



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

Report No. 0310-AIGA-S1-2020-01-REP

Passed by the Assembly with Absolute Majority of 12-0 on October 3, 2020.

Authored by:

Prakhar Prakash, Kashvi Shetty, Samar Singh Rajput, Dev S. Tejnani, Shruti Somya, Sanad Arora, Anurati Bukanam & Mridutpal Bhattacharya.

Executive Summary

Submitted by:

Mr Sanjay Notani, President, AI General Assembly, 1st Session; Abhivardhan, President of the Indian Conference on AI and Law, 2020 and Kshitij Naik, Nodal Advisor, ISAIL.

The Executive Board in the Report for the Day 3 recommends the following considering the quality, purpose and relevance of the scheme of discussion in the Assembly:

- The problems with AI Ethics Boards would predominantly start with how they make decisions, and how should they give prima facie importance: precedents or principles?
- AI Ethics Boards can have a constituted support of additional bodies that can foster support for public-private partnerships, analysis and support so that the Ethics boards are responsible and there is a second audit to whatever the Ethics board decides, which would also gives the consumers an assurance;
- Mandatory testing for a certain period for all AI based programmes based on better experiential risk assessments is recommended;
- Companies should be made more responsible for AI-based products and services. However, the responsibility should be based on operative transparency based on experience, and not be the strictness of the dictum;

Recommendation Report on Assessing the Scope, Liability and Interpretability of the Paralytic Nature of AI Ethics Board in Corporeal Entities

1. Nature of Data usages and Transboundary consideration

- Importance of global data flow has been well recognised by various global bodies like European Commission. Next generation internet services require seamless data flow across the globe e.g. Google Glass, Driverless cars. As far as Indian perspective is concerned, free flow of data will facilitate 200% growth in virtual goods and services through e-commerce and growth of the digital economy by 2030 (from \$58bn to \$197bn). It will help SME to digitally engage with the global supply chain. However, the Cambridge- Analytica- Facebook incident and Justice Puttaswamy judgement which included privacy under Article 21 of Fundamental Rights has further brought this debate of “Data localisation vs Transborder free flow of data” to the forefront. RBI came up with a regulation to keep all the payment data of India on a local server, which was however vehemently opposed by global financial service providers.



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

- As a method to protect the data of India, the legislatures came up with The Personal Data Protection Bill, 2018 based on the recommendation of Justice Srikrishna Committee Report. Section 40 of the Bill deals with Restriction on Cross Border Transfer of Personal Data. It states that every data fiduciary shall ensure the storage, on a server or data centre located in India, of at least one serving copy of personal data to which this Act applies. Also, the Central Government shall notify categories of personal data as critical personal data that shall only be processed in a server or data centre located in India.
- However, the focus on Data Localisation has its inherent challenges. The setting up of servers and other necessary infrastructure requires huge cost, which would only be viable for the large players in the industry which would eventually lead to reduction and elimination of competition. Also, the customers are the ones who are ultimately going to bear the financial burden. Moreover, foreign start-ups might hesitate to invest in India as the business won't be feasible for them. Restricting data to a geographical territory does not ensure data protection. The requirement is to use global security standards.
- China is a lot like a developed country in terms of technological advancements and it won't be wise for India to compare directly with it. India needs to frame its own policy having strong security and privacy measures that are not based on protectionism.
- The legal protection of privacy on a global scale began with human rights instruments such as the Universal Declaration of Human Rights 1948 and International Covenant on Civil and Political Rights of 1996.
- Many institutions and regulations have recognised the economic and social benefits of transborder data flows and its increasing importance in promoting economic and social development.
- Ethics with regards to transfer of data must be based on the same principles that Richard Stallman stated when speaking of the 4 freedoms of free software. These corporates must provide the freedom to study how the program works. This becomes essential in determining the scope of the power AI software has in this regard.
- The ethics governing transborder flows of data should aim to achieve the 5 Cs, which have come to represent good ethical and design processes in AI: consent, clarity, consistency (and trust), control (and transparency), and (a focus on) consequences.
- companies ought to develop these checklists on an “open source” basis and share them with others working to develop AI applications and an active and accessible channel by which any AI professional can dissent from how an AI application is being structured or used. This brings the necessary context to light that the data usage is to be done in a legal or right manner and shall protect the privacy of personal data.
- There is evidence that transborder data flows are key to infrastructure for efficient industries and critical productivity, but at the cost of critical information being circulated without transparency and without knowledge. On the other hand, localization of data will not only affect decreasing data security but will also shift burden costs on consumers and have disproportionate effects on smaller businesses.
- Privacy is important but privacy need not be the enemy of prosperity. Strong, innovative privacy regimes that promote trade and growth are the need of the hour. The one fits all approach is rigid and will not be applicable in long term. Initiatives should focus on developing flexible, protective regulations that can coexist with and adapt to technological advances. At every level of working and use of data, there must be some privacy regulations so that there is enough protection and transparency to the data providers.
- Policies and standards must be technically efficient, economically and financially sound, legally justifiable, ethically consisted and socially acceptable.
- Data Portability has made transborder data convenient and at the same time challenging to regulate the entities and operators that use such data. Entities tend to have different definitions of Personal Identifiable Information. This portrays that the company is indulging in ethical practices, but actually it is playing on a



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

loophole in good practices. For example, what Google considers Personally Identifiable Information (PII) may be substantially different from Microsoft's definition. This makes it difficult for having a uniform regulation model

- India in the amendment bills introduced two important aspects, that is privacy by design and sandbox. Sandbox provisions that were introduced, have been given an exemption from following data protection laws. However, to test AI tools and designs entities ideally need to follow higher data protection standards, and such assessments and checks must be done at this stage in such a safe space.
- Data Minimisation is an essential point for these entities to follow. This point under the Indian PDP Bill, 2019 is mentioned in the preamble, but has not been elaborated upon. This will form a foundation for privacy by design, because there is a need to have transferability of data at a scale only absolutely necessary
- Data is basically a piece of information which is available in different formats around the internet universe. Data information has revolutionized the e-commerce industry, economy market, trade, international affairs on a different level. Therefore, the importance of passing data from one person to another or one entity to another. The thing is transformation or transfer of data is regulated in an ethical and transparent manner as misuse of such data can lead to security issues, economical issues, privacy issues, and other trans border issues between the countries. Therefore, the EU came up with GDPR for proper structuration of free flow of the data. Cybersecurity has been a concern within the state and everyone wants to get hold of maximum quantities of data. Therefore, we have to look at the existing rules and lacuna which cannot be side-lined. We have to look at existing laws and improve upon existing structures.
- Data is the lifeblood of the modern global economy. Digital trade and cross-border data flows are expected to continue to grow faster than the overall rate of global trade. Businesses use data to create value, and many can only maximize that value when data can flow freely across borders, yet a growing number of countries are enacting barriers that make it more expensive and time consuming, if not illegal, to transfer data overseas. Some nations base their decisions to erect such barriers on the mistaken rationale that it will mitigate privacy and cybersecurity concerns; others do so for purely mercantilist reasons. Yet, whatever the motivation, as this report demonstrates, the costs of these policies are significant, not just for the global economy, but for the nations that “shoot themselves in the foot” by using these policies.
- It is imperative to understand that there are innumerable risk assessment models which have been developed in recent times when it comes to data protection, which is even recently upheld by the EU General Data Protection Regulation which can also be deemed to be regarded as the “GDPR”. There exist various types of risk assessment models that can be adopted or taken into consideration and they can be either mandatory or voluntary, self-assessed or third party/licensing schemes. These models are models which are only capable of assessing specific kinds of data or only a specific kind of risk, however, and it is important that they are based on risk/benefit assessments or rights-based assessments. Finally, these systems or models may solely focus on the jurisprudential issues or they may solely take under its scope, societal issues. Against this background, the first and the foremost point of information that arises is whether the model can be deemed to be regarded as a sector-specific or general specific model. This could be deemed to be regarded as an important question, since data uses cannot be dealt with a specific domain or technology. It can be safely said that it is possible to adhere and shift to a technological background, for instance, an Internet of things (IoT) impact assessment, a Big Data Impact Assessment, a smart city impact assessment or lastly an Artificially intelligent assessment. All these technological assessments take into consideration data processing as a means of decision making, however, they may somewhat differ to each other in the ways in which their scope extends to.



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

- Coming to the applications which can be deemed to be regarded as driven by data, an assessment which is focused on a specific technology can be deemed to be regarded as inadequate and only partially effective. In light of this fact, it is important to take into consideration various other forms of applications or domains, which deal with the aspects of healthcare or crime prevention, different sets of rights, freedoms and values need to be considered. Therefore, a sector-specific approach will help in focusing on the rights and values in question instead of the technology. Sectoral models may not focus upon technological advancements; however, they may focus upon the context and the values that assume relevance in that context. This cannot be deemed to be regarded as the nature of the technology which has no importance when it comes to taking into consideration the risk assessment process as a whole. A given technology can understand the most apt measures that are imperative to be undertaken when it comes to safeguarding the benchmark values. Whilst adopting a value-oriented approach, it is imperative that the assessment should focus on the impact that the data has on the society. This impact takes under its ambit, the potential negative outcomes on innumerable fundamental rights and principles and also takes into consideration the ethical and social consequences when it comes to data processing. The GDPR enumerates in detail an advanced example of regulation in this field and it focuses on risk assessment, however, it is still far from a compulsory model or framework which focuses taking into consideration societal issues in consonance with AI.
- The EU legislator can be deemed to be regarded as something which is capable of recognizing data processing risks such as discrimination and “any other significant economic or social disadvantage,” and Article 29 of the Data Protection Working Party and the European Data Protection Supervisors, elucidate into a broader assessment pertaining to the analysis of the societal and ethical consequences of AI and data use. Regardless of the innumerable steps which have been taken in the direction of an assessment which can no longer be deemed to be focusing on the quality of data and on the quality of data security. Article 35 of the GDPR and the early assessment models from Data Protection Authorities or the DPA’s, therefore do not properly delve into the ethical or the societal issues.
- In this context, it is clear that there exists an increasingly high demand for the data which is ethically and socially related to citizens, companies, developers and computer scientists. This gap is partially filled with innumerable initiatives, corporal guidelines and ongoing investigations which are carried out by the public. The main hindrance that brings about a harbinger of problems in terms of these initiatives deals with the variety of values, approaches and models adopted. Predictive policing softwares, credit scoring models and many other algorithmic decision-support systems delve into how data analysis can be supported by the society at large. Another important point to note is that the potential negative outcomes with regards to the data use, is something which cannot be restricted to the more widely recognized privacy related risks, which could be the illegal or illegitimate use of personal data, information or security, however, it also takes under its scope, a lot of other potential prejudices, for instance, discrimination which can be better understood by placing data processing softwares in the broader context of human rights.

2. **Explainability of AI**

- Explainable AI are said to make black-box decisions and tend to get away with a lot of decisions taken by a machine. This is where the entities need to realise that they have a role to make these AI and their Algorithms much more accountable and user-friendly.
- It is pertinent to note that governments and international regimes should press for an open development platform for Artificial Intelligence, considering that it will have a direct impact on a large amount of the population, all of them make for essential stakeholders and their views should be taken into account.



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

- The source code of any A.I which is being developed should not be a trade secret and open to public scrutiny. Unless, there is a substantial amount of algorithmic literacy amongst the public, they won't be able to ascertain whether the A.I so being developed is to their benefit or detriment, so international forums and local governments should push A.I and algorithmic literacy, so that common public can adequately contribute to the process of the development of A.I and argue for their rights.
- Research in this field became more proactive in 2016, firstly to explain the complicated neural networks. Secondly, with the advent of the GDPR area and Thirdly, industrial users understand the need of safe-critical systems. An approach towards making AI explainable would be Global as well as Local explainable methods. So, a global explainable would be user's manual will depend on the level of potential risk of the system, and local explanations are factors in control of users and how they could effectively use these systems. AI would exist in a world where a plurality of ethical frameworks governs the morality of this world's denizens, so it would be pertinent that A.I developers take into account all these philosophies and moral codes, so that the A.I so developed can have a more nuanced approach to its decision making process, thus accommodating people of diverse cultural backgrounds. Technical Solution for explainable systems would be Hybrid AI. This model consists of combining several AI techniques in order to get the best from each method. This is a more reliable method, and something that is not goal based but an approach to find the safest and efficient method.
- A court in the Hague, Netherlands, reached a similar conclusion with regard to an algorithm used by the Netherlands government to predict the likelihood of social security fraud. This court used the proportionality test to highlight the need. Therefore, entities must take into consideration such tests and reasoned description to promote public opinion and accountability.
- Explainability and accuracy has been a topic of discussion lately. The explainable models are very easy to understand but don't work well whereas accurate models are very complicated but totally do justice to the work they are deployed for.
- The understanding of BlackBox problems is necessary & imperative in order for the better understanding of explainability to come into effect. I.e. Perfect understanding of what a BlackBox problem is, rather - what a blackbox problem isn't, is important. Machine learning is often thought of as black boxes that are impossible to understand and this makes it difficult for AI to be widely accepted and trusted.
- What is needed is the awareness and understanding into the complex working of the system. What is needed is simpler algorithms that will be understandable to the layman and will build a trust among them to make use of the technology. Transparency, accuracy and explainability is of prime importance and therefore we must aim to address these.

3. Legal Entity / Juristic Entity of AI

- As laws are meant to be human-centered so if in future we are able to interpret the law without perceiving it from the lens of humanly association or rather from the perspective of machined association laws, we can break a bubble of human oriented law or rather recognizing the different status of different entities as well . That should be a breaking point and innovation of new interpretation of law where different entities other than human body corporates other disregarded entities should be regarded a certain status in law. Which will bring about the change in application of law altogether.
- When it comes to the United States, its government does not strive to consider the legal status of AI as an individual person and focus on the AI legal definition. Section 3 of the bill on AI provides the AI generalizing definitions - Artificial systems capable of performing tasks without human presence (autonomous systems); - Systems that think as by analogy with the human brain and are able to pass the Turing test or another comparable test by processing natural language, representing knowledge, automated



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

reasoning and learning; - Systems that act rationally achieve goals through perception, planning, reasoning, learning, communication, decision making and action (Cantwell, 2017).

- As for EU countries, they pay specific attention to legal regulation of unmanned vehicles. Thus, the German Traffic Act (Czamecki, 2017) imposes the responsibility for managing an automated or semi-automated vehicle on the owner and envisages partial involvement of the Federal Ministry of Transport and the Digital Infrastructure. A more comprehensive and understandable approach to the definition of current and prospective legislation regarding robotics is presented in the EU resolution on robotics (European Parliament Resolution, 2017). It defines types of AI use, covers issues of liability, ethics, and provides basic rules of conduct for developers, operators, and manufacturers in the field of robotics, the rules are based on the three laws of robot technology by Azimov (1942).

Factors that need to be taken into consideration while debating upon the issue of whether Legal personhood should be assigned to A.I or not:

- Who would assume liability if any detriment is cause to an or any other legal entity by the action of AI?
- Whether there is a requirement of separate standards of rules specifically governing AI and robots' systems or whether they coincide with Human Regulations which already exist?
- In case of an IP Regime whether AI can be given creative rights of itself as first owners in copyright?
- Whether AI is capable of interpreting its own thoughts on information which it collects from its surrounding?
- The freedom of volition would be an important factor in understanding whether the AI should be granted a status of separate entity;
- Legal identity given to humans is very different which AI cannot always adhere to. Even though the need for a legal identity or a juristic identity is important, this must only be done under the proper consideration of all aspects and must keep in mind the shortcomings of AI. Another point of discussion is that humans, when speaking criminally, we punish them for the decision-making process and organisation of the entity. Therefore, one must keep in account the fact that only the decision-making process of the AI should be held accountable, which brings up the question as to who develops this decision-making process?
- A human understands, interprets and applies legal rules in nuances situations of everyday life which AI is not capable of doing, therefore it makes it difficult to hold them responsible.
- Freedom of speech, moral losses and responsibility make no sense to AI.
- Also, it is hard to say that it will commit prohibited acts on its own purposes, this again makes it difficult to hold A.I accountable. AI code may ensure that AI complies with certain rules but application of such rules is not the result of an act of will.
- A study however looks into the application of slave laws which were applied by the Romans on AI. Where the slaves had only duties and were present to only serve the romans. They did not have any rights and their acts were not the responsibility of the owners. Therefore, starting off a legal system which is limited to the context of responsibility for injuries that AI causes is the necessary first step.
- Another effective suggestion would be to make a separate subject under law for AI which will not be only a one fits all approach but a case by case method which will allow for adaptability and flexibility. A way to look into this issue can be by comparing an AI in relation to **firstly**, the other juristic entity and **secondly**, to entities which are similar to humans but have been denied such rights. An example of the first aspect can be companies which have legal entities and work under the corporate veil. The example for the second one can be understood in the context of a case dealing with the issue of granting legal rights to a Chimpanzee in front of New York Court.



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

- For companies as a legal person do not take decisions; the human members do. Also, when the need arises, Judiciary can pierce the corporate veil and prosecute the humans taking decisions. On the other hand, unlike a company, AI is more like a human. It can move things and cars, press triggers of autonomous weapons, listen to private conversation of humans and can create, buy and sell IPR. The biggest problem is, if an accident happens, whether intentionally or unintentionally, who shall be held liable. If an AI is a defendant, what property can the claimant seek. AI has no asset of its own. A solution could be to create a pool of assets spreading the liability to a group of people including the AI developer and investors and not on a single individual behind the AI programming. This could be a positive development to restrict the liability of AI developer as is the case of limited liability concept in the domain of corporate law. This could motivate more investment in the field of AI. However, the biggest challenge is, granting the legal rights would allow the creators to escape the contractual and tortious liabilities and the responsibility of doing the wrong would fall on the AI, which actually did not have any will to decide the actions it took.
- Also, for humans, in the case of killing, it is difficult to decide whether the act falls under Section 299 (culpable homicide) or Section 300 (Murder), or will it fall under Chapter IV (General Exceptions) of the Indian Penal Code, 1860. If the case is of killing by a robot having a juristic entity, how are the laws going to govern it? Shall we need a completely new Judicial setup. And if yes, how fast would the legal system evolve. Moreover, would it be able to keep pace with the rapidly evolving AI.
- It needs to be understood whether the liability of an AI as a Juristic Entity is by extension Vicarious Liability in a newer instance. Article 12 of the United Nations Convention on the Use of Electronic Communications in International Contracts, a person (natural or an entity) on behalf of whom a programme was created must, ultimately, be liable for any action generated by the machine. This reasoning is based on the notion that a tool has no will of its own. However, this could vary in different situations and contexts.
- Robo-advisers have a wide practice in investment markets today. The USA regulations regulate as stock-brokers, so they have the same regulations as humans. This would say that these corporations are liable for human and machine errors equally. However, in this case robots make critical decisions that value human life. Then will these entities be prepared to take liability and how will this be done. An initiative taken by the European Parliament seems important in this case, the provision gave a specific legal status for smart robots as well as the creation of an insurance system and compensatory fund. Creators to an extent would still be liable, but in such cases a consumer centric approach is required.
- In 2018 there was a case that a self-driving car of Uber killed a pedestrian, and an out of court-settlement was made. This again points that entities do take liability for their creations in such situations. However, at the same time later in the year Uber issued a reflective 70-page safety report, to state the potential for its self-driving cars to be safer than those driven by humans. This is an ethical washing practice, where the companies are not taking positions to defend their liabilities.
- Now, AI entities that are based on more autonomy of AI and their understanding. For example, Microsoft launched an artificial intelligence programme named Tay. Endowed with a deep learning ability, the robot shaped its worldview based on online interactions with other people and producing authentic expressions based on them. The machine picked up racist and sexist comments, leading to its takedown in 24 hours. On whom the liability of such an instance must lie is a challenging issue. Precautionary principle becomes critical while using such AI systems in an ethical manner. There is a need for comprehensive and thorough assessments of computer systems and their impacts, including the analysis of possible risks. This will help prevent risks, and at the same time understand the challenges in the initial stages of developing and make the changes as required.



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

- The technological paradigm of the digital economy forms new markets that give rise to new regulatory measures and subjects for control, including artificial intelligence (AI). This trend primarily concerns the formation of technologies that will radically change the sustainable market economy, forcing professionals out of different areas. In the legal field as well, there have been plenty of developments being incorporated since a number of countries and developers have developed technologies or applications that could perhaps displace the lawyers from the market. It is imperative to throw some light upon a project which was incorporated by a Harvard Graduate called the, “DoNotPay” chat in the UK, and it currently covers over 1000 fields of law. The popularity of the above service is due to the fact that it has successfully challenged the veracity of more than 1,60,000 fields of law, right from filing claims against illegal parking tickets to filing claims against corporations like Microsoft and Sony wherein they outrightly denied to cancel the Microsoft Xbox Live Subscriptions or the Sony PS4 Playstation Network Subscriptions.
- Apart from this, in the Russian Market, Sberbank launched a robot lawyer who was powered to file claims for individuals; apart from this, a company in Russia, Glavstroy Control launched a bot which was coded to settle insurance disputes. Apart from this, it is quite difficult to control the current technological wave wherein there arises a dire need of a legislative base which could regulate AI. At present, the approach to AI can be implemented in the form of mere software packages, for instance, virtual platforms, chat bots, programs, etc, which may not necessarily have a material shell. Apart from this, the approach to AI is also being undertaken with the development of robots and drones which could be deemed to be regarded as an instrument which could perform specific goals laid down in the framework of legal relations which are developed by various legal entities.
- At the same time, there are innumerable cases when actions with regards to the status of robots contradict national laws of a country as for instance in Saudi Arabia, a robot Sofia was positioned as a woman and at the same time was granted the citizenship rights in Saudi Arabia under the provisions of the Saudi Arabia Citizenship Act which brought along with it a harbinger of innumerable issues as for AI to comply with the legislation specified by the host country is highly imperative. It is necessary to understand that now in Saudi Arabia women can act in the executive branches, participate in labor relations and even get married. They are allowed to roam freely without any guardian and are even allowed to drive vehicles. However, there is no adequate state regulation with regard to securing and terminating the respective legal relations. As a consequence, when the robot is equated to a person, there will be innumerable problems both in Sharia courts and in courts of general jurisdiction, since the model of conduct is not specified by the law of the land.

4. Requirement of AI Ethics Boards in Corporeal Entities

- Ethical boards are required but not for the names but to actually create an environment of public accountability. Companies are promoting the values, considering this ethical discourse is the need of the hour. Now, if there is a similar system what will differentiate tomorrow. The potential game changer would be AI systems that are much more transparent and secure.
- The regulatory framework must include ex-ante and ex-post guidelines. There is a need to change the regulatory framework for such boards. States must have both ex-ante and ex-post guidelines while assessing the functioning of these boards. The ethics board is the main link to check if the entity is progressive while applying ethics in AI systems. The ex-ante regulations must include impact assessment, damage minimization framework, and even inherent designs that promote ethics driven systems. Further, the ex-



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

post regulations must include a significant human rights complaint system and guidelines that prevent the Ethic boards' bureaucratic nature.

- Certification Method to ensure actual implementation of Ethics The governance framework for the Ethics Board is one side of the coin, and the other is that there has to be an alternative approach to incentivize the private players. Certifications of AI systems are a new approach that would require entities to meet specific standards. This process would improve the credibility of the entity and, at the same time, would also end up being a benefit for the public at large. Hence, it will help move from a 'have to' approach to a 'need to' one, placing the entities in a better position to promote ethics in AI.
- Inclusion is a way to prevent bias- The penetration of this bias is also due to a lack of diversity. Entities must ensure that the boards they set up are diverse and comprehend the difficulties minorities could face with such loopholes. Also, the entities must take a coordinated approach to spread awareness regarding ethics in AI systems and the need for people to raise their voice against such bias.
- In a sense, we are playing into their hands by polarizing [the issue of] ethics,” Poulson tells The Verge. “The major battle is accountability. And accountability is less likely if we polarize what is currently bipartisan concern over Big Tech. An AI ethics board should be accountable to some other body where the board’s decision could be challenged, and an appeal could be made.
- The scope of the AI Ethics Board extends to four broad areas. Firstly, guiding leadership to establish policies and procedures regarding AI ethics and setting up training programs. Secondly, examining proposals for AI research and maintaining the repository. Thirdly, auditing the use and proposed use of AI and data. And finally, to handle any complaints regarding the use of AI or its associated data.
- The benefits of an AI Ethics Board can be -Develop public trust as well as the trust of the employee in AI products and services. Public consultations on AI align the goal of the company with the public interest. Self-regulation prepares the company for possible future AI regulation.
- The challenges that lie ahead of the implementation of the AI Ethics Board- Cost and time incurred in setting up and managing the board. The compliance time will further hamper the rapidly changing and developing field of AI. Lack of transparency may lead to ineffective public accountability. On the other hand, to be publicly accountable, the board might release some data in the public domain. This might give sensitive information in the hands of competitors. Risk of shifting the burden rather than fixing accountability. Finding appropriate members to the board who have a good understanding of both the AI technology as well as of the business and its related legal and human resource issues will be a challenge.
- A three-tier structure could be created with a committee at the departmental level, an oversight committee at the organisational level and a regulatory body at the level of the government. Independent intellectuals, philosophers, and people from varied backgrounds could be made a member of these committees.
- Since AI is a rapidly evolving field, it will be very advantageous to collaborate, with others working in AI ethics, including competitors. Membership of cross-industry AI ethics groups should be considered to benefit people and society. The regulation can not be done without the collaboration of the Tech companies. They are the one who has all the information and the resources. The challenge now is finding crossovers between existing legislation and the negative impact of new technology. Then, new legislation needs to be drafted to fill the gaps.
- The creation of a machine which has the capacity to think and work on its own can raise innumerable ethical issues. These issues could be pertaining to such machines causing harm to humans and other moral beings and it could also pertain to issues relating to the moral status of the machines itself. These issues ought to arise with the significant developments that are being witnessed in the recent times pertaining to artificial intelligence and machine learning. The process of decision making in our daily activities nowadays



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

relies on machine-learning algorithms and artificial intelligence (AI), which can be said to be motivated by the speed and efficiency that it has provided in the overall decision-making process.

- However, AI and machine learning differ from humans in a lot of aspects, one of the pertinent aspects being the ethical assessment of things around. It is necessary to enumerate on how the legal status of AI has been shaped in recent times and how a number of companies are constantly working towards reducing the workload of its employees and adapting to capital intensive methods of working, by adopting machine learning. Corporeal entities, however, face innumerable challenges while dealing with ethically informed data collection and how this piece of data could be shared and used across the workspace by their employees. The companies usually suffer from innumerable issues with regards to the incorporation of an AI ethics board as AI and machine learning is something which is relatively new and companies are still in their nascent stages when it comes to dealing with the machines powered by AI.
- Companies are extremely worried with regards to the protection of their data and companies are clearly sensing an increased sensitivity to ethical issues, however, there is very little or perhaps no knowledge that companies possess apart from the legal compliances that it is adhering to. Companies are unaware when it comes to being ethically responsible, let alone how to incorporate an AI ethics board or an AI ethics committee and how it could consider whether their products and services have been designed keeping in mind the various ethical considerations that ought to follow. A few organizations like Google, IBM, et cetera have developed an AI ethics committee or an AI ethics board, however, these organizations too have had limited success with regards to the decision-making process and with regards to the products that they manufacture. Such a situation can be deemed to be regarded as problematic for the stakeholders of the company, and also for individuals who are dealing with the company as the privacy, data control measures and the security and fairness of such individuals is clearly at stake since the company may be in its nascent stages when it comes to the development of an AI Ethics board.
- The world is witnessing tremendous advances in the field of artificial intelligence. There are innumerable applications being developed in the field of finance, defence, health care, criminal justice and education, amongst other fields. Machine learning and algorithmic data provides spell-checks, voice recognition systems, advertisement targeting and also help in identifying fraud detection. At the same time, there have been innumerable concerns with regards to the ethical values which fit within the AI ecosystem and the extent to which these algorithms respect the rights and privileges guaranteed to humans. Ethicists in a number of countries are concerned about the level of transparency, the issues pertaining to poor accountability, unfairness and bias with regards to these automated tools. With millions of lines of coding that undergoes during the development of the AI tools, it is quite difficult to understand the values which need to be inculcated when dealing with softwares and how various algorithms actually reach to a particular decision. It is imperative to understand an example here. A bank may design a machine learning algorithm which has been coded with an algorithm to recommend mortgage applications for approval. An applicant whose application gets rejected may bring a lawsuit against the bank alleging that the algorithm or the coding which has been powered into the said machine discriminates individuals or applicants on the basis of their nationality, colour, origin or gender and is blinded on purpose to discriminate on such grounds, however, finding an answer in such a situation is not a cakewalk.
- If the machine learning algorithm is based on a complex neural network, or a genetic algorithm produced by directed evolution, then under such circumstances, it may be nearly impossible to understand why, or even how, the algorithm works thereby judging applicants on the basis of their race, nationality, colour or gender. Therefore, in order to avoid all these issues, it is imperative for firms to establish an AI ethics board, which would ensure the development of data which, if properly functioned and protected would help companies in achieving their paradigm shift from being a labour-intensive organization to a capital-



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

intensive organization. It is imperative for companies to have a committee-based model consisting of ethicists, who could be hired and they could work with corporate decision makers and software developers who actually deal with the complex neural networking of the machine learning algorithm. Further, the committee-based model will enable firms to protect the interests of their users and at the same time, it will ensure that individuals with a range of expertise may come together and efficiently and effectively analyse, access and deal with the complex problems arising from machine learning and AI data analysis.

- Further, companies could develop a code of AI ethics that could lay out a separate set of issues pertaining to how various issues that arise with the machines are to be dealt with. It is also essential for the AI review board consisting of the corporate decision makers, the ethicists and the software coders to regularly look into aspects concerning the various issues revolving around corporate ethical questions. AI audit trails could be looked into specifically showing how various coding decisions have been undertaken or implemented. It is also imperative to implement AI training programs so that the individuals or professionals in a company could get an hands on experience on working with these machines and how they could operationalize ethical considerations in their daily work.
- The CEO, CRO, CCO, and CFO have leadership roles across the first three dimensions, while the fourth dimension relies on leadership from politicians, regulatory agencies, and other policymaking bodies but adequate compliance is required from the corporeal entities. AI ethics is a sweeping endeavor with many moving parts. At the same time, technology aside, the initial approach should follow a similar path as other ethics and compliance programs, including:
 - i) Start at the top
 - ii) Clearly communicate your intentions
 - iii) Assess the risks
 - iv) Give examples

5. Philosophical and cultural differences with regards to AI, management sciences and Ethics

- The importance of a global conversation about the social impacts and ethics of AI has started in both industries and academic regions.
- For ethics, we must keep in mind that culture and understand that different societies have unique ethical vocabularies, understanding and expectations.
- The words “fairness” and “privacy” mean different things in different places and this does not mean that all these values are equal. We have to understand that ethics is not something for philosophers but it is just what we do, and thereby it requires action and engagement.
- Some key issues that rise out of these debates are:- Regional differences are present, AI will be susceptible to social equality and therefore further action is needed. The need is to start from the bottom and move our way upwards, which will have a target-based approach.
- Questions on what hopes and fears drive the technologies we choose to develop and how we accept, reject and use technologies around us, are important bearers of how AI will solve cultural differences.
- It should be kept in mind that when a society develops a technology it does so because it attained technological mastery and know-how.
- Who is AI made for? Where most areas of the world still don't have access to basic internet facilities, how will they be able to accept such technology? Use of AI is the next important question which springs up issues in a cultural background.



AI General Assembly, 1st Session, 2020

Indian Conference on
Artificial Intelligence and
Law, 2020

- Cross-cultural cooperation is essential for understanding these AI ethics and management. By ‘cross-cultural cooperation’, we mean groups from different cultures and nations working together on ensuring that AI is developed, deployed, and governed in societally beneficial ways.
- The debate of western conception of ethics and privacy being valued over eastern conception, would be wrong. AI revolving around such a notion, can never work for humanity at large. Today, the largest tech companies Google, Amazon and Facebook are based in the USA. However, if the systems are just based on values of one country, this will just deepen the difference of values and ideologies.
- Now, suppose AI has to make a life-death decision and considering that it has information fed about previous genocides in the world. It might deduce that a person in Rwanda will not be as important as a person in USA. This is concerning from an ethical perspective as well as basic human rights and values.
- Countries must take into account positions of different states on such AI ethics. UAE has taken an initiative towards Open Sharing of Big data, a bold move with its own challenges, this is in line to move to smart cities and development. Whereas need for AI in countries like Ghana, is to promote collective rights within the ambit of individual growth and protection. Hence, these are the diverse values for which international co-operation will be required.
- To encourage global participation a good starting point would be leading conferences, research groups and academic surveys to understand ideologies of AI ethics, from a global perspective. Further leading conferences and fora on these topics alternate between multiple continents will help the developing countries get an opinion. A separate federation of AI should be formed for regulating these Laws consisting of public private members which forms boards. We have to keep it as this far from political agendas because it will create a bias;
- Feeding of data to the AI machines should be transparent and universal. Proper propagation of data should be there all cultures and linguistic and religious ethical moral properties would be provided to the AI.
- AI should regarding the independence of itself would be unclear as a better preposition would be AI intelligence would subsist along with human interaction. Because AI has originated from human intellect therefore in future it would consist human touch as well algorithmic infrequencies.
- When we compare a Natural intelligence with an Artificial one, we are comparing a living being which is a result of billions of years of evolution in an ever-changing dangerous environment, continuously fighting for its survival with a computer system which performs relatively simple calculations for inputting a set of data, processing it on the basis of present algorithms and giving an output. Can the AI be even said to be Intelligent or are just acting as an intelligent one supported by the “Chinese room argument”.
- Cultural considerations contain multiple dimensions ranging from unemployment and inequality concerns to its impact on cultural diversity. Using AI to replace human in a western ageing nation would be welcomed but not in a developing country like India and in LDCs which is on its path to achieving Demographic dividend. Here it might leave a huge population jobless. Inequalities will also creep in. Rich will use AI in the place of human workforce, thus saving their resources, and the less privileged would have to struggle for their basic needs. This world is full of cultural diversity and if an AI system is expected to serve all of them equally, it would bring uniformity in human behaviour. And this behaviour would be controlled by few individuals, say those who are designing the Android system and the way it should interact with humans. This would pose a threat to global diversity. We can have a uniform AI system having goods of all the cultures. But who will decide and how will it be decided what is good? Wouldn't it be wise to have a customised AI based on the cultural values of different regions?

