

REGULATING THE UNREGULATED-LEGAL REACTIONS TO THE DEVELOPMENT OF ARTIFICIAL INTELLIGENCE

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Abstract

The exponential growth of artificial intelligence (AI) has reshaped world economic, legal, and social structures, posing critical questions on how to control its deployment while protecting human rights. This paper studies legal responses to AI in key jurisdictions, the United States, European Union, China, and Canada, and their divergent regulatory philosophies. The EU employs a horizontal, rights-based approach based on ethics, data protection, and the "Brussels effect" that seeks to export its regime to the world. The United States follows a decentralized, market-centred regime combining federal guidance with various state-level experiments. China embraces a dirigiste approach with a focus on government control and data regulation via the PIPL, DSL, and CSL, with AI incorporated into judicial and administration proceedings. Canada, while circumspect, tests "regulatory sandboxes" and disclosure policies by courts to harmonize innovation with openness. Comparative studies show decentralized world governance and dangers of legal incompatibilities, imbalance in ethics, and digital disenfranchisement. The paper suggests the adoption of international standards on transparency, accountability, and fairness in algorithms; increased public-private partnerships; and capacity-building programs to make AI integration unbiased. Finally, the paper concludes that regulation of AI must transcend national borders, creating a consistent legal framework that harmonizes innovation with inherent rights, forestalls abuse, and fosters sustainable digital development. The paper is convinced that proactive, coordinated effort at a world level is the only way that AI can become a force for human progress instead of a dispenser of inequality and control.

Keywords: artificial intelligence, regulation, legal frameworks, data protection, digital governance, ethical AI, human rights, accountability, transparency, European Union, United States, China, Canada.

1. Introduction

Artificial intelligence (AI) is a new milestone in modern technological progress. The number of scientific publications devoted to AI is growing rapidly: from 2019 to 2020, this figure increased by 34.5%, which significantly exceeds the growth from 2018 to 2019 (19.6%) [16]. Active implementation of AI-based technologies provides significant economic and social benefits, and also increases competitiveness in the global arena. Intelligent systems are already widely used in various areas of public life and are becoming an integral part of everyday human activity. At the same time, for most people, interaction with AI remains invisible, although the results of its work can directly affect human activity, and this impact is not always positive. The integration of AI into social processes gives rise to many new legal issues and problems that require the creation of fundamental legal principles and legislation that can protect human rights in the context of digitalization. These principles must be consistent with the constitutional and legal values of the modern state and take into account the challenges posed by the digitalization of public relations. The key task is to ensure that technological development does not occur at the expense of human rights and freedoms. The spread of artificial intelligence technologies has revolutionized industries ranging from healthcare to

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entertainment. However, the rapid development of AI has revealed significant gaps in legal regulation. These gaps have led to unregulated or fragmented legal responses that do not fully address the ethical, social, and economic aspects of AI.

II. The Current Situation in AI Regulation

Before discussing the regulation of artificial intelligence (AI), it is necessary to define the subject of regulation. However, defining artificial intelligence precisely is not an easy task. In recent years, as the topic has received widespread attention, many definitions have been proposed. Among the most relevant is the definition presented in the Communication of the European Commission of 25 April 2018 [6]. According to this document, artificial intelligence is defined as systems that exhibit intelligent behaviour by analysing the environment and taking actions with a certain degree of autonomy to achieve specific goals.

Article 3 of the draft European Regulation on Artificial Intelligence provides a descriptive definition of AI. According to this definition, an artificial intelligence system is software developed using one or more of the technologies and approaches listed in Annex I and capable, within the framework of human-defined objectives, of generating results such as content, predictions, recommendations or decisions that have an impact on the environment in which it interacts [7].

In any case, regardless of the definition used, it is important to consider the risk of anthropomorphizing artificial intelligence, which may arise, in particular, from its very definition. The term “intelligence” has a certain effect, forcing us to perceive AI as a kind of intelligent being. In this case, a metaphor is used: an AI application behaves as if it had intelligence. However, it is necessary to be clear about both the advantages and limitations of using metaphors, lest they begin to replace reality with their meaning. If this is not taken into account, the use of the term “intelligence” may imply the existence of subjectivity on the part of the AI application, thereby covertly influencing any considerations regarding its legal status. Thus, if artificial intelligence is considered “intelligent” on the basis that it achieves results that human intelligence could produce, then the object of regulation becomes extremely broad: any process can be considered intelligent and therefore subject to regulation [10].

III. Geopolitical Context of AI Regulation

As of December 2024, artificial intelligence (AI) regulation is actively evolving across jurisdictions, demonstrating diverse approaches to balancing innovation, ethical standards and social impact.

The USA

The United States is implementing a multi-layered approach to regulating AI, including federal initiatives and individual state laws. In October 2023, President Joe Biden signed Executive Order 14110, entitled “*Safe, Secure, and Responsible Development and Use of Artificial Intelligence*” [1]. The order aims to promote competition in the AI industry, protect civil liberties, and ensure national security. The document requires federal agencies to designate AI champions and develop guidelines for its implementation and it is classified as federal initiatives. As of November 11, 2023, at least six federal cases involved plaintiffs or defendants without counsel citing fictitious cases allegedly generated using AI. Some of them faced the threat of having their cases dismissed and being sanctioned. On April 9, 2024, the Missouri Court of Appeals for the

Eastern District of Missouri in *Cruz v. Karlen* fined an uncounseled plaintiff \$10,000 for filing a document with fictitious AI-generated case law citations [12]. By 2024, several U.S. states, as well as Puerto Rico, the Virgin Islands, and Washington, D.C., have proposed AI-related legislation. These are classified under individual state laws. In the United States, the American Bar Association (ABA) is the professional organization for attorneys that, among other things, develops Model Rules of Professional Conduct. Typically, attorneys licensed to practice in certain jurisdictions are regulated jointly by their state bar associations and the Supreme Courts of their respective states. Most states have adopted the ABA's Model Rules of Professional Conduct to some degree [2, p. 33].

California, Florida, and Michigan regulate artificial intelligence (AI) through their Bar Associations and various committees. On November 16, 2023, the California Bar Association's Committee on Professional Responsibility and Conduct (COPRAC) issued its first recommendations on attorneys' use of AI and the need for further action. COPRAC's recommendations include [2, p. 35]:

- Work with the Legislature and the California Supreme Court to clarify or amend laws and regulations to more clearly define the unauthorized practice of law.

- Work with the Legislature to determine whether generative AI products in the legal profession should be licensed or regulated, and how they should be implemented.

The Florida Bar Association issued an ethics opinion for attorneys on the use of generative AI, and the Michigan Bar Association issued an ethics opinion for judges on maintaining competency in technology, including AI.

Recently, on April 6, 2024, the New York State Bar Association (NYSBA) AI Working Group released a report and recommendations to NYSBA House Delegates.

California, Colorado, Florida, Kansas, Maine, Michigan, New Jersey, Utah, and Vermont are all regulating AI for lawyers or legal services or have explicit policies affecting either. The remaining 47 states appear not to explicitly regulate AI for lawyers or legal services, even though they may have committees or task forces reviewing the issue.

China

In 2023, China took place of 138th out of 142 countries in the category "*Civil justice is free from undue government influence.*" While the United States had one lawyer for every 300 citizens in 2019, China had only one lawyer for every 4,500. To compensate for this deficit, China is making heavy use of technology, including artificial intelligence. Despite China's leadership in integrating AI into the judicial system, its record on fundamental human rights and justice is highly questionable. Thus, while China can be seen as a leader in the use of technology and AI in judicial practice, the implementation of automated judicial decision-making requires careful analysis and caution [14, p. 116].

The Chinese model is a dirigiste system based on state capitalism. China is characterized by active regulation-making. In the field of data protection, it is worth noting the Personal Information Protection Law (PIPL), which came into effect on November 1, 2021, the Data Security Law (DSL), which came into effect on September 1, 2021, and the Cybersecurity Law (CSL), which came into effect on June 1, 2017. From a strategic perspective, the recent establishment of the Shanghai Data Exchange (SDE) aims to establish the so-called "Shanghai Model" of data trading [9, p. 61]. The aim of this model is to overcome the existing problems that hinder the circulation of data and position itself as a global benchmark for addressing the risks associated with legal uncertainty.

The European Union

The approach taken by European legislation to regulate artificial intelligence is a horizontal approach. The main limitation of this approach is that the rules are not intended to address specific problems or fill specific gaps in the legal system. Instead, they are intended to be applicable to all sectors, including health and finance. They are therefore not specific rules created to address a specific problem or legal obstacle, but rather general provisions that form a common framework. This framework serves as a guide for the functioning of artificial intelligence systems both now and in the future.

In a geopolitical context, the European Union's strategy aims to establish itself as a leader in the development of regulations and to ensure the adoption of the European model in other parts of the world, creating the so-called "Brussels effect" [3].

The European Union's goal is not to compete with China and the United States in technological production, but to establish rules and regulatory standards. The Memorandum sets out the task of asserting European "digital sovereignty", which has both an external dimension aimed at interaction with the other two global players and an internal impact on the EU member states. The strategy involves, on the one hand, creating a new model, and on the other, preventing fragmentation. This reaffirms the strategic intent of European legislators, the ultimate goal of which in this case is to create a single European digital market. Its regulatory framework is expressed in four key areas [4]:

- *Data protection*: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (commonly known as GDPR), and the use of data provided for in the Data Act, the Data Governance Act and the proposal for a regulation on the European Health Data Area.

- *Digital services and the digital market*: the Digital Services Act and the Digital Markets Act.

- *Digital identification*: Revision of the eIDAS Regulation 2014 concerning electronic identification means.

- *Artificial intelligence*: Proposal for regulation of AI.

This normative framework aims to protect not only fundamental rights, but also "European values", a term that is repeatedly mentioned in the draft. This emphasizes that the proposed model is not only normative, but also cultural. The aim is to show that it is not only about legal norms, but also about the culture that these norms reflect and promote.

Canada

According to Statistics Canada, nearly one in five Canadian provinces (18%) had experienced at least one serious problem or dispute from 2020 to 2023. However, most Canadians do not seek professional legal help for more than 80% of their legal issues [13].

The Federal Court of Canada requires all parties to litigation, including those acting without a lawyer, to inform the court and other parties if artificial intelligence was used to prepare a document filed with the court. This notice must be included in the first paragraph of the document [8].

The Manitoba Court of King's Bench also requires all parties to litigation to disclose the use of artificial intelligence and explain how it was used in their filings [5]. The Yukon Supreme Court has an identical policy [15].

The Federation of Law Societies of Canada is a coalition of 14 law societies in Canada, each responsible for regulating the practice of law in its province. In May 2024, Toronto lawyers told the International Bar Association (IBA) that, overall, the Canadian

Bar Association and provincial law societies have taken a relatively neutral stance on artificial intelligence (AI), playing a minimal role in regulating and monitoring it. However, some provinces are implementing innovative approaches to improve access to justice. They use “regulatory sandboxes” – special legal regimes that allow legal services to obtain exceptions to the rules of unauthorized legal practice when developing technical solutions. In addition, some provinces provide legal professionals with guides and recommendations on the use of generative AI [11].

Thus, despite the overall restrained approach to AI regulation, individual provinces in Canada are taking steps to integrate innovative technologies into the legal field, while providing appropriate guidance for professionals.

IV. Arguments and Recommendations

The rapid development of artificial intelligence (AI) has revealed significant gaps in existing legal frameworks, creating difficulties in regulating the ethical, legal and social aspects of the use of AI technologies. This argument is supported by a comparative analysis of regulatory approaches in leading jurisdictions: the United States, the European Union, Canada and China. The analysis shows that, despite steps being taken to address individual issues such as transparency, security and accountability, the lack of international consensus leads to fragmented and often contradictory regulatory practices.

Several key risks associated with this situation are highlighted:

- *Legal conflicts between jurisdictions*: Inconsistencies in national laws make it difficult to implement AI globally.

- *Ethical dilemmas*: Different priorities in regions (e.g. innovation in the US, ethics in the EU, government control in China) lead to uneven protection of human rights.

- *Barriers to innovation*: Over-regulation in some regions and under-regulation in others create uncertainty for AI developers and businesses.

To address these issues, the following recommendations are offered:

- *Adopt global standards for AI transparency and accountability*

- Develop internationally accepted guidelines for the creation and use of AI systems, with an emphasis on transparency in the use of data, algorithmic decision-making, and accountability for results.

- Encourage cooperation among international organizations such as the UN, the World Economic Forum, and regional groupings such as the EU and ASEAN in developing such standards.

- *Fostering public-private partnerships for ethical AI development*

- Collaboration between government, the private sector, and academia to balance innovation and ethical considerations.

- Developing shared resources, such as open databases and model evaluation tools, to ensure the robustness, fairness, and non-discriminatory nature of AI systems.

- *Creating regional regulatory sandboxes*

- Enabling countries to experiment with AI regulations in controlled settings, testing their impact before implementing them at scale.

- Sandboxes should protect consumer rights while maintaining flexibility for innovation.

- *Prioritizing education and awareness*

- Investing in public education to raise awareness of the opportunities and risks of AI, thereby facilitating informed public dialogue.

- Training policymakers and lawyers in the field of AI to enhance their competence in developing effective regulations.

- *Mitigating the risks of digital inequality*

- Incorporate digital divide bridging provisions into AI regulations to avoid widening socio-economic inequalities.

- Support disadvantaged regions in accessing and benefiting from AI technologies.

These recommendations aim to create a balanced legal framework that promotes the ethical development of AI, supports international cooperation, and addresses the risks of unregulated AI adoption. By synthesizing lessons from leading jurisdictions and proposing solutions, the author contributes to the growing debate on AI regulation in the 21st century.

V. Conclusion

Artificial intelligence (AI) is having a significant impact on various aspects of social and legal life on a global scale. The examples discussed show that AI regulation remains one of the most pressing issues for legal systems in different countries. Despite progress in some jurisdictions, approaches to AI regulation vary significantly, which creates both new opportunities and significant challenges.

The European Union, seeking to become a leader in legal regulation, has developed a horizontal approach aimed at creating a single framework for AI systems. This approach aims to protect both fundamental rights and European values. Examples such as the GDPR and the Digital Services and Markets Act demonstrate the EU's ambitious plans to create a single digital market. However, the European model faces difficulties in adapting to diverse economic sectors and rapidly changing technologies.

On the other hand, China uses a dirigiste model focused on state capitalism. This system places emphasis on strict data regulation through PIPL, DSL, and CSL laws, as well as the creation of innovative tools such as the Shanghai Data Exchange. However, the use of AI in the Chinese judicial system raises concerns due to the limited rights and freedoms of citizens, making this model a dystopian example for democratic states.

In the United States, the approach to AI regulation is more decentralized, leading to the emergence of many federal and regional initiatives. For example, the Federal Court of Canada and individual state courts require disclosure of information about the use of AI in legal documents. This demonstrates the importance of transparency in the use of new technologies. At the same time, the Canadian Bar Association and provincial law societies take a cautious stance, preferring minimal intervention in AI regulation, although some provinces are implementing sandboxes and providing guidelines for professionals.

Among the main challenges in regulating AI are the problems of anthropomorphization of technologies, the use of fictional data and metaphors that can influence the perception of technologies. For example, cases in Canada and the US where litigants used false data generated by AI highlight the need for clear rules and accountability when using such technologies.

These examples highlight the need for a global approach to AI regulation. This approach should take into account the following key aspects:

- Developing international standards for transparency and accountability.
- Cooperation between governments and the private sector.
- Supporting research to minimize the risks of digital inequality.
- Education and awareness-raising among lawyers and the public.

The development of AI technologies requires not only the adaptation of existing

legal norms, but also the creation of new ones that meet the challenges of the digital age. Regulatory systems must ensure a balance between innovation and the protection of human rights, so that AI becomes a tool for improving lives rather than a tool for control. Europe, China, and North America offer different approaches, each of which can contribute to the formation of a global strategy for AI regulation. The main challenge is to create a legal framework that simultaneously ensures innovation and the protection of fundamental rights.

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