Exploring the Legal Implications of Artificial Intelligence : Liability and Accountability in Focus

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Abstract :

As Alvin Toffler once said, "Our technology powers increase, but the side effects and potential hazards also escalate." Racing technology has made computers and mobile phones an essential part of our daily lives, due to whichthere has been an increase in cyber crimes and litigations in the past decade. Artificial intelligence is the talk of the town and has been utilized for various purposes, let us say a car driven by Artificial intelligence causes an accident, who is to be held responsible? Artificial Intelligence has entered the domain which was exclusively reserved for human decision-making, while delivering solutions there may be differences of opinion between AI and human professionals. In order to avoid criminal liability of AI there is a necessity to assess the social, cultural, economic, and political effects of unsupervised AI algorithms.

Ephemeralization has a profound effect on our economy and for further growth the education system must be aligned with AI and not always neglected. Ephemeralization is a term coined by U.S. visionary and philosopher Buckminster Fuller who used it to describe, "The tendency of technology to do more and more with less and less until eventually,you can do everything with nothing." Artificial Intelligence has made possible what was once a dream for many and still creating unbelievable advancements. Artificial Intelligence is a double-edged sword, with its convenience also comes the price which is to be paid.

Keywords : Artificial Intelligence, Litigation, Ephemeralization, Double-edged sword.

INTRODUCTION :

The AI can utilize its program and propose solutions for various kinds of issues, and thus the question arises whether it can cause damage in the pursuit of results. AI has taken over most sectors of society from driving cars to planning birthday parties, all silly hesitant doubts can be cleared without feeling stupid. In decision-making, there are a couple of things that are to be kept in mind such as the physical, or emotional impact caused, the AI being unaware of emotions can deliver insensitive products. Looking back when each field had its classic expert advisor and scholars are now replaced by know-it-all Artificial Intelligence.

The prevalence of AI in society means that the more people use AI, the greater the likelihood of various violations of law. Legal liability means the obligation or legal responsibility of individuals in exchange for the actions performed which are against the law. Legal liability is of two kinds:

1. **Civil Liability :** It consists of a breach of contract, tortious liability, breach of rights granted by law, harm, defamation, etc. This kind of violation can be challenged in civil court or settled by mutual consent. Aid is provided in the form of compensation.

2. **Criminal Liability :** It consists of theft, physical hurt, accident, conspiracy, etc. This kind of violation can be challenged in criminal courts and cannot be settled outside court. The accused is liable to fine, imprisonment, and compensation wherever required.

When legal liability is viewed in respect of Artificial Intelligence, then two more kinds are considered, such as:

3. **Product Liability :** It means when the product or solution presented by the AI causes any kind of malfunction which in turn leads to inconvenience. This may arise due to failure or defects of the product. In this case, the producers, sellers, or distributors of such products are held responsible.

4. **Professional Liability :** The concept of professional liability is like that of product liability. The professionals who are involved in developing AI algorithms are held liable for breach of duty and maintaining professional ethics.

It is essential to keep in mind that the speed of evolution and modernization of AI is on the rise and it is also a challenge to determine the liability. By the time legal experts and jurists come up with a tentative solution, the problem is outdated, and newer and more complex problems have been raised. Hence it is difficult to keep up with the upcoming versions and challenges introduced by Artificial Intelligence. The dynamic of AI is rather large and still developing which means that its true potential is yet unknown. Without being aware of its true nature and potential, access to AI can be dangerous and can cause adverse consequences. A major drawback in the assessment of the legal liability of AI is that there is no regulatory body or legal provisions specifically meant for the regulation of AI. The lack of surveillance and strictness can lead to the exploitation of rights, citizens, money, etc. To state briefly, it means that lawmakers must realize the need to adopt a legal framework according to the changing civilization.

OBJECTIVES AND SCOPE :

The objective of this research paper is to provide an overview of the relationship between artificial intelligence and its legal liability. This paper seeks to explore the factors affecting decision-making regarding the accountability of AI. It is a prominent fact that AI is a zone of its own, and with the rise in cyber-crimes and threats to the internet security measures should be taken accordingly. Software organizations must discern a sense of responsibility while developing and releasing new algorithms in the AI market. To achieve the stated objective the following key points are relevant and covered, such as:

1. **The problem :** An AI-related problem cannot just be solved by using AI, an irony. It requires precise attention and analysis of where things go wrong, what things go wrong, and how wrong can be turned into right. Detecting the problem itself is part of providing solutions.

2. **Risks to fundamental rights :** The state grants fundamental rights that protect each citizen from discrimination and exploitation. The AI can lead to violation of rights as it can deny access and discriminate based on race, age, color, religion, etc. Some AI programs specifically focus on a group of society and give preference to them ignoring the others. Such as many online clothing trial programs emphasize women and glasses trials emphasize men.

Another right that can be exploited is the right to privacy, while accessing the AI there is certain information that is to be filled out, it is the moral obligation and responsibility of the developer to

safeguard the personal details. The developer cannot utilize, interpret, or disclose personal information to third parties.

3. **Legal liability framework :** The current legal framework lays out various doctrines and principles to safeguard from exploitation or injustice. The implications must be made according to situations that are arising. Specific domains such as motor vehicle accidents, data leaks, cyber security, healthcare negligence, criminal justice, civil justice, etc, are existing in the current legal framework.

4. **Challenges and implications :** Underlying the uncertainties of the nature of offenses, it is difficult to identify a suitable justice delivery system. One of the major challenges is the explainability and interpretation of AI decisions. It is difficult to arrive at the foundation and reasoning for delivering its given solution.

5. **Case studies :** Various examples arebeing made in the current world regarding AI. In this research paper cases will be studied and analyzed along with the decisions that are made in such cases. These cases provide how AI-related problems are dealt with across the world and what measures can be taken to avoid such cases soon.

APPLICATIONS OF AI & LEGAL FRAMEWORK

In the presence of a wide range of AI, the applications are beyond reach. A few of the sectors covered and challenges to the legal frameworks are mentioned as follows :

1. **Autonomous vehicles and accidents :** The concept of self-driving cars has accelerated in the past decade. The question arising is that when a self-driven car gets into an accident then who is put to blame? Who is to be held liable, the car, the person behind the wheels, the car manufacturing company, or the car developer professional? It is often a tough call as the decision-making is a mixed result of human beings and AI.

2. **Healthcare and medical liability :** The AI is now capable of detecting and diagnosing a disease or medical condition and suggesting suitable treatments. For say, AI can now diagnose the presence of cancer and diabetes, but if it fails to diagnose accurately then it can cost the person his health. There can be differences in the decision-making of a professional and AI. Professional medical experts are backed up by years of study and experience, whereas, AI has knowledge of the unthinkable as well, hence it can be a tough call.

3. **Finance and financial liability :** AI is used for financial purposes as well. Banks and financial institutions provide facilities such as determining the credit score, suggesting risk-free schemes and investments, fraud detection, etc. It is easily accessible from one's mobile phone, but there is one challenge of credibility. There is a probability that AI systems make incorrect financial decisions and which may lead to involvement in fraudulent schemes or even loss of money.

4. **Criminal liability :** AI has also entered the domain of criminal justice. There are various functions AI can perform in the criminal system such as predicting high-risk areas, sentencing recommendations, chances of committing a crime, providing policies to reduce sentences or crimes, etc. Many courts even take recommendations from AI while delivering parole, sentence, or release.

This can affect the decision of the court and can be discriminatory toward the people. Hence, AI cannot be trusted with the right to freedom merely based on risk and analysis of AI.

5. **Employment and HR :** Employment through AI is very convenient and time efficient. It reduces manpower involvement in selecting, sorting, and appointment candidates and separates the best from the rest. AI contains filters that can sort candidates at each level and only the eligible and deserving candidates go for the next round. But there are certain assumptions that the selection can be discriminatory towards gender, race, community, etc., which may lead to the appointment of candidates without complete fairness in the process.

STANDARDS FOR AI LIABILITY :

AI is being introduced and developed stage by stage. Each day unique aspects and limits of AI are tested and delivered throughout the world. This leaves very little time to design a framework suitable for AI. An essential element that needs to be dealt with is the law of negligence. The AI system developers and distributors cannot be irresponsible as their customers can be affected adversely by their ill decision-making.

- **Strict Liability :** Irrespective of the nature of the crime or offense, strict liability should be imposed. The concept of strict liability is already present and applicable to the delivery of defective products. If we change the view then AI developers release new algorithms capable of outstanding themselves, this can be seen as the product delivered. The product does not need to be suitable for all. If any accident or omission is caused by such an algorithm then the product developers are liable for producing hazardous products.

  It comes along with a challenge; the product cannot always be held liable as the consumer is aware of its usage and risks but is willing to access it. Hence, AI does not need to be always put to blame.

- **Safety standards and Safety certification process :** The food products available in the market must go through a process to ensure the quality of food being consumed and ensure that it is not hazardous to consumers' health. Similarly, process and safety standards must be laid out for releasing new AI algorithms in the market. There must be a safety certification for the eligible AI algorithms to depict that the algorithms are safe for utilization by consumers.

- **Appointment of the committee :** For the drafting of rules and implementation of the legislature, a suitable committee must be appointed to specifically focus on the issues related to AI. The committee must consist of government officials from the appropriate government. It must also include AI experts because only professionals know the means and methods. The base standard should be set by the professional community as their opinion is based on knowledge. Only experts and professionals are aware of the perspective in which the developers need to proceed for attaining the desired product. They can truly identify the safety and credibility of the AI algorithms which are to be released in the market.

- **Duty of care :** We must realize that it is not only the duty of AI to ensure safety and work ethic, but it is the duty of the human consumer as well. At the end of the day, the AI is an algorithm made by professionals and it is up to the user to ensure that his safety is not being compromised or in danger.

The consumer must be very careful and aware of the risks and dangers the AI contains. The utilization of Artificial intelligence must be handled with care and a sense of responsibility.

CASE STUDY

AI comes with equivalent pros and cons; the privileges are backed by misuse and are balanced in today's world. AI can answer what the human brain cannot even question but decision-making is not necessarily an expert field of AI. Some cases and judgments occur throughout the world. A few of the cases and judgments are as follows:

1. **Uber's autonomous vehicle accident :** Elaine Herzberg was hit by a self-driving car as she rode her bicycle through the road and the accident caused her death. This accident occurred in the year 2018. According to the news , car safety drivers had been streaming online shows at the time and lacked attention to the road. The driver pleaded not guilty, police reports stated that even if the person had his complete attention on the road, it would have been avoidable. It was termed as "negligent homicide and the first pedestrian death by a self-driving car." The driver was held liable and charged in this accident as he could have avoided it.

2. **COMPAS Algorithm :** The term COMPAS stands for "Correctional Offender Management Profiling for Alternative Sanctions." It is an algorithm that is used in the criminal justice system to assess potential risk. The algorithm predicts a defendant's probability of re offending and suggests decisions regarding granting of bail, parole, and sentencing. It has been seen that the algorithm exhibits racial discrimination against the African- American community in the United States. The said accuracy of the algorithm is 67%, but it is now in question. The probability of risk mentioned by the COMPAS may be biased and can affect a person's life and rights.

3. **Facebook's content moderation challenges :** Facebook is a leading social networking site with 2.85 billion active people worldwide. Facebook is a software product based heavily on algorithms. Content moderation is a process for detecting illegal, obscene, disturbing information on the internet and removing it. Facebook has a social obligation to stop the spread of mis communications, hate speech, harmful content, and other restricted data. Legal liability can arise when the AI fails to detect the content and remove it which leads to social disturbances.

4. **Volkswagen Emission scandal :** This scandal is famously known as "Diesel Dupe."The car company had installed software that could detect when the car was being tested for emissions . The "defeat device" could change its performance while it was being tested and deliver deceiving results. Volkswagen has admitted that there are around 11 million cars worldwide with the software installed in them. The amount of carbon dioxide emission from 11 million cars leads to pollution and environmental hazard. The environmental protection agency imposed a fine of 18 billion dollars on the car company. The company has apologized and has faced heavy losses after the scandal. This is an example of how AI and software are misused for selfish deeds and is a threat to not only the people but also a threat to the environment.

5. **Boeing 737 max scandal :** The aircraft mogul was part of a scandal when two of its flights crashed. In the first flight crash, 157 people died, and in the second plane crash, 189 passengers and crew members lost their lives. It was held that the software operating the flight was outdated and ill-

operated due to which the planes got into a crash. In the year 2021, the United States charged Boeing with fraud. There was a settlement to avoid going to trial in which, airlines agreed to pay 2.5 billion, including 500 million to the families of the victims .

The Software was manipulated and the changes required were neglected which led to two major incidents which killed hundreds of people and left families in pain.

CONCLUSION :

The internet tags along opportunities and challenges, it is up to the person to see it as an opportunity to benefit and agree that it comes with certain challenges. AI is transformative and keeping up with it is not everyone's cup of tea. the motive of this research paper is to direct that AI is not only harmful but it depends on the person accessing it. If the mindset and goal are positive then a person can achieve higher limits and work for the betterment of the society. AI should not be treated as a threat or a mode of misuse towards society, if operated in good deeds then it can do wonders. Despite all the caliber, AI algorithms must not be given the liberty to violate or exploit the fundamental rights of any person and ensure fair use.

Elon Musk once said, "I do think there should be some regulations on AI." The need for a legal framework regulating AI is being perceived globally. Legal liability is a topic of debate. The current legal framework specifically does not lay rules for AI; thus, the algorithm developers and distributors are to be held liable for damages or injuries caused by their algorithms. Supervised regulation would ensure the safety of all the users and create credibility for the AI algorithms. Too many restrictions and stiff legislature can adversely affect the psychology and interest of individuals in AI, and it will be seen more like a threat. It is not wrong to suggest that in regulating Artificial Intelligence one might also end up taking the assistance of Artificial Intelligence.