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FROM AUTONOMY TO OWNERSHIP: AI INDEPENDENCE AND THE QUEST FOR LEGAL PERSONHOOD AND OWNERSHIP

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ABSTRACT:

Artificial intelligence (AI) has had a profound impact on society, industry, and governance; as a result, there are now complex legal concerns that must be addressed. The many aspects of granting artificial intelligence (AI) entities legal personhood inside the Indian legal system are examined in this paper. India's intricate and dynamic legal system provides a unique setting for the analysis. Beginning with an analysis of India's current legal system and how it relates to AI systems, the paper emphasizes the need for specific legislation that takes into account AI's complex nature. It emphasizes the significance of responding to important questions like accountability, liability, and intellectual property rights also delve into questions of patent ownership, authorship and copyright challenges.

The study explores responsibility assignment in India for AI-generated behaviours and intellectual property rights. It highlights the need for updated legal doctrine and ethical considerations in the AI landscape. India must safeguard original works while supporting human artists' rights. The study also highlights the importance of ethical considerations in AI applications, just decision-making, and data privacy regulations. The focus is on how legal and regulatory frameworks are evolving to address these moral quandaries.

This study highlights how important it is to comprehend India's intricate legal system with reference to AI personality. It advocates for a comprehensive approach that finds a balance between the innovative potential of AI and moral and legal safeguards. As India continues to adopt AI technology, it is crucial to address these issues in order to encourage responsible AI development while upholding human rights and societal norms. This study lays the foundation for an in-depth investigation of these crucial issues within the Indian legal framework.

Keywords: *Artificial Intelligence, Legal Persona, Intellectual Property Rights.*

INTRODUCTION:

The issue of whether robots can be given legal personhood is a matter of great importance in the quickly developing fields of technology and artificial intelligence. At the center of this moral and legal impasse lies India, a nation renowned for its booming tech sector and cutting-edge innovations. In order to examine the potential outcomes, ramifications, and difficulties of granting legal personhood to artificial intelligence entities in India, this paper digs deep into the difficult terrain of navigating the legal landscape. This investigation sheds light on an important turning point in India's legal and technological journey, from the complexities of defining AI's rights and obligations to the potential revolutionary consequences on numerous sectors.

ARTIFICIAL INTELLIGENCE:

While a number of definitions of artificial intelligence (AI) have surfaced over the last few decades, John McCarthy, the father of Artificial Intelligence, offers the following definition in 2004, "*It is the science and engineering of making intelligent machines, especially intelligent computer programs. It is related to the similar task of using computers to understand human intelligence, but AI does not have to confine itself to methods that are biologically observable.*"¹

In simple terms, artificial intelligence (AI) is a broad field within computer science dedicated to creating systems that can operate autonomously and exhibit intelligence. It can be thought of as a smart machine that possesses the capacity to think, comprehend, and take actions independently, even replicating certain human behaviours. Consequently, AI represents a system with the potential and capability to address problems typically tackled by human

¹ <http://jmc.stanford.edu/artificial-intelligence>

intelligence. To delve deeper, the primary objective of AI development is to fulfil the demand for automation in our increasingly fast-paced lives. Currently, AI is being applied to perform both routine and challenging tasks².

USE OF ARTIFICIAL INTELLIGENCE IN COGNITIVE TASKS:

The AI-driven revolution is focused on automating cognitive processes, as opposed to the industrial revolution, which mechanised physical labour and replaced human muscles with hydraulic mechanisms and diesel engines. While AI may primarily be optimising some manual jobs, it is also causing a more significant shift in many previously thought to be immune to automation white-collar professions. Due to AI's exceptional powers, which allow it to carry out activities that were previously unthinkable, several of these professions are undergoing substantial change. As a result, human counterparts in office settings are being supplemented and, in some cases, replaced by AI.

The discipline of law is not exempt from AI's transformational effects. Artificial intelligence (AI) is already being used for activities including contract review, document retrieval during the discovery process, and legal research, however it is more likely to support lawyers in the short future than to replace them. In more recent times, artificial intelligence (AI) has branched out into activities like contract drafting, predicting legal outcomes, and even recommending judicial decisions in areas like sentencing or bail determinations.

The potential advantages of incorporating AI into the legal profession are evident. It can enhance the efficiency of lawyers, reducing the occurrence of costly errors. In certain instances, it can expedite legal research and decision-making processes, thereby facilitating the administration of justice. However, it is important to recognize that AI is not yet prepared to replace human judgment in the realm of law. Concerns include the presence of inherent biases within the data that fuels AI systems and the challenge of comprehending the reasoning behind AI-generated decisions in a manner that is understandable to humans, a concept of "explainability." Before completely integrating this technology into certain legal environments, several challenges must be overcome.

² <https://www.ibm.com/topics/artificial-intelligence>

CONCEPT OF LEGAL PERSONHOOD:

In layman terms, legal personhood refers to the ability to have rights, fulfill responsibilities, and be held accountable. Back in 2002, Peter Benson discussed in his book, "The Oxford Handbook of Jurisprudence and Philosophy of Law,"³ the distinction between the status of "things" and that of "persons." "Persons" are believed to have their own interests, can take actions with consequences, and exhibit agency, while "things" are objects used by others and lack will, interests, competence, or accountability. AIs, due to their ability to make decisions and take actions, challenge this distinction.

In legal terms, there are two types of legal personhood: Natural and Judicial⁴. Natural personhood is granted to actual human beings, while judicial personhood involves non-human entities receiving certain rights and duties under the law. This concept has previously been extended to corporations, religious entities, governmental bodies, and international organizations, among others. As technology continues to advance, raising new challenges, it is crucial to thoroughly consider both sides of the argument before implementing changes in this regard.

AI cannot be considered or recognized as a person but the reason for why it cannot stand vague and also it has been contended that the section 2 (42)⁵ of the general clauses act does not include the AI, it is reverently contended that the said sec under the general clauses act "is undoubtedly illustrative and not exhaustive."

"In our considered opinion, the definition of person in General Clauses Act, would not restrict the power of the State Legislature to define a person and adopt a meaning different from or in excess of the ordinary acceptance of the word as is defined in the General Clauses Act. this has been held by the SC in the case of *Karantaka Bank ltd v. State of A.P.*⁶

In the case of State of *Gujarat v. Nandubhai Mahasubhai*⁷, "the court held that in which the word "**PERSON**" is used in various provision there of equally different".

³ Coleman, Jules L., Kenneth Einar Himma, and Scott J. Shapiro (eds), *The Oxford Handbook of Jurisprudence and Philosophy of Law* (2004; online edn, Oxford Academic, 18 Sept. 2012), <https://doi.org/10.1093/oxfordhb/9780199270972.001.0001>, accessed 6 Sept. 2023.

⁴ <https://www.legalserviceindia.com/legal/article-1904-legal-personality-in-the-light-of-jurisprudence.html>

⁵ <https://www.indiacode.nic.in/>

⁶ (1994) C.A.No.1994/02

⁷ (2019) C/LPA/304/2019

The definition of person under the BLD⁸ is wider enough to include and AI as a person as *anything and everything which has or obliged by the rights and duties is a person*, even the AI has duties such as optimizing logistics, detecting fraud, composing art, conducting research and providing translation.

The law commission report on AI on platforms and data on artificial intelligence has also addressed on the following that This report recommends the development of an enriched National Artificial Intelligence (AI) Resource Platform (NAIRP) of India⁹: a platform that will bring together all publicly shareable data, information, tools, literature, solutions, best-practices to enable a large number of people to individually and in collaboration take up AI tasks to fuel all aspects from capacity building to building solutions in different domains that will benefit the society, enrich national prosperity and enable international cooperation.

The *NITI Ayog in this article named "Responsible AI"* has mentioned that an AI also has some duties to perform.¹⁰

WHY LEGAL PERSONHOOD?

When we grant AI this recognition, we not only acknowledge its escalating importance but also set the foundation for delineating its entitlements, obligations, and ethical responsibilities within the ever-evolving technological landscape. This action underscores the significant impact of artificial intelligence on our society.

ANOLGY FROM CORPORARTIONS:

Artificial intelligence entities must be given legal personality status in order to be held accountable by the law in the same way that companies are. If we draw the connection from the justification for giving businesses legal personality, it was to reduce the amount of corporate liability that fell on an individual's shoulders, which in turn would encourage people to engage in business operations through corporations. In a similar line, artificial intelligence entities should be granted the same level of legal personhood as corporate companies. This will provide the current legal system the ability it needs to meet future challenges from artificial intelligence. Furthermore, in order to successfully address issues related to artificial intelligence, our legal

⁸ *Black's Law Dictionary* 983 (9th ed. 2009).

⁹ <https://indiaai.gov.in/research-reports/report-of-committee-a-on-platforms-and-data-on-artificial-intelligence/>

¹⁰ <https://www.niti.gov.in/sites/default/files/2023-03/Responsible-AI-AIForAll-Approach-Document-for-India-Part-Principles-for-Responsible-AI.pdf>

system won't need to undergo significant adjustments.¹¹ However, this might give criminals a legal defence in the form of artificial intelligence, and they could use the legal persona of AI as a legal excuse to commit a crime. We can once more draw an analogy from the legal personality of businesses in such a situation. Similar to corporations, when someone is discovered to have unfairly benefited from the legal personality of the latter, the courts breach the corporate veil and hold them accountable. If someone employs artificial intelligence for self-serving purposes or to shield themselves from legal culpability, this method of lifting the corporate veil can be used.¹²

INDEPENDENT NATURE OF AI

It is argued that AIs have a significant amount of practical control over their own actions, allowing them to adapt to information shortages, deal with unpredictable settings, gather necessary data, and communicate with other human and non-human agents. Their capacity to advance and work with knowledge that is not part of the initial subset of input shows that they have a humanistic quality. All of these characteristics are thought to be prerequisites for having a legal person, and they therefore offer solid justification for giving AI systems one.¹³

BRIDGING THE ACCOUNTABILITY, RESPONSIBILITY AND TRANSPERENCY GAP:

The previous point's discussion of autonomy does result in a lack of accountability. 'Autonomy skills' is often used to denote a lack of user control. This is significant from a legal perspective when taking into account circumstances like entering into contracts for high-frequency trading or operating autonomous vehicles. Giving AIs legal personhood would be advantageous in this situation since it would assure that someone could be held accountable if something went wrong. It would provide to support the technological innovation of AI systems as the costs of unforeseen mishaps would be fairly distributed to them.¹⁴ According to Jurist, giving AI systems a legal personality will make sure that there is someone who can be held accountable when things go wrong. This is promoted as a solution to any accountability gaps that can be caused by their opacity, autonomy, and speed along with being compared to companies, AI systems can also be punished through retribution, incapacitation, deterrence, and rehabilitation.

¹¹ <file:///C:/Users/sivamani/Downloads/7E399602-D4A0-4364-BE11-F451330BFDB5.pdf>

¹² BSN (UK) Ltd. v. Janardan Mohandas Rajan Pillai [1996] 86 Com Cases 371 (Bom).

¹³ https://link.springer.com/chapter/10.1007/978-3-642-74688-8_55

¹⁴ <https://link.springer.com/article/10.1007/s00146-021-01384-w>

This will make it easier to have both civil and criminal courts have jurisdiction over the AI system. There would be rights to even entirely destroy the robot in circumstances of extreme default. A licence to operate the robots could potentially be suspended, a punishment imposed, or its property taken, depending on the circumstances.¹⁵ Granting the AI system a legal personality will ensure accountability for its efforts and deeds. Accountability, Responsibility, and Transparency are some ethical ideals of AI that will be furthered by assuring this.¹⁶

ISSUES WITH THE TRADITIONAL LIABILITY PARDIGAM:

Conventional liability regimes fall short of offering the incentives necessary to guarantee both the right of victims to seek damages and ongoing innovation. It is unreasonable to hold AI creators liable for carelessness in circumstances of unpredictable mishaps brought on by AI's autonomy, and the idea of strict liability appears to be overly severe and could deter scientific advancement. Giving AIs legal personality may be a solution in this situation because it would enable them to engage into legal contracts independently and possibly with total financial autonomy.¹⁷

CREDIT TO AI

The cited sections cover ideas like the notion that, in the case of computer-generated works, the person who makes the arrangements required for their creation is considered the creator.¹⁸ An AI system cannot be recognised as a natural person for the purposes of issuing patents under the existing US patent law, according to the federal district court of the US in the case of *Stephen Thaler v. Andrew Hirshfeld (2021)*¹⁹. Such a system's fundamental jurisprudence favours human ingenuity above that of machines. Because of this, it is difficult for non-human creatures to assert ownership of the intellectual property (IP) they have produced. Giving AI systems a legal identity would guarantee that they own the intellectual property (IP) that they produce.

¹⁵ S Chesterman, 'Artificial Intelligence and the Problem of Autonomy' (2020) 1 Notre Dame Journal of Emerging Technologies 210; S Chesterman, 'Through a Glass, Darkly: Artificial Intelligence and the Problem of Opacity' (2021) AJCL (forthcoming).

¹⁶ Virginia Dignum, 'The ART of AI – Accountability, Responsibility, Transparency' – Mar 4, 2018. <https://medium.com/@virginiadignum/the-art-of-ai-accountability-responsibility-transparency-48666ec92ea5>

¹⁷ <https://link.springer.com/article/10.1007/s00146-021-01384-w#citeas>

¹⁸ Copyright, Designs and Patents Act 1988 (UK), s 9(3), Copyright Act 1994 (NZ), s 5(2)(a), Copyright Amendment Act 1994 (India), s 2(d)(vi), Copyright Ordinance 1997 (HK), s 11(3), Copyright and Related Rights Act 2000 (Ireland), s 21(f).

¹⁹ Stephen Thaler v. Andrew Hirshfeld 558 F. Supp. 3d 238 (E.D. Va. 2021).

PROTECTION FROM HUMAN MANUPILATION:

Giving AI systems legal personality would guarantee their defence against human manipulation. The AI system would have its own recognition and independent identity because being considered a legal person would give it the capacity to bring legal claims and be sued. Less likelihood of it being controlled to serve human goals would result from this. A technique of lifting the curtain, similar to the one for businesses, can be developed for AI systems as well. This would strengthen the defences against human manipulation of AI systems. This is in the best interests of the AI systems and is only practically feasible if it is given legal personality.²⁰

ENTRY INTO CONTRACTS:

Giving AI systems legal personality would enable them to enter into contracts. It's not really novel to utilise electronic agents to reach legally enforceable agreements. For instance, high-frequency trading relies on algorithms signing contracts with other algorithms on behalf of conventional people. Giving such AI systems personhood would therefore assure improved work efficiency and close any accountability gaps that AI may have brought up in relation to contract signing.²¹²²

CREATION OF OWNERSHIP:

Giving artificial intelligence (AI) systems legal personality would make it so that the AI system would own the work it produces rather than its parent owner. When an AI creates something, they will hold the ownership rights, or the intellectual property rights, and humans will not be able to claim credit. However, it should come as no surprise that in the majority of legal systems worldwide, the person asserting intellectual property must be a legal person and not a judicial person. Legal personalities other than humans are thus prohibited from owning the IP it generates.²³ Such a system supports "the dignity of human creativity over machine creativity," according to the WHO.

²⁰ J Turner, *'Robot Rules: Regulating Artificial Intelligence'* (Palgrave Macmillan 2019) 193.

²¹ S Chopra and LF White, *A Legal Theory for Autonomous Artificial Agents* (University of Michigan Press 2011) 160.

²² T Cuk and A van Waeyenberge, *'European Legal Framework for Algorithmic and High Frequency Trading (Mifid 2 and MAR) A Global Approach to Managing the Risks of the Modern Trading Paradigm'* (2018) 9 EJRR 146

²³ Copyright, Designs and Patents Act 1988 (UK), section 9(3), Copyright Act 1994 (NZ), section 5(2)(a), Copyright Amendment Act 1994 (India), section 2, Copyright Ordinance 1997 (HK), section 11(3), Copyright and Related Rights Act 2000 (Ireland), section 21(f).

CRIMINAL LIABILITY ON AI:

Artificial intelligence may be held accountable for its own conduct if it is recognised as a legal entity. This will prevent the AI's innocent creators and owners from facing legal consequences for doing something they did not intend to do. It will also encourage the growth of the AI industry by preventing AI creators and users from becoming discouraged, as well as more advancements in the field.²⁴ The most well-known proponent of AI punishment, Gabriel Hallevy, argues that "there is no reason to prevent imposition of criminal liability upon that offence" when "an AI entity established all elements of a specific offence, both external and internal."²⁵ According to his analysis, there is no real legal distinction between the notion of corporate criminal culpability and that of artificial intelligence entities.

HARMONIOUS RELATIONSHIP WITH AI:

Additionally, after creating weak AI, scientists are attempting to create strong AI that will be sentient, distinct from humans, and have its own identity. The distinction between humans and machines will blur thanks to these machines' emotional intelligence. They will do so in their abilities to do any activity and also in their typical method of completing a task. They might even seek fundamental rights in order to promote their wellbeing. Giving artificial intelligence legal personhood will ensure that not only will our legal system be ready for technological progress, but that our interactions with these artificially intelligent beings are peaceful and beneficial to humans.²⁶

INSTANCES WHERE LEGAL PERSONA IS GIVEN OTHER THAN CORPORATES:

There are several non-human entities, such as rivers in New Zealand and temples in India, in many countries that have granted them personality. Without a doubt, this shows that granting personality to non-biological or non-human entities is nothing new. In light of this, one could argue that AI should be granted legal personhood in all countries.²⁷

²⁴ <file:///C:/Users/sivamani/Downloads/7E399602-D4A0-4364-BE11-F451330BFDB5.pdf>

²⁵ Gabriel Hallevy, 'The Criminal Liability of Artificial Intelligence Entities' — From Science Fiction to Legal Social Control, 4 AKRON INTELL. PROP. J. 171, 191 (2010).

²⁶ Rafael A. Calvo, Sidney K. D'Mello, Jonathan Gratch & Arvid Kappas, The Oxford handbook of affective computing 176 (1stedn, Oxford 2015).

²⁷ <https://www.legalserviceindia.com/legal/article-8473-artificial-intelligence-and-legal-personhood.html>

COMPUTER IS TREATED AS A LEGAL PERSON:

Many precedents have been formed throughout the years; one relevant instance is the "computer raped by telephone" case, which received extensive media coverage. In this instance, a computer programmer used a phone link to break into a computer and steal sensitive data. A search warrant was issued for the computer during the investigation so that its data and parts could be examined. This was the first instance in which a machine was given legal standing in front of the entire world.²⁸

LEGISLATION ON AUTO PILOTS:

Lawmaking on autopilot is a prime example in this area. In *Klein v. U.S.*, the pilot used the autopilot to make the landing even though it was strictly against the rules to do so. The autopilot mistakenly made a poor landing, seriously damaging the aircraft. Although the autopilot made a mistake in this instance, the pilot was the one who made it, hence he was held accountable for the damage to the aircraft.²⁹

SELF DRIVING CARS AS TRADITIONAL DRIVERS:

Four states in the United States have established laws that regard self-driving automobiles the same as regular drivers.³⁰ The first state to adopt such law was Nevada.³¹ These autonomous vehicles would be regarded by the law as conventional human drivers, and they would be responsible for any accidents they caused as well as any other liabilities that resulted from their actions.

EXPLORING THE AUTHORSHIP RIGHTS IN THE AGE OF AI **THE CHALLENGE OF COPYRIGHT PROTECTION FOR AI-CREATED** **WORKS**

The major thing that would happen is that the work created by the AI cannot be protected by the copyright's laws. Meaning that these works could in theory be deemed free of copyright because they are not created by a human author. As such, they could be freely used and refused

²⁸ Ward v. Superior Court of California [1972] 3 C.L.S.R. 206.

²⁹ Klein v. U.S. [1975] 13 Av.Cas. 18137.

³⁰ Thomas Halleck, Google Inc. Says Self-Driving Car Will Be Ready By 2020, INTERNATIONAL BUSINESS TIMES, (Jan. 15, 2015), accessed 12 February 2016

³¹ Alex Knapp, Nevada Passes Law Authorizing Driverless Cars, FORBES (June. 22, 2011) accessed 12 February 2016.

by anyone. That would be very bad news for the companies selling the works.

Investing in AI-generated works would lose its appeal if there's no legal protection, potentially hindering technological progress. To address this, a revolution in intellectual property rights (IPR) laws is needed to acknowledge AI's role in creation. Copyright laws should be updated to include AI as an author. This evolution is essential for the law to keep pace with societal changes, especially in the tech-driven arena, ensuring it remains adaptable and avoids unregulated developments. Legal frameworks must address questions about AI-generated work authorship.

GLOBAL LEGISLATION EMBRACING AI IN COPYRIGHT AND PERFORMER'S RIGHTS

There are various country's legislation which is wider enough to include the AI under the copy rights act. The counsel would like quote two country's CRA which includes the AI under the ambit. The CRA of the U.S.A³² in An **“anonymous work” is a work on the copies or phonorecords of which no natural person is identified as author.** In this legislation it has no definition for author under Sec. 101 Here it has been implied that the definition of author is that any anonymous work of which no natural person is identified as author.

An 'AI TOOL' can be granted performers right also, under the Copyright Act, 1957. The **Sec.2(qq)**³³ states that **“performer”** includes an actor, singer, **musician**, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance. Also, According to **Merriam webster dictionary**³⁴, musician is a composer, conductor, or **performer of music**. Performer in general is somebody who performs for the audience. Interpreting the above definitions, it is obvious to conclude that AI can be a performer and thus be granted performer's rights. We have entered an age of AI music generators. There is no sign to suggest the development of AI will slow down any time soon. As a result, music industry and the legal field needs to be prepared for the growing influence of AI. Major players in the music business worldwide recognize that AI-generated work is here to stay.

³² Copy rights law of U.S, 2022, sec. 101

³³ Section 2(qq) of the Copy Rights Act,1957; ‘performer includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance’

³⁴ Merriam-Webster's Collegiate Dictionary (10th ed.). (1999)

*The Saudi Arabia's law*³⁵ on CR under the Art. 8 states that,

Performers: Actors, players of musical instruments, singers, dancers, reciters and others who perform an artistic activity of other literary or artistic works in one way or another.

The word "other" by looking into the literal interpretation of this anything which performs autonomously can be termed as a performer.

LEGAL PRECEDENTS AND THE INTERSECTION OF COPYRIGHT, PRIVACY, AND PUBLICITY RIGHTS IN AI-GENERATED MUSIC

In relation to authorship regarding AI-generated music, past cases have established a clear precedents, AI can effectively utilize human voices for commercial purposes. However, restrictions come into play when these voices are employed for improper or unauthorized uses. In the case of *Midler v. Ford Motor & co*³⁶. *Held that not every instance of commercial usage of another's voice is a violation of law. In this case the court held that even not every commercial usage of voice of another person violates the law.* That voice should not be used for the misappropriate purposes which invades the privacy of the another person.

In the case of *Butler v. Target Corp*³⁷ the court held that *although lyrics to a song are copyrightable the underlying voice is not copyrightable. Hence, it has been very clear that since the voice is not copyrightable claiming for that under the right to privacy is invalid. As the sounds are not fixed there is no copyright protection available to the infinite number of words or phrases a person might utter in their distinctive voice.*

According to **Section 38** and **Section 57** of the Copyright Act 1957, pertaining to the rights of a performer and the moral rights of an author respectively, are enforceable for protection from the unauthorized use of such performer's or author's marketing rights and their reputation.

There are three sections in the IT Act, 2000 which relates to the right to privacy that is **Sec. 42A, 72, 72A**. None of these sections said that or include even disclosure of the voice of another person amounts to punishments and also, there are various mimicry artist in the cinema world, if such instances of the right to privacy has been to filed against for just mimicking the voice

³⁵ Copy rights law of Saudi Arabia, 2004, Art.8

³⁶ Midler v. Ford Motor & co,(1988) 849 F.2 d 460

³⁷ Butler v. Target Corp³⁷(2004) 323 F. Supp. 2d 1052

then there should be lot of cases logged against many voice artist for mimicking the voice of another person which was left unaddressed.

Recently, The Delhi HC while addressing on the *Actor Amitabh Bachchan case*³⁸ held that *using voice of another actor for misappropriate purposes amounts to violation as it is against his consent.*

Under the common law practice, publicity rights was a sub-category of privacy rights. *Haelan Laboratories, Inc. v. Topps Chewing Gum, Inc*³⁹ was the first case to separate publicity rights from privacy rights where the courts stated that players had a right in "the publicity value of their photographs" or, in other words, they have a right "to grant the exclusive privilege of publishing their pictures." A State Right of Publicity claims is generally easier to prove because it claims to "protect an individual's right to remuneration and prevent misappropriation and unjust enrichment from the theft of good will.

THE EUROPEAN AI ACT - RECOGNIZING AI AS LEGAL PERSONS **REGULATING AI FOR RESPONSIBLE INNOVATION**

On 16 June 2023 the European Parliament passed the text of the Artificial Intelligence Act (**the "AI Act"**) by an **overwhelming majority**. The EU AI Act is set to become the world's first comprehensive legal framework for artificial intelligence. The proposed legislation, the Artificial Intelligence (AI) Act, focuses primarily on strengthening rules around data quality, transparency, human oversight and accountability. It also aims to address ethical questions and implementation challenges in various sectors ranging from healthcare and education to finance and energy.

In 2017, the European Council called for a 'sense of urgency to address emerging trends' including 'issues such as artificial intelligence . . . , while at the same time ensuring a high level of data protection, digital rights and ethical standards'⁴⁰ In April 2021, the European Commission published the AI Act proposal, since the specific characteristics of certain AI systems may have an impact on user safety and fundamental rights, creating new risks which need to be addressed. The most important innovation of the proposal is the establishment of

³⁸ *Amitabh Bachchan v Rajat Nagi and Ors*, I.A. 19730/2022

³⁹ *Haelan Laboratories, Inc. v. Topps Chewing Gum, Inc*, (1953) 202 F.2d 866 (2d Cir. 1953)

⁴⁰ European Council, European Council meeting (19 October 2017) – Conclusion EUCO 14/17, 2017, p. 8

four risks categories for AI systems, in order to protect citizens' fundamental rights and freedoms⁴¹.

AI GOVERNANCE: BALANCING RISK AND RESPONSIBILITY

AI systems' risk classification hinges on their intended purpose and methods of usage, mirroring product safety principles. Before AI systems reach the market, they must meet rigorous requirements, including a comprehensive risk management system. This system ensures risk assessment, identification, and user interaction management.

ELEVATING AI QUALITY AND ACCOUNTABILITY

Developers of high-risk AI systems must enforce responsible data governance, emphasizing privacy and security. A robust quality management system is mandatory to maintain performance standards. The use of high-quality datasets enhances AI accuracy and effectiveness, fostering transparency through traceable documentation.

EMPOWERING USERS IN THE AI ERA

User-centric AI principles demand adequate information sharing to inform users about AI functionality and potential risks. Human oversight mechanisms are central, enabling intervention and control over AI operations. Developers must uphold the highest standards in robustness, safety, cybersecurity, and accuracy. Strict adherence to legal requirements, including GDPR, safeguards individuals' rights and interests, ensuring AI operates securely and reliably.

AI ACT: EMPOWERING GOVERNANCE AND RESPONSIBILITY

In **Article 13**⁴², the AI Act emphasizes "enabling users to interpret the system's output" and underscores transparency, distinct from traditional information sharing. The legislation sets a new standard for interpretability in AI. Article 14 further champions interpretability, especially

⁴¹ The explanatory memorandum attached to the proposal, in fact, notes that "The use of AI with its specific characteristics (e.g. opacity, complexity, dependency on data, autonomous behaviour) can adversely affect a number of fundamental rights enshrined in the EU Charter of Fundamental Rights [...] In case infringements of fundamental rights still happen, effective redress for affected persons will be made possible by ensuring transparency and traceability of the AI systems coupled with strong ex post controls".

⁴² "Transparency and provision of information to users 1. High-risk AI systems shall be designed and developed in such a way to ensure that their operation is sufficiently transparent to enable users to interpret the system's output and use it appropriately. An appropriate type and degree of transparency shall be ensured [...]"

in high-risk AI systems, focusing on user understanding. The AI Act safeguards fundamental rights, promotes ethical AI development, and introduces a comprehensive governance framework.

The Act aims to safeguard fundamental rights, ensure ethical development of AI, and provide a framework for the governance of AI systems. It addresses issues such as transparency, clarifying responsibilities, and compliance with different categories. The Act is seen as a significant step in the governance of AI and has the potential to impact the AI landscape both within Europe and beyond. It offers an opportunity for the AI research community to prepare for its implementation and for organizations to assess their compliance.

THE AI REGULATORY LANDSCAPE

Title X also includes measures to ensure the effective implementation of the regulation through effective, proportionate, and dissuasive penalties for infringements of the provisions. **Title XI** sets out rules for the exercise of delegation and implementing powers⁴³. Similarly, **Title IX** creates a framework for the creation of codes of conduct. All these ensure, there's smooth and safe regulatory functioning of such systems.

Trust on AI is a must and not nice to have. With this Act, the EU is taking the lead in attempting to make AI systems fit for the future we as humans want," said Kay Firth-Butterfield, Executive Director of the Centre for Trustworthy Technology, part of the World Economic Forum's Fourth Industrial Revolution Network⁴⁴. In June, the Forum launched its AI Governance Alliance, with the aim of bringing together industry leaders, governments, academic institutions, and civil society organizations to support responsible global design and the transparent, inclusive deployment of AI systems.

GLOBAL IMPACT OF THE AI ACT

In the U.S., Senate Majority Leader Chuck Schumer has outlined a framework for AI regulations, emphasizing security, accountability, and innovation, particularly the latter. Similarly, in the UK, Rishi Sunak has called for a global summit on AI safety in the upcoming autumn. Nevertheless, it's worth noting that the EU's AI Act, which has been in development

⁴³ <https://artificialintelligenceact.eu/the-act/> (The EU AI Act)

⁴⁴ <https://www.hitachi.com/rev/archive/2022/r2022-sp/concept/index.html>

for two years, represents the first substantial effort to comprehensively regulate AI technology.

The European Union has taken a significant step by implementing the AI Act, a comprehensive set of regulations aimed at addressing AI challenges while ensuring the safe and responsible development and use of AI technology in alignment with fundamental rights and values. This legislation stands as a valuable model for other nations, including emerging economies like India.

AI CITIZENSHIP IN SAUDI ARABIA

The world famous an AI which is so called “Sophia” as been granted an legal personhood and citizenship in Saudi. In 2017, Social robot Sophia, the first robot to be given legal personhood anywhere in the world.

The granting of citizenship to the Sophia Robot serves as a significant precedent suggesting that it possesses the status of a legal person. Citizenship is typically bestowed upon entities recognized as legal persons, thereby implying that AI can indeed attain legal personhood. This example underscores the argument that AI, by virtue of its capabilities and recognition under the law, qualifies as a legal person. Consequently, AI entities can be endowed with rights, duties, and obligations akin to those of humans. Therefore, while this argument presents a perspective, This line of reasoning underscores the proposition that AI qualifies as a legal person.

CONCLUSION

We currently face decisions on metaphors for robots, like equating drones with "aircraft," leading to usage limitations. US regulators also compare surgical robots to minimally invasive laparoscopic surgery, speeding up approvals. AI is already used in courts, hospitals, and more. It would be unfair to claim that AI cannot be granted legal personhood, especially for AI that can work autonomously without human intervention. We should not view AI negatively. It can contribute to a country's development by granting AI its own rights and duties, fostering a positive impact.