AI REGULATION IN A CHATGPT ERA: CROSS-BORDER COOPERATION AND HOPE IN A SUDDEN STORM

"The development of full artificial intelligence could spell the end of the human race."[1]

"The law must be stable, but it must not stand still. Hence all thinking about law has struggled to reconcile the conflicting demands of the need of stability and of the need of change."[2]

I. AN INTRODUCTION: AI INNOVATION ON UNCERTAIN TERRAIN

The prudent legal regulation of artificial intelligence (hereinafter "AI") is one of the great burgeoning issues of our time.[3] PwC projects that artificial intelligence will be contributing as much as $15.7 trillion of the global economy GDP by 2030.[4] Rapid recent innovations, such as ChatGPT and Google's Bard artificial intelligence assistants, have only made this important topic livelier.[5] Prescient scholars and commentary highlight the challenges of AI regulation in many contexts and legal settings.[6] One of the distinctive challenges for AI regulation on a local, national, or international scale is agreeing on a definition of artificial intelligence and gearing AI innovation within the legislative or regulatory confines to prevent future harmful

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[1] Rory Cellan-Jones, *Stephen Hawking Warns That Artificial Intelligence Could End Mankind,* BBC NEWS (DEC. 2, 2014), https://www.bbc.com/news/technology-30290540 . *See also Top Scientists Call for Caution over Artificial Intelligence,* THE TELEGRAPH (1/13/15), https://www.telegraph.co.uk/technology/news/11342200/Top-scientists-call-for-caution-over-artificial-intelligence.html .

[2] Roscoe Pound, INTERPRETATIONS OF LEGAL HISTORY 1 (1923).

[3] *See, e.g.,* Cynthia Rudin, *How dangerous is AI? Regulate it before it's too late,* THE HILL (02/08/23), How dangerous is AI? Regulate it before it's too late | The Hill . *See also* Kashmir Hill, *The Secretive Company that Might End Privacy as We Know It,* N.Y. TIMES (01/18/2020), https://www.nytimes.com/2020/01/18/technology/clearview-privacy-facial-recognition.html (discussing Clearview AI's facial recognition technology and disputes currently in our federal courts) and *In re Clearview AI, Inc., Consumer Privacy Litigation,* 585 F. Supp. 3d 1111 (N.D. Ill. 2022).

[4] Sizing the prize: What's the real value of AI for your business and how can you capitalise? (pwc.com.au)

[5] https://openai.com/blog/chatgpt and https://bard.google.com/ . *See also* FTC should stop OpenAI from launching new GPT models, says AI policy group - The Verge and Armed With ChatGPT, Cybercriminals Build Malware And Plot Fake Girl Bots (forbes.com) . *See, c.f.,* ChatGPT falsely accused me of sexual harassment. Can we trust AI? (usatoday.com) .

[6] *See, e.g.,* A Forensic Without the Science | Center on Privacy and Technology | Georgetown Law and Clare Garvie, A FORENSIC WITHOUT THE SCIENCE: FACE RECOGNITION IN U.S. CRIMINAL INVESTIGATIONS, Center on Privacy & Technology at Georgetown Law (2022). *See also* Matthew U. Scherer, Regulating Artificial Intelligence Systems: Risks, Challenges, Competencies, and Strategies, 29 HARV. J. L. & TECH. 353 (2016); Bobby Chesney & Danielle Citron, Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security, 107 CALIF. L. REV. 1753 (2019); and Sonia K. Katyal, Private Accountability in the Age of Artificial Intelligence, 66 UCLA L. REV. 54 (2019).

effects.[7] The Oxford English Dictionary defines AI as "the capacity of computers or other machines to exhibit or simulate intelligent behavior" and "the theory and development of computer systems able to perform tasks normally requiring human intelligence, such as visual perception, speech recognition, decision-making, and translation between languages."[8] Congressional efforts to define and regulate AI have been meek during this era of vast AI development.[9] Currently, AI regulation is being addressed through a patchwork quilt of national and regional policies, national legislation, and international legal frameworks in the business setting.[10] There have been 712 congressional bills on artificial intelligence proposed during the two decades, but only nine laws governing AI outside the context of budget or defense bills have passed into public laws.[11] Our present ChatGPT era creates a messy tapestry of varying scales of legal regulation and sometimes absent legal regulation that will need to be addressed.[12] International business law frameworks and international humanitarian law norms, though, may provide unique structures to provide guidance

[7] One of the Biggest Problems in Regulating AI Is Agreeing on a Definition - Carnegie Endowment for International Peace and https://digital-strategy.ec.europa.eu/en/news/european-union-and-united-states-america-strengthen-cooperation-research-artificial-intelligence . *See also* https://www.justsecurity.org/84724/regulating-artificial-intelligence-requires-balancing-rights-innovation/ .

[8] https://www.oed.com/view/Entry/271625?redirectedFrom=artificial+intelligence& and https://www.oxfordreference.com/display/10.1093/oi/authority.20110803095426960;jsessionid=697CE56A2741CAEE592FA7DE265FEEB7 . *See, c.f.,* Cambridge Dictionary, "Artificial Intelligence," which states that AI is "the study of how to produce machines that have some of the qualities that the human mind has, such as the ability to understand language, recognize pictures, solve problems, and learn." https://dictionary.cambridge.org/us/dictionary/english/artificial-intelligence . *See also* The International Organization for Standardization (ISO), which defines the term "artificial intelligence" to mean: (a) "an interdisciplinary field, usually regarded as a branch of computer science, dealing with models and systems for the performance of functions generally associated with human intelligence, such as reasoning and learning"; and (b) the "capability of a functional unit to perform functions that are generally associated with human intelligence such as reasoning and learning": ISO, Information Technology – Vocabulary, ISO/IEC STANDARD NO. 2382 (2015).

[9] https://www.bakermckenzie.com/-/media/files/people/chae-yoon/rail-us-ai-regulation-guide.pdf

[10] *See, e.g.,* https://oecd.ai/en/dashboards/countries/UnitedStates and https://www.americanprogress.org/article/ai-is-having-a-moment-and-policymakers-cannot-squander-the-opportunity-to-act/ . *See also* https://www.brookings.edu/2022/11/21/the-ai-bill-of-rights-makes-uneven-progress-on-algorithmic-protections/ and https://www.ncsl.org/technology-and-communication/legislation-related-to-artificial-intelligence .

[11] *See* https://www.govinfo.gov/#advanced (searching AI or "artificial intelligence" in pending congressional bills and passed public and private laws during the last twenty years). Rep. Ted Lieu introduces a new bill to regulate AI like ChatGPT (nbcnews.com)

[12] *See, e.g.,* Brookings Institute, TECHTANK (3/22/23) https://www.brookings.edu/blog/techtank/2023/03/22/how-california-and-other-states-are-tackling-ai-legislation/ (stating that "AI regulation in the United States is still quite nascent").

for normative standards.[13] International and regional cooperation on AI initiatives and policies also provides hope for future legal structures and successful regulation while preserving AI innovations.

This Article will first present the legal frameworks in the United States for AI in the form of legislative initiatives, cases in our courts, and broad federal and state policy initiatives. Next, the Article will demonstrate the more robust frameworks for AI regulation through the OECD, the EU, and other countries in the world. Because AI technologies are most often developed in the private sector, a system of corporate governance wedded with an international humanitarian law framework would lead to more robust regulatory models and policies. Successful models posited by this inquiry are corporate social responsibility norms and "responsible AI" in the business context.[14] Finally, this Article will apply successful examples and global cooperative legal structures from international business and international human rights law to demonstrate possible paths for future regulation and international cooperation on this important issue. During a new era of generative AI systems like ChatGPT, Dall-E 2 and Bard, it is imperative to shape AI global and national implementation policies and impact international business regulatory norms to ensure coherent structures for this complex arena of expanding business, ethical, and technology law and regulations.[15]

II. THE PRESENT PATCHWORK: AI LEGAL FRAMEWORKS IN THE U.S.

The compendium of AI legislative and case law efforts in the United States has been largely reactive instead of proactive so far during a period of critical innovations. This Section will present the array of AI legislation, regulations, current cases in our courts, and AI policy efforts. There are laudable strides in AI development, but the

[13] See https://www.brookings.edu/blog/techtank/2022/02/01/the-eu-and-u-s-are-starting-to-align-on-ai-regulation/ ; https://artificialintelligenceact.eu/ ; and https://www.forbes.com/sites/nishatalagala/2022/06/29/the-ai-act-three-things-to-know-about-ai-regulation-worldwide/?sh=604a31bf379f (discussing the European AI Act). *See also* HARVARD BUSINESS REVIEW, *AI Regulation is Coming* (2021), https://hbr.org/2021/09/ai-regulation-is-coming .

[14] *See, e.g.,* Paul B. De Laat, *Companies Committed to Responsible AI: From Principles Towards Implementation and Regulation,* PHILOSOPHY & TECHNOLOGY, 34:1135–1193 (2021), https://link.springer.com/article/10.1007/s13347-021-00474-3 and Lottie Lane, *Artificial Intelligence and Human Rights: Corporate Responsibility in AI Governance Initiatives*, NORDIC JOURNAL OF HUMAN RIGHTS (2023), https://www.tandfonline.com/doi/full/10.1080/18918131.2022.2137288 .

[15] *See* https://www.techtarget.com/searchenterpriseai/definition/generative-AI and https://www.theguardian.com/technology/2023/mar/16/the-stupidity-of-ai-artificial-intelligence-dall-e-chatgpt .

scale of regulation is behind the pace of innovation in many contexts.[16] Our courts will soon have to grapple with the pace of the strides with certain types of AI and, especially, when artificial intelligence innovations prove to be harmful in a legal context. This Section will provide an overview of the current laws and policies.

A. AI LEGISLATIVE EFFORTS

The legislative efforts in the U.S. are blossoming slowly around several AI topics: algorithmic accountability, facial recognition technology, and transparency.

1. FEDERAL LEGISLATION

The proposed Federal Algorithmic Accountability Act (S.B. 1108, H.R. 2231)[17] intends to create algorithmic accountability by requiring companies to "regularly evaluate their tools for accuracy, fairness, bias, and discrimination." So far, the bill is pending after being introduced in the House during the last congressional session.[18] The Federal Commercial Facial Recognition Privacy Act (S. 847) plans to provide Americans control and further information about how their data is shared with companies that use facial recognition technology.[19] In addition, the FACE Protection Act and No Biometric Barriers to Housing Act bills prohibit owners of federally assisted rental units from using facial recognition, physical biometric recognition, or remote biometric recognition technology in any units, building or grounds and restricted the federal government from using facial recognition technology without a court order.[20] The Future of AI Act (S. 3771) requires the Secretary of Commerce to establish the Federal Advisory Committee on the Development and Implementation of Artificial Intelligence.[21] Further, the AI JOBS Act of 2022 (H.R. 6553) promotes the 21st century artificial intelligence workforce in the Unites States and the GrAITR Act (H.R. 2202) directs research on cybersecurity and algorithmic accountability, AI trustworthiness,

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[16] How are we regulating ChatGPT and other AI tools? | Mashable ; As A.I. Booms, Lawmakers Struggle to Understand the Technology - The New York Times (nytimes.com) ; Why the U.S. Government Isn't Rushing to Regulate AI - The New York Times (nytimes.com)

[17] https://www.congress.gov/bill/117th-congress/house-bill/6580/text (Apr. 2019).

[18] *Id.*

[19] https://www.congress.gov/bill/116th-congress/senate-bill/847/actions (Mar. 2019).

[20] https://www.congress.gov/bill/116th-congress/house-bill/4021 (July 2019) and https://www.congress.gov/bill/117th-congress/house-bill/4360?s=1&r=38 (July 2021).

[21] https://www.congress.gov/bill/116th-congress/senate-bill/3771/text (2020).

and AI explainability.[22] Finally, the AI in Government Act (H.R. 2575)[23] and the AI Initiative Acts (H.R. 6216)[24] require federal government activities for AI, including implementation of a National Artificial Intelligence Research and Development Initiative and promotion of innovative uses of AI to benefit the public. There have been only two successful federal legislative efforts for research and regulation of deep fakes (Pub. L. No. 116-258, *Identifying Outputs of Generative Adversarial Networks Act or "IOAGAN Act"*) [25] and the Information Technology Modernization Centers of Excellence Program Act (Pub. L. No. 116-194),[26] but the inclusion of reference to AI in federal legislation mainly occurs in budget appropriations and defense budget bills for annual expenditures and investment in AI innovation.[27]

2. State Legislation

State legislative proposals for AI regulation are frequent and have made comparable progress as federal laws. Algorithmic accountability[28] has also been addressed in State legislation and local concerns for varying uses of AI for monitoring in cities.[29] The New Jersey Algorithmic Accountability Act requires that businesses conduct automated decision system and data protection impact assessments for their

[22] https://www.congress.gov/bill/117th-congress/house-bill/6553/text (2022) and https://www.congress.gov/bill/116th-congress/house-bill/2202 (2019-2020).
[23] https://www.congress.gov/bill/116th-congress/house-bill/2575 (2020).
[24] https://www.congress.gov/bill/116th-congress/house-bill/6216 (2020).
[25] Pub. L. 116-258, *Identifying Outputs of Generative Adversarial Networks Act,* 134 Stat. 1150 (Dec. 23, 2020), PUBL258.PS (govinfo.gov) . *See also* https://www.ai.gov/legislation-and-executive-orders/ , citing recent important AI Executive Orders in the United States by President Biden. *See also* the National Artificial Intelligence Initiative Act of 2020 (H.B. 6216), https://www.congress.gov/bill/116th-congress/house-bill/6216 .
[26] Pub. L. 116-194, Public Law 116 - 194 - Information Technology Modernization Centers of Excellence Program Act - Content Details - (govinfo.gov) (Dec. 3, 2020).
[27] *See, e.g.,* Search of "Artificial Intelligence" in recent public and private laws passed since the 105th Congress (1997-1998), collection:(PLAW) AND publishdate:range(,2023-04-04) AND content:("artificial intelligence") | Search Results | Govinfo .
[28] *See generally* Algorithmic Accountability: Moving Beyond Audits - AI Now Institute
[29] *See. e.g., Proposed California Legislation,* https://www.omm.com/resources/alerts-and-publications/alerts/proposed-california-legislation-targets-use-of-algorithm-bias/ . *See also* NYC Local Authority Concern For Use of Algorithms, https://www.nyclu.org/en/press-releases/city-council-passes-first-bill-nation-address-transparency-bias-government-use (Dec. 2017). *See also* https://www.newamerica.org/oti/blog/in-the-absence-of-federal-regulation-state-and-local-movements-are-pushing-for-algorithmic-accountability/ .

automated decision systems.[30] The California AI Reporting bill[31] requires businesses with over fifty employees and associated contractors to maintain a written record of the data used relating to any use of AI for the delivery of products or services to the public entity.[32] Similarly, the Washington Guidelines for Government Procurement and Use of Auto Decision Systems establishes guidelines for government procurement and use of automated decision systems to protect consumers, improve transparency, and create more market predictability.[33] New York City proposed a local law for automated decision systems used by agencies (Int. No. 1696-2017) and required the creation of a task force to provide recommendations on how information for automated decision systems may be shared with the public and how agencies might address situations when people are harmed by agency automated decision systems.[34]

Facial recognition AI technology privacy concerns have also been raised through state legislative efforts. The California Body Camera Account Act was introduced in February 2019 to prohibit law enforcement agencies and officials from using any "biometric surveillance system," including facial recognition technology, in connection with an office camera or data collected by the camera.[35] Massachusetts further proposed an Act Establishing a Moratorium on Face Recognition (S.B. 1385, Jan. 2019) to establish a moratorium on the use of face recognition systems by state and local law enforcement.[36] New York proposed a bill (S.B. 5687) to ban the use of facial recognition technology by landlords for any residential premises.[37] Local ordinances in San Francisco, Oakland, and Somerville, Massachusetts also banned the use of

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[30] https://www.billtrack50.com/BillDetail/1127840 (2019). *See, e.g.,* NJ Insider commentary, https://www.insidernj.com/press-release/booker-wyden-clarke-introduce-algorithmic-accountability-act-2022-require-new-transparency-accountability-automated-decision-systems/

[31] https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB331 (2019). *See also* https://www.brookings.edu/blog/techtank/2023/03/22/how-california-and-other-states-are-tackling-ai-legislation/ .

[32] *Id.*

[33] https://apps.leg.wa.gov/rcw/default.aspx?cite=39.26&full=true (2010). *See also* https://watech.wa.gov/sites/default/files/public/privacy/Automated%20Decision%20Systems%20Workgroup%20Report.pdf .

[34] NYC Int. No. 1696-2017 (Jan. 2018). *See* https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3137815&GUID=437A6A6D-62E1-47E2-9C42-461253F9C6D0#:~:text=Summary%3A,by%20agency%20automated%20decision%20systems .

[35] See https://www.aclusocal.org/en/legislation/body-camera-accountability . *See also* https://www.ncsl.org/civil-and-criminal-justice/body-worn-camera-laws-database .

[36] See MA S.B. 1385, https://malegislature.gov/Bills/191/SD671 .

[37] See NY S.B. 5687, https://www.nysenate.gov/legislation/bills/2019/S5687 .

facial recognition technology by agencies.[38] Attempts to regulate the use of facial recognition persist at the State and local levels, but the widespread use of the facial recognition technologies persists.[39] Illinois leads the State regulation of facial recognition through the Biometric Information Privacy Act (BIPA) and recent enforcement actions with various corporations and settings including Snapchat.[40]

Transparency concerns for AI development have also entered the state legislative arena.[41] California bills, the BOT Act[42] and Anti-Eavesdropping Act regulate bots by requiring them to identify themselves as automated accounts and then prohibits the operation of a voice recognition feature within the state without prominently informing the user during the installation of a smart speaker device.[43] In Illinois, the AI Video Interview Act (effective Jan. 2020) provides notice and explainability requirements for recorded video interviews.[44] The National Conference of State Legislatures is currently monitoring numerous pending State bills on AI.[45]

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[38] *See, e.g.,* https://www.nytimes.com/2019/05/14/us/facial-recognition-ban-san-francisco.html and https://www.wired.com/story/face-recognition-banned-but-everywhere/ . *See also* https://www.amnesty.org/en/latest/news/2021/06/scale-new-york-police-facial-recognition-revealed/ .

[39] *Id. See also* Girl Scout mom kicked out of Radio City and barred from seeing Rockettes after facial recognition tech identified her (nbcnews.com).

[40] *See* Illinois Biometric Information Privacy Act (BIPA), https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=3004&ChapterID=57 and https://www.womblebonddickinson.com/us/insights/alerts/facial-recognition-new-trend-state-regulation#:~:text=Illinois%20Law%20Allows%20a%20Private,Information%20Privacy%20Act%2C%20or%20BIPA. For case law, *see* https://news.bloomberglaw.com/privacy-and-data-security/snap-and-minor-must-arbitrate-biometrics-dispute-7th-cir-says . Illinois BIPA cases have also reached large settlements against TikTok and Facebook for violations of BIPA. *See* https://www.npr.org/2020/08/04/898836158/class-action-lawsuit-claims-tiktok-steals-kids-data-and-sends-it-to-china and https://www.forbes.com/sites/joewalsh/2021/02/25/tiktok-settles-privacy-lawsuit-for-92-million/?sh=b370f4048728 .

[41] *See generally,* Yoon Chae, *U.S. AI Regulation Guide: Legislative Overview and Practical Considerations*, 3 THE JOURNAL OF ROBOTICS, ARTIFICIAL INTELLIGENCE & LAW 17 (2020)

[42] See CA S.B. 1001 (July 2019), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1001 .

[43] See, e.g., https://www.usatoday.com/story/tech/2019/05/29/alexa-smart-speakers-face-regulation-through-calif-bill/1268363001/

[44] See https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=4015&ChapterID=68 .

[45] See, e.g., https://www.ncsl.org/technology-and-communication/legislation-related-to-artificial-intelligence . AI bills or resolutions were introduced in 17 states in 2022 and were enacted in four states in 2022 (Colorado, Illinois, Vermont, and Washington). *Id.* Many State AI task forces and commissions have been formed to address privacy and regulation concerns. *See also* Federal AI Initiatives, Department of State, https://www.state.gov/artificial-intelligence/ .

B. AI CASES IN OUR COURTS

The current AI case law developments in our courts center around various harms caused by AI or AI causes of action triggered by State legislation.[46] This section will summarize a selective list of federal and state cases that have decided on AI issues. There are almost 100 cases in our State and Federal courts involving artificial intelligence, so this selected background will exclude intellectual property claims[47] and focus on other types of AI cases in our U.S. courts that align with the topics of facial recognition AI technologies, AI accountability, and AI transparency outlined in this first section of the article. The expansion of the AI Bill of Rights and legislation at the federal level and development of further State legislation and policies will certainly impact the future litigation of AI in many contexts.[48]

1. FEDERAL CASES

- ✓ *Force v. Facebook,* 934 F.3d 53 (2d Cir. 2019)
- ✓ *Calderon v. Clearview AI, Inc.* (S.D.N.Y. 2020)
- ✓ *Jiajia Lou v. Sogou, Inc.,* 465 F.Supp. 3d 393 (S.D.N.Y. 2020)
- ✓ *Mutnick v. Clearview AI, Inc.* (N.D. Ill. 2020)
- ✓ *LivePerson, Inc.* v. 24/7 Customer, Inc., 83 F.Supp. 3d 501 (S.D.N.Y. 2015)
- ✓ *Delphi Auto, PLC v. Absmeier,* 167 F.Supp. 3d 868 (E.D. Mich. 2016)
- ✓ *Bryant v. Compass Group USA, Inc.,* 958 F.3d 617 (7th Cir. 2020)
- ✓ *Patel v. Facebook*, 932 F.3d 1264 (9th Cir. 2019)
- ✓ *WeRide Corp. v. Kun Huang,* 379 F.Supp. 3d 834 (N.D. Cal. 2019)
- ✓ *Vance v. IBM Corp.* (N.D. Ill. 2020)
- ✓ *Gonzalez v. Google,* 2 F.4th 871 (9th Cir. 2021) and https://www.oyez.org/cases/2022/21-1333 / https://www.scotusblog.com/case-files/cases/gonzalez-v-google-llc/
- ✓ *Carpenter v. McDonald's Corp.,* 580 F.Supp.3d 512 (N.D. Ill. 2022)

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[46] *See, e.g.,* recent Illinois Biometric Information Privacy cases, https://news.bloomberglaw.com/privacy-and-data-security/illinois-justices-allow-big-biometric-fines-in-white-castle-case-6 . *See also* https://ogletree.com/insights/first-jury-verdict-issued-in-illinois-biometric-privacy-act-class-action/ . *See, c.f.,* https://techcrunch.com/2023/01/27/the-current-legal-cases-against-generative-ai-are-just-the-beginning/ and https://www.reuters.com/legal/ai-created-images-lose-us-copyrights-test-new-technology-2023-02-22/ .

[47] *See, e.g.,* recent 2022 decision in the Federal Circuit that AI must be human for invention purposes, https://news.bloomberglaw.com/ip-law/only-humans-not-ai-qualify-as-inventors-federal-circuit-rules

[48] *See generally* https://www.alston.com/en/insights/publications/2022/12/ai-regulation-in-the-us .

- ✓ *LifeVoxel Virginia SPV, LLC v. LifeVoxel.AI, Inc.*, ___ F.Supp.3d ____ (S.D. Cal. 2022)
- ✓ *In re Clearview AI, Inc., Consumer Privacy Litigation,* 585 F. Supp. 3d 1111 (N.D. Ill. 2022).

2. STATE CASES
   - ✓ *People v. Wakefield,* 175 A.D.3d 158 (N.Y.App.Div. 2019)
   - ✓ *Sevatec, Inc. v. Ayyar,* 102 Va. Cir. 148 (Va. Cir. Ct. 2019)
   - ✓ *Aerotek, Inc. v. Boyd,* 598 S.W.3d 373 (Tex. App. 2020)
   - ✓ *Rosenbach v. Six Flags,* 129 N.E.3d 1197 (Ill. 2019)

C. AI POLICIES: FEDERAL AND STATE INITIATIVES

1. FEDERAL

   AI Bill of Rights - https://www.whitehouse.gov/ostp/ai-bill-of-rights/
   OECD Observatory - https://oecd.ai/en/dashboards/countries/UnitedStates

2. STATE

   EPIC: https://epic.org/state-artificial-intelligence-policy/

III. GLOBAL LEGAL SCHEMA AND INROADS: PAVING THE WAY TO SECURITY

OECD / Model AI Governance (EU) / Talks of Collaboration (EU/US)

A. OECD = new AI regs

   https://oecd.ai/en/ai-principles

   https://oecd.ai/en/

B. EU = new model AI regs[49]

   https://www.loc.gov/item/global-legal-monitor/2020-03-13/netherlands-court-prohibits-governments-use-of-ai-software-to-detect-welfare-fraud/ / https://www.coe.int/en/web/artificial-intelligence

C. EU/US cooperation toward AI governance

   https://digital-strategy.ec.europa.eu/en/news/european-union-and-united-states-america-strengthen-cooperation-research-artificial-intelligence

[49] *See, e.g.,* O'Shaughnessy and Sheehan, *Lessons from the Two Experiments in AI Governance* (2023), https://carnegieendowment.org/2023/02/14/lessons-from-world-s-two-experiments-in-ai-governance-pub-89035.

D. UN Norms and National regulatory models of AI (other countries) – Horizontal vs. Vertical Regulation
https://news.un.org/en/story/2021/09/1099972

https://www.ohchr.org/en/2021/09/artificial-intelligence-risks-privacy-demand-urgent-action-bachelet#:~:text=GENEVA%20(15%20September%202021)%20%E2%80%93,safeguards%20are%20put%20in%20place

E. China – regulation through recent law on algorithmic transparency and AI use in financial marketing[50]

https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/590/49/pdf/G2259049.pdf?OpenElement

IV. THE FUTURE PROMISE: AI ACCOUNTABILITY DRAWN FROM INTERNATIONAL LAW

A. OECD Framework for AI Governance and "Responsible AI" Regulation

B. UN Governance for State practice – adherence to international norms/regs as a framework for national regulation

C. UN Responsibility to Protect (R2P) = (Ruggie Principles 2.0 for AI)

D. International Human Rights law applied to corporate law (Corporate social responsibility could translate)

E. Armed Conflict / Acts of Aggression – Regulation of Drones, etc.

https://www.reuters.com/world/europe/dutch-host-first-summit-responsible-use-ai-military-2023-02-14/

https://unicri.it/in_focus/on/unicri_centre_artificial_robotics

F. Application of International Law principles: a model for AI norms

V. CONCLUSION

[50] https://hai.stanford.edu/news/law-policy-ai-update-china-requires-ai-watermarks-chatgpt-wont-make-it-us-courtrooms#:~:text=A%20new%20rules%20in%20China,in%20products%20across%20the%20globe.