
Toward an International Law of Just AI Development

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AI-driven technology is becoming an integral part of our daily lives, spanning from smart home devices to social media platforms. However, the uneven distribution of AI technologies could result in a scenario where certain groups exert dominance over the direction of AI development. The consequences of inequality in AI evolution could further exacerbate existing economic gaps by concentrating benefits among a privileged few with access to advanced AI technologies. To address this question, international communities should come forward and regulate the just development of AI with new and existing international laws. Although the existing international legal frameworks can be adapted to address AI-specific issues without the need for entirely new laws, however, the novel challenges presented by AI require unique and new international laws. Issues such as data sovereignty, data privacy, and data localization are areas where international laws and agreements need to evolve to accommodate the just development of AI.

Keywords

Justice, AI, Artificial Intelligence, International Law, Equality, Governance

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I. Introduction

The notion of justice traces its origins to the time when humans started living together and forming societies.¹ Individuals sought a concept or framework that catered to their needs with 'justice,' which strives to establish fairness and diminish instances of unfairness, injustice, or inequality.² This stands as one of the earliest political ideals championed by reformers, sparking numerous social movements.³ Tackling inequality represents the core challenge that justice grapples with.⁴ The prevalence of inequality across diverse aspects of social life has motivated world orders to undergo a shift, integrating justice as an essential element of international law.⁵

Recent rise of generative Artificial Intelligence (AI) highlights the potential to contribute to ongoing inequality.⁶ Uneven distribution of generative AI capabilities, however, could result in a scenario where certain groups exert dominance over the direction of AI development. The consequences of inequality in AI evolution could further exacerbate existing economic gaps by concentrating benefits among a privileged few with access to advanced AI technologies. This trajectory might lead to job displacement in certain sectors while creating new high-skilled positions in AI-related fields, thereby widening income disparities. Conversely, unequal access to AI resources could give rise to a "digital divide," separating those with access to AI-driven tools and knowledge from those without it.⁷ For the sake of illustration, let me refer to this phenomenon as the "AI divide." Such division could impede educational and economic opportunities for marginalized communities and less developed regions.

Furthermore, AI has the potential to reinforce current power imbalances and

¹ R. Karim, Unveiling the Imperative of Distributive Justice in Science, Technology, and Development: A Legal Analysis, in *REVOLUTIONARY APPROACH TO INTERNATIONAL LAW* 81-99 (E.Y.J. Lee ed., 2023). See also N. Frohlich, A Very Short History of Distributive Justice, 20 *SOC. JUS. RES.* 250-62 (2007).

² H.T. Reis, *The Multidimensionality of Justice*, in *THE SENSE OF INJUSTICE: SOCIAL PSYCHOLOGICAL PERSPECTIVES* 25-61 (R. Folger ed., 1984).

³ T. R. Tyler, *Justice in the political arena*, in Forger, *id.* at 189-225.

⁴ The theme of inequalities and justice is proposed as an inclusive intellectual framework that captures a variety of issues concerning differences in society. See Cynthia Yue, *Equality and Justice: History and Ideals*, *Equal Justice Law* (Jan. 4, 2019), <https://equaljusticeunderlaw.org/thejusticereport/2018/8/29/equality-and-justice-history-and-ideals>.

⁵ *Id.*

⁶ W. M. Lim, et al., *Generative AI and the future of education: Ragnarök or reformation? A paradoxical perspective from management educators*, 21 *INT'L. J. MGMT. EDU.* 100790 (2023).

⁷ I. Kitsara, *Artificial intelligence and the digital divide: From an innovation perspective*, in *PLATFORMS AND ARTIFICIAL INTELLIGENCE: THE NEXT GENERATION OF COMPETENCES* 245-65 (A. Bounfour ed., 2022).

establish new ones. Entities and nations with advanced AI capabilities could exert considerable influence across multiple domains, including military operations, geopolitics, and economic negotiations, possibly leading to geopolitical tensions.⁸ If AI systems are deployed without adequate attention to fairness and inclusivity, they may perpetuate biases present in training data. This could bring biased outcomes, disproportionately affecting marginalized groups.⁹ These challenges also intensify ethical concerns, spanning privacy issues, surveillance, and AI-based decision-making. Such dilemmas can impact personal freedoms, civil liberties, and the overall ethical fabric of society.

While the concept of inequality can be recognized from social, political, and economic viewpoints, this article's primary focus is on disparities within AI advancements and their intersection with the notion of justice in international law. The repercussions stemming from inequality in AI progress have significant and far-reaching implications for the future world. These consequences possess the potential to impact various aspects of society, including economics, social dynamics, ethics, and even political stability. To address these consequences, proactive efforts from governments, industry stakeholders, and the international community are essential. Policies and initiatives designed to promote inclusive AI development, responsible AI practices, educational opportunities, and equitable AI access play a critical role in mitigating the negative effects of AI-driven inequality on the world's future. From a legal scholar's standpoint, the role of the existing international legal framework in ensuring just access to AI systems is of particular interest.

This article aims to provide an extensive analysis of international laws relevant to just-AI development and employ this analysis to lay the groundwork for an "international AI law." While no international document explicitly guarantees a just development of AI itself, there is explicit protection for technologies that enable connectivity and information access within these documents. The principles distilled from these international texts offer vital normative guidance for ongoing discussions about individual rights within the context of AI, and how AI can be utilized for creating a just-world.

⁸ L. Alexandre & N. Mialhe, *The Geopolitics of AI and Robotics. Interview of Laurent Alexandre by Nicolas Mialhe*, FIELD ACT. SCI. REP. 84-7 (2017).

⁹ AI systems learn from large datasets. If these datasets contain biases, the AI system will learn and reinforce those biases. In fact, the algorithms used in AI systems can inadvertently amplify existing biases. This can happen when algorithms assign different weights to certain features or attributes, inadvertently favoring or discriminating against specific groups. Additionally, when biased outcomes occur, it can be challenging to hold AI developers or organizations accountable. This lack of accountability can perpetuate the cycle of bias, as there may be no incentive to address and rectify the issues. See H. Thinyane, & F. Sasseti, *Towards a Human Rights-based Approach to AI: Case study of apprise*, in INTERNATIONAL DEVELOPMENT INFORMATICS ASSOCIATION CONFERENCE PROC. 33-47 (2020).

II. Just Development of AI: A Theoretical Contribution

Numerous movements and advocates have strived to rectify injustices within an imperfect system.¹⁰ However, these concepts often focus on societal concerns, inadvertently side-lining broader perspectives encompassing global diplomacy, international legal structures, and state ethics.¹¹ The substantial economic disparity between developed and developing nations underscores the urgency of immediate intervention, as postponing such action could further deepen the gap between the affluent and the less advantaged.¹² Nevertheless, it remains crucial to address the fundamental factors contributing to this economic inequality.

In the current digital era, significant challenges arise in achieving meaningful denationalization due to the influence of globalization.¹³ Surprisingly, the awareness among world leaders regarding this matter seems to be limited.¹⁴ While globalization certainly brings about numerous benefits, it also magnifies a pressing issue - inequality - that has grown more acute over the years.¹⁵ To be more equal, a multitude of global initiatives have been launched, particularly in a broader context.¹⁶ International agreements have been put in place to steer the efforts toward resolving these concerns, resulting in a range of proposed solutions.¹⁷ Nonetheless, all of these

¹⁰ Y. Shavit & K. Westerbeek, *Reforms, Expansion, and Equality of Opportunity*, 14 EUR. SOC. REV. 33-47 (1998).

¹¹ D. Crocker, *Transitional justice and international civil society: toward a normative framework*, 5 CONSTELLATIONS 492–517 (1998).

¹² For example, according to research by Action Aid, hunger might be costing under-developed and developing countries USD 11 billion annually in the coming days, and the so-called international organizations have failed so far to find an equitable solution to that. The most horrific fact is that the developed world has not yet taken this into account to address. See *Ending world hunger is within reach: study finds it will cost only USD 11 billion more a year*, IISD PRESS RELEASE (Oct. 16, 2016), <https://www.iisd.org/articles/press-release/ending-world-hunger-within-reach-study-finds-it-will-cost-only-usd-11>. They do not feel that the African or Asian problem is not their problem, but the American or European problems are the world's problems. Similar connotation is drawn by the External Affairs Minister of India S. Jaishankar at the Howard University Founders Library in Washington. See Sourav Roy Barman, *Europe has to grow out of mindset that its problems are world's problems: Jaishankar*, IND. EXPRESS (June 4, 2022), <https://indianexpress.com/article/india/europe-has-to-grow-out-of-mindset-that-its-problems-are-worlds-problems-jaishankar-7951895>.

¹³ J. Mandel, *Globalization and justice*, 570 ANN. AM. ACAD. POL. SOC. SCI. 26-139 (2000).

¹⁴ A. Allen-Handy, S.L. Thomas-El & K.K. Sung, *Urban youth scholars: cultivating critical global leadership development through youth-led justice-oriented research*, 53 URBAN REV. 264 (2021).

¹⁵ H.S. Huh & C.Y. Park, *A new index of globalisation: measuring impacts of integration on economic growth and income inequality*, 44 WORLD ECON. 409-43 (2021).

¹⁶ *Id.*

¹⁷ J. Bohman, *International regimes and democratic governance: political equality and influence in global institutions*, 75 INT'L AFF. 499–513 (1999). See also D. Druckman & C. Albin, *Distributive justice and the durability of peace agreements*, 37 REV. INT'L STUD. 1137–68 (2011).

concepts and remedies warrant a thorough theoretical examination and a more profound exploration that goes beyond the immediate realm of international politics.

The era of digitization has played a significant role in hastening the process of globalization, prompting the necessity to scrutinize the multidisciplinary realm of science and technology through an ethical lens.¹⁸ This principle equally extends to the progression of AI. In the absence of engaging in philosophical discussions, the forthcoming domain of AI remains mysterious. Ethical considerations enshroud AI, materializing as inquiries into human-AI interactions. The prioritization of interests within AI contexts requires the establishment of a moral framework for AI utilization. Particularly vital is the exploration of the fundamental dimensions within the discourse of AI and justice – encompassing both its evaluative and normative facets. This approach empowers AI policymakers not solely to identify instances of injustice but to formulate guidance on addressing them. Table 1 attempts to identify the evaluative and normative questions of AI justice to understand a variety of dimensions within the realm of ethical AI development.

Table 1: The questions of evaluative and normative contributions of AI justice¹⁹

| Tenets | Evaluative | Normative |
|-----------------------|---------------------------|---------------------------|
| Distributional | Where are the injustices? | How should we solve them? |
| Procedural | Is there fair process? | Which new processes? |
| Recognition | Who is ignored? | How should we recognise? |

The ‘fairness’ in AI is encapsulated within three fundamental principles: distributional justice, procedural justice, and recognition justice. Collectively, these principles encompass the diverse dimensions of AI’s impact on society.

First, distributional justice seeks to rectify disparities introduced by AI on a global scale. It focuses on the equitable allocation of resources, opportunities, and benefits. Within the realm of AI policy, its significance is magnified by the potential of AI to shape economic, social, and political structures in a more equitable way.²⁰ Furthermore, the scope of distributional justice extends to ensuring fairness within AI algorithms. These systems can inadvertently perpetuate biases present in their

¹⁸ L. Royackers, et al., *Societal and ethical issues of digitization*, 20 ETHICS INF. TECH. 127-42 (2018).

¹⁹ The table has been developed using the concept of “energy justice” as its foundation. See D.A. McCauley, et al., *Advancing energy justice: the triumvirate of tenets*, 32 INT’L ENERGY L. REV. 107-19 (2013).

²⁰ See generally H. BOJER, DISTRIBUTIONAL JUSTICE: THEORY AND MEASUREMENT 47 (2005).

training data, leading to discriminatory outcomes. Ensuring transparency and accountability in AI algorithms is pivotal for averting bias and discrimination. This principle also encompasses data ownership and control, advocating for the equitable sharing of benefits derived from data and empowering individuals to have control over their personal data.²¹

Second, procedural justice revolves around establishing transparent and equitable development processes of AI. Within AI policy, procedural justice holds a pivotal role in guaranteeing impartial development, deployment, and regulation of AI technologies. The involvement of a diverse range of stakeholders, including experts, communities, advocacy groups, and industry representatives, ensures a comprehensive perspective on AI developments. Public input becomes indispensable, because it grants citizens a platform to voice their concerns and preferences concerning AI technologies.²² Procedural justice also calls for mechanisms of accountability and remedies. In cases where AI systems cause harm or display bias, avenues for redress and appeal should be accessible. Gleaning insights from past errors, such as nuclear incidents, inform the necessity of effective AI regulations.²³

Third, recognition justice acknowledges the negative impacts of AI on human lives and takes proactive measures to mitigate them. For instance, AI's automation may trigger job displacement, necessitating measures such as retraining initiatives and support mechanisms. Policymakers can implement strategies like progressive taxation on AI-generated profits or prerequisites for community investments to mitigate the economic discrepancies linked with AI.²⁴ Additionally, the principle of recognition justice is rooted in social and ethical considerations, which emphasizes that AI systems treat individuals and groups fairly and accurately, especially with regard to their identities, characteristics, and backgrounds.²⁵ AI must exhibit cultural sensitivity to avoid perpetuating stereotypes or cultural insensitivity. Policies can mandate the integration of cultural awareness into AI algorithms, particularly when handling language, imagery, or cultural references. At the same time, when AI systems cause harm or bias, recognition justice must guide policies for compensation

21 J. Rueda, et al., "Just" accuracy? Procedural fairness demands explainability in AI-based medical resource allocations, *AI & SOCIETY* 1-12 (2022).

22 For details on procedural justice, see W.C. Kim & R. Mauborgne, *Procedural justice, strategic decision making, and the knowledge economy*, 19 *STRAIT MGMT. J.* 323-38 (1998).

23 M.K. Lee, et al., *Procedural justice in algorithmic fairness: Leveraging transparency and outcome control for fair algorithmic mediation*, *Proceedings of the ACM on Human-Computer Interaction* 3, No. CSCW 1-26 (2019).

24 D. Dotolo, et al., *Expanding conceptualizations of social justice across all levels of social work practice: Recognition theory and its contributions*. 92 *SOC. SERVICE REV.* 143-70 (2018).

25 See generally L.M. Rafanelli, *Justice, injustice, and artificial intelligence: Lessons from political theory and philosophy*, 9 *BIG DATA & SOC.* (2022).

and resolution.²⁶

In sum, the theoretical underpinning of AI justice, constructed upon these three principles, offers avenues to identify, address, and prevent injustices. It functions as a conduit between the current and forthcoming technological landscape, fostering an inclusive approach to AI development, production, and utilization.

III. A Just Access to AI under International Law

The foundation of law rests upon a pair of fundamental principles: maintaining order and upholding justice.²⁷ The concept of both maintaining order and justice has a rich and intricate history within the realm of international law. Numerous legal experts have dealt with various interpretations and applications of these concepts, offering diverse explanations for their understanding and utilization. However, this inception has not established a straightforward and unified approach for international law to handling fairness in matters of politics and economics.²⁸

Actually, the application of equity-driven principles within international law has encountered several hurdles.²⁹ Nonetheless, the international community has recognized that the crucial values of justice, equity, and equality - remain a priority.³⁰ For example, Articles 22 and 25 the Universal Declaration of Human Rights (UDHR) declares the right to social security that everyone has the right to a standard of living adequate for their health and well-being, including food, clothing, housing, medical care, and necessary social services. While not explicitly mentioned in these articles, the broader principles of the UDHR imply that access to technology and its development can be seen as supporting the realization of fundamental human rights.

In recent, access to technology has become an important right for individuals who want to exercise their other rights, for example, pursue education, access information, and engage in economic and social activities. Therefore, equitable access to technology can be considered consistent with the spirit of the UDHR, even if not explicitly stated in these particular articles. Additionally, Article 27(1) of the UDHR safeguards the rights of scientists to engage in scientific work and share their findings without

²⁶ *Id.*

²⁷ T.R. Allan, *Dworkin and dicey: the rule of law as integrity*, 8 OXFORD J. LEGAL STUD. 266 (1988).

²⁸ M. Koskenniemi, *The politics of international law*, in THE NATURE OF INTERNATIONAL LAW 355-84 (G Simpson ed., 2001).

²⁹ J. PAULSSON, DENIAL OF JUSTICE IN INTERNATIONAL LAW 10-26 (2005).

³⁰ *Id.*

encountering obstacles. This approach to conducting scientific work prioritizes human rights, aiming to guarantee that everyone can collaborate and benefit from the discoveries made by scientists.³¹

Beyond the scope of the UDHR, there are two other global agreements pertaining to human rights such as the 1974 UNESCO Recommendation on the Status of Scientific Researchers³² and the 1999 UNESCO Declaration on the Use of Scientific Knowledge. Both accords underscore the paramount importance of adhering to responsible and ethical practices within the realm of science. In particular, the 1974 UNESCO Recommendation discusses the role of scientific and technological advancements in benefiting global populations, emphasizing the need for nations to formulate regulations and strategies to achieve this goal. Similarly, the 1999 UNESCO Declaration underscores the significance of science in driving progress and advocates for increased support from governments and businesses.³³ This backing holds substantial importance in fostering an inclusive and dynamic capacity of science through educational and research initiatives. These endeavors serve as the cornerstone for improving various aspects of society, the economy, and the environment, establishing a robust foundation for a more promising future characterized by innovation and optimism.

Although the 1974 UNESCO Recommendation and the 1999 UNESCO Declaration focus on broader principles and values related to science and its role in society, AI technology development may be fitting within the context of its provisions. Both documents encourage freedom and international cooperation in developing and sharing science and technology, which are essential for developing AI; it emphasizes the global nature of AI advancement. The 1999 Declaration, in particular, emphasizes that scientific knowledge is accessible to all. In the context of AI, this would imply that AI technologies should be developed and deployed in an inclusive way accessible to diverse populations in order to promote global benefits. While not specific to AI, the 1974 Recommendation and the 1999 Declaration also touch upon the ethical considerations in scientific research. As AI technology raises significant ethical concerns, these principles can be applied to ensure that AI development benefits

³¹ R. Karim, M.S. Newaz & R.M. Chowdhury, *Human rights-based approach to science, technology and development: a legal analysis*, 11 J. EAST ASIA & INT'L L. 163-81 (2018).

³² This Recommendation is replaced by the 2017 Recommendation on Science and Scientific Researchers, <https://unesdoc.unesco.org/ark:/48223/pf0000367439>. The update ensures the Recommendation will continue to be relevant to research communities around the world in light of emerging ethical and regulatory challenges related to how science and the science-society relationship are governed.

³³ A.R. Chapman, *Towards an understanding of the right to enjoy the benefits of scientific progress and its applications*, 8 J. HUM. RTS. 1-36 (2009).

global populations without causing harm.

Additionally, both the International Covenants on Economic, Social, and Cultural Rights (ICESCR)³⁴ and the International Covenants on Civil and Political Rights (ICCPR) serve to underscore the fundamental rights that extend protection to every individual across the globe.³⁵ These foundational rights have received official recognition as indispensable entitlements critical to preserving the dignity and well-being of each and every person.³⁶ These entitlements encompass the right to life, personal safety, privacy, freedom of thought and expression, and unrestricted access to information. By safeguarding these rights, they endeavor to establish a world wherein all individuals can thrive, empowered by their innate capacities, and liberated from oppressive influences. This vision epitomizes an equitable and just society wherein human potential can flourish and prosper.

One particular aspect within these agreements, specifically enshrined in the ICCPR, is the assurance of the right to access information, as delineated in Article 19. This signifies that individuals possess the prerogative to actively seek, receive, and disseminate information and ideas without encountering constraints or limitations. This right duly acknowledges the paramount importance of freedom of expression across all modes of communication.

Article 19(2) of the ICCPR protects “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”³⁷ The wording of this regulation safeguards one’s right to access technology. Article 19(2) expressly stipulates that freedom of expression encompasses the liberty to actively seek, acquire, and disseminate information “through any other media of his choice.”³⁸ This implies that we possess the right to proactively access information, beyond mere verbal expression. However, it is important to note that a right to access technology does not imply an unrestricted right to demand access to any specific technology. While the precise contours of this entitlement remain in the process of development, we can derive several guiding principles for interpreting its extent from the body of

³⁴ International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 Dec. 1966 (entry into force 3 Jan. 1976, in accordance with Article 27), <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

³⁵ R.K. SMITH, INTERNATIONAL HUMAN RIGHTS LAW 195-219 (2022).

³⁶ *Id.* at 166.

³⁷ ICCPR, art. 19(2).

³⁸ *Id.*

international human rights law that governs various forms of resource rights.³⁹

Additionally, Article 19(2) the ICCPR forms the basis for an individual's entitlement to employ specific technologies when no other feasible means exist for them to communicate or express their ideas effectively. Furthermore, when examining Article 10 of the European Convention on Human Rights (ECHR), which bears similarities to Article 19 of the ICCPR, the European Court of Human Rights (ECtHR) has affirmed the principle that individuals should be permitted to utilize a particular technology for the purpose of sharing information and ideas, provided that no alternative means are available to achieve this. In the case of *Khurshid Mustafa and Tarzibachi v. Sweden*,⁴⁰ for example, the ECtHR ruled that a family had a valid justification for using a satellite dish mounted on their apartment building to access television programs from their home country. The Court maintained: "[t]he right to receive information basically prohibits a government from restricting a person from receiving information that others wish or may be willing to impart on him or her."⁴¹ The ECtHR explicitly stated that the family had no other feasible method to access these programs, and the concerns raised by the landlord regarding the satellite dish's safety or potential damage were insufficient grounds to prohibit the family from using it.⁴²

Certainly, when considering access to AI, we can draw upon these debates initiated by legal experts regarding Article 19 of the ICCPR and its implications for access to other technological advancements. People should have the opportunity to utilize AI tools and platforms that facilitate the easy discovery of information and ideas, enabling them to fully exercise their right to knowledge.

AI will become a significant part of how we access information. AI-driven search engines, recommendation systems, and content curation algorithms are increasingly shaping how people access information on the Internet. This global shift has implications for reforming international law, particularly regarding the accessibility

³⁹ Considering that access to AI implies the opportunity to utilize AI, legal experts have consistently stressed that internet access constitutes a fundamental right for individuals. Scholars contend that governments have a duty to ensure that citizens can, at a minimum, obtain basic access to communication technologies. Furthermore, the Special Rapporteur Joint Declaration takes a more proactive stance by asserting that governments are obliged to actively facilitate universal internet access. See M. Land, *Toward an international law of the internet*, 54 HARV. INT'L L. J. 393 (2013); M. Reglitz, *The human right to free internet access*, 37 J. APPLIED PHILOSOPHY 314-31 (2020).

⁴⁰ *Khurshid Mustafa & Tarzibachi v. Sweden*, App. No. 23883/06, 52 Eur. H.R. Rep. 24 (2011), https://www.stradalex.eu/en/se_src_publ_jur_eur_cedh/document/echr_23883-06_001-106000.

⁴¹ *Id.* ¶ 41.

⁴² *Id.* ¶ 48. It is important to note, however, that this right applies only in cases where there is no alternative technological means available for individuals to exercise their rights. Consider Twitter, which falls into the category of media according to Article 19(2). It is essential to understand that Article 10 of the ECHR does not grant individuals an absolute right to access Twitter itself.

of information across borders. Additionally, Articles 2(1) and 26 of the ICCPR stipulate that governments are obligated to treat everyone equally and safeguard their rights, without discriminating based on factors such as race, gender, language, religion, political beliefs, socioeconomic background, place of origin, or other similar attributes.⁴³ This underscores the necessity for governments to guarantee that everyone, regardless of their background, can access and utilize the technologies that can be a source of information.

Moreover, ICESCR briefly refers to a State responsibility to harness scientific and technological progress for societal improvement.⁴⁴ The most relevant legal framework advocating for fairness and equity in the domain of science and technology is the Declaration on the Establishment of a New International Economic Order, adopted by the UN General Assembly on May 1, 1974.⁴⁵ This Declaration outlines a collective effort to establish a fresh international economic order grounded in principles such as fairness, interdependence, and cooperation among all nations. Article 4(p) of the Declaration emphasizes the importance of providing developing countries with access to modern scientific advancements and facilitating the transfer of technology tailored to their unique circumstances to benefit their economies.⁴⁶

In this regard, the UN aims to not only foster economic progress, but also introduce new rights for developing and underdeveloped nations. By prioritizing the development of these nations, the UN acknowledges that access to fundamental human rights, including education, healthcare, and technology, is vital for constructing thriving societies. Through this emphasis, the UN tries to empower individuals and communities, promoting greater equity and justice on a global scale. This underscores that all individuals, regardless of their socioeconomic background, have the right to contribute to the overall progress of their communities and the world at large through fulfilling their living standard.

In 1974, the UN General Assembly took another historic step by adopting the Charter of Economic Rights and Duties of States.⁴⁷ This landmark document entitled states to regulate and oversee the activities of transnational corporations within their borders, as outlined in Article 2, paragraph 2(b). Furthermore, Article 13, paragraph 1 of the Charter articulated the crucial importance of harnessing advances in science

⁴³ ICCPR art. 26.

⁴⁴ Karim & Newaz & Chowdhury, *supra* note 31, at 163.

⁴⁵ Declaration on the Establishment of a New International Economic Order. 9 April-2 May. 1974. - A/9559 (1974), at 3-5 (GAOR, 6th special sess., Suppl. no. 1), <https://digitallibrary.un.org/record/218450>.

⁴⁶ *Id.*

⁴⁷ The Charter of Economic Rights and Duties of States General Assembly resolution 3281 (XXIX) New York, 12 December 1974, <https://legal.un.org/avl/ha/cerds/cerds.html>.

and technology to drive economic and social progress. In 1979, the UN Conference on Science and Technology for Development was held in Vienna, where a similar stance was taken. The conference produced a Declaration that called for further exploration of alternative technologies and emphasized the critical role that science and technology could play in advancing development goals.⁴⁸

However, achieving the human rights discussed above necessitates a conducive social environment across all aspects of life. A state undergoing social upheaval may not reliably indicate progress in implementing human rights or technological advancement. If individuals try to exercise their right to benefit from scientific and technological progress and to enjoy a decent standard of living, not just national transformations but a shift in the global order is also essential.⁴⁹ Here, justice-based international law can ensure access to technology. Although the concept of justice-based technology development has been debated in various international law and policies, it has not yielded significant outcomes yet. This may be attributed to several reasons. Firstly, neoliberal approach to development is prioritizing market-based solutions and private-sector involvement over government-led initiatives. This focus on economic growth and efficiency has taken precedence over equity and justice in social and economic development. Secondly, technical and scientific efficiency are given priority to social and political considerations. This might have not considered social and political cohesion and equity in development. Lastly, political leadership does not prioritize justice-based technology development in international institutions and initiatives, arguably due to competing priorities, limited resources, or a lack of consensus on development.

IV. The Way Forward

The question of whether AI laws, policies, and regulations should aim to achieve equality or reduce inequality is a complex and multifaceted issue. AI regulations should prioritize equality, i.e., the benefits and opportunities created by AI are distributed as equally as possible among all members of the society. AI regulations should prioritize those who are most disadvantaged or marginalized. This approach might involve

⁴⁸ United Nations Conference on Science and Technology for Development: Report of the 2nd Committee (A/34/779) (Dec. 15 1979), <https://digitallibrary.un.org/record/9951?ln=en>.

⁴⁹ M.M. Maas, *International law does not compute: Artificial intelligence and the development, displacement or destruction of the global legal order*, 20 MELB. J. INT'L L. 29-57 (2019).

targeted policies such as affirmative action in AI employment or resource allocation to address historical disparities. Simultaneously, decision-making processes are transparent and inclusive. How should it go about fulfilling this obligation then? The goal can be accomplished at the level of international programmes or policies by directing innovative efforts toward underprivileged groups; utilizing public procurement to drive innovation toward their needs; or establishing international regulatory requirements that safeguard them. Here is *raison d'être* of international law.

International law can establish global standards and norms for AI development, deployment, and use. These standards may cover areas such as ethics, safety, transparency, and human rights. The UN and its specialized agencies can adopt international treaties and agreements to set these norms. For example, international human rights law already applies to AI technologies,⁵⁰ given that AI development respects fundamental human rights, such as privacy, non-discrimination, and freedom of expression. In this regard, international bodies can monitor and enforce these rights, holding states and corporations accountable for violations.

Nevertheless, a question remains whether the existing international laws are sufficient to regulate AI development or do we need new ones. AI presents novel challenges, such as algorithmic bias, autonomous decision-making, and human-AI interaction, which may not be adequately addressed by existing laws that were primarily designed for traditional technologies. In fact, there is a need for consistent global rules and norms to govern AI, as AI systems often operate across borders and a fragmented regulatory landscape could create uncertainty and compliance challenges.⁵¹ Additionally, AI is increasingly being used in critical domains such as healthcare, finance, and autonomous weapons, making it imperative to establish clear international rules to ensure safety and ethical use.

However, it cannot be denied that existing international legal frameworks, such as human rights and intellectual property laws are partially addressing AI-specific issues without the need for entirely new laws. In this case, introducing new laws could stifle innovation and create excessive regulatory burdens on AI developers and users. It is thus crucial to strike a balance between regulation and innovation. Even with new laws, enforcement remains a significant challenge in the realm of international law.⁵²

⁵⁰ L. McGregor, D. Murray & V. Ng, *International human rights law as a framework for algorithmic accountability*, 68 INT'L & COMP. L. Q. 309-43 (2019). See also R. Rodrigues, *Legal and human rights issues of AI: Gaps, challenges and vulnerabilities*, 4 J. RES. TECH. 100005 (2020).

⁵¹ N.A. Smuha, *From a 'race to AI' to a 'race to AI regulation': regulatory competition for artificial intelligence*, 13 L., INNOVATION & TECH. 57-84 (2021).

⁵² B. Kingsbury, *The concept of compliance as a function of competing conceptions of international law*, 19 MICH. J.

In order for nations to adhere to international AI regulations, effective monitoring and enforcement mechanisms will be required. Further, national and international AI regulations and laws should be harmonized.

Still, international law relating to AI development is believed to maximize the public benefit to underprivileged groups and undertake initiatives for wider participation. In fact, regulating AI and nuclear technology at the international level share several similarities due to their potential for significant global impact and risks. Both AI and nuclear technology have dual-use applications. AI can be used for not only beneficial purposes like healthcare and automation, but also malicious uses, such as cyberattacks or surveillance. Similarly, nuclear technology can not only be used for peaceful purposes like energy generation, but also be weaponized for destructive purposes. In fact, non-proliferation and security concerns are central to both AI and nuclear technology regulation. For example, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) aims to prevent the spread of nuclear weapons. In this aspect, there are concerns about the misuse of AI in cyberattacks, disinformation campaigns, and autonomous weapon systems, which require international agreements to mitigate.

Hence, just like nuclear technology, effective regulation of AI demands international cooperation and agreements. States should collaborate with each other to establish common standards, share best practices, and monitor compliance for regulating AI. It is necessary to create a similar body or mechanism for AI governance like the International Atomic Energy Agency. To establish a shared and comprehensive understanding of AI under international law, it is imperative to embark on a journey of open and democratic deliberations encompassing a diverse array of stakeholders such as scientists, international organizations, technology companies, policymakers, and civil society. These collaborative efforts will pinpoint the values and principles that can formulate international AI law.

V. Conclusion

AI-driven technology is increasingly becoming an integral part of our daily lives, spanning from smart home devices to social media platforms. Concurrently, public

INT'L L. 345 (1997). See also B.A. Simmons, *International law and state behavior: Commitment and compliance in international monetary affairs*, 94 AM. POL. SCI. REV. 819-35 (2000); S. Hoffmann, *International law and the control of force*, in THE WAR SYSTEM 588-612 (2019).

authorities are progressively employing AI for the assessment of individual traits, resource allocation, and decision-making processes that bear significant consequences for everyone. Balancing technological progress with equitable distribution emerges as an urgent imperative.

To address this necessity, the international community should regulate the just development of AI under international law. In particular, the novel challenges presented by AI require new and specific international law. In such issues as data sovereignty, data privacy, and data localization, just development of AI is urgently accommodated. Similarly, the use of AI for content moderation and censorship by governments and online platforms would raise critical issues regarding freedom of expression and human rights. In this regard, it will be a challenge for international lawyers and foreign policymakers to prevent harmful content as well as to protect individual rights to access information.

To protect fundamental human rights such as privacy, data security, equality, and non-discrimination is of paramount importance for AI governance. On the basis of these rights, AI technologies can deliver benefits to all humankind. The preservation and fortification of equality in the context of AI thus represent a pivotal factor that will profoundly influence our digital landscape.

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