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Artificial Intelligence and Global Regulation: The Emerging Need for a Universal Legal Framework – ASEEM SRIVASTAVA

ABSTRACT

The swift growth of artificial intelligence (AI) has sparked a new technological revolution that is changing sectors like government, healthcare, banking, and transportation. Although AI has the potential to significantly alter both society and the economy, it also brings up difficult, cross-border legal, ethical, and social issues. Every nation has its own set of laws governing AI because there isn't a single global government regulatory framework. Different political, cultural, and economic agendas influence the regulations. People are given priority in EU[1] regulations and risk-based accountability. The US places a high value on market freedom and innovation. Social stability and state control are given top priority in China. Human rights, privacy, and fair access to technology may be at risk due to the differences in standards, liability agreements, and ethical protections brought about by this regulatory diversity. By contrasting comparable

[1] European Commission, *Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)*, COM(2021) 206 final.

national laws, international action, and emerging governance models, this paper explores the need for a global legal framework for AI. Important topics covered in the paper include liability in autonomous systems, bias in algorithms, cross-border data flows, and ethical dilemmas. Treaty-based, soft-law, and hybrid governance models are examined in the study, which proposes a multi-layered regulatory framework that blends legally binding principles with adaptable national implementation. According to the essay, a global AI framework founded on accountability, transparency, human rights, and ethical responsibility is required to guarantee that AI benefits humanity in a way that is safe, sustainable, and equitable. The results show how important it is for governments and companies to work together, for countries to cooperate, and for capacity-building initiatives to close the global digital divide. [2]

[2] UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021), https://unesdoc.unesco.org/ark:/48223/pf0000380455 .

Keywords- Artificial Intelligence Governance, Global Regulation, Universal Legal Framework, Ethics and Accountability, Cross-Border Data and Privacy

INTRODUCTION

Artificial Intelligence (AI) has become one of the most important technologies of the 21st century. It has changed the way the world economy works, how people interact with each other, and how governments work. It can be used in healthcare diagnostics, self-driving cars, making financial decisions, surveillance, and the legal system, showing an unprecedented ability to improve efficiency, productivity, and the well-being of society as a whole.[3] But AI also brings up big legal, moral, and social problems, especially when it comes to data privacy, algorithmic bias, autonomous decision-making, and liability. The fast pace of AI development has outpaced traditional regulatory systems, revealing gaps in governance that national legal systems can't fully fill.[4]

[3] Stuart Russell, Human Compatible: Artificial Intelligence and the Problem of Control (2019).
[4] Ryan Calo, Artificial Intelligence Policy: A Primer and Roadmap, 51 UC Davis L. Rev. 399 (2017).

Because AI technologies work across borders, there is a need for a universal legal framework. AI systems frequently function transnationally, utilizing datasets from various jurisdictions and impacting global markets and governance frameworks. This interconnectedness shows that regulatory approaches that are too separate don't work. For example, the European Union puts human rights and ethical safeguards first, the United States puts innovation and market-led regulation first, and China puts state-centric control over AI development first.[5] These different approaches lead to regulatory inconsistencies, the possibility of legal disputes across borders, and ethical gray areas, all of which could make people less trusting of AI systems and make it harder for everyone to get the benefits of technology.

The need for global coordination "It is becoming seen as an issue of global concern that cannot be

[5] European Commission, Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), COM(2021) 206 final; UNESCO, Recommendation on the Ethics of Artificial Intelligence (2021), https://unesdoc.unesco.org/ark:/48223/pf0000380455.

solved from the perspective of individual nation-states," Thore Mardar, ambassador on human rights at Sweden's Ministry for Foreign Affairs explained during a DI event in Stockholm.[6] UN initiatives from UNESCO, OECD and the European Union provide nascent governance frameworks but no fully integrated global architecture. This research will examine national comparisons of laws and regulations on AI, challenges in reconciling legal approaches to AI governance across nations, and possible model for a cosmic constraint law with a balanced approach toward innovation and responsibility. In studying these dimensions, the research aims to further explore a discussion of responsible AI governance and deliver practical recommendations for constructing a legal system to protect global interests in the technological age.

[6] OECD, OECD Principles on Artificial Intelligence (2019), https://oecd.ai/en/ai-principles.

Research Objectives

The first and foremost question raised within this research is whether there is a need for, and also possibility of developing, comprehensive international legislation on Artificial Intelligence regulation. Its aim is to review the weaknesses of current regional approaches, evaluate the ethical and legal aspects related to AI deployment, and provide a few building blocks for a unified global regime. The analysis also seeks to assess how international organizations participate in AI standardization, the challenges they face with respect to accountability and human rights. By connecting technology innovation with the norms of justice, this study highlights the relationship between national independence and global commitment.

Research Questions

1. How adequate are the current national and regional AI privacy regulations with regard to

the transnational risks of artificial intelligence systems, and where do they fail?

2. How should the supra-national legal systems be organized to promote fair AI development and, simultaneously, respecting state sovereignty and ethical competencies?
3. What should be the principles and key features of a universal legal code for AI to ensure responsibility, equity and human-centric governance regardless of jurisdiction?

Hypothesis

It is argued that lack of a coherent global framework for regulation of Artificial Intelligence has resulted in inconsistent models of governance which cannot enable ethical accountability and transnational justice. According to the study, a globally shared legal framework, based on human rights and international cooperation, can make common cause with divergent national approaches in addressing potential bias, surveillance and data misuse. It also posits that in the absence of such a

framework, AI can serve to exacerbate digital inequality and geopolitical tension. Thus, the hypothesis of the author is that it is important to create an international legal framework inclusive, flexible and rights-based toward sustainable and fair governance of AI.

Research Methodology

The research employs a qualitative and analytical approach through doctrinal study. It analyzes primary law (treaties, policy statements and judicial decisions) as well as secondary literature (academic journals, reports and commentary). The similarities and differences, on a global scale, between three regulatory models (those of the EU, the U.S. and both the Continental and Anglo-Chinese legal worlds) have been compared in this study. The analysis also uses descriptive method to assess institutional functions, ethical considerations and policy recourses that give rise to normative reasoning about a version of a world order.

Literature Review

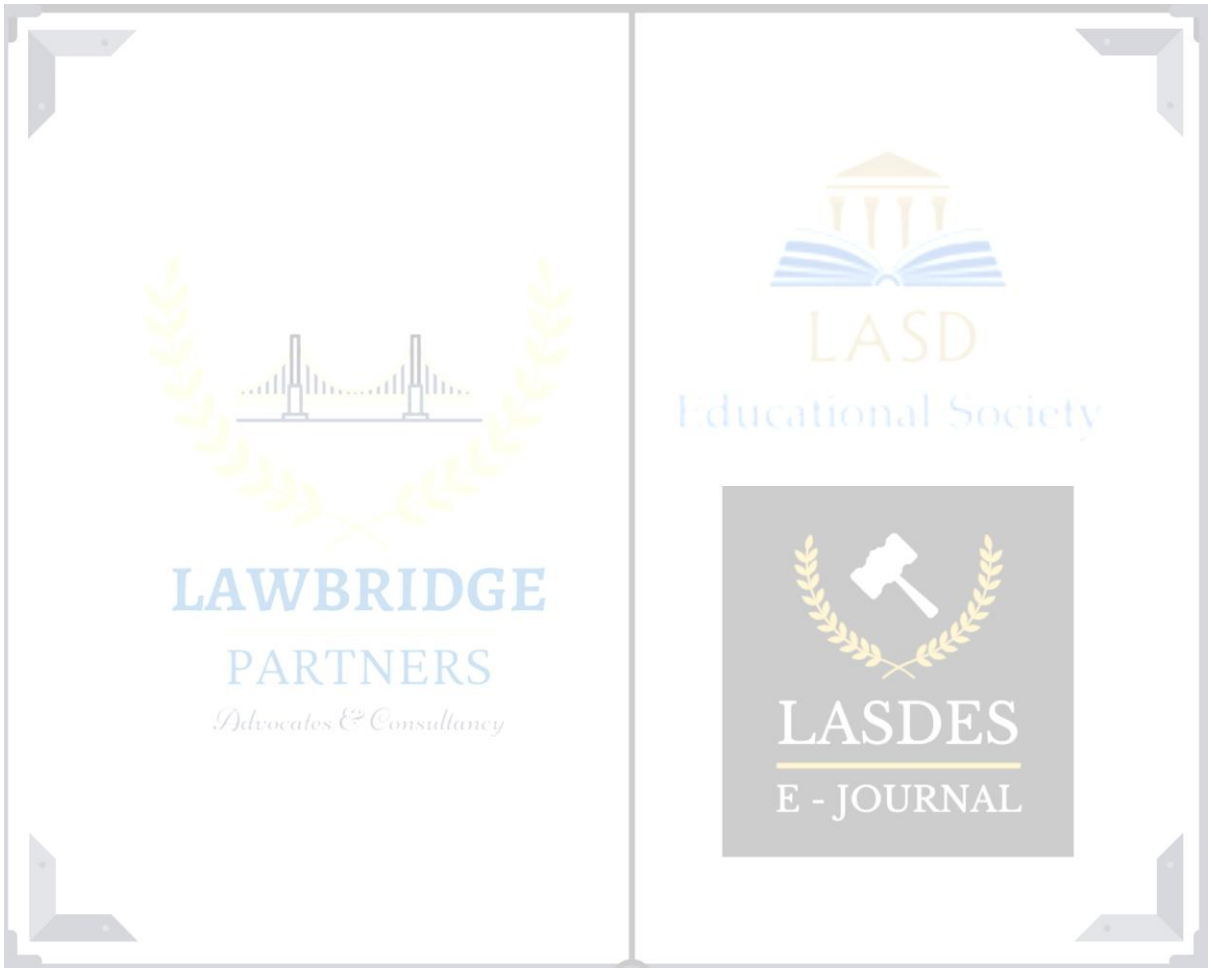
The swift spread of artificial intelligence (AI) has generated a great deal of scholarly discussion about its socio-legal, ethical, and regulatory ramifications. According to academics like Ryan Calo, AI's capacity for autonomous decision-making calls into question established legal theories of responsibility and liability, highlighting the necessity for innovative regulatory strategies. Joanna Bryson and associates draw attention to the gaps in international AI law, emphasizing that current frameworks are disjointed and inadequate to handle ethical conundrums that arise across national borders. The importance of explainability and transparency in AI systems to uphold human rights and hold individuals accountable in court and administrative proceedings is highlighted in a study by Sandra Wachter et al. Furthermore, comparative analyses of regional regulations, such as those between China's state-led governance model and the European Union's AI Act, reveal notable distinctions in risk management, ethical

considerations, and human rights protection, underscoring the complexity of creating a universal regulatory framework. Researchers have looked at the socioeconomic effects of regulating AI in addition to the ethical and legal concerns.[7]

Kai-Fu Lee and Abeba Birhane highlight that regulatory divergence can intensify cross-national disparities, with developing countries being restricted from accessing technology and participating in AI policymaking. The OECD and UNESCO reports promote global cooperation, suggesting principles of equity, human-centered design, and algorithmic responsibility to shape policy convergence. [8] These studies as a whole suggest that although national and regional efforts are informative, an all-embracing universal legal framework is still missing and calls for concerted multilateral effort. This literature constitutes the basis for examining the challenges, models, and

[7] European Commission, *Artificial Intelligence Act*, COM(2021) 206 final (2021).
[8] OECD, *AI Principles* (2019), https://oecd.ai/en/ai-principles; UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021), https://unesdoc.unesco.org/ark:/48223/pf0000380455.

recommendations addressed in the following chapters of this paper.



Chapter 1: Conceptual Understanding of Artificial Intelligence and its Legal Challenges

Artificial Intelligence (AI) has graduated from an intellectual oddity to a defining feature of the socio-economic and legal landscape of the twenty-first century. The phrase "Artificial Intelligence" was coined by J McCarthy 1956 at the Dartmouth Conference – where "machines with human-like General Intelligence were first conceptualised as the science and engineering of making intelligent machines".[9] Since then, AI has grown to encompass machine learning, natural language processing, robotics and data analytics. It has been applied in multiple areas from self-driving cars to predictive policing and digital governance. But along with its explosive growth are skyrocketing ethical and legal issues, especially in terms of accountability, privacy of data, and transparency of decisions that are being made.

[9] John McCarthy et al., *A Proposal for the Dartmouth Summer Research Project on Artificial Intelligence* (1955).

1.1 What Is Artificial Intelligence?

Some theorists define AI so generically as to include virtually any computer program, regardless of its design and processing architecture (Brooks 1994).

There is no universally accepted legal definition of AI. According to the EC, a system is AI if it exhibits intelligent behavior by analyzing the environment it's in and taking actions to achieve certain goals with some degree of autonomy.[10] The OECD Principles on Artificial Intelligence (2019) also underscore the need for AI to be robust, safe, fair and transparent.[11] These definitions reveal an important issue -- the definitional vagueness of AI makes legislative clarity difficult to achieve. Regulations have a hard time staying technology-agnostic given AI's rapid pace of innovation.

At the level of law, AI calls into question the long held notions about personhood and agents.

[10] European Commission, *Communication on Artificial Intelligence for Europe*, COM(2018) 237 final.

[11] OECD, *OECD Principles on Artificial Intelligence* (2019), available at: https://oecd.ai/en/ai-principles

Machines are now doing work that demands human-like judgment, making questions of culpability more urgent. For example, in the case of an incident involving a self-driving car, liability be it that of the software developer, automaker or AI entity would become legally convoluted. One of the early tests of driverless car liability came in Nilsson v. General Motors LLC (2018) in California, a case in which AI does not truly operate independently; and the Court pointed out the challenge to be faced when placing blame on standardized controls over partial autonomy functions like automatic parking.[12]

AI technologies have transcended territorial and jurisdiction lines internationally. An AI system trained in one country can be introduced and bring about effects in another, making it difficult to enforce domestic laws. So, even though the technology is global, the law continues to be largely local.

[12] *Nilsson v. General Motors LLC*, No. 4:18-cv-00471-KAW (N.D. Cal. 2018).

1.2 The Legal Personhood Debate: Are Machines the Right-Duty Holders?

Arguably the most contentious question in AI law revolves around whether AI should have legal personality. Legal regime of personhood grants a being the capacity to hold rights and duties a status currently enjoyed by natural and juridical persons. The European Parliament, in a 2017 resolution, suggested investigating "electronic personhood" for self-deciding AI systems like autonomous machines.[13] The recommendation faced criticism that it would erode responsibility by enabling companies to hide behind machine liability.

Academics such as Joanna Bryson object to granting legal personhood to AI because the onus should be on human agents enablers/creators/operators of the AI, just like Author Lee Gutkind (2009) argues a case for non-

[13] European Parliament Resolution of 16 Feb. 2017 on Civil Law Rules on Robotics, 2015/2103(INL).

humanoid robots.[14] Others, however, such as Gabriel Hallevy, have argued that the kind of AI discussed above possessing intentionality and free will consciousness would be criminal liable (though only to some extent) in the future.[15] This philosophical discussion indicates that conventional jurisprudential dogma is inapt when confronting new technologies.

Courts are also struggling with similar issues. The UK Court of Appeal held in Thaler v. Comptroller-General of Patents, Designs and Trade Marks (2021) that an AI system (DABUS) would not be recognized for inventorship under patent law.[16] The case further confirmed that the legal person is connected to human agency. However, as we are now entering an age of growing AI-generated art, this legal inflexibility could be put under a spotlight.

[14] Joanna J. Bryson, *The Artificial Intelligence Governance Problem*, 31 *Philosophy & Technology* 539 (2018).
[15] Gabriel Hallevy, *When Robots Kill: Artificial Intelligence under Criminal Law* (Springer 2013).
[16] *Thaler v. Comptroller-General of Patents, Designs and Trade Marks* [2021] EWCA Civ 1374 (U.K.).

1.3 AI and Systems of Accountability and Liability

Preventing liability for injuries expand by AI pests one of the most urgent issues in world law. Classical tort law theory is based on concepts of foreseeability and control, from which the independent nature of AI deviates. The European Commission in its 2020 White Paper on Artificial Intelligence recognised the problem, and suggested a risk-based approach to liability in which greater accountability varies with the degree of human oversight and clarity on algorithms operating at any given level.[17]

For example, State v. Loomis (2016), the Wisconsin Supreme Court ruled that defendants' rights to due process and confront their accusers were not violated by a system based on the COMPAS algorithm used in sentencing criminals because of an inability for those accused to access data or to question it.[18] The case exemplifies the opacity

[17] European Commission, *White Paper on Artificial Intelligence – A European Approach to Excellence and Trust* (2020).
[18] *State v. Loomis*, 881 N.W.2d 749 (Wis. 2016).

question commonly referred to as the "black box problem" where not even a system's creators fully understand why an algorithm is making certain decisions.[19]

In the civil context, academics like Bryce Goodman and Seth Flaxman have claimed that blackbox algorithms compromise due process and procedural justice.[20] They relay to European data privacy regulation that affirms the "right to explanation": individuals can demand an account of the reasons for automated decisions. ^ It's important to do this sort of thing to keep AI systems answerable to human authority rather than merely as autonomous justice dispensers.

1.4 Ethical and Rights Impact

AI in governance and decision-making AI has become the gamechanger of governance and decision-making but at the same time it is a peril to basic human rights principles. Recruitment

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[19] Sandra Wachter et al., "Transparent, Explainable, and Accountable AI," *Harvard Journal of Law & Technology* (2017).
[20] Bryce Goodman & Seth Flaxman, "EU Regulations on Algorithmic Decision-Making and a 'Right to Explanation'," *AI Magazine* (2017).

algorithms or algorithms used for credit scoring or predictive policing can be slanted and discriminatory.[21] A 2018 report from AI Now Institute discovered that predictive policing tools tended to focus more on minority neighborhoods because of biased training data.[22]

Similarly, facial recognition-based surveillance technologies have posed major concerns around privacy. According to the European Court of Human Rights, in Big Brother Watch and Others v. United Kingdom (2021), mass surveillance without appropriate protections was held to be a breach of Article 8 of the European Convention on Human Rights.[23] The decision could have wide-reaching implications on AI-generated data scraping.

UN's Special Rapporteur on Privacy (2021) also cautioned that uncontrolled AI surveillance could undermine democratic freedoms." The difficulty is to find the right balance between innovation and

[21] Solon Barocas & Andrew D. Selbst, "Big Data's Disparate Impact," 104 *Cal. L. Rev.* 671 (2016).
[22] AI Now Institute, *Litigating Algorithms 2019 Report: Challenging Government Use of Algorithmic Decision Systems* (2019).
[23] *Big Brother Watch and Others v. United Kingdom*, App. Nos. 58170/13, 62322/14 & 24960/15 (ECHR 2021).

respect for fundamental rights. According to UNESCO, ethical AI should adopt inclusivity, accountability and the respect for human's autonomy.[24] And the values these approaches invoke similarly need to be legally codified in both domestic and international law, so that AI is a tool for empowerment rather than exploitation.

1.5 Data Protection and Cross-Border Governance

The following section explains cross-border governance, relating it to data protection and the EU s level of integration as a result of globalization changes in means of communication international travel information sharing importation and exportation methods.

Data is the lifeblood of AI. It is the quality as well as quantity and diversity of data that makes predictions algorithm accurate. But cross-border data flow creates regulatory tension between privacy protection and innovation. The privacy

[24] UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021), available at: https://unesdoc.unesco.org/ark:/48223/pf0000379920.

model of the European Union, specifically under General Data Protection Regulation (GDPR) is the most stringent and robust, giving its individuals right to control their personal information and explicit consent requirement.[25]

In the US, for example, we have a piecemeal approach: there are sectoral provisions like the California Consumer Privacy Act (2018) and Health Insurance Portability and Accountability Act (HIPAA). China's Personal Information Protection Law (2021) follows a sovereignty-based architecture to guarantee state authority on data flow.[26] Such divergent approaches illustrate the lack of international consensus that has given rise to "data nationalism."

The OECD Data Governance Framework (2021) seeks to reconcile these variations by encouraging privacy regimes to be interoperable.[27] There is, however, little effective enforcement on the opening

[25] Regulation (EU) 2016/679, General Data Protection Regulation, 2016 O.J. (L 119).
[26] Personal Information Protection Law of the People's Republic of China (2021).
[27] OECD, *Data Governance Framework* (2021), available at: https://www.oecd.org/going-digital/data-governance-framework.htm.

due to lack of binding international obligations. A global framework would universalize guidelines around consent, transparency and accountability, while giving credit to national needs.

1.6 Emerging Jurisprudence and The Way Forward

Concern over the development of AI is gradually informing interpretative lines reached by judiciaries around the world. As the Supreme Court noted in Canada (Minister of Citizenship and Immigration) v. Vavilov (2019), the need for reasoned decision-making is a fundamental commitment that could be applicable to algorithmic governance. Similarly, the CJEU in Digital Rights Ireland (2014) stressed proportionality in relation to data retention–which potentially applies for AI systems working on large sets of data.[28]

Global coordination is increasingly advocated in academic discussion. "The alternative," writes the

[28] *Digital Rights Ireland Ltd v. Minister for Communications*, Case C-293/12, ECLI:EU:C:2014:238.

expressive Urs Gasser, of Harvard University, a leading authority in cyberlaw and co-author of these pages four years ago, "is unattractive or impossible: simply waiting for global consensus; or national autonomy without any global norms. The Recommendation on the Ethics of AI (2021) from UNESCO is the initial international normative instrument, which has been accepted by 193 member states. It lays down criteria for proportionality, accountability and environmental sustainability, signifying a move in the direction of common regulation.[29]

However, these instruments lack enforceability. In the absence of an international legal regime (à la WTO or Paris Agreement) on AI, regulation will continue to be a patchwork. A new multilateral binding treaty would offer a common base, covering human rights along with technological governance.

[29] UNESCO, supra note 17.

Chapter 2: Comparative Analysis of National and Regional AI Regulations

The worldwide dash to regulate Artificial Intelligence (AI) both reflects optimism about its potential and concerns about its dangers. Where to start AI is being developed in diverse times and cultures as each jurisdiction formulates its own approach for regulating AI reflecting everything from political philosophies, economic systems and human rights norms. Whereas the EU sets ethics and human dignity above all (Svantesson, 2014), the US privileges innovation and market freedom (OECD, 2013) and China state control combined with social harmony. Such regulatory disparity illustrates the lack of a unified global policy, leading to potential discrepancies in measures, enforcement and responsibility.

In this chapter, once the three must influential models the EU's regulatory framework inspired on humans, the US approach based on innovation and quality of life, and the Chinese state control

model are compared by means of law we will also glance at emerging dynamics in other territories such as India or Japan.

2.1 The European Union Model: Ethicality, Risk, and Responsibility

The European Union has taken the lead on AI legislation with its Artificial Intelligence Act (AIA), announced in 2021 and conditionally approved in 2024.[30] It relies on risk-based stratification to describe categories of AI applications under the headings unacceptable, high-risk, limited-risk and minimal-risk systems. The bill makes clear that applications such as social scoring and real-time biometric surveillance, which are incompatible with basic human rights, will be precluded by the AIA.[31]

The EU's stand is based on the Charter of Fundamental Rights of the European Union especially Article 8 (right to data protection) and

[30] European Commission, *Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)*, COM(2021) 206 final.
[31] Id. art. 5.

Article 21 (non-discrimination).[32] A human-centered approach This is not something fate compliance but it's part of Europe's duty to take care of moral governance and this has already be done for the GDPR.[33]

Transparency and human oversight are central features of the AIA. Developers need to ensure people are informed when they interact with AI, particularly in instances of automated decision making. Moreover, firms who build high-risk AI will have to perform conformity assessments prior to entering the market. The EC's White Paper on AI from 2020 further solidified the principle of "trustworthy AI," characterized by lawfulness, ethics, and robustness.[34]

This notion of proportionality and accountability is also consistent with European jurisprudence. In Digital Rights Ireland Ltd. v Minister for Communications (2014) the ECJ annulled a

[32] Charter of Fundamental Rights of the European Union, 2012 O.J. (C 326) 391.
[33] Regulation (EU) 2016/679, General Data Protection Regulation, 2016 O.J. (L 119).
[34] European Commission, *White Paper on Artificial Intelligence – A European Approach to Excellence and Trust*, COM(2020) 65 final.

directive on data retention, referring to the necessity or proportionality principle. Similar logic applies to regulation for AI, so that technological innovation never abuses privacy or undermines civil liberties.

Although the AIA is forward-leaning, critics say its high compliance cost of the AIA may dampen innovation, particularly for smaller and mid-sized companies.[35] Despite this, the model of the EU is still by far the most comprehensive approach to regulation in AI that also respects human rights and legal certainty.

2.2 The U.S. Model: Market Innovation and Self-Regulation

Unlike the EU, the United States has historically taken a sectoral and market-oriented approach to AI regulation. There is no one federal AI law; instead, the United States has a patchwork of policy guidance, executive orders, and sector-specific regulations.

[35] Vedran Antolovic, "The EU AI Act: Balancing Innovation and Regulation," *Journal of European Law Studies* (2023).

The Blueprint is five guiding principles, as provided by the White House Office of Science and Technology Policy: safe systems; algorithmic discrimination protection; notice and explanation; data privacy; human alternatives (White House AI task force unveils draft framework for 'trustworthy' artificial intelligence rules In Re Mod).[36] While non-binding, it may be an indication that the pendulum has swung toward more federal action on AI regulation.

The US model focuses on creating rather than constraining. The National Institute for Standards and Technology (NIST) is heavily involved with the implementation of technical standards and risk management.[37] Rather, voluntary compliance – cooperation between private and public actors – not regulation, is the center of attention. This approach mirrors the country's more general legal philosophy that innovation thrives best with limited intervention by government.

[36] The White House, *Blueprint for an AI Bill of Rights* (2022), available at https://www.whitehouse.gov/ostp/ai-bill-of-rights/.
[37] National Institute of Standards and Technology (NIST), *AI Risk Management Framework* (2023).

Yet the impact of uncontrolled AI is evident. The COMPAS case[38] shows how algorithms can lead to the wrongful judgement of criminal defendants when a system decides not to let them in on how its automated risk assessments work. Similar controversies have called into question mass surveillance and violation of privacy rights because of private companies' facial recognition systems like those created by Clearview AI.[39]

Western academia is increasingly calling for more stringent accountability of AI. "The Case for A.I. Foresight: Government, our Fractious Polity, and the New 'Machine'," Ryan Calo (in "Artificial Intelligence Policy: A Primer and Roadmap") Innovation is important, writes Ryan Calo in his groundbreaking work Artificial Intelligence Policy: A Primer and Roadmapbut too much innovation without uniform legal protections can break public trust. The Federal Trade Commission (FTC) has also started to wield existing consumer protection

[38] *State v. Loomis*, 881 N.W.2d 749 (Wis. 2016).
[39] Kashmir Hill, "The Secretive Company That Might End Privacy as We Know It," *New York Times* (Jan. 18, 2020).

and anti-discrimination laws against abusive AI, indicating some incremental shift towards tougher regulation.[40]

So even though the US model emphasizes innovation and economic growth, its jurisdictional framework is not well positioned to tackle cross-sector ethical and legal issues.

2.3 The Chinese Model

Government Dominance and Onward Progress

With its Official Mottos and Crests, the People's Republic is the quintessential modern nation state that puts "the people" (minzu) before the age-old family lineages and ancient established nations, familial or ethnic, of which it as a matter of course must be composed.

What distinguishes China's AI governance model is its fusion of technology with state policy and social governance. China considers AI an important national strategic asset and global technological leadership is one of their main technology policy

[40] Federal Trade Commission, *Aiming for Truth, Fairness, and Equity in Your Company's Use of AI* (Apr. 2021), available at https://www.ftc.gov/business-guidance.

goals by 2030 as set in the New Generation Artificial Intelligence Development Plan (AIDP) here.[41]

China's guiding 'philosophy' is one of state control, social order and data sovereignty. The PIPL, 2021; Cybersecurity Law, 2017; and Data Security Law, 2021 in combination provide a strong legal framework to give the state broad control over data collection, sharing and export.

In 2022, the Cyberspace Administration of China (CAC) announced that platforms should limit the reach of AI-based recommendation algorithms and increase their focus on the promotion of "positive energy" and social values.[42] This points to the way ethical ruling in China is deeply embedded with ideological orthodoxy.

But China has also contributed much to international cooperation. In 2023, it introduced the Global Artificial Intelligence Governance

[41] State Council of the People's Republic of China, *New Generation Artificial Intelligence Development Plan* (2017).
[42] Cyberspace Administration of China, *Provisions on the Administration of Algorithmic Recommendation for Internet Information Services* (2022).

Initiative (or initiative), which urges mutual respect of sovereignty, security and development interests. Critics contend, however, that such initiatives would favour national sovereignty over international harmonisation.

The case law concerning the regulation of AI in China is still scarce, whilst administrative enforcement is vigorous. The court action, which came in Tencent v. Shanghai Yingxun Technology Co (2023)[43] by the Beijing Internet Court, found that AI-created artwork might enjoy copyright protection under human stewardship and marked a development in China's judiciary around AI and intellectual property.

The centralized Chinese model enables quick implementation and enforcement but has raised questions of surveillance, free speech, data sovereignty. It shows how effective such tactics can be at the expense of privacy, a trade-off that is still hotly debated on the world stage.

[43] *Tencent v. Shanghai Yingxun Technology Co.*, (2023) Beijing Internet Court (China).

2.4 Views of the Indians and Japanese

AI governance in India is young but growing up fast. The NITI Aayog's National Strategy for Artificial Intelligence (2018) adopted the "AI for All" approach, which aims to enable growth in a mutually inclusive manner as well as advance ethical design.[44] Despite the absence of AI-specific law in India, it has proposed the enactment of the Digital India Act (2023) and the Digital Personal Data Protection Act (2023) to regulate algorithmic accountability and data security.[45] The goverment's "Responsible AI" framework emphasizes transparency, fairness and explainability, closely resembling the OECD principles.

Meanwhile, Japan has adopted a cool-headed middle path of innovation with an ethical angle. The AI Governance Guidelines (2021) published by the Ministry of Economy, Trade and Industry (METI) emphasize Human-Centered Development

[44] NITI Aayog, *National Strategy for Artificial Intelligence – AI for All* (2018).
[45] Government of India, *Digital India Act (Draft)* and *Digital Personal Data Protection Act* (2023).

and Transparency.[46] Japan's strategy corresponds to a culture, in which people prioritize on trust and social harmony while keeping economic competition.

Both cases highlight developing middle ways between overly reflexive regulation and under-regulating technology that prioritise responsible innovation and transnational cooperation.

2.5 Comparative Insights

The comparison reveals distinct philosophical underpinnings:

Region	Regulatory Approach	Core Principle	Primary Concern
European Union	Rights-based, risk-focused	Human dignity, accountability	Overregulation and compliance cost
United States	Market-oriented, innovation-	Freedom of enterprise	Algorithmic bias, lack of

[46] Ministry of Economy, Trade and Industry (METI), *AI Governance Guidelines* (2021).

	led		federal standards
China	State-centric, security-oriented	Sovereignty, societal order	Privacy violations, censorship
India/Japan	Balanced, ethics-driven	Inclusivity, transparency	Implementation challenges

These variances of cultures and policies explain why a universal AI framework remains improbable: the legal systems reflect different political values, cultural interests. However, alignment around shared values transparency etc. and human rights (this could be extended to working against the spread of COVID-19) is a possible basis for resolving peoples differences.

CHAPTER 3: CHALLENGES IN FORMULATING A GLOBAL LEGAL FRAMEWORK FOR ARTIFICIAL INTELLIGENCE

The rise of AI as a disruptive force has sparked international debates on the need for uniform regulation. But developing such a structure carries significant legal, ethical and geopolitical complications. AI offers tremendous socio-economic returns, but the divergence in regulatory priorities between jurisdictions, technological complexity and the uncertainty of AI's future capabilities make this a challenging minefield for legislators. Disjunctures between innovation and regulation, the North-South IT divide, a network of differing interests of advanced and developing nations contribute to the difficulty of establishing functional international rule systems for AI.

3.1 Jurisdictional Fragmentation and Regulatory Divergence

Among the principal obstacles to the development of a world AI model is the noncongruence between

national legal frameworks and values. The "EU's Artificial intelligence Act (2024)" is founded upon a human-centered and risk-based paradigm of AI with emphasis on data protection, accountability, and human control. America boasts of a market-based paradigm which is founded on innovation and minimal government involvement.[47] These opposing paradigms challenge to harmonize also at a more fundamental level what liability, transparency, and accountability mean.

In addition, China's regulation model for AI has prioritized state development and loyalty to how AI is leveraged to the national strategic imperative, meaning that political ideology determines regulatory philosophy. This difference on a global level immediately raises an essential question: is it even possible to have a universal AI model, when there are such fundamental differences in legal heritage, political systems and cultural values? Fragmentation of jurisdictions threatens a

[47] European Commission, *Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)*, COM/2021/206 final (Apr. 21, 2021).

"regulatory race to the bottom," where nations provide more lenient laws in order to gain investment in technology.

3.2 Responsibility and Liability in Driverless Systems

AI systems, particularly those constructed using machine learning and deep neural networks (DNN) technologies, have a life of their own and behave erratically.

Holding the AI system liable for damages has been a major legal puzzle. Common law legal concepts – say, negligence, product liability or vicarious liability – are not a good fit in these situations of entities acting without any type of proximate human control. Say, in the 2018 Uber autonomous vehicle accident in Arizona, it was unclear whether the software programmer or automobile maker or human safety driver was responsible. Without global agreement on liability norms, the judgment is inconsistent and fills the public with little confidence. Researchers like

Bryson, Diamantis and Grant has claimed that the establishment of a legal status for "electronic persons" would appear to be a way in which AI entities themselves can be held to account.[48]

However, others suggest this concept may tend to dilute human accountability. Consequently, any international structure must strike the appropriate balance between facilitating innovation and unfortunate victims of injury resulting from AI having access to a means of redress.[49]

3.3 Privacy and Cross Border Data Flows

The development of AI largely relies on the availability of big data. But the way data is treated in law differs a great deal from one place to another. The European Union's General Data Protection Regulation (GDPR) imposes strict data processing and transfer limitations, while countries such as the United States offer sector-specific privacy regulations, including the

[48] Niraj Chokshi, *Self-Driving Uber Car Kills Pedestrian in Arizona, Where Robots Roam*, *The New York Times* (Mar. 19, 2018).
[49] Tom Bennett, *Liability and AI: Rethinking the Doctrine of Negligence*, *Harvard J.L. & Tech.* (2022).

California Consumer Privacy Act (CCPA). Yet this lack of uniformity frustrates global collaboration and undermines enforcement efforts.

Another obstacle entails restrictions on cross-border flow of data. In order to make AI models effective on a global basis, it is necessary for them to have access to widespread sets of data However data localization requirements and national security considerations impede this exchange.[50] In developing countries, there may be gaps in data protection regimes and concerns about digital exploitation by developed economies. In this regard, to reconcile respect for privacy with the pressures from AI innovation is a difficult legal question.

3.4 Ethical and Human Rights Concerns

Above and beyond technical or legal complications, AI raises profound ethical and human rights questions. “Black communities are being disproportionately left behind and technology has

[50] United Nations Conference on Trade and Development (UNCTAD), *Data Flows and Development* (2022), https://unctad.org/.

a history of perpetuating these disparities," said Congresswoman Ocasio-Cortez. The use of opaque algorithms for risk assessment in criminal justice was exhibited, for example, in the COMPAS algorithm case (State v. Loomis) in the United States that led to biased judicial decisions.[51]

It is compounded by the lack of an accepted moral rule. AI is fair, transparent and can be held to account (UNESCO Recommendation on the Ethics of Artificial Intelligence, 2021) even if their implementation is still based on a voluntary nature.[52] A new international legal order will thus need to incorporate ethical norms into hard law in a manner that curbs algorithmic discrimination and protects human dignity.

3.5 Technological Complexity and Rapid Innovation

AI evolves so quickly that the law often struggles to keep pace. Policymakers confront the "pacing problem," involving sluggishness of regulatory

[51] *State v. Loomis*, 881 N.W.2d 749 (Wis. 2016).
[52] UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (Nov. 23, 2021).

means in relation to technological ends.[53] This time lag allows unethical or harmful uses of AI (e.g., deepfakes, autonomous weapons, misinformation systems) to spread before countermeasures become effective.

In addition, the technical opacity of most AI systems ('black box algorithms') creates obstacles for understandability and accountability. Developers themselves may not even know exactly how complex models reach certain conclusions. It is not difficult to see how creating universal standards for transparency and interpretability is an immense challenge, which calls on the cooperation of legal scholars, ethicists, and technologists.

3.6 Geopolitical Tensions and Economic Competition

AI has become a fundamental engine of global economic and military power. The AI arms race among superpowers like the United States and

[53] Gary Marchant, *The Pacing Problem and the Law of Emerging Technologies*, 51 *U.C. Davis L. Rev.* 436 (2018).

China is emblematic of longstanding geopolitical tensions that hinder cooperative oversight. Nations might simply be reticent to stipulate legally binding international agreements that would stymie their technological autarchies. Furthermore, economic asymmetries sunthal developing countries are not always in a position to actively participate equally in AI governance on the global scale.[54]

Any global legal platform therefore has to factor in disparate capabilities and ensure a fair degree of participation. If these inequalities are not addressed, the global regulation of AI runs the risk of entrenching current hierarchies of technological dependence and neo-colonialism.

3.7 Institutional and Enforcement Barriers

Even if a consensus can be reached, it is still a tall order to enforce international norms around AI. Inasmuch, without a global regulatory authority for AI like the World Trade Organization (WTO), or

[54] Abeba Birhane, *Algorithmic Colonization of Africa*, 33 *SCRIPTed Journal of Law, Tech & Society* (2020).

International Atomic Energy Agency (IAEA) compliance mechanisms are more or less extra-official.[55] French Academy of Sciences member proposes the creation of an International Artificial Intelligence Agency" Ideas for an lAIA have been proposed within academia, but only with unprecedented political will and investment.

Furthermore, the concurrent mandates of established institutions (such as UN, OECD and G20) may result in fragmentation rather than coherence.[56] To achieve meaningful enforcement, global AI governance should include both top-down (treaties) and bottom-up (national-level) measures for mutual accountability and transparency.

[55] Jack Balkin, *The Three Laws of Robotics in the Age of Big Data*, 78 *Ohio St. L.J.* 1217 (2017).
[56] OECD.AI Network of Experts, *State of Implementation of AI Principles* (2023).

CHAPTER 4: TOWARDS A UNIVERSAL LEGAL FRAMEWORK FOR ARTIFICIAL INTELLIGENCE

Artificial intelligence is coming of age, and global co-operation is no longer a choice; it's an inevitability. As AI-powered systems increasingly cross borders for coordinating trillions of dollars across global finance, for allocating healthcare resources and security aids at the national level, or decentralized data processing systems that support globalization fragmented approaches are inadequate. In order to protect human rights, ensure equitable competition and promote responsible innovation, the world must converge toward a global legal framework. This chapter delves into governance models as well as current global initiatives and possible mechanisms for a unified legal system to deal with the multitudinous implications of AI.

4.1 Multinational Models of AI Regulation

Three primary architecture models are under discussion for international AI regulation: a treaty-

based model, soft-law and hybrid institutional model.

Another suggestion is the treaty model, in which one might propose a legally binding international convention in the form of the 2015 Paris Agreement on Climate Change, that would oblige states to make commitments in terms of ethical and legal standards for the development of AI.[57] This system would ensure consistency, accountability and provision for dispute resolution under the watchful part of an international organization.

However, the critics argue that this policy might not be politically feasible, due to various national interests and the rate of technological advancements. The soft-law method, on the other hand relies on voluntary principles and best practice, adding an element of flexibility and responsiveness. The OECD and UNESCO have championed this model through principles emphasizing equity, openness, and

[57] Paris Agreement, Dec. 12, 2015, T.I.A.S. No. 16-1104.

responsibility.[58] Soft law can be used to establish collaborative relationships, but its non-binding nature typically results in problematically diverse implementation. The hybrid approach appears to be the most sensible middle ground between those two. It would offer fundamental principles of binding such as non-discrimination, human oversight and openness but allow national discretion in the precise regulatory arrangements. This balance between legal certainty and technological change supports the integration of nations that are at varying levels in their digital evolution.

4.2 Influence of International Bodies in the Regulation of AI

Some international bodies are beginning to lay the groundwork for global AI governance. The United Nations (UN) has acknowledged the pressing need for AI regulation through initiatives such as the High-Level Advisory Body on AI (2023), building

[58] OECD, *Recommendation of the Council on Artificial Intelligence* (2019), https://oecd.ai/en/ai-principles.

towards common norms of accountability. Similarly, the OECD's AI Principles (2019) adopted by over 40 countries constitute another instance in which it is possible to identify a consensus regarding responsible use of AI based on human-centered values/ principles, and with attention fairness, transparency and robustness.[59]

The European Union's AI Act (2024) has set a precedent for risk-based regulation by classifying AI systems as unacceptable, high-risk, or limited-risk according to expected societal impact.[60] For its part, the Council of Europe's Committee on Artificial Intelligence (CAI) is discussing a legally binding convention on AI, human rights, democracy and the rule of law – believed to be a world first.

At the same time, regional endeavours need to be coordinated through a global coordinalting body - an organisation similar to IAEA or WHO. One way to do this is by establishing an International

[59] OECD, *AI Principles Overview* (2020).
[60] European Parliament, *Artificial Intelligence Act* (2024), COM(2021)206.

Artificial Intelligence Agency (IAIA) tasked with compliance oversight, ethical audit, human rights follow-through and AI alignment with inter-human-rights standards.[61]

4.3 Adding ethical and human rights principles

No universal legal regime for AI can exist in a vacuum from human rights case-law. There is already a framework from which the embedding of principles into AI law can be drawn; they are preserved in articles including but not limited to that of the Universal Declaration on Human Rights1948, International Covenant on Civil and Political Rights (ICCPR) and Convention on the Rights of Persons with Disabilities (CRPD).[62]

Rigorous AI to be based on the principles of transparency, accountability, fairness and non-maleficence. These principles have been highlighted in the UNESCO Recommendation on the Ethics of Artificial Intelligence (2021) which seeks international collaboration for addressing

[61] Stuart Russell, *An International Treaty on AI Safety*, *Future of Life Institute* (2022).
[62] United Nations, *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810 (1948).

bias, protecting data privacy and enabling sustainable AI innovation.[63]

And ensuring the explainability of algorithms is essential to safeguarding rights. The European Court of Human Rights: Privacy and dignity in the workplace Lopez Ribalda v Spain (2019)[64] The European Court of Human Rights has reiterated that surveillance technology must not compromise privacy or human dignity. Embedding human rights responsibilities in the laws governing AI will not only increase legitimacy but help establish public trust in this new technology.

4.4 A suggested structure for global AI regulation

A global ai-regulatory structure could take form as follows:

International AI Treaty (IAIT) – bounding law agreements on the ethics, safety and transparency of an AI-development with maintaining

[63] UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).
[64] *Lopez Ribalda and Others v. Spain*, App. Nos. 1874/13 and 8567/13, Eur. Ct. H.R. (2019).

mechanisms for the ICJ to propose dispute resolutions.

Global AI Regulatory Council (GAIRC) – will function as an advisory and oversight body within the framework of the United Nations, charged with observing adherence and exchanging know-how.

National AI Ethics Committees (NAECs) – overall these work domestically in order to enact international norms, and liaise with global institutions.

Transparency Requirements AI Register (TAIR) – a centralised registry that mandates the release of information about the AI models, their trainings data and risk assessments to improve accountability.

International Liability Fund (ILF) – paying victims of AI-induced injuries, funded by fees from AI-carrying companies and contributing jurisdictions.[65]

[65] Daniel J. Solove, *The Future of Liability for Artificial Intelligence Systems*, *Yale L.J.* (2021).

"Just as systems across the world limit the spread of pathogens and contain infections, an international governance mechanism for wildlife trade would do likewise," Carr said. "Such a system akin to global regimes that prevent biodiversity declines beyond national borders would direct national policy while permitting flexibility in implementing at the local level." This complex framework mirrors successful models of transnational oversight such as the Basel Convention (hazardous waste) and the Montreal Protocol (ozone protection), providing both national flexibility and international accountability.[66]

4.5 Public-Private Cooperation and Industry Accountability

As private companies dominate the AI ecosystem, an international design of regulation will need to incorporate direct involvement of the industry. Tech giants including Google and Microsoft have adopted ethical AI guidelines as an agreeing

[66] Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, Mar. 22, 1989, 1673 U.N.T.S. 57.

OpenAI that prioritize safety, fairness, and interpretability. Neverthelss, regulation itself is not enough: it has to exist in a legal framework that requires transparency and accountability.

Public-private partnerships could make it possible for the AI community to establish far-reaching standards for Safety Standards, ethics certification programs, cross-sector research partnerships.[67] Furthermore, the inclusion of CSR into AI governance would harmonize commercial incentives with ethical imperatives and thus guarantee sustainable innovation that works for the global commons.

4.6 Beaming for Billions: The Race to Light Up the Sky Building Global Consensus: The Way Forward

An approach to a global legal framework for AI must be phased and consensual. It could start with regional accords, like the EU AI Act or ASEAN AI Guidelines, and then coalesce into a global

[67] World Economic Forum, *AI Governance: A Holistic Approach to Implementing Ethics* (2021).

treaty.[68] Gradual cooperation mechanisms such as data-sharing agreements, ethical audits, and interoperability standards could create trust among nations.

Importantly, the framework should embody principle of technological equity to ensure that the developing countries are not left out from benefits resulting from AI development. International instruments of funding, technology transfer and capacity building can contribute to narrowing the digital gap between countries.[69]

Ultimately, the fate of a global AI regime rests on willpower from nation-states, engagement from civil society, and moral resolve in the business communities. It is a shared moral project that AI will be used to benefit humanity, rather than master it.

[68] ASEAN, *Guide on AI Governance and Ethics* (2023).
[69] Abeba Birhane, *Algorithmic Injustice: A Global South Perspective*, *Nature Machine Intelligence* (2023).

CONCLUSION AND RECOMMENDATIONS

The unprecedented expansion of Artificial Intelligence (AI) systems in areas including healthcare, defense, banking and finance, governance and critical infrastructure calls for a global industrial policy- making region-based targets. The previous chapters have shown that AI's transnational effects from algorithmic bias and data breaches to automaton decision-making create regulatory lacunas that national systems alone are ill-equipped to solve. The patchwork of AI governance, in which some nations use innovation-friendly approaches and others resort to precautionary restrictions, could lead to the emergence of ethical asymmetries and "regulatory havens." Without agreedupon universal standards, questions of accountability and the protection human rights as well as who to hold liable in case of harmful AI use are still highly disputed.

The need for common legal principles itself arises from an AI market that has become globalized, and

which defies being corralled within national or regional borders. This framework must be built on common principles – transparency, accountability, data protection and human oversight – with the flexibility for national implementation reflecting national context. International cooperation, such as that which underpins the United Nations (UNESCO), OECD, and associations such as the European Union's AI Act can be instrumental in developing model laws and conventions. What's more, an International Artificial Intelligence Regulatory Council (IAIRC) could encourage dialogue between advanced and less-advanced countries to promote fairer representation of interests in global AI governance.[70]

Moreover, ethical auditors shall be required to monitor whether AI systems abide by the human rights standards. Algorithmic Transparency A possible way of ensuring that fairness and accountability are respected for cross-border AI

[70] United Nations Educational, Scientific and Cultural Organization (UNESCO), *Recommendation on the Ethics of Artificial Intelligence* (2021), available at https://unesdoc.unesco.org/ark:/48223/pf0000380455.

systems can be to include algorithmic transparency clauses in international trade and investment agreements.[71] Crucially, efforts at capacity-building need to support developing countries in contributing to AI governance: avoiding a digital divide that might perpetuate neo-colonial dependencies.

In order to balance innovation with oversight, the structure of the framework needs to take a risk-based tiered approach, which categorizes AI applications according to their varying degrees of potential societal harm in a manner similar to that contained in the EU AI Act.[72] The framework should also include data localization requirements, algorithmic explainability as well as responsible AI development by developing public-private partnerships.

In summary, the advent of AI technology has the potential for unparalleled progress, but is not

[71] Organisation for Economic Co-operation and Development (OECD), *AI Principles* (2019), available at https://oecd.ai/en/ai-principles.
[72] European Commission, *Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)*, COM(2021) 206 final.

without significant legal ethical and societal challenges with respect to its unregulated advance. A common legal order, based on common values at the global level and adaptable to national conditions is not just desirable; it is necessary. It is the only realistic way to ensure that AI serves humanity fairly, sustainably, and equitably in a global age.[73]

[73] Paul Nemitz, "Constitutional Democracy and Technology in the Age of Artificial Intelligence," *Philosophical Transactions of the Royal Society A*, Vol. 376, Issue 2133 (2018).