works (1886)". WIPO guide says that this convention introduces the main concept of automatic protection, meaning that an artist's work is secured in all countries that are members even for that requirement of registration is not necessary. It also establishes the rules and regulations of national treatment, requiring all countries to give foreign writers the same protection it gives to its own citizens. (WIPO, Guide to the Berne Convention for the Protection of Literary and Artistic Works, Geneva: WIPO, 2021)

Hwang et al. (2025) examined perceptions of ownership and Copyright in AI-generated artwork through human-AI collaboration. The study involved South Korean university students who created images using AI tools and explored how repeated prompt refinement influences their views of authorship and ownership. The findings reveal differing opinions, with participants expressing individual and uncertain ownership of AI-generated images. The author highlighted the importance of human creative involvement in determining perceptions of ownership and emphasized the need for further discussion of Copyright in AI-assisted artistic production. This study is relevant to the present research because it highlights unresolved questions about authorship and ownership that

require examination under Pakistan's copyright framework.

In 2024, Mushtaq, S. Aamir, Khurram Baig, and Syed Wajdan Rafay examine whether Pakistan's existing copyright and competition laws adequately protect works created with artificial intelligence. The authors explain that Pakistan's Copyright Ordinance (1962) only recognizes human authorship, leaving AI-generated works without clear legal status and ownership. They compare this gap with the European Union frameworks such as copyright directives and the Digital Markets Act, which offer guidance on AI creativity. They say that Pakistan's laws are insufficient for the digital age, recommending amendments to cover AI-generated works and strengthen artistic rights to prevent control over data (Pakistan Journal of Criminal Justice 4, no. 1 (2024). It mainly focuses on how AI-generated content fits within Pakistan copyright but gives very limited attention to human artists and their protection in the digital era. It also lacks a detailed comparison with international standards and does not suggest specific reforms for Pakistan's creative sector.

In 2024, Iqbal, along with Khan, discuss how technology and the internet are making it harder to protect artists' works in Pakistan. Challenges include online piracy that allows file sharing without permission, digital manipulations, and cyber locks. Point out that there is weak awareness among artists and the public about these issues and the international cooperation's are insufficient. The authors suggest that Pakistan need stronger laws, better technical tool and more public awareness with other countries to combat copyright violations. (Iqbal, M. Z., and Dr. Muhammad Zubair Khan, 2024)

In 2023, Khan and Razeen analyze how South African copyright law handles issues related to AI-generated works. They focus on how authorship is defined under current law and show that the legal framework assumes human origin of works. This leaves AI-generated content in a grey area (Khan & Razeen, 2023). These scholars discuss AI Copyright laws but focus only on South Africa. They don't offer practical legal solutions, and they don't examine how developing countries like Pakistan could deal with the same solution.

In 2023, Muhammad Shahzad examines how copyright laws have developed around the world and how Pakistan compares in terms of adopting and enforcing them. He analyzes the Copyright Ordinance (1962) to show that while Pakistan has a legal structure in place, its implementation is weak. He states that claiming damages and accessing remedies are difficult in practice. He argues that Pakistan is lagging in implementing copyright protection in its true spirit, especially when compared to global practices. He provides recommendations, but the gap is that he did not mention a detailed reform model for digital-era laws. (Muhammad Shahzad, 2023)

Research methodology

The researcher applied a qualitative doctrinal legal research method and also focused on the prevailing laws and statutes, as well as international standards, for analyzing the artistic work under Copyright Law. The researcher also studied articles, books, and policy reports, as well as experts' opinions, as secondary sources.

Legal framework for visual artists

Copyright Ordinance 1962:

Copyright Ordinance 1962 is the principal legislation governing Copyright in Pakistan. Its purpose is to amend and consolidate the law relating to Copyright. Section 2(C) defines artistic work broadly. It includes a painting, drawing, maps, or photographs regardless of whether the work possesses artistic quality. It also includes architectural works of art and other works of artistic craftsmanship (Sec 2(c)). This broad statutory definition is significant for visual artists because it means that copyright protection is not limited to fine art. Different forms of visual expressions may fall in the statutory category of artistic work. Section 10 provides that copyright subsists in original literary, dramatic and artistic works subject to the requirements of the ordinance. (Sec 10)

Berne Convention and protection of artistic works

The Berne Convention is one of the central

international instruments governing copyright protection. It establishes several fundamental principles.

The first is national treatment, under which qualifying works originating in one member state receive protection in other member states generally on the same basis as works of nationals. The second is automatic protection. Protection cannot generally be made conditional upon compliance with formalities.16 The Convention protects productions in the literary and artistic domain regardless of the mode or form of expression. 17 This approach is highly relevant to visual artists. For Pakistan, the Berne's framework provides an important international benchmark against which domestic protection can be assessed. The comparison should focus on whether domestic law provides effective substantive rights and practical enforcement.

Copyright registration and automatic protection under the Berne Convention

Article 5(2) of the Berne Convention provides that the enjoyment and exercise of copyright must not be subject to formalities. Under Pakistan's Copyright Ordinance, 1962, section 39 provides for Copyright registration, while section 42 provides the evidentiary value of the register and registration certificate. These provisions suggest that registration serves an evidentiary function rather than constituting a general requirement for copyright protection. Therefore, the existence of the registration system does not by itself establish noncompliance with the Berne Convention. A conflict could arise if registration were treated as an amendatory condition for Copyright protection or assessed for legal remedies. For visual artists, complicated administrative procedures may, though, create practical difficulties in documenting ownership and pursuing infringement claims. Pakistan should therefore simplify registration procedures and ensure that registration facilities are enforced without becoming a barrier to the exercise of Copyright.

TRIPS and copyright protection

The Agreement on Trade-Related Aspects of Intellectual Property Rights provides another important international framework. TRIPS incorporates substantive provisions of the Berne Convention and establishes intellectual property obligations within the international trading system. TRIPS is significant because it connects copyright protection with enforcement. Effective protection is not limited to recognizing rights in legislation; states are also expected to maintain enforcement mechanisms capable of addressing infringement. The comparison between Pakistan and international standards should therefore consider both the existence of statutory rights and practical enforcement.

WIPO standards and digital environment

The World Intellectual Property Organization plays a central role in the international development and administration of intellectual property law. It administers major copyright treaties and provides guidance and policy resources concerning copyright protection. WIPO Copyright Treaty is particularly relevant because it addresses copyright in the digital environment. It supplements the Berne framework and recognizes the need to protect authors when their works are distributed through digital networks. 19 for Pakistan, these developments demonstrate that copyright law cannot remain focused solely on physical reproduction. Contemporary copyright policy must also consider online communication, digital distribution, licensing, and rapidly developing creative technologies.

Economic and moral interests of visual artists

Summary of the Berne Convention highlights that copyright protection contains both economic and personal dimensions. Economic rights enable copyright owners to control certain uses of their works and derive financial benefit from them. For a visual artist, unauthorized reproduction or commercial use may result in direct economic loss. Moral rights, on the other hand, are connected with the personal relationship between an artist and the work. Attribution is particularly important because an artist may expect recognition as the creator of an original work. The Berne Convention recognizes

the rights of an author to claim authorship and to object to certain modifications or other offensive actions prejudicial to the author's honor or reputation. (WIPO, "Summary of the Berne Convention.") For visual artists, attribution can be understood as an important component of creative recognition. When an artwork is copied and circulated without identifying its creator, the harm may extend beyond financial loss to the artist's professional reputation and creative identity.

Digital environment and social media

The growth of social media has transformed artistic communication. Platforms allow artists to display their works to large audiences without relying on traditional galleries. This can support professional opportunities and enable artists to build an audience. At the same time, the ease of copying digital content creates significant copyright risks. A person can save an image, reproduce it, repost it, and use it commercially without obtaining permission.

WIPO recognizes that digital technology has created new methods of distributing creative works and has raised questions regarding the continued effectiveness of copyright protection in digital environments. The WCT recognizes additional economic rights, including rights relating to distribution and communication to the public, and seeks to adapt Copyright protection to digital technologies. Pakistan's framework therefore needs to be considered not only in relation to traditional physical copies but also in relation to online reproduction, communication, distribution, licensing and unauthorized digital exploitation.

Artificial intelligence and visual art

Artificial intelligence has introduced a new dimension to copyright law. Modern AI systems can generate or modify images based on user instructions, existing data, or combinations of different inputs. This raises questions concerning authorship, ownership, originality, and the role of human creativity. The Copyright Ordinance 1962 was enacted decades before contemporary generative AI systems became part of everyday creative activity. Consequently, the legislation does not expressly establish a comprehensive framework for determining copyright ownership of AI-generated visual works.

One possible distinction is between AI-assisted human creativity and fully autonomous machine-generated output. Where a human artist uses AI as a tool but contributes substantial creative choices, legal analysis may focus on the person's creative contributions. In contrast, where an output is generated without sufficient human creative involvement, questions may arise regarding whether the output satisfies the requirements for copyright protection. Pakistan therefore requires further legal and policy discussion concerning AI rather than relying entirely on provisions developed for traditional forms of artistic production.

Enforcement challenges in Pakistan

Legal protection becomes meaningful only when creators can enforce their rights. Visual artists may face several difficulties, including limited awareness of copyright law, difficulty in identifying infringers, and delays and challenges in obtaining speedy remedies. Digital infringements create additional problems because an infringing work may be uploaded from another jurisdiction and repeatedly uploaded by multiple users. The artists may therefore have difficulty in stopping continued dissemination. The effectiveness of copyright protection should therefore be evaluated not only by examining statutory provisions but also by considering institutional capacity, enforcement procedures, judicial accessibility and the practical ability of artists to obtain relief.

Recommendations

Based on the findings, the following reforms are recommended.

Pakistan should develop clearer statutory or regulatory guidance regarding digital reproduction, online communication, social media distribution, and unauthorized digital use of artistic works.

Copyright law for digital artistic works should be addressed to determine how effectively its provisions on reproduction, ownership, infringement, and remedies apply to

artistic works circulated through social media and other digital platforms, where uncertainty and other gaps are identified, or interpretative guidance should be considered. Such reforms should complement existing legal protection rather than incorrectly suggest that digital artistic works are wholly unprotected.

The relationship between Pakistan's domestic law and the moral rights framework under Article 6bis of the Berne Convention should be examined carefully. The analysis should identify the precise rights recognized under domestic law and assess their practical enforcement.

Particular protection should be given to the practical difficulties visual artists may encounter in identifying infringers, preserving digital evidence, obtaining timely relief, and pursuing claims across jurisdictions. Institutional improvements should be recommended on the basis of identified legal or procedural shortcomings rather than general assumptions about enforcement.

The legal framework should distinguish between works created substantially by human creativity with AI assistance and outputs generated with minimal or no human creative contribution. Clear principles concerning authorship and ownership should be developed.

Legal and institutional mechanisms should promote proper identification of visual artists and provide effective remedies where attribution is deliberately removed or falsely claimed.

Copyright enforcement mechanisms should become more accessible and efficient for individuals. Specialized procedures for digital infringement claims could reduce the burden on artists.

Artists, students, digital creators, designers, and social media users should receive greater awareness regarding copyright, ownership, attribution, and lawful use of artistic works.

Copyright legislation should be periodically reviewed so that technological developments do not create prolonged gaps between legal rules and actual creative practices.

Conclusion

Copyright protection is essential for safeguarding creative expressions and ensuring that visual artists receive appropriate recognition and economic benefit from their work. Pakistan's Copyright Ordinance 1962 provides an important statutory foundation by recognizing artistic works and granting protection to original works. However, the rapid development of digital technology, social media, and artificial intelligence has created challenges that require further legal and institutional attention.

The comparison with the Berne Convention, WIPO, and the TRIPS Agreement demonstrates that Pakistan's legal system contains several important elements of international copyright protection; however, effective copyright protection requires more than the existence of statutory rights. The question of originality is important in the context of AI-assisted artistic works. Pakistan should develop clearer domestic guidance on the level of human creative contribution required for copyright protection while avoiding the assumption that international treaties establish a single universal test of originality.

The future protection of visual artists in Pakistan therefore depends upon a combination of legislative reforms, judicial development, institutional strengthening and adaptation to technological change. A modern copyright framework should protect not only the physical artwork but also the creative identity, economic interests, and legitimate digital uses of the artist.

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