CREDIBILITY AND LEGITIMACY STANDARDS FOR AI REALMS IN INTERNATIONAL LAW – AN IHRL APPROACH

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Abstract- Legitimacy and credibility have been consonant and synonymous in considerable activity and representation in case of technological components and their legal instrumentations duly considered. With the unprecedented rise of AI realms and their private international recognition, there exists a paucity of discovery over the applied responsibility of the relevant cogence that international law must permissively attain from it. Its subsidiary, international human rights law – considers the recognized evolution of human interaction and precedented relevance in the realms of human approach and their arisen dimensions. The AI models can be better conceptualized if we revisit and formulate considerations for it with IHRL as the concept of civil liberty and state responsibility, making up IHRL was based on the English origins of tort law. Since, Artificial Intelligence has begun into an evolved and possessive structure of reception of human cognition and interests and it is becoming a utilitarian development in the demographic and geopolitical anticipation of perception and self-determination as observable in the case of a political reception and manipulation as observed in the case of Cambridge Analytica and Facebook and the monopolistic policies of cyber institutions via a pursuit of machine learning initiatives puts the legal cyber instrumentations into a role to play, where however, the natural prerogative of data and AI realms with respect to the self-determination of humans is not settled. This paper concludes to introduce the legal implications that an AI realm may pursue to adopt and certain credibility and legitimacy standards, which can be neutral and conserved for a free and fair use of Artificial Intelligence in pursuance of IHRL for international law.

Index Terms— Artificial Intelligence, International Law, International Legitimacy, International Human Rights Law.

I. INTRODUCTION

Artificial Intelligence, as considered by Elon Musk, the founder of SpaceX and Tesla, is highly likely 'a threat to people', is a realm concerned with the self-evolution and perceptibility of information, where there exists legitimacy and credibility standards, with the general and optimal adherence of law. According to Bostrom, the clear feasibility of biological augmentation should upsurge our confidence that machine intelligence is eventually doable since greater human scientists and engineers will be in ability to foster more and faster progress than their au naturel counterparts [1, p. 62]. With Law, there has been considerably a league to put an effort to establish a due credibility and legitimate standard, which is obviously not an easy effort to comprehend and model legal argument, a bedrock of an all-encompassing goal to recognize and sculpt legal reasoning [2, p. 1957]. for the due credible establishment of AI instrumentations, the systems using AI require liberty of utility towards an approach to dynamize the perception, recognition and due utility of law. In terminological sense, we may have differences over the definitive and theoretical aspects of what law actually means. The case is same for international human rights law, where we need to understand that credibility is not a concrete institution of absolute reliance itself, because we need to mend our own capacities and needs, which in the end make up the due recognition of what actually law should do. While IHRL is instrumented towards a liberal recognition of human rights and liberties with the slightest receptivity towards providing a space for human act to be reconsidered and reanalysed for due recognition, it really deems fit that we actually put forward our steps towards a due recognition of Artificial Intelligence basics in this sui generis pursuance. It may deem fit for a propositional consideration that a system is in the verge of adapting with a collective intelligence in case of the precarious turbulence that the flow of law can actually provide even if it seems to be silent, where the collective intelligence could be improved by mounting the number or the quality of its component intelligences, or by refining the attribute of their organization [1, p. 66]. In addition, even if this organization supposedly is inept enough to be proactive and diligently working, it may fail to take proper precautions against existential risks, which implies that the due temptation that actually makes it a failure sometimes, must be duly resolved and considered open for improvements with considerable instrumental values. Thus, if we start with IHRL for due liberalization and connective synergy of AI and international law, then we can be a little sure and considerably successful in dualizing self-determination and their complement representations.

II. THE TENETS OF LEGAL REASONING IN INTERNATIONAL LAW REENGINEERED

Legal reasoning is poly-modal, rich and speckled and it manifests an umbrella of due reasoning with limited

objective exposure to cases, rules, statute laws and principles, with certain exceptions as in case we are considering international law. While cases – at least in case of international law – where they do not represent stare decisis, have an explicit and applicative observation and due declaratory consideration. However, this does not entail any completed aspect per se for a model instrument to conclude upon. There exists a stigma of specialized legal knowledge based on scholarly, judicial, executive and legislative data (not limited to democratic institutions, but now extended to a relativity between international law and municipal law). Moreover, the law is perfected and recognized as being duly 'self-aware and self-critical' and is attempted as a merger with a due ability inserted and replenished to be open to real-time assumptions and observations. For pragmatic constitutionality, it would be fit enough that the pure theories of jurisprudential schools must be an optimal and least approachable tenets of legal reasoning unless the AI finds capable enough to reconsider with a considerable acceptance of due consonance with the assumed aspect of rule of law and its due applicative constraints. This might seem to be akin to the conceptual deliberations on tort jurisprudence but revisiting human rights with the original elements of legal character and institutions in law (particularly international law via IHRL) can be a suitable step.

The dynamic aspect of credibility in law depends upon the nature of observant reliance over any source of law, be it a norm, a customary recognition, a case law or an advisory opinion or any statutory immunity. The information used in legal reasoning is miscellaneous, fluctuating from mutual sense to 'specialized legal knowledge', and it diverges significantly in erection appeal, and practice. Thus, the attributive convergence of legal kinematics and mechanics must be deemed with appropriate principles and applicative tools that AI learns and develops to move forward for a sui generis approach and observation in this field as a pragmatic utility.

III. THE APPROACHABLE REALITY OF RELATIVITY IN INTERNATIONAL LAW WITH MUNICIPAL LAW IN INSTRUMENTATION FOR AI AND ITS DUE ANOMALIES

Accordingly, as far as Hans Kelsen is concerned, monism in international law is based upon a scientific establishment, when international and national law are a part of the same system of norms in availing of their validity and content by an intellectual manoeuvre involving the postulation of a single basic norm or a Grundnorm [3, p. 49]. Even the systems of international law and municipal law are consonant in application and presence cum resemblance at the same time, which in the end, represents the suo moto positive attribution to present a solvable resilience in the legal systems at a specific and exclusive level compared to that one, which represents an entirely of an exhaustive one [4, pp. 363-366]. Thus, the basic reality of international law out of a monistic figurine is actually based on a considerable automation of representation and recognition to further the automation.

An illustrative example can be taken from the Alabama Claims [5] Arbitration, where the US recovers damage from Great Britain on the account of violation of neutrality obligations. The Tribunal stated that Great Britain in this case has failed, by due omission, to fulfil the obligations given in the first and the third of the rules established by the Article 6 of the Treaty of Washington [5, p. 131] where to recourse to procedures suitable to avoid the violation of the neutrality was not duly acted irrespective of warnings by the U.S. The nature of the case signifies the pretext towards the implanting aspects of the Article 3 of the ARSIWA [6]. Even in Free Zones [7], the reliance of self-legislation of a state cannot be considered to limit the scope of international obligations, which gives the basic suo moto consideration over a credible understanding and development of international law, with the clearer justification in Permanent Court [8], where the Constitution of a state cannot be adduced against another state to evade the obligations incumbent upon the state under international law. This systemizes an important aspect that international law is committed upon a due pursuance to maintain that law cannot be an argument but a fact, as iterated in Certain German Interests in Polish Upper Silesia [9], where there is ascertained transnational derivative of clear differentiation of being the law as a fact only. Thus, in case of national jurisprudence in comparison with international legal instruments [10], we can affirm that this primary consideration for AI systems concerned with the due recognition of law at a monistic model, wherever its modalities are clearly manifested. The relativity we needed to infer from this portion in the paper has these important points for consideration: -

1. Even if in international law, there exists such a deemed recognition, it is by the virtue of pragmatic demarcations of international law and national law, the basic realm arisen is – law at a national level remains as an untouched, unargued and not evading to the system of international law. This is the prima facie consideration, which can rebuild a better credibility principle for AI systems when it would be required to make AI systems primarily solider to be in the usual legal reception of a field like international law [11];
2. This also prepares the causal legitimacy of why we duly require a separate matter of recognition principles in international law via IHRL for AI systems. The reason is that due legitimacy and credibility in international legal recognition is

actually not limited and sufficient to a logic/syllogism/algorithm-based approach for inventing and evolving a legal instrumental activity in AI. Thus, vide the credibility and legitimacy standards, this paper relies on hypothetical but clear and real standards that actually form up better considerations for AI though the paper does not claim to be an entirety but intends to put forward a sui generis consideration over generic activity measurable. The constituent principles in pursuance to IHRL shall be discussed in the further portions of the paper.

IV. REASONS WHY A TORT LAW-LIKE APPROACH IS DEEMED FIT TO INHERIT CREDIBILITY AND LEGITIMACY STANDARDS

The deemed nature of tort law, even if was based on reality of approach and considerable realism of its four essential elements - reasonability, foreseeability, actionability and ethical subjectivity [12, p. 54], it is an imperative amount of importance is needed to develop AI recognition to international law as it has sought forward. The development of tort law led to the conceptual development of the concepts of civil liberty, toxic torts, mass liability, etc., where there is a discernible understanding of how this can be possible in a likelihood, an analogy.

1. Tort law is capable of determining the dynamic aspect of ethics and so does it is required to attain legitimacy dynamics [13] (Also see Madras R. Co. v. Semindar of Carvatenagarum, L. R. 1 Indian App. Cases 364 (1874); Pittsburgh, etc. R. Co. v. Brown, 67 Ind. 45, 33 Am. Rep. 73 (1879)) with an enlightened configuration of suo moto solvability; with regards, the IHRL approach in consonance [14, p. 28] the understandability shall be discussed in the next portions.
2. It is capable of determining the limits of sovereignty and self-determination in the true positive law sense as it had and the same sense does IHRL does maintain when it recognizes.

These two points indicate a prerogative of understandability, where it is concerning to provide a framework of understanding towards a sui generis application. Let us understand it a little wider from the concept of foreseeability. According to Harper, the idea of danger or threat is comprehended in the view of foresight in the sense of the prospect of harm resulting vide conduct and experience recommends the hazard happening to certain commotion [15, p. 468]. The real distinction of foreseeability in a reasonable aspect exists between the privilege for the real incursion of due interest and the privilege to intrude in the conduct which creates a hazard, that occurs between consent and intended supposition of risk [15, p. 469]. It is akin what Thomas Burri stated that when the law is widespread, condensed, standardized, and designed and comprises of some distinct groups of variables, it advances itself to the submission of machine learning [16]. Thus, in a generality of due understanding, the developmental approach that tort law can teach us as far as its contribution to civil liberty and human rights is as tenable in case of international law to put forward for due consideration per se via the recognition approach of IHRL. The next section of the paper shall deal with this specific aspect.

V. THE RECOGNITION APPROACH OF IHRL TO AI AND ITS BASIC POSTULATES/PRINCIPLES AND ITS DUE NEED

It is frequently noted that contemporary human rights treatise is majorly a colloquy of international law [17, p. 1046]. Works done by scholars on human rights also recognizes a predominating de jure method, as proved by numerous surveys of the human rights literature and curriculum at the university [18]. With the rise of many scopes of human rights such as the political, cultural, economic, structural, and social frontiers, which are under due frequent acknowledgement by the international community, the due legal method remains under support. If really the incumbent human rights realms seem to fail in its resolve, the typical rejoinder is to elucidate those generic legal rules by conscripting additional international law, rather than to interrogate the competence of the leading legal approach or the norms and principles that international law is supposed to treasure [19, p. 415]. However, the due realm of justification for bestowing the preferment and fortification of human rights as a legal treatise has fascinated diminutive remark [20, p. 349]. Thus, as Evans proposed [19, p. 1049] the consideration of the wider expression of the term ‘discourse’ in relation with international law, he had specified it clearly that it represents the due promotion of definite groups of thought and perceptible credence of faith that direct our retort to the usual societal milieu. In this sense, ‘discourses’ do offer a credible edifice to our involvements and to the connotations we stretch and connect with our due realities. Hence, here are some basic principles or postulates pertaining to the pace of approach that IHRL can provide -

1. Artificial Intelligence with machine learning (being one of its due components and types) and others, is not taken in its due inherent sense in international cyber law under material obligations unless its inherent nature is found capable by legal attribution and recognition of a connective ‘rule of law’ of international law, which must be duly adjudged and considered per se, where there is an existing instrument for the due purpose.

2. That AI is based upon not under the recognition of cyber operations in its sense of erga omnes [21], and jus cogens [22] yet, with a reserved pursuance that unless the nature of the utility of Artificial Intelligence is involved with cyber warfare or an internationally wrongful act (See, e.g., Kenneth P. Yeager v. The Islamic Republic of Iran, IRAN-U.S. C.T.R. Volume 17, at pp. 101–102 (1987)), it shall not come in the referential conduct of Lex specialis as per the due considerations submitted in Tallinn Manual 2.0 on the International Law Applicable to Cyber Operations [23] with respect to the Rule 34.

3. However, the due limitation with this regard does not entail a state from the abstinence of the considerations not covering the due inherent attribute of AI realms as in the paragraph 2 of the Rule with reference to the literature of the Rule 36 [24, pp. 207-208].

4. Even the due observance of customary human rights regimes is concerned, is not duly taken in that corroborative purview as may be required for Artificial Intelligence.

5. The consideration towards a legit liability concern of state in case of any intervening interaction of AI realms can be recognized as a material act under international cyber law and thus, Rule 36 then can be taken into pursuance with regards the removal of the due limitations as asserted before.

6. The scope of IHRL for AI is paved and though limited to customary international human rights, international human rights and the participatory, recognizing and interacting activity that AI realm receives and responds with additional recognition of the medium constituents between the reception and response activities, with a general reliance of observance as of now – for primary considerations to foster the development of AI to international law.

7. The practical objection of AI recognition via any tenable means of activity or due recognition attributed to the criterion of customary international law shall be subjected to adjudication of the observant considerations deemed to constitute a pragmatic objection.

8. Transnational representation of AI realms shall be taken in material sense; which means that at this level and observance cum activity under permissibility – the obligations of international law applicable to cyber operations attributed to space are deemed to be effective and considerable. The tenability of the due discourse cannot be challenged and AI in its inherent sense shall be challenged pursuant to the further principles.

9. The inherent nature of AI, as far as the consequential limitations of rule of Lex specialis & international legal instruments sine die are concerned, with respect to human beings in pursuance to IHRL and other acts or implications relative to cyber operations, shall be noticed with respect to the untenable grounds of IHRL (except when the material aspect forms the due component towards a clear cyber warfare or a violation/derogation of international cyber law) and IHL.

10. The challenge and due question of analysis and review of the inherent instrumentation of AI realms, which means its cognition and self-developmental activities shall also be taken into a causal attribution, duly ascertaining the modalities responsible for the violation of international law and any pursuant progression-based violation of IHRL without any existence of this case as being exhaustive.

11. The self-evolution and development of AI realms shall not be recognized as a case to violate the instruments and principles of IHRL and international law in accordance with the obligation of the UDHR concerned with the Rule 37 of the Tallinn Manual [23, pp. 201-203].

These important principles are not absolute – as we require a due change in the automating aspect of Artificial Intelligence for its due conglomeration in international law. There are certain other criteria that make up these principles and their considerations, which implicate the due need of an IHRL approach to recognize AI limits and legal ambit with the due observance of the same.

As the Rule 37 of the Manual as mentioned in Principle 11 duly states, it infers that the obligations concerned to the respect and protection of international human rights with certain exceptions of absolute rights, shall remain subjected to certain restrictions tenable for the achievement of a legit genuine purpose, being unprejudiced and authorized by law. However, the scope as enumerated and exemplified in the paragraph 2 of the same rule must be adjudged and considered with due matter of aspect. In accordance with the Rule 36 of the Manual, this is exemplified that access to electronic data must be based on a sui generis due recognized limitation to the right of privacy. However, this due recognition must be extended to AI realms in general because it formulates an active observance and intervention in the activity and liberty of the AI realms based on the nature of AI system functioning and working out. This should be the Grundnorm concerned with the subjection of AI to international law via the capillaries of international human rights law.

Prior more than 40 years, computer geniuses & engineers started the development of algorithms enthused by natural fruition [25], where it was affirmable that AI shall arise as a different progeny-like, human-perceiving, human-akin but not human realm. Biology is achieving incessant advancement in the portrayal of the mechanisms that create living beings and of the conducts in which those mechanisms endeavour collectively [26, p. 2] However, the eventual clarification is to be initiated in the theory of natural evolution. The property of

analogous process and the considerable sensitivity (of cells) to ecologically cogent signals certify the bequest of the progressive course with notable traits of heftiness to trepidations happening during the development and with a sure gradation of malleability to the ecological circumstances that are throughout the growth. [26, p. 4] A progressive real representation delivers the likelihood of defining a stable and concrete account of possibly very multifaceted constructions, which, in case of AI if is taken in the proliferated efforts of development of concern, provides an epitome of due consideration over this due setup, where human manifestation is nearly mimicked, received and understood. This is a clear, direct/indirect but inherent approach to intervene into the due privacy of an individual, which is being tried by the efforts of machine learning (for example). However, the basic understanding we require is this – the intervening capacity and capability with the vision of deep intervention is a major positive attribute of AI, which must not be ignored by international law. Beyond state responsibility and treaty law, this major aspect, unless is clearer for a codified or agreed regulation for the development of international humanitarian law – is a due necessity for to be taken into due consideration and international human rights law is possibly the best approach to take into due consideration. There is no generic convention or covenant or declaration, which is dynamic and that clear enough to represent the inherent dynamism of AI for its due safer and humanitarian development. Even the relativity among right and constraint and amid norm and exemption must not be upturned [27, pp. 5, para. 21], which essentially creates a due sense of concerned recognition of AI realms as required. In due applicative aspect, for example – Sensory input alike GPS is suitable to an upsurge to the self-sufficiency of an automata, although the automata itself noticeably must be pre-involuntary in order to hold a grip of due sensual input and pave through its conduct accordingly [28, p. 347]. But the machinists' opinion deals some automata acting upon sensual input as generally as a more independent one, and differentiates them from those automata, which are just pre-programmed and receive nope or very inadequate corporeal input. [28, p. 347] Thus, AI realms are not either limited and arguably not that untenable enough to be ignored per se. Historically, when one first thought of robotics, it was primarily realised as diminutive trundled object that just behaves normally [29] to mind which shall not be a due limitation after unprecedented efforts committed and put forward [30]. One might safely settle that, in time, automata of adequate dimensions should also relish human rights and even to its absolute extent [31] or perhaps a metal construct that seems as what we say like a humanoid [32] [33] [34]. Thus, the active responsibility of a state or a non-state actor shall be arrived easily via this approach.

VI. THE GEOPOLITICAL ANTICIPATION OF PERCEPTION AND SELF-DETERMINATION IN INTERNATIONAL LAW VIA AI REALMS

The due case of geopolitical delicacy has been considered by the institutions of international law, with due consideration over the solvable aspect of a violation of the privacy and liberties of individuals in case of cyber realms – whether has it been discovered by a state-sponsored or cyber-attack by Russian hackers in Estonia [35] and Georgia [36], or the recent Cambridge Analytica scandal. There is an important aspect regarding the utility of AI tools and the limitations regarding the respective realms. This is ascertainable that companies such as Google, Amazon and Facebook are involved with an extensive use of extensive data and its analytical persistence with machine learning.

Zeynep Tufekci, a TED speaker and a techno-sociologist, in one of her talks on the dystopia that Artificial Intelligence can bring in, which we often consider as far distant and exemplify it as just by the observation of repeated ads and their clung brands, like Amazon, Google, Facebook, Alibaba and many other AI tech-dependent business, which actually uses human reception and needs to empower their business interests and perhaps, to monopolize and affect public thought at a greater and much worse extent. She stated about the due disparities regarding Artificial Intelligence as a utility – as a potentially concerned attribute:

[Though] persuading architectures can be constructed at the scale of billions and they can target, infer, understand and be deployed at individuals one by one by figuring out your weaknesses, and they can be sent to everyone's phone private screen, so it's not visible to us. And that's different. And that's just one of the basic things that artificial intelligence can [do]… Imagine what a state can do with the immense amount of data it has on its citizens. China is already using face detection technology to identify and arrest people. And here's the tragedy: we're building this infrastructure of surveillance authoritarianism merely to get people to click on [ads]… [So] Facebook's market capitalization is approaching half a trillion dollars. It's because it works great as a persuasion architecture. But the structure of that architecture is the same whether you're selling shoes or whether you're selling politics. The algorithms do not know the difference. [37].

In 2016, the manager of Donald Trump for social media revealed that Facebook dark posts were used to 'demobilize people' to persuade them to avoid voting at all for which, they targeted specifically, according to Tufekci [37]. This case is of a prima facie point of

due consideration and even where big data is used to create a due machine intelligence for training purposes, it is essential when it is significant to make AI not subjected to human subjection and authoritarian surveying control as it happens in the case of Facebook. [38]

Even in 2011, nearly 83% of the 500 companies recognized by Fortune were involved with involved with some formulations of social media to interact with consumers [39]. Statistics demonstrate that social networking site has 82% of the internet operators globally more than 15 years old to segment ideas and views about brands or products [40, p. 414]. In vicinity of the rising connected communication realms under the stimulus of internet, vividly cumulative customers are cataloguing in social network sites to segment their likes and dislikes as an outcome that regulars trail manufacture of gratified or empirical goals [40, p. 415]. Mass media has quickly gone in a transition to social media, which has fetched enormous vicissitudes to organizations with the assessment and opinion of online advertising diagnostic with the narrow of geo-population-based sections [41]. Tufekci thus has duly emphasized on this suo moto aspect and has clearly emphasised on an ethical responsibility on humans and legal instruments for a sui generis control of transnational interventions. She said in another TED talk:

[We] need to cultivate algorithm suspicion, scrutiny and investigation. We need to make sure we have algorithmic accountability, auditing and meaningful transparency. We need to accept that bringing math and computation to messy, value-laden human affairs does not bring objectivity; rather, the complexity of human affairs invades the algorithms. Yes, we can and we should use computation to help us make better decisions. But we have to own up to our moral responsibility to judgment, and use algorithms within that framework, not as a means to abdicate and outsource our responsibilities to one another as human to human[41].

The work of law here in this dynamic case is beyond legal formalism, but towards a wider and diluted observation. If a generic responsibility to social media and internet-amicable structures from business giants is quite important to not just deter but determine, there must exist a regulation over the inherent aspect of AI, where since, data is being exposed to enormous possibilities for intervening standards and fulcrums with no gate to end and no door to close, as future is indeed appealing, we need just a cogent recognition of AI via a human rights recognition, because now, human interaction in the observance for reality and vision perspectives in IHRL is much effective and responsible for many private power gains. There is no direct utility of self-determination as in UDHR or ICCPR or ICESCR or any other IHRL legal instrument, but Artificial Intelligence on the verge is becoming an important worth and mutuality of reality being revisited and reconsidered per se. Thus, for giants like Alibaba, Tencent, MakeMyTrip, Facebook, GoIbibo, Google, Facebook, Twitter, YouTube (obviously a part of Google) and many others like Symantec, it is important that data recognition is taken into a serious consequence as for not only a due case of machine intelligence but to also consider over state sovereignty being maintained with the furtherance of an extreme reconsideration over social responsibility. Big data cannot be controlled so easily, where even international cyber law is capable enough, it deems much fit that it is beyond the material aspects of big data and the segregating relativity of an artificially intellectual realm.

CONCLUSIONS

International law, when considers regulatory aspects in case of artificial intelligence utility, it might get a competence via cyber Lex specialis and international cyber law regimes, but in the end, it actually requires the pursuance of human rights to make the backlash concerning the inherent attributes of artificial intelligence resolved to preserve human liberty cum privacy and state sovereignty and privacy (with an endurance of R2P or the Responsibility to Protect) in accordance with international law. In the end, we require just a dynamic prerequisite to understand how many possible dimensions of recognition future can encompass for law to realize the sooner. So, as the law does it, the better it becomes.

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[11] This conclusion is indeed based on how AI realms need a suo moto way of cogent recognition other than a normal recognition in national law at a national level because here the presumed objective of an AI realm is to prepared and to be prepared to neutralize human receptivity and its utility mechanisms. Even

though this question can be dealt in the case of algorithm structure and international legal cyber obligations, this is considerable that international legal cyber obligations are primarily based on cyber operations and the ambit of international law to act upon it, where a material utility of a system is only governed and not the inherent utility in case of AI realms when it comes to usher the formalization of general recognition motives that must be attributed to an AI other than the basic principles of international law.

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