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ARTIFICIAL INTELLIGENCE: CATALYST FOR CHANGE OR CAUSE FOR CONCERN?

Introduction

Artificial Intelligence (AI) has emerged as a transformative force, revolutionising various sectors with its ability to analyse data, make decisions, and perform tasks that typically require human intelligence. From healthcare to finance, AI's impact is undeniable. As AI continues to permeate our daily lives, it raises important questions about its impact on society, economy, and legal frameworks. This article delves into the historical context, regulatory landscape, judicial responses, and potential solutions and suggestions, ultimately aiming to assess whether AI is a catalyst for positive change or a cause for concern.

Historical Background

The pursuit of artificial intelligence dates back to the mid-20th century, when pioneers like Alan Turing and John McCarthy laid the foundations for the field and envisioned machines that could think. Early AI systems were limited to narrow tasks, it evolved from rule-based systems to machine learning and deep learning algorithms. However, it wasn't until the mid-20th century that AI as a field of study and research began to take shape. However recent advancements, particularly in machine learning and neural networks, have enabled AI to tackle more complex challenges. The development of advanced computing technologies and the rise of big data have propelled AI into the forefront of technological innovation, leading to rapid advancements in machine learning, natural language processing, and robotics. As AI continues to evolve, its potential to reshape industries and societies is undeniable.

Today, AI permeates our lives, from voice assistants to self-driving autonomous vehicles. It is now woven into the fabric of our daily lives, promising unprecedented efficiency, convenience, and problem-solving capabilities.

The Regulatory Framework in India

India has recognized the potential of AI and has taken steps to develop a robust regulatory framework. In 2018, the government released the National Strategy for Artificial Intelligence, which outlines the vision, aspirations, and initiatives to promote AI development and adoption in the country. Additionally, the Ministry of Electronics and Information Technology (MeitY) has established committees to study the ethical and legal implications of AI, aiming to create a balanced and responsible approach to its governance.

Judicial Responses

The Indian judiciary has also grappled with the implications of AI, particularly in the context of data privacy and algorithmic bias. In landmark cases like *Justice K.S. Puttaswamy (Retd.) v. Union of India*¹ and *Vidhi Chandra Shukla v. Union of India*, the Supreme Court has emphasized the need to protect individual privacy while acknowledging the potential benefits of AI in sectors like healthcare and governance. These rulings have underscored the importance of striking a balance between innovations and safeguarding fundamental rights.

Justice Kohli flagged ethical concerns about the 'accountability, transparency and protection of rights of parties', which may crop up with the use of AI in the legal field.

Further, the statement given by Hon'ble Ms. Justice Hima Kohli, Supreme Court of India in a function organised by ICICI bank that,

Artificial intelligence (AI) should not be viewed as a threat, but as an opportunity to enhance the quality of legal practice as technology has played a significant role in keeping the wheels of justice turning even during the peak of the COVID-19 pandemic and beyond, said by Supreme Court judge Hima Kohli.²

"A judge comes on the bench with a vast and varied legal and personal experience, whose role goes beyond a bookish application of the law. She is equipped to weigh the facts of a case, understand human behaviour and apply the law to circumstances so as to arrive at a fair and just decision. AI, however advance as it may be, lacks human empathy, compassion and reasoning that are essential to dispensation of justice. While AI has the potential to greatly

¹ (2017) 10 SCC 1

² PTI, 'AI should not be viewed as threat, but as...': What Supreme Court judge said', LIVE MINT (12 Feb 2023, 03:14 AM IST), <https://www.livemint.com/news/india/ai-should-not-be-viewed-as-threat-but-as-what-supreme-court-judge-said-11676151442123.html>

improve the efficiency of the judicial system, it can never supplant a human judgment. Judges will continue playing a pivotal role in ensuring that the principles of justice are upheld and that the rights of litigants are protected," she said.

The apex court judge said there are "no limits to growth because there are no limits to human intelligence and imagination" and after all, AI is the creation of the mankind. The bottom line is that AI can never replace the human values that are deeply ingrained in the constitutions of countries, in institutions of excellence in the academia and governments and the civil society. So let us embrace technology and AI, but with wisdom and a steadfast commitment to the rule of law," she said.

Recently, in *Anil Kapoor v. Simply Life India & Ors.*³, This case emphasises the critical need to preserve public figures' and celebrities' rights and qualities, especially in the digital era, where illegal use of their identity can result in a slew of legal complications. The court's decision to grant an ex parte injunction and secure domain names linked with the Plaintiff's name represents an important step toward ensuring that a public figure's reputation and image are not tainted or utilised without permission. It establishes a precedent for protecting the rights of people whose names and likenesses are used on the internet, reaffirming their rights to privacy, dignity, and reputation.⁴

The Seriousness of the Issue

The proliferation of AI raises significant ethical, social, and legal concerns that cannot be ignored. Issues such as algorithmic bias, job displacement, privacy violations, and the potential for AI systems to be weaponized or used for malicious purposes have sparked heated debates and calls for responsible development and governance. Additionally, the opacity of complex AI systems and the lack of accountability mechanisms pose challenges to establishing trust and ensuring fair and transparent decision-making processes.

In a landmark ruling, the Delhi High Court has issued critical directions and guidelines on the takedown of non-consensual intimate images (ncii) and personal data/information. This

³ CS(COMM) 652/2023 and I.A. 18237/2023-18243/20220, order dated September, 2023 Delhi High Court

⁴ King Stubb & Kasiva, *Mr Anil Kapoor v. Simply Life India and Ors*, CS(COMM) 652/2023 and I.A.

18237/2023-18243/2023, ADVOCATES AND ATTORNEYS (Oct 27, 2023),

<https://ksandk.com/newsletter/mr-anil-kapoor-v-simply-life-india-and-ors-cs/>

*decision emphasizes the importance of the right to privacy and the right to be forgotten for individuals in the digital age.*⁵

The Delhi High Court recently asked Google LLC to immediately take down videos referring to the health and well-being of Aaradhya Bachchan, daughter of Abhishek Bachchan and Aishwarya Bachchan. These videos were wrongfully presenting that Aaradhya was in critical health, and though a complaint was filed with Google LLC, the videos were not immediately taken down. Referring to the publishers/uploaders of the videos as morbidly perverse persons, the Court asked Google LLC to immediately take the videos down. It also asked Google to take down any other videos of the like nature that are brought to its attention by the petitioner.

Like most intermediaries, Google argued in the case that it had no control over the videos, and unless videos fall within particular categories such as rape, obscenity, etc., they do not proactively take them down. The Court stated that such a response is unacceptable, and went on to grant relief to the petitioner. The case was primarily argued based on Rules 3 and 4 of the 2021 Intermediary Guidelines, which require intermediaries like Google to take down content expeditiously based on complaints relating to harm to children, privacy, copyright infringement, and defamation, among others.

Right to be forgotten and court records

The Kerala High Court held in this case that a person has the right to get information about himself/herself de-indexed and removed from Google search and other online sources. The right to be forgotten is an inherent part of the right to privacy. However, such a right does not extend to Court records except those involving private matters such as matrimonial matters.⁶

Solutions and Suggestions

Addressing the concerns surrounding AI requires a multifaceted approach involving policymakers, technologists, ethicists, and stakeholders from various sectors. Some potential solutions and suggestions include:

1. Establishing robust ethical frameworks and guidelines for AI development and deployment, with a focus on transparency, accountability, and respect for human rights.

⁵ Aaradhya Bachchan and Another v. Bollywood Time and Another, 2023 SCC Del 2268

⁶ BananaIP Reporter, RECENT CASES ON DATA PROTECTION AND PRIVACY IN INDIA, BANANAIP (Aug 22, 2023), <https://www.bananaip.com/ip-news-center/recent-cases-on-data-protection-and-privacy-in-india/>

2. Investing in interdisciplinary research to understand and mitigate the risks associated with AI, such as algorithmic bias, privacy concerns, and potential misuse.
3. Promoting AI literacy and education to empower individuals and organizations to make informed decisions about the adoption and use of AI systems.
4. Encouraging public-private partnerships and international collaborations to develop global standards and best practices for responsible AI development and governance.
5. Implementing rigorous testing and auditing mechanisms to ensure AI systems are fair, reliable, and aligned with ethical principles.
6. Exploring the development of "human-centred AI," where AI systems are designed to augment and complement human capabilities, rather than replace or diminish the human agency.

Conclusion

Artificial Intelligence presents both immense opportunities and significant challenges for humanity. While it has the potential to catalyse transformative changes in various domains, from healthcare to education to scientific research, it also raises legitimate concerns regarding privacy, ethical decision-making, and the impact on employment and societal structures. Navigating this complex landscape requires a balanced and responsible approach, guided by robust regulatory frameworks, ethical principles, and a commitment to fostering AI systems that prioritize human well-being and contribute to a more equitable and sustainable future.