THE FUTURE OF JUSTICE: AI'S IMPACT ON THE LEGAL SYSTEM

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Abstract:
This article explores the contemporary legal landscape of Artificial Intelligence (AI), covering its historical background, definitions, and societal impact. It analyses existing international and national regulations, focusing on key laws in India. Addressing legal and human rights issues, including privacy concerns and AI-related crimes, the article identifies challenges and gaps in current legal frameworks, particularly within India. It advocates for a balanced approach that promotes ethical AI deployment while ensuring legal accountability and societal welfare.

Keywords: Artificial Intelligence, Legal Frameworks, Data Protection, Algorithmic accountability, Criminal liability, Human rights.

INTRODUCTION

In 1956, John McCarthy introduced the term "Artificial Intelligence (AI)" at a pivotal Dartmouth College colloquium, defining it as "The Science and engineering of making intelligent machines, especially intelligent computer programs." He emphasized that AI aims to understand human intelligence using computers, but isn't limited to biologically observable methods. This event marked the significant inception of AI as a scientific discipline, shaping its future development. AI encompasses diverse definitions: it is perceived as technology enabling computers and machines to function intelligently; alternatively, it denotes machines replacing human labour to achieve faster and more effective outcomes. Another perspective describes AI as a system adept at interpreting external data accurately, learning from it, and utilizing this knowledge to accomplish specific tasks through flexible adaption strategies.

AI enables machines to mimic human intelligence, including perception, reasoning, learning, and planning. AI aims to emulate human thought and behavior, performing tasks like speech recognition, decision-making, and pattern identification.[1] Artificial intelligence is ubiquitous, advancing rapidly, and significantly contributing to the global economy. While AI offers numerous benefits such as enhanced creativity, services, safety, lifestyles, and problem-solving capabilities, it also raises concerns about human autonomy, privacy, and fundamental rights. The legal discourse on AI and its human rights implications is well-established, with comprehensive analyses of specific issues. However, given the evolving nature of AI regulation, a broad, exploratory overview of the wide range of issues, consolidated in one place, is needed.

Artificial Intelligence (AI) can significantly impact Indian Sectors like healthcare, education, law enforcement, transportation, and agriculture. However, ethical challenges such as accountability and transparency must be addressed. Establishing a robust legal framework is essential. Initiatives like the Centre of Excellence for Artificial Intelligence Task Force (CEAILF) and NITI Aayog's National Strategy for Artificial Intelligence

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[1] M.C. Tai, *Artificial Intelligence: A Powerful Paradigm for Scientific Research*, NAT'L LIBR. MED. (2021), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7605294/ (last visited July 13, 2024).

(NSAI) discussion paper are noteworthy, but prioritizing legal guidelines is crucial to ensure AI's ethical and equitable use in the legal system.[2] The Indian Legal system lacks specific laws or policies for AI. Establishing a regulatory framework is crucial for guiding AI's responsible use. SEBI, the financial regulator, issued 2019 circular detailing reporting requirements for stockbrokers, depository participants, stock exchanges, and depositories regarding AI and Machine language applications.

LEGAL FRAMEWORK FOR AI

The integration of AI into various societal sectors, such as healthcare, finance, transportation, and entertainment, is rapidly progressing. This advancement brings significant legal challenges that require careful analysis and regulation. It is imperative to explore the intricate relationship between law and AI, addressing legal framework, ethical considerations, and emerging issues. The traditional laws frequently lag behind the swift advancements in AI, resulting in ambiguity and uncertainty concerning liability, accountability, and ethical standards. Consequently, policymakers globally are confronted with the challenge of developing comprehensive regulations to effectively govern AI usage. AI's evolution presents new legal challenges, particularly in attributing liability for AI-generated outcomes, such as accidents involving autonomous vehicles. Determining whether responsibility lies with the manufacturer, programmer, or user requires a nuanced understanding of AI systems. Additionally, intellectual property rights for AI-generated content, such as art, music, and literature, raise questions about copyright ownership, as current laws primarily recognize human creators, leaving the status of AI-generated works ambiguous.[3]

EXISTING INTERNATIONAL REGULATIONS

Global regulatory bodies and think tanks have issued reports and guidelines on AI ethics but often avoid strict regulations and sanctions due to AI evolution and the technical community's uncertainty about implementing ethical standards. Countries globally are striving to create legal frameworks for AI that balance innovation with ethics and societal impacts. Comparing AI regulations across major jurisdictions highlights varied approaches and priorities.

The United States has developed a federal AI governance policy through initiatives by the White House, Congress, and Federal agencies, integral to the national AI strategy. Complemented by various state and city laws, this framework shapes future AI policy. Congress initially addressed AI through autonomous vehicles and national security, notably in the 2019 National Defence Authorization Act and the National AI Initiative Act of 2020, which enhanced AI research & development and coordination and established the National Artificial Intelligence Initiative Office.[4] The United Kingdom (UK) government is crafting AI legislation under the Prime Minister's cautious approach, potentially imposing restrictions on large language models such as OpenAI's ChatGPT. Regulatory bodies like the UK Competition and Market Authority express concerns over bias and misuse risks. While the UK currently favors voluntary agreements to foster innovation, growing concerns are pushing for more stringent regulations. In contrast, the EU's strict AI regulations have sparked debate and attracted European AI companies.[5] While Singapore currently lacks dedicated AI governance regulations and an agency but has implemented sector-specific and voluntary frameworks, alongside

[2] M. Raman & A. Talukdar, *India: The Role of Legislation in the Regulation of Artificial Intelligence (AI)*, MONDAQ, https://www.mondaq.com/india/new-technology/1353080/the-role-of-legislation-in-the-regulation-of- artificial-intelligence-ai (last visited July 13, 2024).

[3] T. Weber, *Artificial Intelligence and the Law*, STAN. LAW. (Dec. 5, 2023), https://law.stanford.edu/stanford-lawyer/articles/artificial-intelligence-and-the-law/ (last visited July 14, 2024).

[4] M. Fazlioglu, *US Federal AI Governance: Laws, Policies and Strategies*, IAAP (2023), https://iapp.org/resources/article/us-federal-ai-governance/ (last visited July 14, 2024).

[5] Department for Digital, Culture, Media & Sport & D. Collins, *UK Sets Out Proposals for New AI Rulebook to Unleash Innovation and Boost Public Trust in the Technology*, GOV. UK (2022), https://www.gov.uk/government/news/uk-sets-out-proposals-for-new-ai-rulebook-to-unleash-innovation-and-boost- public-trust-in-the-technology (last visited July 14, 2024).

mandatory regulations in domains like data protection and outline strategies. Regulatory bodies in Singapore adopt a sectoral approach, preferring non-binding guidelines and recommendations. The Monetary Authority of Singapore (MAS) has led AI governance in finance with principles like FEAT and the Veritas framework, integral to the National AI strategy. Other bodies like the IMDA and PDPC have issued guidelines such as the Model AI Governance Framework and AI guidelines in 2021 to enhance patient safety and trust. Singapore's multifaceted strategy underscores its commitment to ethical AI adoption across diverse sectors.[6]

AI REGULATIONS AND POLICIES IN INDIA

AI offers societal benefits in healthcare, education, transportation, and entertainment but also presents challenges like ethical dilemmas, privacy breaches, bias, discrimination, and security risks. Currently, India lacks specific laws for regulating AI, while the Ministry of Electronics and Information Technology (MEITY) oversees AI-related strategies and has formed committees to develop a policy framework. NITI Aayog has established seven responsible AI principles covering safety, equality, inclusivity, privacy, transparency, accountability, and upholding human values. India's legal framework primarily relies on the Information Technology Act and the Digital Personal Data Protection Act of 2023, aimed at enhancing privacy rights and data governance.[7] The recently introduced New Education Policy in India, emphasized teaching coding to students aiming to position India as a hub for new AI technologies in the future. Chief Justice SA Bobde has also advocated for increased AI use in the legal system, particularly for docket management and decision-making, as highlighted at a Supreme Court Bar Association event. However, in developing countries like India, there is hesitance to adopt AI due to concerns about its impact on a labor-surplus economy with a large population facing poverty and a lack of education.

LEGAL AND HUMAN RIGHTS ISSUES

A world where machines can accurately detect cancer predict criminal recidivism and drive cars was once science fiction. Today's AI's advantages are realized globally, enhancing human intelligence in numerous ways. Yet, despite its benefits, AI poses significant threats to human rights, with increasing reports of discrimination, privacy violations, job losses, and adverse effects on access to public services making international news. It poses challenges to human rights, which are based on the inviolability of human life and the assumed superiority of humans over other life forms. This premise is questioned by the potential emergence of entities that, while not alive in the traditional sense, could become sentient and intellectually, and possibly morally, superior to humans. This scenario, while uncertain and futuristic, challenges current human rights assumptions.

The relationship between AI and human rights is crucial, gaining academic and practical support. Despite progress, the international human rights framework for AI, especially concerning private businesses, remains underdeveloped. AI governance often focuses on ethics over human rights, lacking clarity on accountability. This clarity is essential for affected individuals and stakeholders.[8] AI impacts human rights by raising concerns about its role in replacing and dominating human activities, challenging core human rights principles. Key issues include the ethical implications of AI, its potential moral values, and how it affects human equality. Questions about AI's influence on human rights, if misused by economic powers or dictatorships, persist and create real societal concerns. AI encompasses more than just technology; permeates society, impacting various facets of life such as criminal justice, finance, healthcare, education, human resources, and online content

[6] D.G. Chng & J. Jones, *Global AI Governance Law and Policy: Singapore*, IAPP (2024), https://iapp.org/resources/article/global-ai-governance-singapore/ (last visited July 15, 2024).

[7] A. Prabhu, *Artificial Intelligence in the Context of the Indian Legal Profession and Judicial System*, BAR & BENCH (Aug. 12, 2023), https://www.barandbench.com/columns/artificial-intelligence-in-context-of-legal-profession-and-indian-judicial-system (last visited July 15, 2024).

[8] Lane L., *Clarifying Human Rights Standards Through Artificial Intelligence Initiatives*, 71 *Int'l & Comp. L.Q.* 915 (2022), https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/clarifying- human-rights-standards-through-artificial-intelligence-initiatives/52D69ACE49CE1E0B5D9E69E51CA14690 (last visited July 15, 2024).

moderation. While it brings significant benefits and supports human rights implementation, AI also poses risks and challenges. Its complex algorithms for decision-making can obscure transparency and accountability, making it difficult for people to understand how decisions are reached. Errors in AI, often perceived as highly reliable, can have profound consequences on individuals' lives and rights. Examples include Google Photo's face recognition system mislabelling black individuals as gorillas and U.S. Customs and Border Patrol software misidentifying thousands as criminals or terrorists. Establishing effective AI governance frameworks globally and locally is crucial to harnessing its benefits, mitigating risks, and safeguarding societal impacts. AI impacts human rights significantly across various aspects. It both creates opportunities and risks, influencing social prejudices, societal inequalities, privacy rights, and existing mechanisms. Key affected rights include equality, non-discrimination, privacy, freedom of expression, and employment rights. AI systems often amplify social biases and inequalities, disproportionally affecting minorities by using data on social characteristics like race, health, and occupation to inform decisions, leading to discrimination in critical areas such as criminal justice, employment, and access to services. Addressing these biases is essential for promoting fairness and equality in society.

The rapid integration of AI into society mirrors past industrial revolutions, offering benefits but also posing significant challenges and risks to human rights, to ensure that all involved parties, including governments, must enact policies to enforce standards in AI use, ensure transparency, and provide remedies for rights violations. Similarly, the private sector should adhere to human rights assessments, promote transparency, and establish effective mechanisms for accountability and correction.[9]

CRIMES RELATED TO AI AND CYBER VULNERABILITIES

The landscape of AI-related crimes is continuously evolving due to rapid technological advancements and the need for suitable legal frameworks. In India, the legislation governing AI and its associated crimes is a combination of updated existing laws and developing policies aimed at comprehensive regulation. The role of AI in cybercrimes, such as phishing, deepfakes, and automated hacking, is expanding. The primary legislation addressing cybercrime in India is the Information Technology Act of 2000, amended in 2008, which includes provisions related to AI-related crimes.

Deepfakes, created using AI to manipulate digital media like videos, audio, and images, can damage reputations, fabricate evidence, and undermine trust in democratic institutions. As elections approach, their use in political messaging becomes a major threat, while beneficial in areas like education and film, deepfakes can also spread misinformation and disrupt peace and harmony in society. The technology gained notoriety in 2017 when a Reddit user used AI to superimpose celebrity faces onto explicit videos. Phishing attacks often occur via email, social media, or rogue websites. For instance, in 2020, fraudsters targeted clients of a major Indian Bank with phishing emails linking to fake bank portals. Automated hacking employs software tools to exploit vulnerabilities in systems without human intervention, aiming for data theft and disruption. In November 2020, the Mumbai power grid was hacked by RedEcho, linked to a nation-state actor. India's data protection is currently governed by the IT Act and 2011 rules but is seen as inadequate for AI. The recent Personal Data Protection Act, of 2023 seeks to enhance data protection, emphasizing consent, data minimizing, and accountability.[10]

The rise of AI has brought forth Intellectual Property (IP) challenges, particularly regarding the authorship and patentability of AI-generated works. India's Copyright Act of 1957 and Patents Act of 1970 lack provisions for AI-related IP issues, leading to ambiguities in protecting such content and inventions. This

[9] Dang, M.T., *Human Rights and Law in the Age of Artificial Intelligence*, J. Legal, Ethical & Regulatory Issues, vol. 24, no. S4, 1-10 (2021), (last visited July 15, 2024).

[10] A. Bhaumik, *Regulating Deepfakes and Generative AI in India Explained*, The Hindu (Dec. 4, 2023), https://www.thehindu.com/news/national/regulating-deepfakes-generative-ai-in-india-explained/article67591640.ece (last visited July 15, 2024).

uncertainty can hinder AI innovation and commercialization, highlighting the need for updated IP laws. India's 2017 National Strategy for Artificial Intelligence by NITI Aayog stressed AI's importance and the need for a regulatory framework. The Ministry of Electronics and Information Technology and other agencies have proposed norms for AI development, emphasizing regulation. The draft National E-commerce policy also addresses AI regulation with a focus on data sovereignty and consumer protection.[11]

GAPS AND CHALLENGES

Integrating AI technology into legal practices is not all upside there are several ethical problems and hurdles could prevail. One major issue here is the fact that AI could be used to produce and even magnify biases that already exist. For instance, the software called COMPAS was used in the US criminal justice system to assess the likelihood of reoffending. It was also the most pragmatic tool that was criticized for allegedly enlisting the race factor in its evalutions of cases, thus, raising the model for AI-driven legal decisions and their fairness. Also, one of the most important ethical matters is that there is no explainability in many AI decision-making processes. Using complex algorithms with unclear decision rules creates a system where the basic components of accountability and fairness within the legal framework are threatened. This indistinctness is the main obstacle for the people involved in the process. They cannot understand, challenge, or trust AI-generated results, therefore, the public confidence in the justice system may be compromised. In addition, the issue of accountability becomes even more demanding with AI's participation in the legal process. When AI systems are introduced into the decision-making process, the issue of responsibility, especially in the wrongful or biased cases, requires a more complex approach and thus, the legal profession faces the changes.[12]

In India, assigning criminal responsibility to AI poses complex challenges at the intersection of technology and law. AI's autonomy complicates traditional liability frameworks due to its lack of human intent and legal personhood, raising questions about accountability among developers, operators, and users. Addressing criminal liability issues involving AI in India involves enhancing data privacy laws and cybersecurity measures to prevent the misuse of personal data. Updating legal frameworks, promoting transparency in AI algorithms, and considering AI's legal status are crucial for tackling these complex challenges and ensuring fair accountability in AI- related offenses.[13]

CONCLUSION

Globally, there is a concerted effort to harness the advantages of AI while mitigating its adverse effects concerning AI significantly outnumber legally binding initiatives, on the national and international stage. While legally binding initiatives rightly prioritize privacy and data protection rights, there is no need to expand their scope to encompass other rights such as access to food, education, healthcare, and a safe environment, which are currently under-addressed. The advent of AI has reshaped our understanding of intelligence, once seen as a unique human. AI's positive impacts span scientific research and practical applications across knowledge-intensive sectors, services, and e-commerce. However, the question of AI's legal personhood hinges on whether it can exhibit subjective assessment and awareness of its actions, an aspect pivotal to traditional legal frameworks. Examining AI's role in criminal liability within India is a multifaceted and evolving task. By acknowledging the legal complexities and challenges associated with AI, India can adopt a holistic strategy that prioritizes ethics, equity, and accountability. Integrating AI responsibly and ethically into the criminal justice system can mitigate the potential for societal benefits. India's proactive approach in

[11] H. Choubey, *Identity Theft - A Contemporary Threat*, Nat'l J. (Dec. 16, 2023), https://lawjournals.celnet.in/index.php/njcsl/article/view/1449 (last visited July 15, 2024).

[12] A. Zafar, *Balancing the Scale: Navigating Ethical and Practical Challenges of Artificial Intelligence (AI) Integration in Legal Practices*, 4 *Discov. Artif. Intell.* 27 (2024), https://link.springer.com/article/10.1007/s44163- 024-00121-8 (last visited July 15, 2024).

[13] Chidiogo Uzoamaka Akpuokwe, Adkunle Oyeyemi Adeniyi, & Seun Solomon Bakare, *Legal Challenges of Artificial Intelligence and Robotics: A Comprehensive Review*, 5 *Computer Science & IT Res. J.* 544 (2024).

shaping a robust legal framework will navigate this evolving landscape, ensuring AI is used responsibly and aligning with principles of justice, and societal well-being.