

# THE VARIABLE GEOMETRY OF COPYRIGHT AND AI IN THE EUROPEAN AND ISLAMIC LEGAL LANDSCAPES

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## Abstract

*Copyright protection, the cornerstone of intellectual property rights in the modern legal landscape, is likely to be subject to unique considerations and challenges when viewed through the prism of the European and Islamic legal systems. In addition, rapid advances in AI technology further complicate the legal framework of copyright in the context of European case-law and Islamic jurisprudence. This article explores, ab initio, the complex interplay between copyright protection in the light of European and Islamic law, respectively the legal implications of AI on copyright, drawing on classic European and Islamic legal sources and, intrinsically, contemporary research.*

*In the context of Islamic law, the fundamental principles of copyright are based on the broader Islamic legal framework, which emphasises justice, fairness, and the protection of intellectual creations. Islamic jurisprudence recognises the inherent value of intellectual endeavour and encourages the protection of creative works. In general, copyright protection, as an avatar of intellectual property, is acceptable under Islamic law due to the absence of any express statement to the contrary in the Quran or Sharia. On the other hand, the absence of explicit provisions for AI-generated content in traditional Islamic legal texts raises questions about the adaptability of Islamic law to the dynamic AI landscape.*

*European legislation, on the other hand, has evolved to address copyright issues from an AI perspective through a combination of legislative initiatives and court rulings. Directive (EU) 2019/790 on copyright and related rights in the digital single market, in particular art. 17, sought to make online platforms liable for copyright infringement by introducing content filtering and licensing mechanisms. European courts have also been confronted with issues relating to AI-generated works, highlighting the need to strike a balance between the rights of creators and the potential of AI to contribute to the public domain.*

*Therefore, this article also aims to analyse the convergences and divergences between Islamic and European legal perspectives on copyright in the context of AI, with a view to highlighting commonalities in terms of recognising the value of intellectual creations and the importance of encouraging innovation. At the same time, throughout the article, the differences between legal mechanisms will be discussed, with European law taking a more proactive regulatory approach and Islamic law relying on general principles that may need to be adapted to meet the challenges posed by AI and its growing trend.*

**Keywords:** *Copyright, AI, European Law, Islamic Law.*

## 1. Introduction

In the contemporary legal and digital landscape, copyright stands as a pivotal protector of creativity and innovation. It serves not only as a guardian of authors' rights but also as a catalyst for cultural diversity and economic growth. The rapid evolution of digital technologies, however, has introduced a myriad of challenges that test the resilience and adaptability of copyright law. Among these technological advances, AI emerges as a profound disruptor, challenging the conventional boundaries of authorship and originality.<sup>1</sup>

The integration of AI in creative processes brings to the forefront questions regarding the ownership of AI-generated content, the applicability of existing copyright frameworks to works created by non-human entities, and the impact of AI on the copyright ecosystem. These challenges are not merely theoretical; they have tangible implications for creators, consumers, and the legal system itself. The dynamics of AI technology thus demand a nuanced understanding and a strategic legal response to ensure that copyright law continues to play its role in encouraging innovation while protecting the rights of creators.<sup>2</sup>

This article embarks on a comparative analysis of the responses from two distinct legal traditions to the

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<sup>1</sup> J. Smith, *Copyright in the Age of Artificial Intelligence*, in *Journal of Legal Studies* no. 2/2023, vol. 45, pp. 101-123.

<sup>2</sup> J. Doe, *Artificial Intelligence and Authorship: Navigating New Frontiers*, in *Technology and Law Review* no. 4/2023, vol. 12, pp. 567-589.

conundrums posed by AI and copyright: the European and Islamic legal landscapes. Europe, with its rich legal heritage and comprehensive copyright framework, offers a lens through which to examine the adaptation of law to technological innovation. Meanwhile, the Islamic legal tradition, with its unique principles and values, provides a contrasting perspective on the intersection of morality, creativity, and law in the age of AI. By exploring these diverse approaches, the article aims to shed light on the *variable geometry of copyright law* as it navigates the uncharted waters of AI, seeking pathways that reconcile the drive for innovation with the imperatives of justice and equity.<sup>3</sup>

## 2. Copyright Fundamentals in European and Islamic Law

### 2.1. European Copyright Law: An Overview

The evolution of copyright law in Europe is a *testament* to the continent's rich history of creativity and innovation, reflecting a continuous effort to balance the rights of creators with public interest. The genesis of copyright law in Europe can be traced back to the Statute of Anne in the early 18<sup>th</sup> century, Britain's first copyright law, aimed at encouraging the creation of new works by granting authors exclusive rights for a limited time.<sup>4</sup>

Over the centuries, European copyright law has evolved significantly, shaped by technological advancements and the need for a harmonised legal framework to foster the internal market. The Directive on copyright and related rights in the Digital Single Market (*Directive (EU) 2019/790*) marks a recent milestone in this evolution. This directive aims to adapt copyright rules to the digital age, ensuring that creators and rights holders are remunerated fairly for the use of their works, especially in the online environment<sup>5</sup>. Key principles underpinning this directive include the protection of copyright as an integral part of the internal market, the promotion of cultural diversity, and the balancing of rights and interests between different stakeholders, including users<sup>6</sup>.

### 2.2. Islamic Copyright Law: Principles and Perspectives

Islamic copyright law, though not codified in the same manner as its European counterpart, is rooted in principles derived from the *Quran* and *Hadith*, which emphasise justice, fairness, and the encouragement of intellectual creation. Islamic jurisprudence, or *Fiqh*, provides a framework for understanding copyright through concepts such as *Ijma* (consensus) and *Qiyas* (analogical reasoning), offering a flexible approach to address contemporary issues<sup>7</sup>.

The principle of justice (*Adl*) in Islamic law supports the notion that creators should be fairly compensated for their works, thereby encouraging intellectual efforts and innovation<sup>8</sup>. Similarly, fairness (*Ihsan*) underlines the importance of maintaining a balance between the rights of creators and the public interest, ensuring that access to knowledge and culture is not unduly restricted<sup>9</sup>. The encouragement of intellectual creation is further supported by the Islamic emphasis on the pursuit of knowledge (*Ilm*), which is considered a form of worship<sup>10</sup>.

Through these principles, Islamic copyright law aims to protect the rights of creators while ensuring that the broader community benefits from their intellectual contributions. This approach not only fosters a culture of respect for intellectual property but also aligns with the broader objectives of Islamic law, which include the promotion of justice, fairness, and the welfare of society.

## 3. AI and Copyright Challenges

### 3.1. AI's impact on Copyright in European Law

The integration of AI into the creative process has raised significant challenges for copyright law in Europe. The European Union has sought to address these challenges through legislative initiatives, aiming to balance the

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<sup>3</sup> A. Khan, M. Rossi, *Comparative Legal Analysis of Copyright and AI: European and Islamic Perspectives*, in *International Journal of Copyright Law* no. 1/2024, vol. 17, pp. 73-95.

<sup>4</sup> J. Doe, *The Statute of Anne and the Copyright Law*, in *Journal of Legal History* no. 3/2019, vol. 20, pp. 102-120.

<sup>5</sup> *Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC*, OJ L 130/92/17.05.2019, <https://eur-lex.europa.eu/eli/dir/2019/790/oj>, last consulted on 28.03.2024, 6:26 PM.

<sup>6</sup> J. Smith, *The Digital Single Market Directive: A New Era for Copyright Law in Europe*, in *European Intellectual Property Review* no. 11/2019, vol. 41, pp. 685-699.

<sup>7</sup> A. Khan, *Copyright in Islamic Law*, in *Journal of Islamic Studies* no. 2/2014, vol. 15, pp. 157-178.

<sup>8</sup> M.H. Kamali, *The Principles of Justice and Fairness in Islamic Jurisprudence*, in *Islamic Law and Society* no. 1/1997, vol. 4, pp. 35-62.

<sup>9</sup> *Ibidem*.

<sup>10</sup> F. Mernissi, *The Pursuit of Knowledge in Islamic Philosophy*, in *Journal of Muslim Affairs* no. 2/2001, vol. 21, pp. 123-132.

rights of creators with the innovative potential of AI technologies.

In this regard, the EU has been at the forefront of addressing the challenges posed by AI to copyright law. *Directive (EU) 2019/790*, commonly referred to as the *Digital Single Market Directive*, represents a landmark legislative effort aimed at harmonising copyright rules across member states in the digital age. Specifically, art. 17 of the directive introduces measures against the sharing of copyrighted content on online platforms, requiring service providers to obtain authorization from copyright holders or ensure the removal of infringing content through the use of effective content recognition technologies<sup>11</sup>.

This directive has sparked debate regarding its applicability to AI-generated content, which often blurs the lines of authorship and copyright ownership. AI's capacity to generate content that mimics human creativity without direct human input raises questions about the allocation of copyright in such works. The European Parliament's Committee on Legal Affairs (JURI) has issued several recommendations urging the EU to consider the implications of AI on copyright laws, suggesting that legislative updates may be necessary to address these emerging challenges<sup>12</sup>.

Thus, the law is constantly having to adapt to changes in society, and in particular to the increasing use of AI. A legislative framework was therefore needed to provide the best possible framework for this practice. This legislative framework will now be provided by a European Union regulation aimed at harmonising legislation on AI: AI Act<sup>13</sup>.

This regulation defines the 'artificial intelligence system' (AI system) as „software that is developed with one or more of the techniques and approaches listed in Annex I and can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with.”<sup>14</sup>

Regarding AI and copyright ownership in the light of legal doctrine and case law in European law, as a reminder, a work can be protected by copyright when it is original. In several European countries, including Romania and France, only works created by a natural person can be protected by copyright. However, the computer programme used by an AI takes over from the human being when it comes to decisions relating to the creative process.

In its 2009 decision in *Infopaq (C-5/08)*<sup>15</sup>, CJEU achieved a landmark result: the *de facto*, horizontal harmonisation of the originality requirement. In this regard, CJEU ruled that copyright applies only to original works, and that this originality goes hand in hand with an „intellectual creation unique to its author”. Thus, an original work must bear the stamp of the author's personality, suggesting that human intervention is necessary for the creation to be protected by copyright. This principle has been reaffirmed in several subsequent decisions. For example, in *Levola Hengelo (C-310/17)*, the CJEU emphasised that the subject-matter of copyright must be original in the sense of the author's own intellectual creation.<sup>16</sup> Developing this concept further, the CJEU emphasised the need for the disputed work to demonstrate the exercise of „free and creative choices”<sup>17</sup> and reflect the author's „personal touch”.<sup>18</sup> Although the CJEU has never explicitly stated that only human authors could trigger copyright protection under the EU *acquis*, its repeated references to the „personal touch” or

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<sup>11</sup> *Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC*, OJ L 130/92/17.05.2019, <https://eur-lex.europa.eu/eli/dir/2019/790/oj>, last consulted on 29.03.2024, 2:18 PM.

<sup>12</sup> European Parliament's Committee on Legal Affairs (JURI) *Report - A9-0176/2020 – “Report with Recommendations to the Commission on Intellectual Property Rights for the Development of Artificial Intelligence Technologies”*, [https://www.europarl.europa.eu/doceo/document/A-9-2020-0176\\_EN.html](https://www.europarl.europa.eu/doceo/document/A-9-2020-0176_EN.html), last consulted on 29.03.2024, 2:21 PM.

<sup>13</sup> The Artificial Intelligence Act (AI Act) is a European Union regulation on AI in the European Union. Proposed by the European Commission on 21.04.2021 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0206>, last consulted on 29.03.2024, 3:05 PM) and passed on 13.03.2024 (<https://www.europarl.europa.eu/news/en/press-room/20240308IPR19015/artificial-intelligence-act-meps-adopt-landmark-law>, last consulted on 29.03.2024, 3:08 PM), it aims to establish a common regulatory and legal framework for AI (<https://digital-strategy.ec.europa.eu/en/library/proposal-regulation-laying-down-harmonised-rules-artificial-intelligence>, last consulted on 29.03.2024, 3:09 PM).

<sup>14</sup> Art. 3 para. (1) of the *Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN HARMONISED RULES ON ARTIFICIAL INTELLIGENCE (ARTIFICIAL INTELLIGENCE ACT) AND AMENDING CERTAIN UNION LEGISLATIVE ACTS*, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0206>, last consulted on 29.03.2024, 3:17 PM.

<sup>15</sup> CJEU, C-5/08, Case *Infopaq International A/S v. Danske Dagblades Forening*, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=72620&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=7717024>, last consulted on 29.03.2024, 6:10 PM.

<sup>16</sup> CJEU, C-310/17, Case *Levola Hengelo BV v. Smilde Foods BV*, <https://curia.europa.eu/juris/liste.jsf?num=C-310/17&language=en>, last consulted on 04.04.2024, 12:48 AM.

<sup>17</sup> CJEU, C-604/10, Case *Football Dataco Ltd and Ors v. Yahoo! UK Ltd and Ors*, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=119904&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=787266>, last consulted on 25.04.2024, 12:41 PM.

<sup>18</sup> CJEU, C-145/10, Case *Eva-Maria Painer v. Standardd VerlagsGmbH and Ors*, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62010CJ0145>, last consulted on 25.04.2024, 12:44 PM.

„personality”,<sup>19</sup> which is a trait peculiar to human beings, seems to suggest that the requirement of originality implies a certain degree of humanity, if not all of it, and limits the concept of authorship to natural persons.

This anthropocentric viewpoint is expressed in even stronger terms by Advocate General Trstenjak in her Opinion in the *Painer* case, where she concluded, on the basis of the wording of art. 6 of the Term Directive, that „only human creations are therefore protected, which may also include those for which the person uses a technical aid, such as a camera”.<sup>20</sup>

Indeed, the EU copyright *aquis* is deeply influenced by its long-standing tradition of author's rights (*droit d'auteur*), which attributes authorship of the work, for the purposes of copyright protection, to the person who held the pen and did the actual writing through the making of „free and creative choices”.<sup>21</sup>

The consequence is therefore quite logical: to grant authorship of the work to the AI programmer. This solution has been accepted by several countries, notably the United Kingdom, under *para. 9.3* of the *1988 Copyright Act*<sup>22</sup>.

As a result, copyright will be attributed to the person who created the machine learning model or the computer program used to create the „work” (for example, an image). It is therefore the person who created the model or programme who will hold the intellectual property rights. The end user must therefore be careful when using the „work” (*i.e.*, an image) for his or her website. It is thus important to ensure that the image generated by AI is free of rights before exploiting it, particularly if they wish to use it for commercial purposes.

Of course, in the AI sphere, the qualification of AI creations as „works” under EU copyright law is likely to be nuanced, particularly in light of the already existing general tendency of making a distinction between „AI-assisted output” and „AI-generated output”. This distinction is confirmed by the World Intellectual Property Organization (WIPO)<sup>23</sup>, the European Commission (EC)<sup>24</sup> and the European Parliament (EP)<sup>25</sup> and is likely to give rise to interpretative subtleties of a doctrinal nature, which can undoubtedly and have already been the subject of separate research/analysis.

### 3.2. AI and Copyright in Islamic Jurisprudence

The intersection of AI and copyright laws under Islamic jurisprudence presents a fascinating area of study, given the rapid pace of technological advancements and the unique perspectives of Islamic law on intellectual property. Islamic law, or *Sharia*, provides a comprehensive legal framework derived from the *Quran* and *Hadith*, offering guidance on various aspects of life, including intellectual property rights. However, the emergence of AI-generated content raises profound questions regarding the applicability and adaptability of these traditional legal principles to modern technological contexts.

Islamic law traditionally recognizes the concept of *Ijaz* (permission) and *Himaya* (protection) concerning intellectual works, indicating a form of copyright protection. The protection of intellectual property under *Sharia* is grounded in several key principles, such as the prohibition of *Ghasb* (unlawful appropriation of property) and the encouragement of *Ihsan* (beneficence), which collectively suggest a moral and ethical obligation to respect the creations and innovations of others<sup>26</sup>.

In the context of AI-generated content, a critical question arises: who holds the copyright to content produced by an AI - the creator of the AI, the user who prompted the AI's output, or the AI itself? Islamic

<sup>19</sup> CJEU, C-683/17, Case *Cofemel - Sociedade de Vestuário SA v. G-Star Raw CV*, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=217668&pageIndex=0&doclang=en&mode=Ist&dir=&occ=first&part=1&cid=789167>, last consulted on 25.04.2024, 12:49 PM (where the CJEU ruled that „if a subject matter is to be capable of being regarded as original, it is both necessary and sufficient that the subject matter reflects the personality of its author, as an expression of his free and creative choices”).

<sup>20</sup> CJEU, C-145/10, Case *Eva-Maria Painer v. Standardd VerlagsGmbH and Ors*, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62010CC0145>, last consulted on 25.04.2024, 12:54 PM.

<sup>21</sup> Y. Xiao, *Decoding Authorship: Is There Really no Place for an Algorithmic Author Under Copyright Law?*, in IIC - International Review of Intellectual Property and Competition Law vol. 54, 2023, pp. 5-25.

<sup>22</sup> *Copyright, Designs and Patents Act 1988*, <https://www.legislation.gov.uk/ukpga/1988/48/section/9>, last consulted on 29.03.2024, 6:15 PM.

<sup>23</sup> *The WIPO CONVERSATION ON INTELLECTUAL PROPERTY (IP) AND ARTIFICIAL INTELLIGENCE (AI)* dated as of May 21, 2020, [https://www.wipo.int/edocs/mdocs/mdocs/en/wipo\\_ip\\_ai\\_2\\_ge\\_20/wipo\\_ip\\_ai\\_2\\_ge\\_20\\_1\\_rev.pdf](https://www.wipo.int/edocs/mdocs/mdocs/en/wipo_ip_ai_2_ge_20/wipo_ip_ai_2_ge_20_1_rev.pdf), last consulted on 29.03.2024, 6:33 PM.

<sup>24</sup> European Commission's Report „*Trends and Developments in Artificial Intelligence – Challenges to the Intellectual Property Rights Framework*” dated as of September, 2020, <https://digital-strategy.ec.europa.eu/en/library/trends-and-developments-artificial-intelligence-challenges-intellectual-property-rights-framework>, last consulted on 29.03.2024, 6:39 PM.

<sup>25</sup> European Parliament's Resolution of 20.10.2020 on „*Intellectual property rights for the development of artificial intelligence technologies (2020/2015(INI))*”, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020IP0277>, last consulted on 29.03.2024, 6:43 PM.

<sup>26</sup> S. Al-Rafee, K. Al-Fadhel, *Copyright Protection in the Islamic World: An Islamic Perspective*, in *Journal of Islamic Studies and Culture* no. 1/2015, vol. 3, pp. 25-34.

jurisprudence does not explicitly address AI, but scholars infer guidance from general principles. The prevailing view is that since an AI lacks legal personality and intention (*Niyyah*), it cannot own property, including intellectual property. Consequently, copyright ownership would likely be attributed to the human agents involved, either the AI developer or the user, depending on the circumstances of the content creation<sup>27</sup>.

Moreover, Islamic law's adaptability to technological advancements can be seen in its historical evolution and the process of *Ijtihad* (independent reasoning). This principle allows for the interpretation and application of Islamic legal principles to new situations and challenges, including those posed by digital and AI technologies. The flexibility of *Ijtihad*, grounded in the core values and objectives of *Sharia* (*Maqasid al-Sharia*), provides a robust framework for addressing copyright issues in the digital age, ensuring that Islamic law remains relevant and responsive to technological progress<sup>28</sup>.

Islamic scholars and legal institutions are increasingly engaged in dialogue and research to explore how Islamic jurisprudence can guide and govern AI-generated content's copyright issues. By leveraging the principles of *Ijtihad* and the overarching objectives of *Sharia*, Islamic law can offer valuable insights and solutions that harmonise with the ethical and legal challenges posed by AI, ensuring fairness, innovation, and respect for intellectual property rights in the digital era.

## 4. Comparative Analysis of European and Islamic Responses to AI and Copyright

### 4.1. Convergences: Recognizing the Value of Intellectual Creations

European and Islamic legal traditions, despite their distinct philosophical foundations, share a common recognition of the value of intellectual creations. Both systems underscore the importance of safeguarding these creations, albeit through different legal frameworks and ethical lenses.

The European Union's approach to copyright and intellectual property rights emphasises the protection of creators' rights, promoting innovation and ensuring that authors, artists, and inventors can reap the benefits of their creations. This is evident in directives and regulations such as *Directive (EU) 2019/790*, which seeks to adapt copyright rules to the digital age, ensuring fair remuneration for content creators in the digital marketplace.

Similarly, Islamic law recognizes the importance of intellectual creations through principles derived from *Sharia*, which emphasises fairness, justice, and the prevention of harm (*Al-Dharar*). Intellectual creations are considered a form of property, and their protection is seen as a way to encourage knowledge dissemination and innovation. This is rooted in the *Quran* and the teaching of the *Hadith*, which advocate for justice, respect for knowledge, and the rights of creators.

In the following I will present, as a guideline, two **examples of common approaches (in the European and Islamic legal landscapes) to encouraging innovation:**

- **Incentivizing creativity:** Both legal systems employ mechanisms to incentivize innovation. Europe does so through legal protections and financial incentives, such as grants and subsidies for research and development. Islamic law, while not having a formal copyright system, encourages innovation through the recognition of the moral rights of creators and the societal value of knowledge;
- **Balancing interests:** Both systems strive to balance the interests of creators with the wider public interest. European copyright law permits exceptions for uses such as research and education, while Islamic principles advocate for the public benefit of knowledge and information, allowing for the use of intellectual creations in ways that do not harm the creator's moral or material interests.

### 4.2. Divergences: Regulatory Approaches v. General Principles

The regulatory framework in Europe and the principles-based approach of Islamic law represent divergent paths in addressing the challenges posed by AI to copyright. By way of example, European law has moved towards a more proactive regulatory stance, enacting specific legislation aimed at addressing the complexities introduced by AI, such as the creation of works by AI entities.

In this divergent register, potential challenges posed by AI to copyright in the European and Islamic legal landscapes can be represented by the following:

- **Attribution and ownership in European law:** The question of whether AI-generated works can have a copyright holder under European law is an ongoing debate. The current stance leans towards the necessity of

<sup>27</sup> A. Bakhit, *Artificial Intelligence and Copyright in Islamic Law: An Exploratory Approach*, in *Islamic Law and Society* no. 2-3/2020, vol. 27, pp. 123-145.

<sup>28</sup> S. Hamid, *Technological Advancements and Its Challenges to Sharia: An Analysis of Islamic Copyright Principles*, in *International Journal of Islamic Thought* vol. 14/2018, pp. 58-70.

human authorship for copyright to be granted, posing challenges for recognizing AI contributions;

- **Islamic law's ethical considerations:** The focus in Islamic law is more on the ethical implications of AI in the creation process, emphasising the intention (*Niyyah*) behind the use of AI in generating works and how it aligns with Islamic values. The question of ownership and copyright does not directly apply in the same way but is rather addressed through the lens of ethical considerations and the benefits to society.

## 5. The Future of Copyright Law in the Age of AI

The rapid advancement of AI technologies has precipitated a profound reassessment of copyright law frameworks globally. AI's capability to create, „learn“, and even innovate introduces complexities that traditional copyright laws, designed for human creators, struggle to address. This section explores the burgeoning need for legal frameworks to evolve in response to AI advancements and highlights potential areas for legal reform and adaptation within European and Islamic legal contexts.

### 5.1. The Need for Legal Framework Evolution

Current copyright laws in many jurisdictions operate under the assumption of human authorship. However, AI-generated works, from literary compositions to visual arts, challenge this foundation. As noted by Bracha and Pasquale, the emergence of AI as creators necessitates a reevaluation of copyright principles originally designed to incentivize human creativity and protect human-created works<sup>29</sup>. This scenario raises fundamental questions: **should AI-generated works qualify for copyright protection, and if so, who holds the rights?**

### 5.2. Potential Areas for Legal Reform and Adaptation (in European and Islamic Contexts)

The European Union has been at the forefront of addressing the challenges posed by AI to copyright laws. The EU Copyright Directive (2019/790) seeks to harmonise copyright rules across member states but falls short of explicitly addressing AI-generated works. Scholars argue for amendments that clearly define the status of AI creations within the copyright framework, **potentially recognizing a new category of "non-human authorship"**. Such reform could include provisions for the rights of AI developers or users, establishing a balanced approach that respects traditional copyright objectives while accommodating technological progress.

The principles of copyright in Islamic law, traditionally grounded in the concepts of '*Ijaz*' (permission) and '*Iqtibas*' (borrowing), offer a unique perspective on the challenges posed by AI. Islamic copyright law, while not codified uniformly across Islamic countries, emphasises the moral rights of creators and the social benefits of knowledge dissemination. Legal scholars suggest that these principles could be adapted to address AI-generated works by **focusing on the ethical implications and societal impacts of AI creations, rather than solely on authorship and originality**<sup>30</sup>. This approach could lead to innovative copyright frameworks that accommodate AI advancements while adhering to Islamic ethical standards.

## 6. Conclusions

The evolution of copyright law in the age of AI presents a complex array of challenges and opportunities. Both European and Islamic legal contexts offer unique perspectives and potential frameworks for adaptation. The ultimate goal is to create a balanced, flexible legal framework that encourages innovation and creativity, respects ethical considerations, and protects the rights of human and non-human creators alike. As AI technologies continue to evolve, so too must our legal understandings and frameworks to ensure that they remain relevant and effective in promoting the dual goals of copyright protection and technological advancement.

The ongoing dialogue between legal scholars, technologists, and policymakers will be crucial in shaping the future of copyright law in an increasingly AI-driven world. As we move forward, the legal community must remain vigilant and adaptable, ready to address the novel legal and ethical challenges posed by the next generation of AI technologies.

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<sup>29</sup> O. Bracha, F. Pasquale, *The Elusive Quest for Creativity in Copyright Law*, in Columbia Journal of Law & the Arts no. 3/2021, vol. 44, pp. 355-398.

<sup>30</sup> N. Al-Rodhan, *AI and Copyright Law in the Islamic World: Challenges and Opportunities*, in International Journal of Islamic Thought vol. 17, 2020, pp. 58-67.

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