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PAPER TWO**Legal Implications of AI: IP and Liability****Rastogi**

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KEYWORDS

Artificial Intelligence, Accountability, Legal Systems, Ethics, Intellectual Property, AI Regulation, Justice, Decision Making

Abstract

In this paper, I examine how the question of accountability is changing when considering decision making based on artificial intelligence (AI) and how responsibility is being redefined in contemporary legal and ethical debates. As artificial intelligence systems become more autonomous, traditional frameworks of legal and moral responsibility are increasingly challenged, and accountability slowly shifts away from blame of individuals toward broader models of risk distribution and collective mitigation. This development raises serious concerns about justice, enforcement and moral attribution, particularly as AI becomes deeply embedded in governance, healthcare, finance and other critical sectors.

The paper also covers legal and philosophical issues of AI-based decisions, in particular the weakening of individual responsibility and implications for the legal system. It also considers the relationship between AI, intellectual property rights, transparency and ethics in a regulatory scene that has not established any law governing the behavior of AI. The paper draws on examples of autonomous vehicles and AI-assisted legal decisions to highlight the need for regulatory intervention to avoid the obsolescence of justice in an increasingly algorithmic environment.

Ultimately, the paper advocates for a broader conversation surrounding AI governance, providing reforms that strike a balance between technological innovation and accountability. It calls for a hybrid approach whereby the computational strengths of AI complement the ethical judgment of human beings so that law and justice remain effective in an AI-driven society.

Artificial Intelligence, Accountability, Legal Systems, Ethics, Intellectual Property, AI Regulation, Justice, Decision Making.

Summary

“Artificial intelligence has developed at a breathtaking pace over the last ten years and has infiltrated almost every sphere of everyday life, from transport to business. In many ways, AI has become a key driver of human choice, both directly via decision-support systems and indirectly via shaping behavior. As Hildebrandt puts it, we are asked to adapt to an artificial world of ever more intelligent and unpredictable artificial agents. In such situations the human decision-maker can still be held accountable for the outcome. But under current law, the question becomes far more complicated, and may even become intractable when the algorithm itself is the decision-maker.

The advent of virtual assistants such as Alexa and Siri shows how far AI has come from its humble beginnings. There is both excitement and apprehension about the innovation. The appeal is in its endless possibilities, the danger is in the threat of unregulated development getting ahead of the law. A lot of prominent voices in the tech space have warned about the possible harms of AI including technological singularity. In this context the recurring question is whether the law is sufficiently equipped to deal with AI.

There has been a lot of academic debate on responsibility for AI-based decisions, but legislation on its own won't be able to solve the problem. We need a more substantial conceptual shift. We might have to re-think responsibility for AI decisions, as part of a broader re-evaluation of moral experience and duty, where social insurance against risk replaces individual blame. But this shift points to another, deeper problem. Today's responsibility is mostly compensation for harm, not blame or punishment for wrongdoing. A closer examination of responsibility suggests three components: punishment for conduct, restitution for harm, and attribution of the act to the wrongdoer. The last of these is particularly problematic in AI contexts, where it is often impossible to identify the perpetrator, the appropriate penalty, or the amount of compensable loss. Accountability is at the heart of law. If accountability is undermined, law itself is at risk of decline, to be replaced by a system of new, impersonal, risk-based relations.

Artificial Intelligence for Decision Making

Technological progress, not a moral choice, is the reason behind the growing use of AI and AI-based decisions across many industries. Once a technology is developed, it can't be un-developed easily, so the real question is not if AI exists, but how it can be managed and used to serve humanity and not control humanity. In this sense, AI is a powerful force, which has to be harnessed and channeled in the right direction.

Artificial intelligence systems can make better decisions than human beings, often. Unlike humans, algorithms are not subject to fatigue, emotional stress, bias or physical limitations. For example, a machine analyzing medical data is unaffected by personal circumstances or emotional disturbances, and can therefore detect abnormalities more consistently than a human expert. AI is frequently regarded as a more objective decision-maker because it is protected from many of the factors that impair human reasoning.

The idea of neutrality has led some scholars to compare AI with utopian versions of adjudication. Ronald Dworkin describes the project of perfect reasoned decision-making through the hypothetical Judge Hercules, a jurist with superhuman knowledge, skill, patience and analytical ability. The ability of AI to rapidly and systematically process enormous amounts of data seems to be the reason behind its capacity to replicate some of these attributes. This means that artificial intelligence can be used to select unbiased decision-makers as well as to perform some procedural functions in judicial and administrative procedures, thus promoting consistency and objectivity. In privacy protection issues and international criminal justice it has been applied.

Another oft-mentioned advantage of AI is its capacity to make decisions based on evidence, data and statistical analysis. In human decisions, people often rely on intuition, assumptions and subconscious biases. Algorithmic systems rely on structured data sets and computational logic. There is a broad consensus that artificial intelligence improves the quality and efficiency of decision making processes, as it is capable of analyzing information in real time and on a much larger scale than humans. The economic benefits are also significant, as automated systems are often able to provide services more quickly and for less money. In this sense, AI is increasingly seen as a reliable tool for evidence-based governance and administration.

The perceived efficiency and reliability of AI has allowed individuals and institutions to rely on algorithmic systems with increasing responsibility. But we should challenge the idea that AI is somehow neutral or correct.” Artificial intelligence, no matter how sophisticated, is not immune to bias. Often the algorithms reflect the biases of their designers or the data on which they were trained. If the historical data reflects discriminatory practices, artificial intelligence systems can reinforce or even worsen those inequities. This means algorithmic decision making can perpetuate systemic discrimination in the name of neutrality.

The best illustration of this concern comes from artificial intelligence systems used in criminal justice processes. Studies have found large racial disparities among predictive algorithms used to forecast the probability of future criminal activity. In some cases, Black defendants were more likely to be flagged as possible offenders, and White defendants were more likely to be misclassified as low risk. Our results show that algorithmic discrimination is not a theoretical or isolated problem, but one of the most pressing in modern artificial intelligence systems.

Traditionally AI has been good at technical areas, prediction and optimization such as forecasting the weather, satnav and disaster modeling. But the problems get more serious when we ask algorithms to make decisions that require moral judgment and the distribution of scarce resources. If not everyone can be helped, then hard moral decisions have to be made about who is to be helped and who is not. These decisions are closely related to human values and emotions. There will be many who are reluctant to allow a machine to make such decisions that can seem impersonal, unempathetic and morally insensitive.

We see AI’s failures in its legal battles over privacy and human rights too. In *Bărbulescu v. Romania* (2017) the court held that the relevant authorities had not struck the necessary balance between competing rights and interests and had consequently infringed the protection of private life. It also showed the challenges of tracking what people say at work . And it showed how legal thinking is often a matter of rethinking and revising earlier thoughts . Human judges can reason again; whether artificial intelligence systems can meaningfully simulate such reflective reasoning is unclear.

The public’s trust in the rule of law is not solely about the outcomes, but also about understanding the reasoning behind those outcomes. Judicial decisions usually have detailed explanations so that people can see the reasoning behind the conclusion. But in contrast, AI-based decisions are often opaque. There are sophisticated systems that work in ways that even their creators struggle to explain exactly how a particular output was arrived at. Also, a lot of the traditional artificial intelligence systems are built by private companies which have no reason to disclose the underlying methodologies because of commercial interests and proprietary protections.

But the lack of transparency is a big issue for accountability. Without much insight into how standard artificial intelligence (AI) systems work, it is difficult to identify errors, assess risks, or determine if ethical issues have been sacrificed for efficiency and commercial gain. Thus, algorithmic decisions may be impossible for users or regulators to check for fairness, legality or hidden bias.

Artificial intelligence can be very effective in handling routine, data intensive tasks but not all social or legal questions should be boiled down to algorithmic certainty. Justice still requires debate, uncertainty and human judgment. Automated decision-making can infringe on individual autonomy and the opportunities for moral development. If people accept algorithmic conclusions uncritically, the community may become less able of ethical rea

In the end, AI may bring great gains in efficiency and accuracy. But its growing role in decision making poses profound questions about responsibility, freedom, justice and human worth. Such concerns shake the very foundations of the rule of law. In the words of Mireille Hildebrandt, law is an effort to promote justice, legal certainty and purposive governance. Justice rests on the foundation of responsibility. If accountability is weakened or diluted, the broader legal values that depend on it can also erode slowly.

Decision Making and Artificial Intelligence

The development of artificial intelligence and AI-based decision-making in a number of fields is not a question of ethics but a logical development in the evolution of technology. But once you have made such technology, you can not just undo it. The question is not if we should develop AI, but how do we control and harness it to the benefit of humanity, not to its detriment. In this sense AI is a mighty power, which should be prudently controlled and directed toward positive ends.

Artificial intelligence systems often even outperform human decisions in the area of decision making. Algorithms don't get tired, stressed, biased or limited by their bodies the way human beings do. For instance, a machine that interprets medical data is not influenced by personal situations or emotional upheavals and may therefore be more capable to identify anomalies more reliably than a human expert. AI is seen as a more objective decision maker, because it is protected from many of the things that impair human reasoning.

The concept of AI neutrality has caused some scholars to liken AI to idealized adjudication. The desire to have perfectly reasoned decision making can be illustrated by Ronald Dworkin's hypothetical Judge Hercules, a jurist of exceptional knowledge, skill, patience and analytical ability. Its ability to rapidly and methodically consume massive amounts of data is probably why it can mimic some of these characteristics. Therefore, artificial intelligence can help choose impartial decision-makers, and perform some procedural tasks in the judicial and administrative systems, thus contributing to consistency and objectivity. It is expected to be applied in such areas as privacy protection and international criminal justice.

Another advantage of AI that is frequently mentioned is the ability to make decisions based on evidence, data and statistical analysis. Humans make decisions based on intuition, assumptions and subconscious biases, whereas algorithmic systems are driven by structured datasets and mathematical logic. It is generally accepted that artificial intelligence can improve the quality and efficiency of decision-making by processing information in real time and on a much larger scale than humans. Economics also enters into it ; automated systems can often deliver services more quickly and cheaply . In this way, AI is becoming an ever more reliable tool for evidence-based governance and administration.

People and institutions have perceived AI as efficient and reliable and therefore more responsibility has been assigned to algorithmic systems. But the assumption that AI is inherently unbiased, or accurate, is one that deserves close scrutiny. AI is technologically advanced, but not free from bias. Algorithms often inherit the biases of their creators or the datasets they are trained on. If the historical data include discriminatory patterns, artificial intelligence systems can reproduce or even intensify such inequities. Algorithmic decision making can therefore reproduce systemic discrimination in the name of neutrality.

One such concern is regarding the use of artificial intelligence systems in criminal justice processes. Research has shown that algorithms designed to predict the likelihood of future criminal behavior contain significant racial biases. In some cases, Black defendants were more likely to be flagged as potential offenders, and White defendants were more likely to be misclassified as low risk. These examples show that algorithmic discrimination is not only a theoretical problem, or an isolated problem, but one of the most pressing challenges of modern artificial intelligence systems.

AI has been most successful in technical domains where prediction and optimization are paramount, such as forecasting the weather, satellite navigation and disaster modeling. More serious problems arise when algorithms are asked to make decisions that involve moral judgment and the allocation of scarce resources. If it is not possible to help everyone, then difficult ethical decisions have to be made about who is to be helped and who not to be helped. These choices are very much about human values and human feelings. So many are still not prepared to entrust such decisions to a potentially impersonal machine, devoid of feeling and moral sensibility.

Legal challenges to privacy and human rights also show the limits of AI. In *Bărbulescu v. Romania* (2017), the court ruled that the relevant authorities had not correctly balanced the competing rights and interests and therefore violated privacy protections. The case illuminated the difficulties in observing conversations at work and showed how sometimes legal reasoning may need to be re-conceptualized and re-assessed. Humans can change their minds, but it is unclear how well artificial intelligence systems can mirror this sort of reasoning in a meaningful way.

The public's confidence in the rule of law depends not only on the results but on understanding the reasoning for those results. Judicial decisions are generally accompanied by detailed reasons. The reasons for the conclusion reached are available for all to see. But AI's choices are often opaque. Some advanced systems, such as neural networks, are so complex that even the developers find it hard to explain precisely how one outcome was achieved over another. This problem is compounded by the fact that many artificial intelligence (AI) systems are created by private companies who are hesitant to reveal their underlying methods for commercial reasons and proprietary protections.

The opacity is raising serious questions about accountability. Without genuine access to the inner workings of typical artificial intelligence (AI) systems, it is hard to detect errors, assess risks, and

judge whether moral values have been traded for efficiency and commercial gain. This could make it impossible for users and regulators to know whether algorithmic decisions are fair, legal or free of hidden biases.

Artificial intelligence can be very good at routine, data-heavy tasks, but not every social or legal question should be reduced to algorithmic certainty. Justice remains discussion, uncertainty, human judgment. When people depend on automated decision making, they lose personal autonomy, and the opportunity for moral growth is diminished. The more we accept algorithmic conclusions as final and unquestionable, the greater the risk of a society that is less able to engage in ethical reasoning and democratic deliberation.

Yet although AI offers potentially dramatic gains in efficiency and accuracy, its growing use in decision-making has sparked deep concerns about accountability, liberty, fairness and human dignity. Such concerns threaten to undermine the foundations of the rule of law. As Mireille Hildebrandt puts it: "Law is an attempt to promote justice, legal certainty and purposive governance". Accountability is an essential element of justice and if it is diminished or disappears then other, wider, legal values that depend upon it may, in the long term, also be eroded.

Accountability

Thus, the increasing use of artificial intelligence in decision-making raises the issue of accountability. Increasingly, AI-powered systems are blurring the traditional boundary between human actors and technical instruments. As digital technologies become more embedded in our everyday lives, it becomes more difficult to distinguish human decision making from machine assisted action. Smartphones, intelligent software systems, autonomous vehicles, etc. are no longer simply external tools but are becoming extensions of human cognition and decision making.

Traditionally, law has made a distinction between the tool and the user of the tool, and could attribute to the human actor the responsibility for the act. But the distinction is problematic in the case of human judgment embedded in technological systems. Now imagine a world with advanced cybernetic enhancements or smart decision support systems. When a system like this fails and causes damage, it is much harder to tell who is to blame: the person, the technology, or both. Traditional legal concepts, which are generally oriented to human intent and conduct, are not always adequate to answer such questions.

The issue of attribution is particularly evident in the case of self-defense and subjective perception. The courts often determine the criminal liability by reference to the state of mind, beliefs and reasonable apprehensions of a person. For example, in *State v. Jones* (2016), the court considered the defendant's subjective fear of imminent harm in determining whether her conduct was lawful. Courts traditionally have legal tools to consider mental state, environmental

circumstances or false perceptions. These principles offer a framework for adjusting responsibility to the specific circumstances of each case.

The situation gets a lot more complicated when intelligent systems are integrated with human actors. It may be impossible to tell exactly how much of the input was human if an AI system is involved in or influences a decision. This increasingly puts into question the extent to which accountability can be attributed to an individual. This is both a conceptual and a practical challenge, for the conventional legal structures rest on the assumption that we can identify a responsible actor whose actions can be measured against legal standards.

Another big problem is the collaborative way AI is developed. Modern artificial intelligence systems are typically designed, trained, tested, tweaked and deployed by many people and organizations. A single system can be driven by programmers, data scientists, software engineers, corporate entities and end-users. Responsibility is thus distributed between a large network of actors. The algorithm could have different parts written by different developers. The original code often can be changed according to subsequent modifications. Which makes it almost impossible to trace a specific outcome back to the individual who caused it.

And collective responsibility make it even more complicated. When several actors are engaged in a common effort, each person usually has ownership of only a small part of the whole operation. Behavioral studies have shown that when decisions are taken by several participants, people are more likely to diffuse responsibility. This phenomenon is particularly relevant in AI ecosystems where decision-making authority is distributed across a range of stakeholders and institutional frameworks.

Who is to blame for decisions made by AI is still very much a matter of debate. The number of actors involved makes it hard to pin responsibility on any one actor and undermines the traditional notion of legal responsibility. In many cases, the practical risks of the technology are borne by the end user who has little control over the design or operation of the technology. For example, a system failure or compromise could result in financial loss, privacy violations or emotional trauma for a person who shares financial or personal data with an AI-enabled app. Where remedies exist, the user is often the first to suffer the immediate injury.

Accountability usually boils down to two fundamental questions: What went wrong? Who is legally responsible? Such questions are dealt with in traditional legal systems by way of liability and compensation. It is routine for courts to determine who is at fault, to levy penalties and to award damages against the person, corporation or government agency that is at fault. But with AI involved, both questions get harder and harder. Algorithmic systems are often complex and opaque, making it difficult to identify who is responsible, and the causal link between conduct and harm may be dispersed across a large number of actors and technological processes.

Thus, AI poses a fundamental challenge to the traditional foundations of accountability. If you can't tell who did it, you can't say who's at fault, who's to blame or who's liable – and those ideas are what modern justice systems are built on. Absent the development of new legal structures to deal with these problems, the proliferation of AI could in time undermine the effectiveness of existing doctrines of responsibility and make the administration of justice an ever-more uncertain enterprise in technologically mediated environments.

Transparency in AI Development and IP Rights

One of the biggest issues with governing artificial intelligence is that AI-based decision-making systems are not transparent. Often these systems keep their inner workings out of sight, as the algorithms, data sets and technical processes are protected as proprietary assets. These protections encourage innovation and investment, but they also build walls around accountability, protecting meaningful scrutiny of how AI arrives at its conclusions.

But transparency is a condition for accountability. The individual negatively impacted by an AI-based decision must be able to comprehend the reason why the decision was made. However, it can be quite challenging to understand the rationale behind a specific outcome if the AI system is functioning on a proprietary algorithm or trade secret. The lack of transparency presents a substantial challenge for legal oversight, judicial review and public trust.

Conclusion

The growing use of artificial intelligence in decision-making procedures calls for the creation of a solid legal framework that can deal with the particular issues posed by autonomous and semi-autonomous systems. Artificial intelligence offers many advantages in terms of efficiency, precision, and scalability but these benefits need to be weighed against accountability, transparency, fairness, and individual rights. Therefore, various legal and policy measures need to be taken into account to guaranty the responsible development and implementation of standard artificial intelligence (AI) technologies.

First, legislatures need to enact stand-alone artificial intelligence laws that set out rights, duties and liabilities for all stakeholders in the AI ecosystem. Such laws should establish standards for transparency, explainability, accountability and oversight by humans, and for redress in the event that AI decisions cause harm. The lack of clear legal standards today means developers and users lack certainty and that the effective administration of justice is compromised.

Second, artificial intelligence systems should be designed as decision support tools, not as total replacements for human judgment, especially in areas with ethical, legal and social implications. Questions of justice, health care, public administration, criminal liability and fundamental rights require contextual reasoning and moral judgment which cannot yet be adequately replicated by algorithmic processes. Therefore it is always necessary to include human supervision in decision-making on issues affecting important rights and interests.

Third, we need to be more focused on transparency and explainability in AI development. Proprietary interests and intellectual property protections should not be a reason to evade accountability. Legal structures should incentivize innovation, but they also should provide individuals affected by AI-generated decisions with an understanding of the basis for those decisions. There have to be mechanisms for striking the right balance between trade secrets and the public's interest in transparency and regulatory oversight.

Fourth, regulatory bodies must create robust liability and compensation mechanisms for damages resulting from artificial intelligence. Legal principles usually demand that a specific wrongdoer be identified and that a clear causal link between conduct and injury be established. The effects of artificial intelligence systems on attribution and causation are complex, and may require special arrangements to ensure that victims receive prompt and effective remedies. These might be compulsory insurance schemes, strict liability regimes or compensation pools to address the harms of autonomous systems.

Fifth, intellectual property systems must be adapted to the realities of AI-generated inventions, creative works and decision-making systems. Issues of ownership, inventorship, authorship and accountability need to be clarified to promote responsible innovation and avoid uncertainty. Intellectual property rights should be shared in a way that promotes transparency, ethical development and public trust but also promotes technological progress.

Finally policy makers should take an interdisciplinary approach to AI governance. The challenges of AI do not respect the boundaries of law and require insights from philosophy, ethics, technology, sociology, economics and public policy. Effective regulation can only be crafted through the collaboration of these disciplines, ensuring that technological progress is in step with broader social values and constitutional principles.

Conclusion

Artificial intelligence is likely to become an ever more powerful force in shaping decisions in virtually every field of human activity. Big data is able to analyze large volumes of information, reduce human error, increase efficiency and support evidence-based decisions, offering enormous opportunities for social and economic progress. Artificial intelligence can help improve consistency, reduce bias and improve decision-making processes in many areas.

But AI also raises deep legal, ethical and philosophical issues. Fundamentally, AI poses a challenge to traditional notions of responsibility. With humans and smart systems becoming ever more intertwined, it is ever harder to know who or what to hold responsible. At this stage, AI itself cannot be regarded as a legal or moral agent responsible for its actions. But the network of individuals involved in the design, deployment and operation of artificial intelligence systems is often too extensive for easy attribution of responsibility.

In addition, the growing reliance on algorithmic reasoning threatens to encourage a utilitarian approach to decision-making that places greater emphasis on efficiency and harm reduction than on a wider array of human values. Human judgment relies on empathy, moral reflection, lived experience, and context. But algorithms are based on predetermined parameters and statistical optimization. "AI is able to help us make decisions, but it doesn't understand the specifics of human moral reasoning. The risk if we use automated systems is we reduce justice to a mathematical equation and we lose the human components of fairness and accountability.

This shift is described by Paul Ricoeur and other philosophers as part of a broader shift from individual responsibility to collective risk management. As legal systems increasingly substitute accountability by insurance-based approaches and mechanisms that are only concerned with the distribution of risk, the notions of blame, responsibility and justice may gradually become meaningless. This would be a radical change in the nature of law itself, from a system concerned with responsibility and moral judgment to one concerned with the management of risks and the compensation of losses.

Equally disturbing is the possibility that the massive-scale use of artificial intelligence may change the way people think and reason. Algorithms are embedded in everyday life, and people may increasingly adopt algorithmic modes of thought, trusting computational outputs unthinkingly and becoming less inclined to debate, reflection and critical analysis. Eventually society may accept mathematically optimal outcomes as just when these outcomes do not account for human dignity, fairness and moral complexity.

Add intellectual property rights, and this picture gets more complicated. While intellectual property rights provide an incentive for innovation and technological progress, they can also hide responsibility by limiting transparency and centralizing control of artificial intelligence systems in a small number of entities. Future legal reforms will therefore need to extend issues of liability and regulation to the relationship between ownership, transparency and public responsibility in AI development.

In the final analysis, the lack of comprehensive legislation on AI endangers not only the legal systems but also the safeguarding of fundamental rights and democratic values. Regulation must therefore be forward looking so as to cover both the artificial intelligence (AI) technologies and the actors that design, launch and operate them. Like all transformative human inventions, AI has the potential to bring huge benefits but also to create significant risks. Effective regulation

remains the best protection against these risks and the best assurance that technological progress benefits humanity rather than destroys it.

The challenges of artificial intelligence are not only legal, they are fundamentally human. Their resolution calls for a mixture of legal reasoning, philosophical investigation, scientific knowledge and ethical reflection. “As we move into an increasingly algorithmic future, the quest for justice, accountability and human dignity has to be central to technology development. Rather than replacing human judgment with AI, the goal should be to make AI a tool that enhances the ideals law and justice is built on, rather than detracts from it.