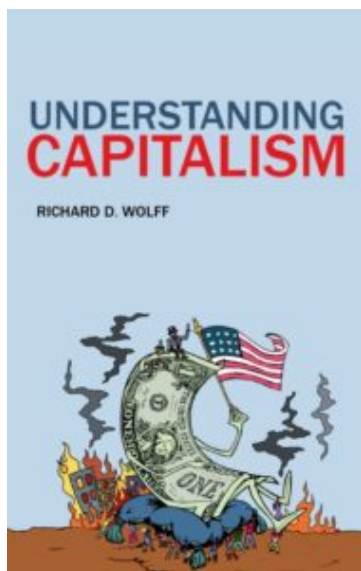


Why Poverty Reduction Under Capitalism Is A Myth



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08-27-2024 ~From its beginnings, the capitalist economic system produced both critics and celebrants, those who felt victimized and those who felt blessed. Where victims and critics developed analyses, demands, and proposals for change, beneficiaries, and celebrants developed alternative discourses defending the system.

Certain kinds of arguments proved widely effective against capitalism's critics and in obtaining mass support. These became capitalism's basic supportive myths. One such myth is that capitalism created prosperity and reduced poverty.

Capitalists and their biggest fans have long argued that the system is an engine of wealth creation. Capitalism's early boosters, such as Adam Smith and David Ricardo, and likewise capitalism's early critics such as Karl Marx, recognized that fact. Capitalism is a system built to grow.

Because of market competition among capitalist employers, "growing the

business” is necessary, most of the time, for it to survive. Capitalism is a system driven to grow wealth, but wealth creation is not unique to capitalism. The idea that only capitalism creates wealth or that it does so more than other systems is a myth.

What else causes wealth production? There are a whole host of other contributors to wealth. It’s never only the economic system, whether capitalist or feudal or slave or socialist. Wealth creation depends on all kinds of circumstances in history (such as raw materials, weather, or inventions) that determine if and how fast wealth is created. All of those factors play roles alongside that of the particular economic system in place.

When the USSR imploded in 1989, some claimed that capitalism had “defeated” its only real competitor—socialism—proving that capitalism was the greatest possible creator of wealth. The “end of history” had been reached, it was said, at least in relation to economic systems. Once and for all, nothing better than capitalism could be imagined, let alone achieved.

The myth here is a common mistake and grossly overused. While wealth was created in significant quantities over the last few centuries *as* capitalism spread globally, that does not prove it was capitalism that *caused* the growth in wealth. Maybe wealth grew despite capitalism. Maybe it would have grown faster with some other system. Evidence for that possibility includes two important facts. First, the fastest economic growth (as measured by GDP) in the 20th century was that achieved by the USSR. And second, the fastest growth in wealth in the 21st century so far is that of the People’s Republic of China. Both of those societies rejected capitalism and proudly defined themselves as socialist.

Another version of this myth, especially popular in recent years, claims capitalism deserves credit for bringing many millions out of poverty over the last 200 to 300 years. In this story, capitalism’s wealth creation brought everyone a higher standard of living with better food, wages, job conditions, medicine and health care, education, and scientific advancements. Capitalism supposedly gave huge gifts to the poorest among us and deserves our applause for such magnificent social contributions.

The problem with this myth is like that with the wealth-creation myth discussed above. Just because millions escaped poverty during capitalism’s global spread

does not prove that capitalism is the reason for this change. Alternative systems could have enabled an escape from poverty during the same period of time, or for more people more quickly, because they organized production and distribution differently.

Capitalism's profit focus has often held back the distribution of products to drive up their prices and, therefore, profits. Patents and trademarks of profit-seeking businesses effectively slow the distribution of all sorts of products. We cannot know whether capitalism's incentive effects outweigh its slowing effects. Claims that, overall, capitalism promotes rather than slows progress are pure ideological assertions. Different economic systems—capitalism included—promote and delay development in different ways at different speeds in their different parts.

Capitalists and their supporters have almost always opposed measures designed to lessen or eliminate poverty. They blocked minimum wage laws often for many years, and when such laws were passed, they blocked raising the minimums (as they have done in the United States since 2009). Capitalists similarly opposed laws outlawing or limiting child labor, reducing the length of the working day, providing unemployment compensation, establishing government pension systems such as Social Security, providing a national health insurance system, challenging gender and racial discrimination against women and people of color, or providing a universal basic income. Capitalists have led opposition to progressive tax systems, occupational safety and health systems, and free universal education from preschool through university. Capitalists have opposed unions for the last 150 years and likewise restricted collective bargaining for large classes of workers. They have opposed socialist, communist, and anarchist organizations aimed at organizing the poor to demand relief from poverty.

The truth is this: to the extent that poverty has been reduced, it has happened *despite* the opposition of capitalists. To credit capitalists and capitalism for the reduction in global poverty is to invert the truth. When capitalists try to take credit for the poverty reduction that was achieved against their efforts, they count on their audiences not knowing the history of fighting poverty in capitalism.

Recent claims that capitalism overcame poverty are often based on misinterpretations of certain data. For example, the United Nations defines extreme poverty as an income of under \$1.97 per day. The number of poor people living on under \$1.97 per day has decreased markedly in the last century. But one

country, China—the world’s largest by population—has experienced one of the greatest escapes from poverty in the world in the last century, and therefore, has an outsized influence on all totals. Given China’s huge influence on poverty measures, one could claim that reduced global poverty in recent decades results from an economic system that insists it is *not* capitalist but rather socialist.

Economic systems are eventually evaluated according to how well or not they serve the society in which they exist. How each system organizes the production and distribution of goods and services determines how well it meets its population’s basic needs for health, safety, sufficient food, clothing, shelter, transport, education, and leisure to lead a decent, productive work-life balance. How well is modern capitalism performing in that sense?

Modern capitalism has now accumulated around 100 individuals in the world who together own more wealth than the bottom half of this planet’s population (over 3.5 billion people). Those hundred richest people’s financial decisions have as much influence over how the world’s resources are used as the financial decisions of 3.5 billion, the poorest half of this planet’s population. That is why the poor die early in a world of modern medicine, suffer from diseases that we know how to cure, starve when we produce more than enough food, lack education when we have plenty of teachers, and experience so much more tragedy. Is this what reducing poverty looks like?

Crediting capitalism for poverty reduction is another myth. Poverty was reduced by the poor’s struggle against a poverty reproduced systemically by capitalism and capitalists. Moreover, the poor’s battles were often aided by militant working-class organizations, including pointedly anti-capitalist organizations.

By Richard D. Wolff

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Source: Independent Media Institute

Credit Line: This adapted excerpt from Richard D. Wolff's book [Understanding Capitalism](#) (Democracy at Work, 2024) was produced by [Economy for All](#), a project of the Independent Media Institute.

Harris's Failed Opportunity?



Sonali Kolhatkar

08-26-2024 ~ *Kamala Harris chose to embrace Republican language on the economy even if she backs progressive politics.*

During her nearly 40-minute-long [speech](#) on the final day of the 2024 Democratic National Convention in Chicago, Vice President Kamala Harris laid out her economic plan for the nation as “an opportunity economy where everyone has the chance to compete and a chance to succeed.”

I deliberately chose not to watch her speech, preferring instead to read it. The ebullience at this year's DNC was infectious. The Democratic Party is leaning into some of the language of progressive economic populism and is energized by a younger, more enthusiastic nominee. But reading Harris's speech rather than watching it, helped bring some distance from the joy and clarified that the party is

still not embracing the language of progressive economic populism and continues to use the destructive language of the right.

The term “opportunity economy” is itself the problem. It’s a phrase that former Senate Majority Leader [Mitch McConnell](#) used to defend Donald Trump’s economic agenda in 2019. [Florida’s Chamber of Commerce](#), a staunchly pro-business outfit, has used it as well.

The word “opportunity” means a chance, the creation of circumstances to make something possible. We live in a nation where racial segregation is technically illegal, which means people of color have the “opportunity” to attend elite schools, apply for jobs, build wealth, retire comfortably, and pass their wealth to their children. Those opportunities have existed for decades. But data shows over and over that they don’t translate into reality, especially for Black and Brown people in the U.S. The [racial wealth gap](#), for example, remains high. There are structural barriers that remain firmly in place, and that require very specific government intervention to dismantle. Will Harris embrace such a dismantling?

Harris proudly related during her DNC [speech](#) that she “took on the big banks, delivered \$20 billion for middle-class families who faced foreclosure, and helped pass a homeowner bill of rights, one of the first of its kind in the nation.”

But she took on banks as a prosecutor, not as a legislator or executive. And her homeowner bill of rights was, once more, based on the ideas of “opportunity.” In a [2017 op-ed](#) she explained that the bill of rights was based on “six bills designed to give Californians a fair opportunity to work with their banks, modify their loans, and keep their homes.”

Harris [pointed](#) out at the DNC that she “stood up for veterans and students being scammed by big, for-profit colleges. For workers who were being cheated out of their wages, the wages they were due. For seniors facing elder abuse.” Again, all were commendable achievements made during her role as a prosecutor and Attorney General of California. Will she stand up for the rights of veterans, students, workers, and seniors, or simply afford them opportunities for justice?

There is a huge difference between “opportunities” and “rights.” The former is a pro-corporate, pro-business term that is perfectly consistent with an individualist capitalist economy that has “winners” who make use of opportunities for wealth-building and “losers” who fail to do so. But “rights” is a word that insists on basic

standards of fairness that everyone deserves. It encompasses an idea that capitalism hates: that people have the *right* to healthcare, childcare, education, homes, good wages, union jobs, and a stable climate. There are no winners and losers.

There was little talk of such rights at the Convention. In fact, even the [New York Times](#) noticed that Democrats avoided bringing up Medicare-for-All and the idea that everyone—not just a subsection of the population—has the right to taxpayer-funded healthcare. The Times’s Noah Weiland pointed out, “Her avoidance of a policy that had been central to progressive Democratic aspirations underscores how quickly she has sought to define her candidacy while appealing to more moderate voters, and how Medicare-for-All proposals have effectively left the Democratic mainstream for now.”

Instead of asserting that everyone has the right to taxpayer-funded healthcare Harris [said](#), “We are not going back to when Donald Trump tried to cut Social Security and Medicare. We are not going back to when he tried to get rid of the Affordable Care Act when insurance companies could deny people with pre-existing conditions.”

It sounds as though she and her party have given up on expanding government healthcare to all and instead gone on the defense against the Republican Party’s attacks on Medicare and the ACA.

Harris’s second favorite word, after “opportunity” was “[freedom](#).” She used it a dozen times in her speech, recasting “rights” as “freedoms.” She referenced the “The freedom to live safe from gun violence in our schools, communities, and places of worship. The freedom to love who you love openly and with pride.” She also touted, “The freedom to breathe clean air, and drink clean water, and live free from the pollution that fuels the climate crisis. And the freedom that unlocks all the others: the freedom to vote.”

Clearly, Harris was attempting to reclaim the word “freedom” from the GOP, a formation that has been pulled toward the extreme right by Republican lawmakers who label themselves as members of the “[Freedom Caucus](#).” Freedom is akin to opportunity.

Indeed, Harris’s failure to make a full-throated embrace of progressive economic populism was a failed “opportunity.” The conditions were ripe for her to lean in to

language centered on the rights of people given that we have witnessed a cultural sea change on the failures of capitalism.

This change was apparent at the 2024 DNC as well. One need only examine how Vermont Senator Bernie Sanders was received this year compared to the last two conventions. When Sanders spoke at the 2016 DNC in Philadelphia, his role was to [placate progressives](#) in the party who had supported his candidacy for the Democratic Party's presidential nomination. He urged his voters to back Hillary Clinton, the centrist candidate who would go on to lose the electoral college vote to Donald Trump in spite of winning the popular vote. Only months earlier, [leaked internal emails](#) from the Democratic National Committee revealed just what the party's insiders thought of Sanders—and it wasn't pretty.

Then, four years ago, his role at the 2020 DNC in Wisconsin was to defend Joe Biden's candidacy against Trump. He [remarked](#), "Many of the ideas we fought for, that just a few years ago were considered 'radical,' are now mainstream."

But this year, even though his role was once more to convince his supporters to back a mainstream Democratic candidate, Sanders's prime-time [address](#) at the 2024 DNC in Chicago sounded remarkably mainstream. The [New York Times](#) recognized him as an insider, saying that he seemed to have "a sense of vindication that the Democratic Party, as he sees it, has finally recognized that many progressive causes are broadly popular with Americans."

Sanders hasn't changed, but the party's rhetoric has. Slate's [Alexander Sammon](#) pointed out that, "There were very few themes in Sanders's speech that other Democratic speakers hadn't already covered on Monday and Tuesday." Although the DNC's tenor was markedly different from four and eight years ago—Sanders now sounded like he fit in, largely because the tenor, if not the substance, of his political leanings have become mainstream.

Meanwhile, Harris's language of "opportunity agenda" leans right. She shared at the DNC, "My mother kept a strict budget. We lived within our means. Yet, we wanted for little and she expected us to make the most of the opportunities that were available to us, and to be grateful for them." Such words could easily have been said by a Republican and reflect the party's ideas about "fiscal responsibility."

Harris also touted a "middle-class tax cut" in attempting to distinguish herself

from Trump's tax cuts for the rich. But tax cuts for the middle class is a [core GOP talking point](#)—even if the party usually delivers for the already-rich in spite of its promises to the not-so-rich.

In truth, Harris is likely more economically progressive than she let on. She has [backed](#) the Child Tax Credit, a program that was [popular](#) and remarkably [effective](#). But she made no mention of it at the DNC. Her running mate Minnesota Governor Tim Walz is known for his [economically progressive policies](#).

Granted, party conventions these days appear to be tailored to appease a sliver of the American public: the undecided voters in swing states whose all-important ballots will help determine who wins the electoral college, and thus, the presidency. In the context of such an undemocratic system, politicians will always feel pressure to tack toward the center, as winning the popular vote does not guarantee victory.

But we live at a time when momentum is building for fulfilling the economic “rights” of people via such ideas as [universal basic income plans](#), and [reparations](#) for Black people. A broad movement of progressives has for years demanded that the Democratic Party distinguish itself from the GOP by making a full-throated defense of the values it claimed to stand for. Rather than leaning rightward by using the Republican-style language of “opportunity” and “freedom,” the Democratic Party could lean left and center the “rights” of people.

By Sonali Kolhatkar

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Source: Independent Media Institute

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Interest Rate Cuts Now Could Help Workers. But That's Not Who The Fed Serves.



Prof.dr. Gerald Epstein

08-26-2024 ~ *Progressive economist Gerald Epstein says the Fed is more sensitive to the needs of the wealthy few than the rest of us.*

The Federal Reserve hasn't changed interest rates since July of last year, after 11 hikes between March 2022 and July 2023 in the hope that higher borrowing costs would slow down consumer and business demand so inflation rates would drop. It kept the benchmark interest rate unchanged in its latest meeting ending July 31, 2024, but Federal Reserve Chair Jerome Powell said that the first rate cut in four years "[could be on the table](#)" in [September](#). Nonetheless, the Fed has faced criticism for its refusal to lower rates, though inflation rates have moved steadily

lower. By tightening monetary policy, the Fed hurts consumers' financial lives and even increases unemployment. So why has the Fed been so reluctant to cut interest rates?

The main reason, argues renowned progressive economist Gerald Epstein in the exclusive interview for *Truthout* that follows, is because the Fed is "more sensitive to the needs of the wealthy few than the rest of us." As such, the Fed's claim that it is an independent government agency is a complete myth. Epstein is professor of economics and co-director of the Political Economy Research Institute (PERI) at the University of Massachusetts Amherst, and author of the recently published book [Busting the Bankers' Club: Finance for the Rest of Us](#) (University of California Press, 2024).

C. J. Polychroniou: The Federal Reserve has generated a lot of controversy by deciding at the July Federal Open Market Committee meeting to keep its benchmark interest rate unchanged. Obviously, the central bank is determined to attain its 2 percent inflation objective even though its 23-year high interest rates are having a significantly negative impact on the economy and on consumers' financial lives. Indeed, the Fed's high interest rates are counterproductive. They drive up housing prices, including rent; make it more difficult for people to pay down their debts; and even the unemployment rate has started to tick up. What's going on here? Why is Fed Chairman Jerome Powell refusing to cut the short-term interest rates even as inflation falls?

*Gerald Epstein: You are right. For quite a while, the Federal Reserve's high-interest rate policy has been harmful for most people and even counterproductive in terms of its ostensible objectives: reducing the cost of living for most Americans. These high interest rates are also interfering with other important needs. For example, as [Jen Harris](#) wrote in *The New York Times*, they are discouraging important investments in green energy such as wind power projects, because these projects tend to have large up-front costs and long-term pay-offs. So, the question is: Why has the Fed kept rates up so high and for so long? A key reason, at least until recently, is that these high rates have had [big pay-offs](#) for banks and other financial institutions that have been able to charge higher interest rates while reaping rewards from big capital gains in the [stock market](#). At this point, however, with the major drops in inflation and the weakening state of the economy, even big financial institutions have been calling for rate cuts. So why has the Fed refused to cut rates? Probably the main reason is that they fear a*

backlash from their major constituents, big finance and the wealthy top 1 percent, if they lower rates too quickly. In other words, they are much more sensitive to the needs of the wealthy few than to everyone else. Compounding this bias is the fact that the Fed's policy is informed by a profoundly mistaken economic theory: Their view, shared by most mainstream macroeconomists — such as former Fed Chair Ben Bernanke and former Treasury Secretary Larry Summers — is that the Fed controls inflation to a large degree by influencing the “public's” expectations of inflation, and that they do this by their inflation fighting “credibility.” And what determines this credibility? Their willingness to hurt workers if they try to raise their wages too much. It is a sort of central bankers' “macho” contest that Jerome Powell and other central bankers want to win. A major problem with this, from a theoretical point of view, is that there is very little, if any, evidence that expectations — credible or otherwise — have much impact on inflation, especially at the relatively low levels at which it is occurring these days.

To what extent does the stock market influence the real economy of goods and services? And should the Fed be blamed for the stock market rout in early August?

In principle, the stock market can influence the “real economy” in a couple of ways. The market can affect decisions that investors make as to how much and where to invest in the real economy — in plants, equipment and technology. And second, the value of the stock market can affect how “rich” people who own stocks feel. This so-called wealth effect can impact how much people are willing to spend on goods and services, or how much they are willing to borrow to do the same. Of course, since it is rich people who own most of the stock (though middle-class Americans also have some of their pensions and other savings in the stock market), this wealth effect will mostly impact the consumption of the wealthy. [Thomas Ferguson and Servaas Storm](#) have argued that, in recent years, this wealth effect has had a powerful impact on consumption demand, and indirectly on inflation.

Donald Trump warned Powell in mid-July not to cut rates before the election. Obviously even Trump himself understands that cutting interest rates would boost the economy and the Democrats' odds of a victory in November. Is the Fed an independent government agency or a political institution?

The Fed is of course a political institution, and the claim that the Federal Reserve

is inherently “independent” is a commonly stated attempt to obscure this fact. The Fed is political both formally and informally. It is formally political because it is a “creature” of Congress. The U.S. Constitution allots to Congress the power to manage the U.S. “coinage” and currency and, by founding the Fed in 1913, the Congress delegated various powers of monetary management to the Fed. But, since the power lies with Congress, they can expand, curtail or change these at any time.

Similarly, over time, the president has been given by Congress the power to make appointments to the Federal Reserve governing body. So, the president has been delegated certain powers over the Fed by Congress. None of these, however, have formally given the Fed any political independence whatsoever. As such, the formal independence of the Fed is a complete myth — one, however, that the Fed and others are obsessed with promoting. The process by which the Fed promotes its independence demonstrates the second, informal sense, in which the Fed is highly “political.” As I show in my recent book, [*Busting the Bankers’ Club: Finance for the Rest of Us*](#), the Federal Reserve cultivates powerful constituencies to expand and protect its “independence” from the government. This constituency consists primarily of the big banks and other financial institutions and their mouth pieces in the press and business. They are very successful in promoting this idea. It is not unusual to hear from pundits that the Federal Reserve is mandated to be “independent.” But the reality is that the Fed is highly political, dependent on big finance for support, and, in turn, the Fed is incentivized to give big macroeconomic and regulatory support to these banks. This is a political quid pro quo on a massive scale.

The claims about mandated Federal Reserve independence have become louder recently since Donald Trump has occasionally announced that, if he becomes president again, he will get rid of Fed independence. Of course, if Donald Trump got control over the Fed ... he would certainly try to use the Fed to do his bidding at the expense of the rest of us. But the same would be true of the Defense Department, or the Environmental Protection Agency or the Commerce Department. The response is not to say that these all should be independent. The response should be to say that these agencies should be staffed by experts who have mandates to carry out laws in the public interest.

Fed Chair Powell has said that a September rate cut is on the table. How likely is that to happen, and would it have any impact on mortgage rates and rent prices

and on consumers' financial lives in general?

At this point, it is very likely since, as I said before, with inflation now tamed and the economy slowing down, even banks and other financial institutions are urging the Fed to cut the interest rate. When they speak, the Fed surely listens. And yes, mortgage rates would come down ... in fact, we are already seeing them fall in anticipation of such cuts. As for rental prices, that is a more complex story. As long as private equity firms and other big financial companies can buy up rental properties and use [algorithms](#) and other mechanisms to keep rents high, a simple interest rate cut will not broadly work to lower rates or increase sufficiently the availability of rental housing. Here, bolder and more real economy interventions will be necessary to make a dent in this major problem.

This interview has been lightly edited for clarity.

Source:

<https://truthout.org/articles/interest-rate-cuts-now-could-help-workers-but-thats-not-who-the-fed-serves/>

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C.J. Polychroniou is a political scientist/political economist, author, and journalist who has taught and worked in numerous universities and research centers in Europe and the United States. Currently, his main research interests are in U.S. politics and the political economy of the United States, European economic integration, globalization, climate change and environmental economics, and the deconstruction of neoliberalism's politico-economic project. He is a regular contributor to *Truthout* as well as a member of *Truthout's* Public Intellectual Project. He has published scores of books and over 1,000 articles which have appeared in a variety of journals, magazines, newspapers and popular news websites. Many of his publications have been translated into a multitude of different languages, including Arabic, Chinese, Croatian, Dutch, French, German, Greek, Italian, Japanese, Portuguese, Russian, Spanish and Turkish. His latest books are *Optimism Over Despair: Noam Chomsky On Capitalism, Empire, and Social Change* (2017); *Climate Crisis and the Global Green New Deal: The Political Economy of Saving the Planet* (with Noam Chomsky and Robert Pollin as primary authors, 2020); *The Precipice: Neoliberalism, the Pandemic, and the Urgent Need for Radical Change* (an anthology of interviews with Noam

Chomsky, 2021); and *Economics and the Left: Interviews with Progressive Economists* (2021).

The Profound Implications Of The 2024 US Election



08-24-2024 ~ *This election is indeed unlike any other in modern history because American voters are so polarized that the threat of civil breakdown is real.*

Since U.S. Vice President [Kamala Harris](#) took the reins from President Joe Biden, the presidential race has tightened in key battle states as the momentum has shifted in Democrats' favor. Why do so many people say that the 2024 presidential race is pivotal for the future of democracy? And what would a Kamala Harris foreign policy look like with regard to the transatlantic relationship, Ukraine's war effort, China, and [Gaza](#)?

Political scientist and political economist C. J Polychroniou tackles these questions in an interview with the French-Greek independent journalist Alexandra Boutri. Unlike many radicals who won't support the Democratic ticket if Harris does not change her policy on [Israel](#), Polychroniou thinks that the 2024 presidential election has great implications beyond Gaza.

Alexandra Boutri: For the next couple of months or so, U.S. elections will be under the spotlight. It has been argued that because of Trump's embrace of authoritarianism, the 2024 presidential election is pivotal for the future of U.S. democracy, critically consequential to Washington's European allies, and

potentially transformative for today's geopolitical realities. [Donald Trump](#) and Kamala Harris also differ radically when it comes to climate change, immigration, and the economy. They are also quite apart across a broad range of issues related to gender identity and sexual orientation. Do you agree then with the view of many people who say 2024 is the most important election of their lives?

C. J. Polychroniou: The 2024 U.S. presidential election is enormously important for many of the reasons you cited, although we shouldn't be oblivious of the fact that parochialism is what drives most American voters. That said, this election is indeed unlike any other in modern history also because American voters are so polarized that the threat of civil breakdown is real. In fact, I believe that Trump is already laying the groundwork for rejecting the election result if he loses. This is why he calls Democrats' replacement of Biden a "coup" and even "[a violent overthrow](#)" of a president. And back in March, he said that there will be a "[bloodbath](#)" if he loses the November election. Obviously, there is something very wrong with the contemporary political culture in the U.S. I mean, compare what is happening in the U.S. to Britain's political culture where civility is still the name of the game. Former Prime Minister Rishi Sunak not only conceded defeat and congratulated Labour's leader, Keir Starmer, for his party's victory, but took [responsibility](#) for the Tory party's worst defeat in history.

Alexandra Boutri: Why does polarization run so deep in today's United States?

C. J. Polychroniou: Political polarization among Americans has deep societal roots, with religion and race playing pivotal roles, but has been steadily intensifying in the last 40 or 50 years. There is now such a huge gap between Democrats and Republicans over political and social values that each side fears that the other side will destroy the nation if they are allowed to dictate policy. Democrats tend to be quite liberal when it comes to social issues, but most Republicans identify themselves as social conservatives. However, it is interesting to note that an annual poll on values and beliefs conducted last year by [Gallup](#) found that more Americans identify themselves as socially conservative than at any time in about a decade, although the largest increase was among Republicans. The role of guns in society, abortion, race, immigration, gender identity, and sexual orientation are among the issues that sharply divide supporters of the two parties, according to the latest findings from a [Pew Research Center](#) survey. Republicans and Democrats are also very much divided over [the role of government power](#) and [global warming](#). In sum, it would not be an exaggeration to say that Democrats

and Republicans live in different worlds.

Alexandra Boutri: How would you describe today's GOP?

C. J. Polychroniou: Today's GOP is the creation of one man alone—namely Donald J. Trump. What I mean by that is Trump can shift the party in any direction he chooses because he exerts a cult of personality over his followers. He can deliver fiery anti-abortion messages at some juncture during his political life, like he did when he first ran for president because he needed the support of evangelical Christians, but then decline to endorse a national abortion ban at another juncture because he fears that it would cost him votes if he did so.

Trump is not about ideology, values, or beliefs. Trump is the penultimate political opportunist who will say and do anything that might help him to achieve his goals. He is a clown, but a dangerous one who poses a real threat to democracy and the rule of law. The Republican Party has always been a reactionary political party but has now become an extreme political organization that fires up its base with lies and conspiracies. Trump employs the rhetoric of conservative populism, mocks the elite class, and pretends to be pro-worker. Never mind that Trump has no ideological convictions of his own and spent four years in office weakening unions and catering to the interests of the superrich. Most GOP voters have become blind followers of Trump and have neither the critical thinking skills nor the will to face the truth. They live in the political bubble that Trump has created for them. They would gladly take part in any political scheme conceived by Trump and even allow him to govern by dictatorial means. Moreover, virtually no Republican dares to stand up to Trump. He mocked and humiliated all his Republican rivals, but in the end they all fell in line and kissed his ring. I have a hard time coming up with politicians anywhere else on the planet who are so cowardly and obsequious as the Republicans are in the “land of the free.”

Alexandra Boutri: By the same token, the Democratic Party also went from being the “party of the people” to the party of the financial elite. Would you say then that it is the Democrats who paved the path for the rise of someone like Donald Trump?

C. J. Polychroniou: The Democratic Party has always been a pro-business party. Until recently, the differences between Democrats and Republicans were not that great. Indeed, as [Noam Chomsky](#) used to say, “The United States has essentially a

one-party system and the ruling party is the business party.” So, it was largely a myth to say that the Democratic Party was the “party of the people.” Nonetheless, Bill Clinton remade the Democratic Party (after [Jimmy Carter](#) had already laid the groundwork for the shift to neoliberalism) to such an extent that it abandoned all pretext of being a party representing the working class. Clinton had revealed his anti-union credentials long before he made it to the White House. He had been working ceaselessly toward undermining the labor movement in [Arkansas](#) since the mid-1970s.

The working class ditched Hillary Clinton in 2016. Working-class voters, feeling betrayed by the Democratic Party and its economic policies, were a key demographic element behind Trump’s rise. Of course, it wasn’t just economics that drove white working-class voters to Trump’s camp. An equally important factor was racial and cultural resentment. Anyone who thinks that racism and xenophobia were not important factors in Trump’s rise or that they don’t figure prominently in the support he has been receiving since from the millions of his followers needs a reality check.

But something rather exciting has been happening over the past few years inside the Democratic Party. The progressive wing has moved the party to its left on key economic issues. Subsequently, Joe Biden has been very outspoken about supporting [organized labor](#) and his administration may be the most progressive in U.S. history.

If Trump returns to the White House, we should all brace ourselves for major shocks. We should expect to see mass deportations, systematic efforts to undermine democracy and rights in the U.S. and even abroad, the sacking of thousands of civil servants, the dismantling of the Department of Education, the expansion of presidential power (and bear in mind that an ultra-conservative Supreme Court gave presidents total immunity from prosecution for all official acts), major tax cuts for the rich, the end of policies to tackle the climate crisis, and even a rollback of policies that have aided minorities economically and socially. This is what’s behind [Project 2025](#), a blueprint of over 900 pages for a second Trump term developed by the arch-conservative Heritage Foundation.

That said, I do not wish to create the impression that the Democratic Party has somehow become a democratic party of the alternative and progressive left. The irony is that the Democratic Party not only remains pro-capitalist, and with deep

ties to Wall Street, but is even far more militaristic and pro-war than the Republican Party. And its leadership remains profoundly hypocritical. At the Democratic National Convention (DNC), one speaker after another, including Kamala Harris, spoke about justice and equality for all. But Democrats refused to give airtime to Palestinians who wanted to highlight the ongoing tragedy in Gaza. They also spoke about “joy,” “compassion,” and “safety” and then paraded a host of speakers who spread the message of militarism. As the brilliant [Jon Stewart](#) aptly summarized this amazing contradiction in his *Daily Show* following the conclusion of the DNC, “These are the new Democrats, man. They lead with joy and compassion and acceptance. And, oh yeah, we will fuck you up.”

Alexandra Boutri: What would a Kamala Harris foreign policy look like with regard to the transatlantic relationship and Ukraine’s war effort?

C. J. Polychroniou: I don’t think U.S. foreign policy under a Kamala Harris presidency will be any different from the Biden administration when it comes to engagement with European allies and support for Ukraine. In fact, she made that abundantly clear during her acceptance speech at the DNC. After all, continuity is one of the main characteristics in U.S. foreign policy. Transatlantic relations experienced an initial shock when Trump entered the White House in early 2017 but returned to stability shortly thereafter. And Biden’s foreign policy hasn’t been very different from that of Donald Trump. The U.S. is a global superpower, an imperial state, so it would be naïve to think that foreign policy can change dramatically from one administration to the next. Barack Obama campaigned for president in 2008 with the intent of bringing about a fundamental shift in the direction of U.S. foreign policy. He offered the promise of renewed idealism and a return to the rule of law. He fell way short of achieving even the slightest transformation. His [U.S. drone program](#) was far deadlier than what had taken place under the Bush administration. Obama carried out more strikes in his first year as part of a covert drone war strategy than Bush carried out in his entire presidency.

Alexandra Boutri: What about China?

C. J. Polychroniou: There is a looming superpower clash between the United States and China that I would place at the top of geopolitical risks for the years ahead. An incident in the Taiwan Strait or the South China Sea could easily trigger conflict escalation. The U.S. is obsessed with how to respond to China’s

involvement in the South China Sea. And this is not merely a question of prestige and power. The U.S. Energy Information Administration estimates that the [South China Sea](#) holds about 11 billion of barrels of untapped oil and 190 trillion cubic feet of natural gas. We remain a highly violent species. Trump won't solve the U.S.-China conflict, and I doubt that Kamala Harris will become the [next Richard Nixon](#) on U.S.-China relations.

Alexandra Boutri: I suppose then that you also don't expect a shift in U.S.-Israeli relations under a Kamala Harris presidency. Will she at least handle Gaza differently?

C. J. Polychroniou: I think the answer is negative on both counts. Israel is the most important strategic ally that the U.S. has in the Middle East. What this means is that the U.S. will continue to look the other way to whatever Israel pleases to do and will confine itself to the use of diplomatic language in connection to any Israeli violations of international law and human rights simply for PR purposes. But Israel's total dependence on the U.S. is something that should worry future generations in Israel. What will happen if Israel happens to lose its strategic value in a future world order?

Alexandra Boutri: The Hamas October 7 attack continues to divide the world and in particular the left. Didn't the Hamas leadership anticipate a massive Israeli response? Or it is that they didn't care?

C. J. Polychroniou: What's been happening in Gaza for more than 10 months now is one of the greatest crimes in the postwar era, a totally disproportionate response to the October 7 terror attack inside Israeli territory. But, at the same time, it is inconceivable that you have people, leftists and radicals, who refuse to condemn Hamas for those horrific actions against innocent Israelis, many of whom were in fact peace activists. Also, and putting aside the question of who a terrorist is actually, I find rather absurd the comparisons between the Hamas organization and the anti-fascist resistance movements against Nazism. Israeli Prime Minister Benjamin Netanyahu's far-right government is beyond extreme. But Hamas is not some sort of a progressive "liberation movement."

The October 7 attack is a war crime. Plain and simple. I am baffled by those (and, as you know, I've had some unpleasant exchanges over this matter with certain people) who try to argue that the October 7 attack is justified on moral grounds

and strategic considerations. Attacking civilians is never moral. Both Hamas and Israel are guilty of the same crime. Hamas and Israeli leaders are indeed [war criminals](#). And what exactly are those strategic objectives on the part of Hamas that can justify the October 7 terror attack against innocent Israeli civilians? Israel has destroyed almost all of Gaza's infrastructure; killed more than 40,000 Gazans, mostly women and children; and Hamas has been severely weakened. Perhaps Hamas did not anticipate such a brutal response on the part of the Israeli military. Perhaps its leadership did not think that their operation would be as vast as it turned out to be given the state of Israeli military intelligence. But I am sure that they also did not care if innocent civilians in Gaza were going to be killed because of their actions. They would probably call that "collateral damage," just like the Israelis do. And this war has also made the two-state solution a virtual impossibility, although there was never any real chance of that happening anyway. In fact, I am of the opinion (and hope that I am wrong) that the goal of Palestinian self-determination has been made far more difficult now on account of the October 7 attack despite of the fact that support for the Palestinian cause continues to grow among civil society organization across the globe.

Alexandra Boutri: One final question, and it has to do with third-party and independent candidates running for president. Could they affect the 2024 vote?

C. J. Polychroniou: One could and should be in support of third-party candidates for all sorts of reasons. The problem however with the U.S. political system is that they have no chance of winning a presidential race. I doubt that they can even shake up the two-party system. You need some form of proportional representation, like the system that exists in many European democracies, for third parties in the U.S. to make a real impact on national politics. But third-party candidates can easily end up having the opposite-than-desired effect, which is to help the candidate they least want in the White House emerge victorious. And this may very well happen if voters in swing states who are opposed to the Democrats on account of the war in Gaza end up casting their ballots for third-party candidates.

Source: <https://www.commondreams.org/opinion/implications-2024-election-us>

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Will Bangladesh Be Another Egypt?



08-24-2024 ~ The day after former Bangladeshi Prime Minister Sheikh Hasina left Dhaka, I was on the phone with a friend who had spent some time on the streets that day. He told me about the atmosphere in Dhaka, how people with little previous political experience had joined in the large protests alongside the students—who seemed to be leading the agitation. I asked him about the political infrastructure of the students and about their political orientation. He said that the protests seemed well-organized and that the students had escalated their demands from an end to certain

quotas for government jobs to an end to the government of Sheikh Hasina. Even hours before she left the country, it did not seem that this would be the outcome. Everyone, he told me, had anticipated more violence from the government.

These protests in Bangladesh this year are not unique. They are part of a cycle of

protests that started at least a decade ago, with the issues (an end to the quotas, better treatment of students, less government repression) being similar. These are not simple protests around simple demands that can be easily addressed. The demands—such as quotas—return Bangladesh to what the elite has tried desperately to repress: the ugly history of the country’s origins. The quotas are for freedom fighters who risked life and limb to battle the Pakistani military in 1971 and who won independence for Bangladesh. While it is true that such quotas should not be sustained over generations, it is also true that the issue of the quota is caught up partly with the problems of employment for educated, young people, and partly with the reassertion of the Islamist forces in Bangladesh who had been compromised by their association with the Pakistani violence. After the 2018 anti-quota movement, Sheikh Hasina’s government [decided](#) to cancel the system. The decision went to the courts. The High Court argued that the quotas had to be reinstated, but the Supreme Court—in June 2024—decided that the quotas would not be fully reinstated, but only partly (7 percent for freedom fighters’ children, and not 30 percent). This was the spur for a renewed protest movement. It targeted Sheikh Hasina’s government rather than the courts.

Shahbag Square

A decade ago, a massive protest took place in Dhaka at Shahbag Square. People gathered there to protest a decision by the courts to give a life sentence to Abdul Quader Mollah, who had been personally found guilty of killing 344 people during the 1971 genocide in East Pakistan. Quader Mollah was a leader of the fundamentalist party Jamaat-e-Islami, which had collaborated with the Pakistani military even in the worst days of the violence in this part of what was then Pakistan. Despite this verdict, Quader Mollah was given life in prison and as he left the court, he flashed a victory sign to the Jamaatis, the members of the Jamaat-e-Islami. Millions of people were angered by Quader Mollah’s arrogance. For a protest that was formed around a gruesome demand (the death penalty), the people there seemed optimistic about their country. The enthusiasm was infectious. “Let’s destroy all evil powers. Let’s continue the momentum of the movement of Shahbag. Let’s play our roles. Let’s build the nation. We know how to defeat our enemies,” [said](#) Shohag Mostafij, a development professional in Dhaka.

At Shahbag, I asked people if they had been motivated by the Arab Spring that had taken place two years previously. Aziza Ahmed, one of the young people who

helped build the Shahbag protests, [said](#) that it was not “an impulse to follow on the footsteps of Arab Spring or Occupy Wall Street.” However, these events provided inspiration, even though the protests started due to blog posts against the verdict (many of these bloggers faced the wrath of the Islamist wing two years later when some of them were murdered). The young bloggers and people like Aziza Ahmed allowed the protests to be interpreted as a youth movement (indeed, Shahbag was often called “generation square” or “Projonmo Chottor” in Bangla in reference to the youth). But, in fact, Shahbag carried within it a deep well of hatred against the Jamaat-e-Islami all the way from 1971. There was [harsh language](#) used in the Square against the Jamaatis who had collaborated with the Pakistani army, including calls for their deaths.

Neither the 2013 Shahbag protests nor the [2018 protests for road safety](#) came to any resolution. Anger simmered under the surface, only to reassert itself in 2024 with the new Supreme Court verdict. Large protests took to the streets against the quotas, bringing in social forces such as the students who faced unemployment and those who had no ancestral connection to freedom fighters (including the Jamaatis). Protests of this kind are predictable, even though their consequence is unpredictable. Until the afternoon of Sheikh Hasina’s departure, it was not clear that she would leave. The mood replicated the situation in Cairo in 2011 when President Hosni Mubarak first said he would not seek re-election (February 10) and then when it was announced that he had already resigned and would be leaving the country for Saudi Arabia (February 11).

From Cairo to Dhaka.

After Mubarak left Cairo, the military took charge of Egypt. The people at Tahrir Square, the main protest site, sought protection behind a figure known to the world, Mohamed ElBaradei, the head of the International Atomic Energy Agency. The military, however, was forced to convene a constitutional assembly and then hold elections in 2012. This election brought to power the Muslim Brotherhood, which had been the most organized force in Egyptian politics. In 2013, the military overthrew the Brotherhood government, and put in place what appeared to be a civilian leadership. At this time, they brought ElBaradei in as vice president, but he only lasted from July to August 2013. The military suspended the 2012 constitution and put one of its own into the presidency, first in his uniform and then in a suit. This man—General, now President Abdel Fattah el-Sisi—has been in power for a decade. Many of the leaders of Tahrir languish in

prison, their generation demoralized.

The ElBaradei of the Bangladeshi situation is Muhammad Yunus, a Nobel Prize winner and founder of the Grameen Bank (a scheme of micro-credit for poor women using ideas of [shame](#) as collateral, which has made [considerable](#) money for the largely male bankers). Yunus assembled a cabinet made up of neoliberal officials from the Bangladeshi bureaucracy, academia, and the non-governmental organization sector. The finance ministry, for instance, is in the capable hands of Salehuddin Ahmed, former Governor of the Bangladesh Bank, who will reliably [enforce](#) neoliberal economic policy. He will be perfectly comfortable in a conversation with Egypt's newly appointed finance minister, Ahmed Kouchouk, who used to be a senior economist at the World Bank. No progressive agenda can come from these sorts of finance ministries, let alone an agenda to establish the integrity of the national economy.

As of now, the Bangladeshi military remains in the barracks. But the attitude of repression has not subsided, only the address for the arrests has changed. Yunus's government has pursued members of Sheikh Hasina's government with arrests on charges that include murder. Every day the newspapers in Bangladesh announce new arrests, all on a variety of charges. Sheikh Hasina's Awami League is being gutted, and she herself has [lost](#) the right to travel on a diplomatic passport. Rashed Khan Menon, leader of the Workers Party of Bangladesh, was [arrested](#) on a murder charge; Shakib Al Hasan, who is currently in Pakistan playing cricket for Bangladesh and is an Awami League member, [faces](#) a murder charge regarding the death of a protester on August 5.

Whether there is any merit to these cases is to be seen, but the avalanche of arrests of members of Sheikh Hasina's Awami League and of associated parties appears like a tide of retribution. Meanwhile, the Jamaat sees a resurrection as one of its wings—the Amar Bangladesh Party—was [registered](#) as a political party and several of its members are likely to be given [responsibility](#) for running several universities. For all the talk of a new Bangladesh, Yunus's government shut down two television channels, Somoy TV and Green TV (which had been previously [boycotted](#) by the Bangladesh National Party, the main opposition front) and its authorities arrested Hashem Reza, the editor of Amar Sangbad, as well as senior employees of Ekattor TV, Shakil Ahmed and Farzana Rupa. The liberal sections of Bangladesh's elite are not discomfited by this wave of repression, which suggests that their liberalism is more political than principled.

The Bangladesh Spring seems to be rapidly escalating toward its Winter.

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Source: Globetrotter

How Artificial Intelligence Challenges The Concept Of Authorship



Leslie Alan Horvitz

Photo: lesliehorvitz.com

08-21-2024 ~ *If AI creates the content, who owns the work? Answering this complex question is crucial to understanding the legal and ethical implications of AI-generated content.*

Producing art and text using computers is not new. It has been happening since the 1970s. What is new is that computers are acting independently—without programmers providing any input; the computer program generates the work, even if programmers have set the parameters.

Not only are computers acting more independently but the quality of the content being generated has also increased. How this content is used has changed, too, and it may not always be created with the best motives. This is the new frontier of artificial intelligence or AI.

Coursera, a for-profit open online course provider, [stated](#), “Artificial intelligence is the theory and development of computer systems capable of performing tasks that historically required human intelligence, such as recognizing speech, making decisions, and identifying patterns. AI is an umbrella term encompassing various technologies, including [machine learning](#), [deep learning](#), and [natural language processing](#).”

The “[Generative Artificial Intelligence and Copyright Law](#)” report by the Congressional Research Service offers a more specific perspective: “So-called ‘generative AI’ computer programs—such as OpenAI’s [DALL-E](#) and [ChatGPT](#) programs, Stability AI’s [Stable Diffusion](#) programs, and [Midjourney’s self-titled program](#)—can generate new images, texts, and other content (or ‘outputs’) in response to a user’s textual prompts (or ‘inputs’).”

These AI programs are generated by exposing them to staggeringly large quantities of existing texts, photos, paintings, and other artworks. For example, generative pretrained transformers (GPTs) are a type of large language model (LLM) that use massive datasets comprising articles, books, and essays available on the internet to generate any kind of text. (Paul McDonagh-Smith, a senior lecturer in information technology at the MIT Sloan School of Management, [suggested](#) a less technical meaning for the acronym: General purpose technology.)

Programmers create generative AI platforms by searching for patterns and relationships in these vast archives of images and text. Then, the same process

used in autofills creates rules and makes judgments and predictions when responding to a prompt or input.

But who has the right to the results or the output? Does copyright, patent, or trademark apply to AI creations? Who owns the content that AI platforms produce for a company or its customers?

Is using LLMs and scraping the internet for texts and images—the term applied to harvesting content online—fair use, as the AI companies claim, or do these companies require permission and owe royalties to the content owners?

Put another way, would it make more sense to confer [copyright on a pen manufacturer for a book](#) rather than the writer who used the pen to write it? In digital terms, it's evident that Microsoft Word can't assert copyright over texts created using the program. Why should AI be any different? As it turns out, the answer to this question isn't straightforward.

An Uncertain Legal Situation

[Courts have yet to consider](#) how fair use standards apply to AI tools.

“[T]here isn't a clear answer to whether or not in the United States that is copyright infringement or whether it's fair use,” [stated](#) Ryan Abbott, a lawyer at Brown Neri Smith & Khan. In an interview with the New York Times, he said, “In the meantime, we have lots of lawsuits moving forward with potentially billions of dollars at stake.”

Because the lawsuits raising these questions are in the early stages of litigation, it could be years before a federal district court rules on the matter or these cases go to the Supreme Court. Regulators have yet to make definitive rulings on the rights and responsibilities of AI companies using original content or about the creators of that content.

What U.S. Copyright Law Says

The Copyright Office has [adopted an official policy](#) declaring that it will “register an original work of authorship, provided that the work was created by a human being.” This leads to the question of whether or not AI-generated content can be considered to be created by a human being. In one sense, it is, yet the program usually generates content that no human being is responsible for, leaving the question largely unanswered.

To answer this question, we must consider [the concept of authorship](#). [Article I, Section 8](#) of the U.S. Constitution authorizes Congress to “[secure] for limited times to authors... the exclusive right to their... writings.” That means that the Copyright Act affords copyright protection to “original works of authorship.” What constitutes authorship? Both the Constitution and Copyright Act are silent on that question.

The September 2023 [report](#) published by the Congressional Research Service suggested that the Copyright Office wasn’t likely to find the requisite human authorship where an AI program generates works in response to text prompts.

However, we must consider the human creativity required to design AI software. Programmers may make creative choices in coding and training the AI software, giving them a stronger claim to some form of authorship. Would the programmers’ contributions warrant copyright protection? Or would AI—or rather the company that owns the AI program like Microsoft or OpenAI—deserve the protection?

The U.S. Copyright Office acknowledges that the advent of AI presents unprecedented difficulties that Congress must address. “[W]e have concluded that a new law is needed,” [stated](#) a July 2024 U.S. Copyright Office report “Copyright and Artificial Intelligence.” “The speed, precision, and scale of AI-created digital replicas [call] for prompt federal action. Without a robust nationwide remedy, their unauthorized publication and distribution threaten substantial harm... in the entertainment and political arenas.”

The report proposes adopting a new federal law that protects all individuals, not just celebrities or public figures, against creating and distributing their digital likenesses without consent. It calls for online service providers to “remove unauthorized digital replicas” upon receiving “effective notice.” The report also gives individuals the right to “license and monetize” their digital replica rights. The agency acknowledges that First Amendment concerns need to be accounted for in any new statute. The proposed reforms would also protect “against AI outputs that deliberately imitate an artist’s style,” but any new law would not define what this style constitutes.

How Other Countries Protect Content

Cases in other countries offer few valuable precedents. In March 2012, for

example, in an Australian case ([Acohs Pty Ltd v. Ucorp Pty Ltd](#)), a court found that a work generated by a computer could not be protected by copyright law because a human did not produce it.

In 2009, the Court of Justice of the European Union declared in the [Infopaq decision](#) “that copyright only applies to original works, and that originality must reflect the ‘author’s own intellectual creation,’” stated WIPO magazine.

Courts in other countries—India, Ireland, New Zealand, and Hong Kong—are more favorable to the programmer as the “author.” [Copyright law](#) in the United Kingdom appears to hedge its bets: “In the case of a literary, dramatic, musical or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken,” [added](#) the article.

Lack of Clarity on What Constitutes Infringement

The generative process of making large language models, image-producing programs like DALL-E, music composition, and voice recognition require training. AI can only generate something with this training, which invariably involves making digital copies of existing works.

According to the U.S. Patent and Trademark Office, this [process](#) “will almost by definition involve the reproduction of entire works or substantial portions thereof.” For instance, OpenAI [accepts](#) that its programs are trained on “large, publicly available datasets that include copyrighted works.”

Whether or not copying constitutes fair use depends on four statutory factors under [17 U.S.C. § 107](#), according to Cornell Law School:

“[T]he purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

[T]he nature of the copyrighted work;

[T]he amount and substantiality of the portion used in relation to the copyrighted work as a whole;

[T]he effect of the use upon the potential market for or value of the copyrighted work.”

Depending on the jurisdiction, different federal circuit courts may respond with varying interpretations of the [fair use doctrine](#), which allows copyrighted work to be used without the owner's permission "for purposes such as criticism (including satire), comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research," according to the nonprofit publication Lawfare. This is called transformative use under the doctrine and lets a person "exploit" copyrighted material in a way it was not originally intended.

In a [submission](#) to the House of Lords Communications and Digital Select Committee inquiry in December 2023, OpenAI said it could only train large language models, [such as its GPT-4 model](#), by accessing copyrighted work. "Because copyright today covers virtually every sort of human expression—including blog posts, photographs, forum posts, scraps of software code, and government documents—it would be impossible to train today's leading AI models without using copyrighted materials."

According to the congressional [report](#), "OpenAI [argues](#) that its purpose is 'transformative' as opposed to 'expressive' because the training process creates 'a useful generative AI system'" and further contends that fair use is applicable because the content it uses is intended exclusively to train its programs and is not shared with the public. If a work is considered "transformative" based on OpenAI interpretation, it has to be significantly altered from the original so it is not viewed as an imitation.

Meanwhile, OpenAI, which has created tools like [its groundbreaking chatbot](#), ChatGPT, stated that it would be impossible without access to copyrighted material. However, the company insists that it has taken steps to avoid the possibility of infringement, asserting, for example, that its visual art program [DALL-E 3](#) "is designed to decline requests that ask for an image in the style of a living artist."

The AI company also [maintains](#) that it needs to use copyrighted materials to produce a relevant system: "Limiting training data to public domain books and drawings created more than a century ago might yield an interesting experiment, but would not provide AI systems that meet the needs of today's citizens," stated a January 2024 article in the Guardian.

As a legal precedent, the company cites the [Authors Guild, Inc. v. Google, Inc.](#), "in

which the U.S. Court of Appeals for the Second Circuit held that Google’s copying of entire books to create a searchable database that displayed excerpts of those books constituted fair use,” the congressional [report](#) stated.

Unsurprisingly, [OpenAI’s position](#) has met with considerable criticism. “We won’t get fabulously rich if you don’t let us steal, so please don’t make stealing a crime!” [wrote](#) AI skeptic Gary Marcus on the social media site X (formerly known as Twitter). “Sure, Netflix might pay billions a year in licensing fees, but ‘we’ (OpenAI) shouldn’t have to!”

When Is a Piece of Work Too Similar?

Copyright owners have to adhere to high standards to demonstrate that the production of an AI program has infringed their rights; for example, if a painter maintains that a DALL-E image bears an uncanny resemblance to their work, it would lead to copyright infringement “if the AI program both 1) had access to their works and 2) created ‘substantially similar’ outputs,” the [report](#) stated.

“Courts have variously [described the test](#) as requiring, for example, that the works have ‘a substantially similar [total concept and feel](#)’ or ‘[overall look and feel](#)’ or that ‘the [ordinary reasonable person](#) would fail to differentiate between the two works,’” [added](#) the report.

Leading cases have also pointed out that such deduction should consider “[the qualitative and quantitative significance](#) of the copied portion in relation to the plaintiff’s work as a whole.” However, the painter might be able to prove that an image was scraped off the internet to “train” the program, resulting in an image similar to their original creation in most, if not all, respects.

In OpenAI’s words, though, any allegation of infringement by a copyright holder would be “[an unlikely accidental outcome](#).”

Courts have been asked to clarify what a “derivative work” is [under intellectual property laws](#). Alternatively, some AI programs may be used to create works involving existing fictional characters, which sometimes enjoy [copyright protection](#) in and of themselves. An AI program may also be prompted to create artistic or literary works “[in the style of](#)” a particular artist or author. However, emulation of an artist or author’s style does not violate copyright law.

These cases also raise the possibility that users of the images and text generated

by AI companies, which infringe on the copyrights of existing works, may also be liable, in addition to the AI companies that produced them. (Legal penalties were imposed on users who downloaded music illegally from the now-defunct [Napster](#).)

The AI company could potentially face liability under the doctrine of “[vicarious infringement](#),” which pertains to defendants who have “the right and ability to control the infringing activities” and “a direct financial interest in such activities.” Of course, users might be innocent of any wrongdoing if they did not prompt the program with any awareness of what they would obtain. How would the owner of a copyrighted work then establish infringement?

For example, [OpenAI’s terms of use](#) seem to let the company off the hook by assigning any blame for copyright issues on the user: “We hereby assign to you all our right, title, and interest, if any, in and to Output.” Andres Guadamuz, an intellectual property law professor at the University of Sussex, [wrote](#) in July 2022 that OpenAI appears to “cleverly bypass most copyright questions through contract.”

In September 2023, a U.S. district court stated that a jury trial would be needed to determine whether it was fair use for an AI company to copy case summaries from [Westlaw](#)—a legal research platform owned by Thomson Reuters—to train an AI program to quote pertinent passages from legal opinions in response to user questions.

“[B]y denying summary judgment on copyright infringement to the AI builder and user, the decision opens the door to the kind of lengthy, expensive and uncertain litigation that could deter builders and users of AI from using copyrighted works as training data,” [according to](#) Moses Singer, a law firm based in New York.

Does Section 230 Exempt AI Companies From Responsibility?

Under [Section 230 of the Communications Decency Act](#)—which shields companies from hosting potentially litigious content posted by others and social media companies like X and Meta (the parent company of Facebook) that carry content, including ads of AI-generated actors—“[can claim immunity](#).” Since it was established in 1996, Section 230 has been invoked to justify why tech firms have significant legal protection from liability as third-party publishers.

[Chamber of Progress](#), a tech industry coalition whose members include Amazon, Apple, and Meta, argued that Section 230 should be expanded to protect AI

companies from some infringement claims. That raises the issue of whether Section 230's exemption can also cover advertising and publicity for intellectual property rights.

AI Companies Offer Their Justifications

Tech companies with AI products have advanced [arguments justifying their methods](#), including using copyrighted material to “train” their programs. Meta [asserts](#) that “a first-of-its-kind licensing regime now” will lead to chaos and send developers scrambling to identify many millions of rights holders “for very little benefit, given that any fair royalty due would be incredibly small in light of the insignificance of any one work among an AI training set.”

Google points out that there wouldn't be any copyright questions if training could occur without creating copies. It further [declares](#) that the act of “knowledge harvesting”—like reading a book and learning information from it—hasn't been considered an infringement by the courts. In that sense, Google is not doing anything different when it propagates AI outputs and makes them available to users.

Microsoft [claims](#) that if the company were to obtain consent for accessible works to be used for training, AI innovation would be stifled. It would not be possible to [attain](#) the “scale of data necessary to develop responsible AI models even when the identity of a work and its owner is known.” Licensing arrangements could also prevent startups and companies in smaller countries from training their own AI models.

[Anthropic](#), an AI company, echoes Microsoft's argument, [maintaining](#) that “appropriate limits to copyright” are necessary “to support creativity, innovation, and other values.”

[Andreessen Horowitz](#), a venture capital company with many tech investments, [says](#) it has worked on the premise that the current copyright law allows any copying necessary to extract statistical facts to develop AI technologies. “Those expectations have been a critical factor in the enormous investment of private capital into U.S.-based AI companies, which, in turn, has made the U.S. a global leader in AI.”

If these expectations are compromised, Andreessen Horowitz [contends](#), it could jeopardize future investment in AI and put the United States' economic prospects

and national security at risk.

[Hugging Face](#), an AI company, [asserts](#) that using a given work in training its models “is of a broadly beneficial purpose”—namely, an AI model “capable of creating a wide variety of different sort of outputs wholly unrelated to that underlying, copyrightable expression.” Like OpenAI and other tech companies, Hugging Face relies on the fair use doctrine in collecting content to build its models.

Art, Photos, and AI

Many companies with copyrighted content argue against the justification provided by tech companies for using their material under “fair use.” In February 2023, Getty, an image licensing service, filed a [lawsuit](#) against the creators of the AI art generator [Stable Diffusion](#), alleging “brazen infringement of Getty Images’ intellectual property on a staggering scale.” Getty Images stated that Stability AI, which owns Stable Diffusion, had copied 12 million images without permission, violating the copyright and trademark rights.

Getty also [dismissed any defense](#) that relied on fair use, arguing that Stable Diffusion produced commercial products that could jeopardize Getty’s image marketing.

Getty asserted that the images produced by the AI company’s system were similar or derivative enough to constitute infringement. In another case filed in late 2022, [Andersen et. al. v. Stability AI et. al.](#), three artists filed a class-action complaint against [several generative AI platforms](#), claiming that Stability AI had used their “original works without license to train AI in their styles,” [stated](#) a Harvard Business Review article. The software could generate images responding to users’ prompts, which were insufficiently “transformative... and, as a result, would be unauthorized derivative works.” In legal terms, the artists claimed that Stability AI was guilty of “[vicarious infringement](#).”

Stability AI [announced](#) in 2022 that artists could opt out of the next generation of the image generator, which was released to some developers for preview [in April 2024](#). This is not only “too little, too late” but also puts the burden of intellectual property protection on the artists, not the company, since Stability AI will only make an exception for works created by artists who opted out.

The practice of using original works is widespread. This fact was further

highlighted in December 2023 when a database of artists whose works were used to train Midjourney—a generative AI program—was leaked online. The [database](#) listed 16,000 artists, including Keith Haring, Salvador Dalí, David Hockney, and Yayoi Kusama.

Artists protested in various ways, [posting](#) “No to AI-Generated Images” on social media, adopting a [tool](#) that “poisoned” image-generating software, and filing [several lawsuits](#) accusing AI companies of infringing on intellectual property rights.

One of these tools is called [Nightshade](#), whose website says that it is designed to “address” the “power asymmetry” between image owners and AI by transforming “images into ‘poison’ samples so that models training on them without consent will see their models learn unpredictable behaviors that deviate from expected norms,” the software website stated.

“Generative AI is hurting artists everywhere by stealing not only from our pre-existing work to build its libraries without consent, but our jobs too, and it doesn’t even do it authentically or well,” [said](#) artist Brooke Peachley, according to a January 2024 article in Hyperallergic.

Not all artists, however, oppose the use of AI in the creative process. In September 2022, the artist Kris Kashtanova [registered a copyright](#) for a graphic novel whose images were generated by Midjourney. In February 2023, the Copyright Office revoked the registration, arguing that Kashtanova had failed to reveal that an AI model had created the images for her novel.

The Copyright Office [determined](#) that Midjourney, not Kashtanova, was responsible for the “visual material.” A month later, guidance was [released](#) stating that when AI “determines the expressive elements of its output, the generated material is not the product of human authorship.”

One of the artist’s lawyers disagreed, [stating](#) that the Copyright Act doesn’t need such creative control and that original art can incorporate “[a degree of happenstance](#).” His position runs contrary to that of a law professor who said that a human user “who enters a text prompt into an AI program has... ‘contributed nothing more than an idea’ to the finished work,” stated the Congressional Research Service report. As a result, the work produced by this idea cannot be copyrighted.

In another case involving an inventor named Stephen Thaler, a federal judge in Washington, D.C., affirmed the policy adopted by the Copyright Office. In [this case](#), Thaler “listed his computer system as the artwork’s creator” and wanted a copyright issued and given to him as the machine’s owner. When the Copyright Office rejected his request, he sued the agency’s director. Meanwhile, the judge ruled that an AI-generated artwork wasn’t subject to copyright protection because it lacks “[human involvement](#).”

The Copyright Office also [turned down](#) an artwork titled “Théâtre D’opéra Spatial” by the artist Jason Michael Allen, whose piece won first prize at the Colorado State Fair in 2022. According to a September 2023 article in Wired, Allen [vowed](#), “I’m going to fight this like hell,” declaring that he would file a suit against the federal government for denying him copyright protection even though he used Midjourney to create his work.

The Copyright Office stated Allen was entitled to apply for copyright solely for the parts of the work he had altered using Adobe Photoshop software. “The underlying AI-generated work merely constitutes raw material which Mr. Allen has transformed through his artistic contributions,” Allen [wrote](#). The Copyright Office was unpersuaded.

Despite the Copyright Office’s position and the artists’ vehement opposition, some [auction houses](#) and [museums](#) have embraced AI. Several artists are happy to exhibit or sell their creations in these institutions. [German artist Mario Klingemann](#), who specializes in AI works, created a series of portraits under the title [Memories of Passersby I](#), exhibited in 2019 at Sotheby’s, a premier auction house.

For his work, Klingemann [used](#) a type of AI program known as a [generative adversarial network](#) (GAN), which consists of two modules; the resulting images are bounced back and forth between the modules. In this case, the program was trained with exposure to a vast collection of portraits from the 17th, 18th, and 19th centuries, shortlisted by Klingemann. His was one of several AI-generated artworks that were put up for sale at Sotheby’s.

The Museum of Modern Art (MoMA) in New York has also exhibited AI-generated work, hosting the AI installation “[Unsupervised](#)” in 2022. Assembled by the artist Refik Anadol, the work ponders what a machine might dream about after seeing

more than 200 years of art in MoMA's collection. In the Hague, the Mauritshuis mounted an AI version of Johannes Vermeer's "[Girl With a Pearl Earring](#)" while the original was on loan.

Writers Confront AI

Like artists, writers have viewed AI warily, concerned that the ability of the software—specifically ChatGPT—to compose and draft essays, novels, and other forms of writing in response to user prompts could put them out of business. [Publishers Weekly](#), which covers the publishing landscape, reminds readers that AI has existed for many years and is already integrated into much of the industry's software.

The Authors Guild, as well as authors Paul Tremblay, Ta-Nehisi Coates, Michael Chabon, and comedian and writer Sarah Silverman, have filed multiple lawsuits against OpenAI and Meta, claiming the training process for AI programs infringed on their copyrights in written and visual works. In February 2024, however, a [federal district court](#) threw out most of the arguments made in the copyright infringement lawsuits filed against OpenAI by these authors, [stating](#) that the plaintiffs had failed to show examples where AI-generated output was "substantially similar—or similar at all—to their books."

The ruling, which left the authors' central argument that the OpenAI system "[copied and ingested](#)" their copyrighted work without permission or compensation, was similar to an earlier ruling in a lawsuit filed by authors against [Meta's generative AI system](#), Llama. "When I make a query of Llama, I'm not asking for a copy of Sarah Silverman's book," the judge, in that case, [wrote](#), "I'm not even asking for an excerpt."

[E-books, probably produced by AI](#) (with little or no human author involvement), have begun to appear on Amazon's online bookstore. AI researcher Melanie Mitchell was concerned that a book with the same title as hers—*Artificial Intelligence: A Guide for Thinking Humans*, published in 2019—had appeared on Amazon but was only 45 pages long, poorly written (though it contained some of Mitchell's original ideas), and attributed to one "Shumaila Majid." Despite not having an author bio or internet presence, a search brought up several other titles by "Majid."

An [investigation by Wired magazine](#) using deepfake detection software revealed

that Mitchell's suspicion was correct. The software found that the knockoff was 99 percent likely AI-generated. Amazon took down the Majid version, [stating](#): "While we allow AI-generated content, we don't allow AI-generated content that violates our Kindle Direct Publishing content [guidelines](#), including content that creates a disappointing customer experience."

AI-generated summaries of books, marketed as e-books, are another widespread phenomenon that has daunted writers. Computer scientist Fei-Fei Li, author of [The Worlds I See: Curiosity, Exploration, and Discovery at the Dawn of AI](#), [found more than a dozen different summaries of her work on Amazon](#), which she had nothing to do with.

These e-books, which are summaries of original works, have been "dramatically increasing in number," [said](#) Jane Friedman, a publishing expert, who herself was victimized by another "[AI-generated book scheme](#)." "It's common right now for a nonfiction author to celebrate the launch of their book, then within a few days discover one of these summaries for sale," [wrote](#) Kate Knibbs, a senior writer at Wired, in January 2024.

However, the writers of these summaries may not be liable for infringement. Some experts specializing in intellectual property believe summaries are legal because they don't copy "word-for-word" from the book they're summarizing. Other IP experts are more skeptical. "Simply summarizing a book is harder to defend," [said James Grimmelmann](#), an internet law professor at Cornell University. "There is still substantial similarity in the selection and arrangement of topics and probably some similarity in language."

"It's disturbing to me, and on multiple moral levels seems wrong, to pull the heart and sensitivity out of the stories," [said](#) author Sarah Stankorb, according to the Wired report. "And the language—it seemed like they just ran it through some sort of thesaurus program, and it came out really bizarre."

She suspects that her book [Disobedient Women: How a Small Group of Faithful Women Exposed Abuse, Brought Down Powerful Pastors, and Ignited an Evangelical Reckoning](#) was summarized and posted on Amazon before publication, based on an advance copy of the book distributed only to reviewers. She found the imitation blatant when she compared the two texts. "In my early days reporting, I might do an interview with a mompreneur, then spend the

afternoon poring over Pew Research Center stats on Americans disaffiliating from religion.”

That’s the opening line from Stankorb’s book. A summary version of that line stated: “In the early years of their reporting, they might conduct a mompreneur interview, followed by a day spent delving into Pew Research Center statistics about Americans who had abandoned their religious affiliations.” The same software that Wired used to determine that AI generated Majid’s e-book revealed that Stankorb’s summary was as well.

According to Dave Karpf, an associate professor of media at George Washington University, AI might not be as dangerous as people predict. “I suspect... that 2024 will be the year we are reminded of the Ghost of Napster—and other failed digital futures,” he wrote in [Foreign Policy magazine](#) in December 2023. “The story that I often hear from AI evangelists is that technologies such as ChatGPT are here, and they are inevitable.”

“If outdated copyright laws are at odds with the scraping behavior of large language models, copyright law will surely need to bend as a result,” Karpf [wrote](#). But he believes that AI could be “another Amazon,” or it may turn out more like WeWork, “a company that so heavily inflated its own revenue projections that it couldn’t break even in today’s rental market.”

“Copyright law doesn’t bend to accommodate your vision of the digital future—the digital future bends to accommodate copyright law,” Karpf [added](#).

AI-Generated Song Goes Viral

The controversy surrounding the [AI-generated song “Heart on My Sleeve,”](#) using AI versions of the voices of rap star Drake and singer The Weeknd, raises some of the unprecedented issues posed by AI. While “Heart” received a lot of attention, it is only one in a spate of AI-generated songs with accompanying videos. An AI-generated version of Johnny Cash [singing](#) a Taylor Swift song went viral online in 2023.

After its release in April 2023, “Heart on My Sleeve” was credited to Ghostwriter and heard millions of times on streaming services. Although Universal Music Group, which represents both artists, argued that AI companies violate copyright by using these artists’ songs in training data, legal observers say the song was original even if it was imitative. They also claim that [Ghostwriter](#) wasn’t infringing

on any existing work whose rights belonged to Drake, The Weeknd, and Universal. By the time Universal sent take-down notices, third parties had copied and uploaded the song.

Copyright does not protect an artist's voice, style, or flow. However, infringement may occur if a song is similar enough to an earlier work in style and "feel," an [ambiguous determination](#) that courts are frequently called upon to adjudicate.

[Jered Chavez](#) has also been steadily making AI-generated music clips, producing a cappella versions of songs trained to sound like the most recognizable musicians in the world. These clips have proven remarkably popular on TikTok and are cheap and simple to make.

Sting and other music artists have denounced the production of AI songs that use famous artists' vocals. In a May 2023 [interview](#) with [BBC](#) News, Sting criticized the use of AI in music, saying that it would require musicians to defend their "human capital against AI," declaring, "The building blocks of music belong to us, to human beings."

"It's easy to use copyright as a cudgel in this kind of circumstance to go after new creative content that you feel like crosses some kind of line, even if you don't have a really strong legal basis for it, because of how strong the copyright system is," [said](#) Nick Garcia, policy counsel at Public Knowledge, to the Verge.

Another matter of concern is violating the artists' rights by using their voices to train AI programs. Yet, creators and publishers are armed with relevant laws to fight back. The [right of publicity](#) (sometimes called the "right of privacy") can be invoked by a singer whose voice has been cloned. Still, this right is only on record in certain states—notably [New York](#) and [California](#), where many major entertainment companies are located. Real Drake and The Weeknd could sue Ghostwriter using the same law that Wheel of Fortune's longtime co-host Vanna White relied on to [sue a metallic android lookalike used in a Samsung advertisement](#) in 1992, [pointed out](#) in the Verge article.

These right of publicity laws [protect](#) against unauthorized commercial uses of a person's name, likeness, and persona while protecting individuals' exclusive rights to profit from their identities.

'If You Can't Beat 'Em, Join 'Em'

The singer Grimes has taken a different approach to AI by [allowing](#) her fans to create and distribute songs using an AI-produced version of the artist's voice without legal penalty.

However, she isn't giving up all rights since the invitation requires fans to use a customized "GrimesAI voiceprint" using a software program called [Elf.Tech](#). While they can use the program to produce original songs, they still need to credit the singer as the main or featured artist.

Anyone who uses her voiceprint will also have to [split the royalties with her on a 50/50 basis](#), and Grimes will have to approve the "collaboration." Grimes further [stipulates](#) that she "does not claim any ownership of the sound recording or the underlying composition" unless the composition originated with Grimes. Fans should feel free to use her voice "[without penalty](#)," and added that she [liked the idea](#) of "open-sourcing all art and killing copyright."

The New York Times and Other Publications Sue

In December 2023, the New York Times [sued](#) the tech companies OpenAI and Microsoft for copyright infringement. It was the first such challenge by a major American news organization. The Times [contends](#) that OpenAI's ChatGPT and Microsoft's Copilot can produce content nearly identical to the Times articles, giving them a "free ride on its massive investment in journalism to build substitutive products without permission or payment." [NYT claims](#) that Microsoft's search engine Copilot, which uses OpenAI's ChatGPT, provided results that substantially copied "verbatim" from the paper's Wirecutter content.

[OpenAI disputed](#) these claims: "We support journalism, partner with news organizations, and believe the New York Times lawsuit is without merit." NYT admitted in its suit that it had been in [talks](#) with Microsoft and OpenAI about terms for resolving the dispute "but failed to reach a solution," [according](#) to a December 2023 article in the Verge.

In April 2024, eight daily newspapers (including the New York Daily News, Chicago Tribune, and Denver Post) owned by Alden Global Capital followed the Times' example. They [sued OpenAI and Microsoft](#), alleging that the tech companies used millions of copyrighted articles without permission to train their generative AI products.

Alden's suit also cited errors by OpenAI's ChatGPT in response to user prompts

and accused them of “reputational damage.” One OpenAI response stated that the Chicago Tribune had recommended an infant lounger, which was not the case. Moreover, the product had been recalled because it was linked to newborn deaths. In another example, the AI “made-up answers” falsely said that “research” published in the Denver Post stated that smoking could “cure” asthma, according to the new website Axios. An OpenAI spokeswoman [claimed](#) the company “was not previously aware of Alden’s concerns.”

The suit comes as other major media companies, such as the [Associated Press](#) and [Axel Springer](#), the German owner of outlets like Politico and Business Insider, have reached data licensing agreements with OpenAI.

OpenAI has also conducted [discussions](#) with the News/Media Alliance, a journalism trade group representing more than 2,200 media outlets worldwide, “to explore opportunities, discuss their concerns, and provide solutions.” In addition, the AI company has also been in conversations with Gannett, CNN, and IAC, an internet media company.

Some companies have realized that it’s better to collaborate with AI companies than to fight them. In May 2024, [News Corp and OpenAI](#) announced a multiyear agreement to bring the news media’s content to OpenAI. That gives the software company access to “current and archived content” from the Wall Street Journal, Barron’s, MarketWatch, New York Post, the Times and the Sunday Times, and the Sun (UK), as well as such Australian newspapers as the Daily Telegraph, the Courier Mail, the Advertiser and, the Herald Sun.

In May 2024, Atlantic Magazine and Vox Media (which includes Vox, the Verge, Eater, the Cut, and Vulture) reached an agreement with OpenAI that allows the software company to use its archived content to train its AI models. “Both agreements also allow OpenAI to tap into the respective publishers’ current content to fuel responses to user queries in OpenAI products, including ChatGPT,” [wrote](#) Axios senior media reporter Sara Fischer.

Not everyone involved was pleased with this arrangement. In the Atlantic, writer Damon Beres called the multiyear agreement a “[Devil’s Bargain](#),” pointing out that the technology has “not exactly felt like a friend to the news industry.” However, Beres conceded that “generative AI could turn out to be fine” but that it would take time to find out.

Predictably, compensation is a crucial issue. OpenAI has reportedly offered [between \\$1 and \\$5](#) million annually to license copyrighted articles, although for some top publishers, the amount OpenAI has proposed is too low.

Marc Benioff, Salesforce Inc.'s chief executive officer and owner of Time magazine, asserted that AI companies have been ripping off "intellectual property to build their technology." "All the training data has been stolen," he [said](#) at the World Economic Forum in Davos in January 2024.

Benioff said, "Nobody really exactly knows" what an equitable compensation for their data would be but suggested that "AI companies should standardize payments to treat content creators fairly." Despite his concerns, Benioff's Time is among publications [negotiating with OpenAI](#) to license their work.

In February 2024, [three online media companies](#)—Raw Story, Altnet, and the Intercept—sued OpenAI, claiming that the company had trained its chatbot using copyrighted works without proper attribution. The three companies sought \$2,500 per violation and asked OpenAI to remove all copyrighted articles in its data training sets. The Intercept also sued Microsoft, an OpenAI partner that created its own chatbot using the same articles.

"It is time that news organizations fight back against Big Tech's continued attempts to monetize other people's work," said John Byrne, the chief executive and founder of Raw Story, which owns Altnet, according to an [article](#) in the New York Times. "Big Tech has decimated journalism. It's time that publishers take a stand."

The SAG/AFTRA Strike: Why AI Matters to Screen, Television, and Streamer Actors

The use of AI was one of the major points of contention for the labor union, the Screen Actors Guild-American Federation of Television and Radio Actors (SAG-AFTRA), which went on strike from July to November 2023. The screen actors' strike overlapped for several months with the screenwriters' walkout. For the Writers Guild of America (WGA), as the screenwriters guild is known, AI was also one of the [outstanding issues](#) in negotiating a new contract with the studios.

[SAG-AFTRA's March 2023 statement](#) left no room for ambiguity: "Human creators are the foundation of the creative industries, and we must ensure that they are respected and paid for their work. Governments should not create new copyright

or other IP exemptions that allow AI developers to exploit creative works, or professional voices and likenesses, without permission or compensation. Trustworthiness and transparency are essential to the success of AI.”

SAG-AFTRA’s executive director Duncan Crabtree-Ireland “called out the ‘double standard’ in the relationship between actors and corporations when it comes to copyright infringement,” [wrote](#) Katyannah Quach in an October 2023 article in the Register. Why was it permissible for businesses to use AI to generate material as they wish, he asked, but if a person were to use a business’s intellectual property, it becomes a problem?

“After all, if an individual decided to infringe on one of these companies’ copyright protected content and distribute it without paying for the licensing rights, that individual would face a great deal of financial and legal ramifications,” Crabtree-Ireland [said](#) at a conference titled “Creative Economy and Generative AI.” “So why is the reverse not true? Shouldn’t the individuals whose intellectual property was used to train the AI algorithm be at least equally protected?”

Actors feared corporations could consistently exploit their likenesses for free once the actors were scanned. Tom Hanks has already [denounced](#) using his likeness for commercial purposes: “There’s a video out there promoting some dental plan with an AI version of me. I have nothing to do with it.” The daughter of actor Robin Williams has [issued a statement](#) finding it “disturbing” that her father’s voice was being replicated in AI tests.

Actress Scarlett Johansson also found that her voice and likeness were used in a 22-second online ad on X. Her attorney [filed a suit](#). Taylor Swift’s face and voice were [featured](#) in advertisements for Le Creuset cookware. In the ads, the singer’s clone addressed her fans as “Swifties” and said she was “thrilled to be handing out free cookware sets,” [stated](#) a New York Times article. While Swift reportedly likes Le Creuset products, she never appeared in one of their ads.

Johansson was in the [news](#) again in May 2024 when she [alleged](#) that OpenAI was [using her voice](#) for its conversational ChatGPT called Sky. (Sky was one of five voice assistants OpenAI introduced.) Sam Altman, OpenAI’s CEO, asserted that the voice wasn’t Johansson’s but the voice of another actress whose identity he declined to disclose. He had, however, approached Johansson initially, based on his expressed admiration for the 2013 film “Her,” for which “she provided the

voice for an AI system.”

In response to Johansson’s complaint, Altman announced that he was suspending the use of Sky’s voice. “Out of respect for Ms. Johansson, we have paused using Sky’s voice in our products,” Altman [said](#) in a statement to NPR. “We are sorry to Ms. Johansson that we didn’t communicate better.” The actress wasn’t appeased. “When I heard the release demo, I was shocked, angered, and in disbelief that Mr. Altman would pursue a voice that sounded so eerily similar to mine that my closest friends and news outlets could not tell the difference,” she [said](#).

Numerous other AI celebrity endorsements, such as an AI clone of country singer Luke Combs [promoting](#) weight loss gummies, have popped up. AI versions of the journalist [Gayle King](#) and the YouTube influencer Jimmy Donaldson (“[MrBeast](#)”) have also manifested in ads without their permission.

In November 2023, [SAG signed a deal](#) that allowed for the use of the digital replication of members’ voices for video games and other forms of entertainment if the companies secured consent [and guaranteed minimum payments](#). The agreement will be a “big benefit to talent and a big benefit to studios,” [said](#) Shreyas Nivas, co-founder and chief executive officer of Replica, a voice AI technology company, adding that it would “[provide] a framework for use of AI in the production of video games,” according to Business Standard.

Video Games Actors Strike

Video game performers walked off the job in July 2024 after contract negotiations between the union and the entertainment industry collapsed. [Negotiations](#) with gaming companies, including divisions of Activision, Warner Brothers, Electronic Arts, Insomniac Games, and Walt Disney Co., over a new interactive media agreement had been ongoing for two years. The industry accounts for more than \$100 billion in profit annually, according to game market forecaster [Newzoo](#). While the union is part of SAG-AFTRA, it has a different contract than the one covering TV and film actors.

As in the case of the SAG strike, AI was at the forefront of the dispute. The union believes its members are harmed if their likenesses are used to train AI to replicate an actor’s voice or create a digital replica [without consent or fair compensation](#). “The industry has told us point-blank that they do not necessarily consider everyone who is rendering movement performance to be a performer

that is covered by the collective bargaining agreement,” [said](#) Ray Rodriguez, chief contracts officer for SAG-AFTRA.

The industry negotiators, meanwhile, have been unable to find common ground with the union’s stance. “We have already found common ground on 24 out of 25 proposals, including historic wage increases and additional safety provisions,” [said](#) Audrey Cooling, a spokesperson for the video games companies in the negotiations. “Our offer is directly responsive to SAG-AFTRA’s concerns and extends meaningful AI protections that include requiring consent and fair compensation to all performers working under the IMA [Interactive Media Agreement]. These terms are among the strongest in the entertainment industry.”

WGA Strike: Why Screenwriters Fear AI

When the screenwriters—who work on film scripts and TV programs (including late-night shows)—struck in early 2023, they also demanded that their work’s rights be protected from being used to train AI software and write or rewrite scripts. Using AI for these purposes could theoretically save the studios a lot of money—and potentially put a lot of writers out of work.

In their [statement](#), the Writers Guild of America declared that “GAI (generative artificial intelligence) cannot be a ‘writer’ or ‘professional writer’ as defined in the MBA [minimum basic agreement] because it is not a person, and therefore materials produced by GAI should not be considered literary material under any MBA.”

The WGA held that AI is allowed in some instances, such as when the employer discloses that AI wrote the material or when the writer uses AI in preparing their screenplay or teleplay with the company’s consent.

When the [contract was agreed upon](#), and the strike ended in September 2023, the guild received much of what it wanted regarding salary increases and AI.

The studios agreed that AI-generated content couldn’t be used to generate source material, meaning that a studio executive couldn’t ask writers to create a story using ChatGPT and then ask them to turn it into a script (with the executive claiming rights to the original story). The WGA [also](#) “reserves the right to assert that exploitation of writers’ material to train AI is prohibited by MBA or other law.”

Film Directors Accept AI

In marked contrast to SAG-AFTRA and the WGA, which went out on strike in 2023 to secure better terms in their contracts, the Directors Guild of America (DGA) quickly [agreed to a new contract](#). However, film and TV directors share the same situation as writers and actors. They are hired for each work they direct.

Under U.S. copyright law, they are considered employers. At the same time, producers are the owners of any copyright ([more rights accrue](#) to directors in other countries, including the United Kingdom, France, and Italy). Rights are allocated as a result of union contracts with studios. However, the absence of laws recognizing creators' rights to their creations is alarming because of the advent of generative AI tools, which studios may exploit.

In a [statement](#), the DGA warned: "These third parties, who are not bound to our collective bargaining agreements, may ingest and regurgitate copyrighted films and television shows into AI systems without the participation of the copyright owner or the need to agree to the terms of our new agreement."

In case the courts are unequipped to deal with this issue, the DGA and WGA have called for the "[establishment of moral rights](#)" that would recognize directors (and writers) as the original authors of their work, "[giving] them larger financial and creative control over exploitation of their material even when they don't own the copyrights," [stated](#) the Hollywood Reporter.

Why the Studios Defend AI

The Movie Picture Association (MPA), AI companies like OpenAI and Meta, and tech advocacy groups see opportunities where the unions see a threat. The MPA and software companies differ on "whether new legislation is warranted to address the unauthorized use of copyrighted material to train AI systems and the mass generation of potentially infringing works based on existing content," [according](#) to the Hollywood Reporter article.

The MPA, meanwhile, also declared that the question of fair use should be determined on a "[case-by-case basis](#)." "For example, fine-tuning an AI model, specifically using the library of James Bond movies for the purpose of making a competing movie that appeals to the same audience, likely would weigh against fair use."

Despite exceptions like the hypothetical new Bond movie, the MPA argued in

favor of “looser standards” when copyrighting works created by AI. It maintained that the Copyright Office is “too rigid” by conferring intellectual property rights only on works created by humans [because](#) “it does not take into account the human creativity that goes into creating a work using AI as a tool.”

The Legal Future of AI

In 2023, two bills were introduced in Congress to address scams that use AI—the [DEEPFAKES Accountability Act](#) in the House and the [No Fakes Act](#) in the Senate. Both bills require guardrails such as content labels or permission to use someone’s voice or image.

Congress needs to do much more to update copyright protections related to AI. By mid-2024, Congress had yet to make significant progress in enacting legislation on this issue. According to the nonprofit [Brennan Center](#) for Justice, several bills introduced in the 118th Congress (2023-2024) focused on high-risk AI, required purveyors of these systems to assess the technology, imposed transparency requirements, created a new regulatory authority to oversee AI or designated the role to an existing agency, and offered some protections to consumers by taking liability measures. Despite sharply polarized divisions between Democrats and Republicans, there is bipartisan agreement that regulation of AI is needed.

On January 10, 2024, at a [Senate hearing on AI’s impact on journalism](#), Republican and Democratic lawmakers agreed that OpenAI and other AI companies should pay media organizations for using their content AI projects. “It’s not only morally right,” said Richard Blumenthal, the Democrat who chairs the Judiciary Subcommittee on Privacy, Technology, and the Law. “It’s legally required,” stated a November 2023 Wired article.

Josh Hawley, a Republican, agreed. “It shouldn’t be that just because the biggest companies in the world want to gobble up your data, they should be able to do it,” he [said](#).

Media industry leaders have decried AI’s uncompensated use of their content. Only one voice—a journalism professor—objected at the congressional hearing on the issue, insisting that data obtained without payment for training purposes was fair use. “I must say that I am offended to see publishers lobby for protectionist legislation, trading on the political capital earned through journalism,” [said](#) Jeff Jarvis, a professor at the Craig Newmark Graduate School of Journalism.

However, experts on AI who were not at the hearing have yet to reach a consensus on the issue of compensation. “What would that even look like?” [asked](#) Sarah Kreps, who directs the Tech Policy Institute at Cornell University. “Requiring licensing data will be impractical, favor the big firms like OpenAI and Microsoft that have the resources to pay for these licenses, and create enormous costs for startup AI firms that could diversify the marketplace and guard against hegemonic domination and potential antitrust behavior of the big firms.”

There’s some disagreement, even among those favoring some form of licensing for AI training data. Northwestern computational journalism professor Nick Diakopoulos [underscored](#) the ambiguity: “As a high-quality and up-to-date source of information, news media is a valuable source of data for AI companies. My opinion is that they should pay to license it and that it is in their interest to do so. But I do not think a mandatory licensing regime is tenable.”

If [Congress doesn’t intervene](#), it will fall to the courts to determine the legality of using copyrighted works in training datasets for AI companies. Is it fair use if the content produced is considered “transformative” as it differs significantly from the original books or images used to train the software system?

The fact that AI companies are training their systems for profit may sway the Supreme Court in another direction. Do AI companies need to pay for the training data that powers their generative AI systems? Several [lawsuits](#) against Meta, Alphabet, and OpenAI may offer an answer about whether training on copyrighted material constitutes infringement.

“It seems everybody thinks that AI needs to be regulated,” [said](#) artist Stephanie Dinkins, an AI practitioner, during an interview with LG Electronics Associate Curator at Guggenheim Museum, Noam Segal. “I think we need to be thinking about the idea of context and knowing what we’re looking at versus just seeing some materialization of something that nobody understands and thinks exists but maybe doesn’t. I think that we’re so far behind [in] thinking about this in a real way... It still feels like now there are meetings happening, but we’re dragging our feet. And it feels as if, at a governmental level, we don’t quite understand what we’re dealing with yet.”

Echoing Dinkins’ view, Kevin Roose, tech correspondent for the New York Times, [said](#) in a Times podcast that new copyright laws for AI were unnecessary. “But...

it feels bizarre that when we talk about these AI models, we're citing case law from 30, 40, 50 years ago. ... [It] just feels a little bit like we don't quite have the legal and copyright frameworks that we would need because what's happening under the hood of these AI models is actually quite different from other kinds of technologies."

Impending Peril or Profound Revolution—or Both?

Forget "[doomscrolling](#)." It's not half as much fun as the dystopian revels. AI has inspired all sorts of catastrophic scenarios that, in the worst cases, may spell the end of civilization as we know it.

By now, we all know the stories—the deepfakes, including [pornographic images of Taylor Swift](#), that were widely seen before being taken down, or more disturbingly, the [naked images of high school girls produced by AI](#), or for that matter, the synthetic robocalls by AI mimicking the [voice of President Joe Biden](#) just before the 2024 New Hampshire primaries.

And we're familiar enough with the hallucinations—the seemingly authentic, even oracular, statements by AI that have no basis.

And there are all those jobs that may soon be redundant because of AI—accountants, reporters, data programmers, retailers, paralegals.—In the 2023 Hulu series, "[A Murder at the End of the World](#)," the villain (spoiler alert!) turns out to be AI, echoing the plot of Robert Harris' 2011 novel, [The Fear Index](#), published long before the advent of AI, in which a sinister computer program manipulates the financial markets.

But while the machinery operating the malicious software can be destroyed in the Hulu streamer, the malevolent force in Harris's novel can't be unplugged or blown up because it can always make endless copies of itself.

People fear AI networks because they can't predict what the technology can do. While we can feed it with images, music, and data galore, we—users and programmers alike—do not know what the result will be.

AI may turn out to be as profound and revolutionary as the telephone, radio, television, desktop computers, and smartphones. But as with those inventions, which we tend to take for granted, AI may also become incorporated into the fabric of our lives to such a degree that its impact is blunted by its familiarity.

Americans tend to fall in love with the “next big thing.” Or, in the case of AI, the “current big thing.” Yet another “next big thing” will always emerge. Maybe it will be neural prosthetics—implants inserted in the brain that will enhance our intelligence, ramp up our motor skills, improve memory, and allow us to read somebody else’s thoughts.

Such technological advances could give AI a whole new meaning. Then, as is the case now, alarmists will warn us of the looming perils and impending disasters of these new inventions. Congressional hearings are sure to follow. Ideas for guardrails will be considered and dismissed or neglected—even if they are adopted.

Only time will tell whether AI will improve our quality of life or threaten our livelihood and [existence](#).

By Leslie Alan Horvitz

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