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**ARTIFICIAL INTELLIGENCE AND HUMAN RIGHTS OF
CONSUMER: A Legal Study with special reference to India**

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ARTIFICIAL INTELLIGENCE AND HUMAN RIGHTS OF CONSUMER: A Legal Study with special reference to India

*Jyoti Rattan**

[Abstract: *In the 21st Century Knowledge Society, the way people interact and communicate with each other all over the globe has changed drastically due to globalization and e-revolution. An important reason of this drastic change is also Artificial Intelligence (AI) which is used by businesses as well as by the government in providing services to consumers. AI is very advantageous to consumers but at the same time, it has a seamy side also. Sometimes, it violates their Human rights. There are various international and national laws for protecting consumers but the need of the hour is the adoption, by the United Nations, of a specific Model Law for protecting the human rights of consumers due to misuse of AI and enactment of State laws by the member countries.*]

Keywords: *Artificial Intelligence, E-consumer, E-commerce, E-governance, Robotics, Human Rights, Consumer*

Methodology

This study is theoretical research based upon a critical examination of international jurisprudence and domestic law on the protection of consumers through a review of international and national instruments, laws, legal pronouncements, documents, official reports, articles, books, and relevant material on the internet.

I

Introduction

In the twenty-first century, traditional societies are increasingly getting transformed into knowledge societies and their inhabitants turning into knowledge workers, or netizens, who are more informed, albeit instantaneously, of the events happening locally and globally. Their actions are based on a strong foundation of knowledge which is universal, objective,

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timely, and retrieved from diverse sources/resources. People are becoming more aware of their rights and opportunities. This revolutionary change is brought by computers, the Internet, and modern information and communication technologies giving rise to various advantages. In fact, in the 21st Century Knowledge Society, the way people interact and communicate with each other all over the globe has changed drastically due to globalization and e-revolution. The paper-based communication of earlier times is fast being substituted by electronic communication. This has led to new ways of functioning of government and business. Now we have new terminology of cyberspace, netizens, E-governance, E-commerce, E-contract, e-transactions, and so on. An important boost provided to modern communication technologies and their applications is through the increasing use of Artificial Intelligence, or briefly usually referred to as AI. Significantly, as per a report of 2020, the use of AI is increasing by 25 percent every year globally. The most rapid adoption has been in developing economies led by China. Current AI use cases in India can be categorised into five key areas related to sustainability: agriculture¹, energy² and water systems³. Let's summarily understand what is AI.

II

What is Artificial Intelligence

Artificial Intelligence (AI) is the area of computer science focusing on creating machines that can engage in behaviours that humans consider intelligent. In general, AI is a computer programme that can carry out operations that would normally need human intellect. Significantly, some of these AI systems depend on machine learning while other on deep learning, and yet others on really dull stuff like rules. Learning is required for this, as it is through study that one acquires the knowledge and norms necessary to make effective use of the data. Its widespread adoption and use can be attributed to the rise of data-driven service companies.⁴

The ability to create intelligent machines has intrigued humans since ancient times and today with the advent of the computer and 50 years of research into AI

¹ Precision farming is the most prominent among these. It uses AI and IoT sensors to ensure that soil and crops receive exact levels of irrigation and nutrients for optimum health and productivity.

² AI solutions for the energy sector seek to improve energy efficiency by monitoring distribution networks and providing predictive analytics on energy consumption. India suffers from one of the highest levels of electricity transmission and distribution (T&D) losses globally.

³ The Central Water Commission (CWC) has partnered with Google to develop early warning systems for floods in India.

⁴ Cole Stryker, Eda Kavlakoglu, *What is Artificial Intelligence (AI)* (Feb. 2, 2023) available at <https://www.ibm.com/in-en/topics/artificial-intelligence> (last visited Feb. 12, 2023)

programming techniques, the dream of smart machines is becoming a reality. Researchers are creating systems that can mimic human thought, understand speech, beat the best human chess player, and countless other feats (things) never possible before. Today, even the military is also applying AI logic to its hi-tech systems.⁵

III

AI and Private Life of E-consumer

Participation from all relevant parties in the ongoing discussions around AI is crucial if we are to ensure that its effects will be beneficial. Significantly, Artificial Intelligence (AI) is used in our routine life in the following manner:

(a) Virtual Reality: It is a computer-generated reality that projects a person in three-dimensional forms. Major players in Virtual Reality include HTC Vive, Oculus Rift and PlayStation VR (PSVR).⁶

(b) Robotics: It is the development and study of a machine (robots) that perform functions normally done by people. In the area of robotics, computers are now widely used in assembly plants (plants for assembly of various parts, e.g., during the manufacturing of the car, bus etc., different parts are assembled by robots) but they are capable only of very limited tasks. However, Robots have great difficulty identifying objects based on appearance or feel, and they still move and handle objects clumsily.⁷

(c) Game Playing: It means programming computers to play games such as chess and checkers. This enables the computers to see and hear and react to other sensory stimuli. Currently, no computers exhibit full artificial intelligence (that is, can simulate human behavior). The greatest advances have occurred in the field of game playing. The best computer chess programs are now capable of beating humans. In May 1997, an IBM super-computer called Deep Blue defeated world chess champion, Gary Kasparov, in a chess match.⁸

(d) Natural Language Processing: This allows people to interact with computers without needing any specialized knowledge. It is a programme that understands and recognizes human language. In this process, there is no need for manual typing, instead, speaking in front of the computer is sufficient for typing. Unfortunately, programming computers to understand natural languages has proved to be more

⁵ Computer Innovative Research Society available at http://cirs.co.in/centre_for_AI.htm (last visited Feb. 12, 2023).

⁶ Joe Bardi, *What is Virtual Reality: Definitions, Devices, and Examples*, (Feb. 08, 2023) available at <https://www.marxentlabs.com/what-is-virtual-reality/> (last visited Feb. 12, 2023).

⁷ BUILTIN available at <https://builtin.com/robotics> (last visited Dec. 23, 2022).

⁸ GEEKSFORGEES available at <https://www.geeksforgeeks.org/game-playing-in-artificial-intelligence/> (last visited Feb. 10, 2023).

difficult than originally thought. Some rudimentary translation systems that translate from one human language to another are in existence, but they are not nearly as good as human translators.

Further, there are also voice recognition systems that can convert spoken sounds into written words, but they do not understand what they are writing; they simply take dictation. Even these systems are quite limited and we must speak slowly and distinctly.⁹

(e) Fuzzy Logic: It is a method of dealing with uncertain data or problems that have more than one answer and which need human reasoning to solve. Generally, fuzzy logic is used in lifts and auto-focus cameras.¹⁰

(f) Expert System: It is a programme that solves problems that otherwise need the assistance of a human expert. It helps to make decisions in real-life situations. For example, some expert systems help doctors in diagnosing diseases based on symptoms *e.g.*, MYCIN is a programme used to diagnose infectious disease.¹¹

(g) Neural Networks: It is software to mimic the neurological structure of the human brain. It is a system that simulates intelligence by attempting to reproduce the types of physical connections that occur in animal brains.¹²

(h) Genetic Algorithms: The genetic algorithm (GA) is a search heuristic that imitates the process of natural evolution. This heuristic is routinely used to generate useful solutions to optimization and search problems. Genetic algorithms belong to the larger class of evolutionary algorithms (EA), which provide solutions to optimization problems using techniques inspired by natural evolution, such as inheritance, mutation, selection, and crossover.

(i) Cyborgs: A cyborg, also known as a cybernetic organism, is a being with both biological and artificial (*e.g.* electronic, mechanical, or robotic) parts. Therefore, it is a hybrid of both machines and organisms. The term was coined in 1960 when Manfred Clynes and Nathan Kline used it in an article about the advantages of self-regulating human-machine systems in outer space.¹³

⁹ Jim Holdsworth, *What is NLP (natural language processing)* (Jun. 06, 2024 available at <https://www.ibm.com/in-en/topics/natural-language-processing> (last visited Feb. 11, 2023).

¹⁰ I. Elamvazuthi, P., *The Application of Mamdani Fuzzy Model for Auto Zoom Function of a Digital Camera*, Vol. 6 No. 3 IJCSIS (2009).

¹¹ Pavan Vadapalli, *Expert System in Artificial Intelligence: What is, Characteristic, Applications & Benefits* (Sep. 22, 2022) available at <https://www.upgrad.com/blog/expert-system-in-artificial-intelligence/> (last visited Feb. 25, 2023).

¹² Martin Heller, *What is deep learning? Algorithms that mimic the human brain* (May 24, 2019) available at <https://www.infoworld.com/article/3397142/what-is-deep-learning-algorithms-that-mimic-the-human-brain.html> (last visited Feb. 12, 2023).

¹³ "Cyborgs and Space," in *Astronautics* (September 1960), by Manfred E. Clynes and Nathan

It is also expected that, in the future, we may have more and more artificial body parts such as arms, legs, hearts, eyes - and digital computing and communication supplements. The logical conclusion is that one might become a (there can be an animal) brain in a wholly artificial body. And the step after is to replace your natural brain with a computer brain.¹⁴ However, for such arrangements, we have to wait for a long time, and apart from this, it may cause ethical problems.

(j) Improves Human Interaction Through Social Media: Notably, Artificial intelligence (AI) has the potent potential to significantly alter the way humans interact, for better or for worse, with the digital world, with one another at work, and with other socioeconomic institutions. Artificial intelligence makes it easier for users to locate and communicate with friends and business associates. Different social media are used in different manner:

Twitter: From tweet recommendations to enhancing the user experience, Twitter has begun to use artificial intelligence behind the scenes to enhance their product. They process lots of data through deep neural networks to learn over time, what their users' preferences are.

Facebook: As is well observed that deep learning is helping Facebook draw value from a larger portion of its unstructured datasets created by almost 2 billion people updating their statuses 293,000 times per minute. Most of its deep learning technology is built on the Torch framework that focuses on deep learning technologies and neural networks.

Instagram: It is observed that Instagram also uses big data and artificial intelligence to target advertising and fight cyberbullying and delete offensive comments. As the amount of content grows in the platform, artificial intelligence is critical to be able to show users of the platform information they might like, fight spam and enhance the user experience.

Chatbots: Here comes an amazing application of AI, already put to use by companies across the world, called chatbots. Chatbots recognize words and phrases in order to (hopefully) deliver helpful content to customers who have common questions. Amazingly, sometimes, chatbots are so accurate that it seems as if you're talking to a real person.¹⁵

(k) Digital Assistants: We know that today different digital assistants like Apple's Siri, Google Now, Amazon's Alexa, and Microsoft's Cortana have made our life so

S. Kline available at <https://web.mit.edu/digitalapollo/Documents/Chapter1/cyborgs.pdf> (last visited Feb. 24, 2023).

¹⁴ THE CYBERPUNK PROJECT available at <http://project.cyberpunk.ru/idb/cyborgs.html> (last visited Feb. 24, 2023).

¹⁵ Dan Shewan, *10 of the Most Innovative Chatbots on the Web*, (Jan. 25, 2023) available at <https://www.wordstream.com/blog/ws/chatbots> (last visited Feb. 24, 2023).

easy by helping us in performing various tasks, for example, reminding or checking our schedules, searching for something on the web, sending commands to another app. Significantly, AI is a part of how these apps work because they learn from every single user interaction.¹⁶

(l) Self-Driving and Parking Cars: Self-driving and parking cars use software of AI, to recognize the space around a vehicle for ensuring safe driving and parking. Technology company Nvidia uses AI to give cars “the power to see, think, and learn, so they can navigate a nearly infinite range of possible driving scenarios”. The company’s AI-powered technology is already in use in cars made by Toyota, Mercedes-Benz, Audi, Volvo, and Tesla, and is sure to revolutionize how people drive and enable vehicles to drive themselves.¹⁷

(m) Improves Email Communications: Another quite common way how AI impacts our day to day online communication is through Smart replies which offer users a way to respond to emails with simple pre-designed phrases like “Yes, I’m working on it.” or “No I have not.” with the click of a button. Smart replies are tailored to the content of each email. Users can reply by typing a manual response or may instead choose a one-click smart reply.¹⁸

(n) Email Filters in Gmail: Today, to avoid bombardments of emails every person is using a filter. Google uses AI software to ensure that all the email reaching the users’ mail inbox is authentic. Their filters divide the emails into the following categories: Primary, Social, Promotions, Updates, Forums, and Spam. The filters divide the emails into these categories so that get organized and users can find gets important communications quicker. For example, Gmail sorts emails into 4 different tabbed categories and sends the spam mail to a separate folder.¹⁹

(o) Web Searches: AI also plays an important role in searches. AI software has been used by Google Predictive Searches²⁰ for quite some time. When the searcher begins typing a search term and Google makes recommendations for him to choose from. Significantly, the such recommendation is due to AI software. Google Predictive

¹⁶ Mona Bushnell, *AL Face-Off: Siri vs. Cortana vs. Google Assistant v. Alexa* (Nov. 20, 2023) available at <https://www.businessnewsdaily.com/10315-siri-cortana-google-assistant-amazon-alexa-face-off.html> (last visited Feb. 24, 2023).

¹⁷ Chegg available at <https://www.chegg.com/homework-help/questions-and-answers/self-driving-parking-cars-use-deep-learning-recognize-space-around-vehicle-technology-comp-q106308378> (last visited Feb. 24, 2023).

¹⁸ How Artificial Intelligence Is Impacting Our Every 1 available at <https://www.coursehero.com/file/118673391/How-Artificial-Intelligence-Is-Impacting-Our-Every-1docx/> (last visited Feb. 24, 2023).

¹⁹ Scott Orega, *How to Create Rules in Gmail for (Almost) Anything* available at <https://www.lifewire.com/create-rules-in-gmail-4172416> (last visited Feb. 24, 2023).

²⁰ Predictive search is an online search approach that aims at anticipating the search needs of a user, by making suggestions related to their queries as they type in a search bar.

Searches are based on data that Google collects about you, such as your location, age, and other personal details. Using AI, the search engine attempts to guess what you might be trying to find.²¹

(p) Online Stores and Services

Product Recommendations: Amazon and other online retailers use AI to gather information about your preferences and buying habits. Then, they personalize your shopping experience by suggesting new products tailored to your habits.²²

Music Recommendations: Music services often use AI to track your listening habits. Then, they use the information to suggest other songs you might like to hear. For example, Spotify offers suggestions for new discoveries, new releases, and old favourites, based on your listening habits.²³

Google Play also offers personalized music recommendations. Its AI-powered suggestions take into account factors like weather and time of day to offer music that can set the mood for activities. Interestingly, for example, you might be offered a playlist of dance music on a Friday night or soft acoustic music on a rainy day.²⁴

(q) Maps and Directions: Google Maps are used quite commonly these days. When apps like Google Maps calculate traffic and congestion in order to find the quickest route to your destination, that's AI at work.²⁵

(r) Commercial Airline Flights: It's a shuddering thought but you might be surprised to discover how little flying your friendly pilot in an airplane actually does in the cockpit. A 2015 survey of airline Boeing 777 pilots reported spending only 7 minutes manually flying the plane during a typical flight, with much of the rest being done by AI technology. According to a report by Wired Magazine, Boeing is working toward building jetliners completely piloted by artificial intelligence, with no human pilots at all at the helm.²⁶

²¹ GOOGLE available at <https://policies.google.com/technologies/location-data?hl=en-US> (last visited Feb. 24, 2023).

²² Amazon and other online retailers use AI to gather information about your preferences and buying habits

²³ SPOTIFY available at <https://newsroom.spotify.com/2018-11-02/our-spotify-cheat-sheet-4-ways-to-find-your-next-favorite-song/> (last visited Jan. 24, 2023).

²⁴ 16 Examples of Artificial Intelligence (AI) in Your Everyday Life available at https://medium.com/@the_manifest/16-examples-of-artificial-intelligence-ai-in-your-everyday-life-655b2e6a49de (last visited Feb. 24, 2023).

²⁵ Johann Lau, *Google Maps 101: How AI helps predict traffic and determine routes* (Sep. 03, 2020) available at <https://blog.google/products/maps/google-maps-101-how-ai-helps-predict-traffic-and-determine-routes/> (last visited Feb. 12, 2023).

²⁶ Ilija Mihajlovic, *How Artificial Intelligence Is Impacting Our Everyday Lives* available at <https://towardsdatascience.com/how-artificial-intelligence-is-impacting-our-everyday-lives-eae3b63379e1> (last visited Feb. 24, 2023).

Isn't that amazing? Who could think of such things even a few decades back? Such is the ever-growing power of Artificial Intelligence.

(s) Service Delivery by Government: It is important to note that the usage of AI is not just limited to technology companies and commercial services, governments all over the globe are using it for effective delivery of public services. Various efforts are made for using AI specifically for access to education, healthcare, energy and the agriculture sector. For example, a joint project is being undertaken by the Indian government and Microsoft in Karnataka. Under the project, an AI software is developed which informs farmers of the best date of sowing crops in a particular season.²⁷ Similar projects have been started in Brazil, Iran and other countries.

(t) Use of AI for Consumer Protection: A report has shown that AI systems are very effective for customer care services.²⁸ AI can also facilitate consumer protection in general by improving the work of consumer organisations, research, and regulatory authorities. Market studies and forecasting might be facilitated with improved accuracy. Enforcement entities could also use AI systems to, for example, automatically screen consumer contracts and alert consumers about potentially unfair terms before they make an online purchase.²⁹

IV

Artificial Intelligence and the Human Rights of Consumer

AI though is generally advantageous, especially for consumers, however, it has various disadvantages too. AI has started new forms of oppression, which in many instances disproportionately impact the most disempowered and vulnerable consumers and violates their rights. Individuals and the organisations that reflect them have the language and processes to contest the actions of more powerful individuals, such as nations and corporate entities, thanks to the idea of human rights.³⁰

Human rights are universal and enforceable, and they are codified in an international body of law. Government agencies and businesses are both expected

²⁷ MICROSOFT available at <https://news.microsoft.com/en-in/government-karnataka-inks-mou-microsoft-use-ai-digital-agriculture/> (last visited Feb. 24, 2023).

²⁸ Udai Singh Mehta, *Artificial Intelligence: Implications for Consumers* available at <https://cuts-cier.org/pdf/dp-artificial-intelligence-implications-for-consumers.pdf> (last visited Feb. 24, 2023).

²⁹ *Id.*

³⁰ Arto Laitinen, *AI Systems and Respect for Human Autonomy* (Oct. 26, 2021) available at <https://www.frontiersin.org/articles/10.3389/frai.2021.705164/full> (last visited Feb. 12, 2023).

to respect human rights, although governments have an additional obligation to safeguard and accomplish human rights. Regional, international, and domestic institutions and organisations provide well-developed structures for redress and articulate the implementation of human rights law to changing situations, including technological advancements.

Consequences of Such Negative Impacts of Artificial Intelligence on Human Rights

With COVID 19 already causing a loss in the jobs of many people, new AI inventions will only aggravate the situation further. Without regulation or accountability, these corporations increasingly intrude on the lives of citizens and violate human rights. From fostering discrimination to engaging in intrusive surveillance, AI has proven to be a threat to equal protection, economic rights, and fundamental liberties.³¹

In order to reverse these trends, proper legal standards must be implemented in our societies that are undergoing a digital transformation. Urgently required are increased transparency in AI decision-making procedures, greater accountability for tech giants, and the capacity for civil society to contest the introduction of new technologies. “AI literacy” or AI awareness should also be promoted by investing in public awareness and education initiatives that help societies learn not only about the operations of AI, but also its grave influence on our daily lives for the better or for worse.

Let’s briefly analyse various disadvantages of AI:

(a) Violating Right to Privacy: It is significant to note that the right to privacy is recognised as a fundamental human right by Article 12 of the Universal Declaration of Human Rights, Article 17 of the International Covenant on Civil and Political Rights, and several other international and regional human rights instruments. In India, Article 21 of the Constitution of India provides for the right to life which includes privacy. Privacy is a fundamental human right, necessary for living with dignity and safety. The Apex Court of India in *Puttaswamy and Anr v Union of India & Ors*³² have held that the right to privacy is a fundamental right under the Indian Constitution. The apex court further observed inter alia that there is a need of technology-neutral data protection law to control the growing use of AI in India under the legal discipline. Unfortunately, in the digital environment, especially when we use apps and social media platforms, we directly or indirectly, with or without our knowledge, provide our personal information which can be used to profile us and predict our behaviour. Such personal information provided may be

³¹ Rowena Rodrigues, *Legal and human rights issues of AI: Gaps, challenges and vulnerabilities*, IV JRT 100005 (2020).

³² (2017) 10 SCC 1, AIR 2017 SC 4161.

about our health, political beliefs, and family life without understanding who will use it and for what objective.

Further, the use of Artificial Intelligence in surveillance violates the right to privacy and chills the freedom of expression. Surveillance of citizens around the clock increases their fear of being monitored and the likelihood that they will not exercise their fundamental rights, such as freedom of speech and expression. Pegasus leak as an example, Pegasus can be installed on victims' phones without their knowledge. They are susceptible to tracking, eavesdropping, spying, and having their data copied. The Pegasus software has re-entered the public consciousness after the phone numbers of Indian politicians, journalists, and other prominent figures were discovered on a leaked list of potential hacking targets. The devastating impact that Pegasus spyware has or possibly could have on rights and fundamental freedoms, such as the right to dignity, free assembly, religious freedom, and even a person's physical and psychological authenticity, is of the utmost importance.³³

Many experts believe that the new tools for online harassment of marginalised and dissenting voices are AI-driven digital robots. It is a cause of genuine concern that Digital bot accounts that are difficult to identify pose as real users and send automated responses to recognised accounts or to anybody who shares a particular opinion, thereby violating the right to free speech. As revealed several times in numerous recent global elections, it has been alleged that political parties have used artificial intelligence to generate and spread false information regarding their political opponents, thereby endangering democratic values and demeaning the concept of free elections.³⁴

(b) Violating Equality: Significantly, Article 14 of the Constitution of India³⁵ provides for equality before the law. However, there is growing evidence that women, ethnic minorities, disabled people, and LGBTQ individuals are disproportionately affected by discriminatory methodologies used by AI software.

³³ Akarsh Verma, *Pegasus spying: how Pegasus is installed on phone, what it does, and how to rid of it* (Jul. 19, 2021) available at <https://www.indiatoday.in/technology/features/story/pegasus-spying-how-pegasus-is-installed-on-phone-what-it-does-and-how-to-get-rid-of-it-1829689-2021-07-18> (last visited Feb. 24, 2023).

³⁴ Janna Anderson, *Experts Say the "New Normal" in 2025 Will be Far More Tech-Driven, Presenting More Big Challenges* (Feb. 18, 2021) available at <https://www.pewresearch.org/internet/2021/02/18/experts-say-the-new-normal-in-2025-will-be-far-more-tech-driven-presenting-more-big-challenges/> (last visited Feb. 24, 2023).

³⁵ It states 'Protection of life and liberty and equality before law - No person shall be deprived of his life or liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the law within the territory of India.' available at https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/articles/Article%2014 (last visited Feb. 24, 2023).

The insufficiency of equality and diversity in the design of AI systems is thus a major concern: rather than making our decisions more unbiased, they could reinforce discriminatory practices by giving them the looks of objectivity.

(c) **AI as An Instrument of Discrimination:** Article 15 of the Constitution of India provides for the prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. AI perpetuates discrimination without the knowledge of people. Pulse oximeters, which quantify the extent of oxygen in the blood and have been an indispensable tool in the clinical management of COVID-19, are less precise on people with darker skin than on those with lighter skin, as a recent study demonstrated.³⁶

Another cause of concern as pointed out often is that accessibility barriers can prevent older adults from participating in the research, layout, and development of digital innovations. The belief that older adults are unable of using technology may also explain their absence from technology design and development. Consequently, older adults and their points of view are rarely incorporated into the development of artificial intelligence and policy frameworks, financial support, and support programs.³⁷

(d) **AI Resulting in Unemployment:** Another disadvantage of AI is that it has resulted in unemployment in every field. Significantly, due to AI, electronic commerce will undergo a profound transformation. One such example is self-driving and parking cars that are capable of sensing their surroundings and moving in a safe manner without or with minimal human intervention. These vehicles are autonomous and do not require a human driver to move. Another example is robots navigating the space to collect products and execute customer orders; to be sent or even delivered automatically to customers using autonomous drones and cars. Consequently, reducing the need for salespeople and network stores. Attaching AI-enabled devices to a patient's body enables doctors to monitor the patient's health at regular intervals and make the necessary decisions regarding the patient's health. Further with the advent of robots providing health services, a nurse would not be required to monitor patients' health at regular intervals.³⁸ Other examples are Online services such as magic bricks and 99 acres assist customers with property searches, thereby reducing the need for brokers. Significantly, Article 23 of the UDHR Article

³⁶ Sylvia E K Sudat, *Racial Disparities in Pulse Oximeter Device Inaccuracy and Estimated Clinical Impact on COVID-19 Treatment course* available at <https://pubmed.ncbi.nlm.nih.gov/36173743/> (last visited Feb. 24, 2023).

³⁷ WORLD HEALTH ORGANIZATION, *Ensuring artificial intelligence (AI) technologies for health benefit older people* available at [https://www.who.int/news/item/09-02-2022-ensuring-artificial-intelligence-\(ai\)-technologies-for-health-benefit-older-people](https://www.who.int/news/item/09-02-2022-ensuring-artificial-intelligence-(ai)-technologies-for-health-benefit-older-people) (last visited Feb. 24, 2023).

³⁸ GEEKSFORGEES, *Artificial Intelligence and Unemployment* available at <https://www.geeksforgeeks.org/artificial-intelligence-cause-of-unemployment/> (last visited Feb. 24, 2023).

6 of the ICESCR all guarantee the right to work and protection against unemployment. Despite the fact that the rapid growth of AI has transformed existing businesses and personal lives by increasing the efficiency of machinery and services, this transformation has also ushered in an era of unemployment as a result of the displacement of human labour.³⁹

V

Artificial Intelligence, Consumer and Law: International Scenario

Efforts of the United Nations

Significantly, earlier in the 1980s the Economic and Social Council of the United Nations, recognizing the need for the protection of the rights of consumers and drafted a set of model guidelines on consumer protection i.e., The United Nations Guidelines for Consumer Protection (UNGCP) which were adopted by the General Assembly in 1985. These Guidelines mainly aimed at protecting international consumers especially safeguarding them against illegal and restrictive trade practice; facilitating the development of independent consumer groups; furthering international cooperation in the field of consumer protection; encouraging the development of market conditions which provide consumers with greater choice at lower prices; promoting sustainable consumption.⁴⁰ Also, Digital transformation is profoundly impacting our economies and societies, changing the ways in which consumers interact with each other and the online marketplace. Consumer data, in this context, have become an essential economic asset powering a wide range of new and innovative business models, technologies, and transactions.⁴¹

Consumers International, an international consumer rights organization has along with other groups prepared a book titled "Updating the UN Guidelines for Consumer Protection for Consumers in the Digital Age." Significantly, this work is divided into amendments on access to knowledge (Chapter 1), Internet and telecommunications (Chapter 2), and e-commerce and digital products (Chapter 3).

³⁹ HARVARD, *Artificial Intelligence & Human Rights: Opportunities & Risks* (Sep. 25, 2018) available at https://cyber.harvard.edu/sites/default/files/2018-09/2018-09_AIHumanRightsSmall.pdf (last visited Feb. 24, 2023).

⁴⁰ UNCTAD, *United Nations guidelines for consumer protection* (Apr. 16, 1985) available at <https://unctad.org/topic/competition-and-consumer-protection/un-guidelines-for-consumer-protection#:~:text=The%20United%20Nations%20Guidelines%20for,formulating%20and%20enforcing%20domestic%20and> (last visited Feb. 24, 2023).

⁴¹ OECD available at <https://www.oecd.org/sti/consumer/challenges-to-consumer-policy-in-the-digital-age.pdf>. (last visited Feb. 24, 2023).

Further case studies from India (Chapter 4), Brazil (Chapter 5), and South Africa (Chapter 6) on how the consumer protection principles advanced in the proposed amendments to the Guidelines address problems that ordinary Consumers encounter in cases such as buying and using digital content products and accessing information online. Final chapter 7 in which the same experts address emerging areas for consumers in the digital age is mentioned. The main objectives of amending the guidelines are; safeguard consumers against the unauthorized collection, use, disclosure, or loss of their personal information; and Governments and businesses should ensure effective consumer control of personal data. Confidential personal data should be protected against unauthorized use, and in any event, its use should be minimized.⁴²

Efforts by Various Countries

Let us now take a brief look at the situation in a few countries in order to have an idea about the global standard and practices when it comes to protecting consumers.

In the United States of America, the protection of consumers is dealt with by various patchwork of legislation. These include The Consumer Financial Protection Bureau, The Dodd-Frank Act, The Federal Trading Commission, The FDA, the state attorney etc. For instance, under the Dodd-Frank Act which legislates the regulation of the financial industry in the hands of the government, defines a consumer as “an individual or an agent, trustee or representative acting on behalf of an individual” and under the Fair Credit Reporting Act (FCRA) it is simply stated as “means an individual”. But the problem here is that, at first glance, it appears to be counterproductive since there is bound to be collision and overlap of legislations, however, at the same time, this caters and covers a more extensive bracket of consumers. Additionally, each enforcement agency gets a wide arsenal of tools to work with and can crack down on particular sectors.⁴³

In Japan, there is an absence of a uniform code for consumer laws in Japan. The ruling act for instances on consumer grievances, is the Basic Act on Consumer Policies. The said act lays down the fundamental principles of consumer policy and the responsibilities of a business towards its customers. When viewed from the perspective of most countries where the court stands as the last defender of a consumer’s rights, the same is not true in the case of Japan. The laws are industry specific as per the category of businesses, which are regulated and interpreted by

⁴² *Id.*

⁴³ FEDERAL TRADE COMMISSION available at <https://www.ftc.gov/about-ftc/bureaus-offices/bureau-consumer-protection> (last visited Feb. 24, 2023).

supervisory authorities and can be fundamentally classified as administrative laws overseen by a specialized body called the Consumer Affairs Agency.⁴⁴

In the United Kingdom, the major share of rights and protections for a consumer in the UK is derived from the Consumer Rights Act 2015 (CRA) and other key sources being the Consumer Protection from Unfair Trading Regulations, Consumer Contracts Regulations, General Product Safety Regulations. The laws are well founded with distinct legislations for a plethora of scenarios and a skilful division of powers to the enforcement agencies is observed. It houses some of the most amicable and statutorily backed redressal laws including damage and specific performance.⁴⁵

In Russia, the legislation for consumer protection and rights is a labyrinth of complex regulatory acts and are diverse in nature. The main pillars that form the laws are the Civil Code of the Russian Federation and the Consumer Protection Act.⁴⁶ Other regulatory acts such as municipal and criminal laws, business and administrative laws play a vital role too in shaping the rights for consumers. Along with these federal laws, the Government Decrees are another safety net to ensure the consumers are not deceived of their rights. The consumer laws are placed in such high regard that it has been categorized as a mandatory norm of Russian legislation and thus they apply to foreign companies irrespective of their legal presence in the State.

E- Consumer and Law: The Indian Scenario

India was also a signatory to MLEC & MLES and had to revise its national laws as per the said model law. Therefore, India also enacted the Information Technology Act, 2000 to make Indian law in tune with MLEC which was amended in 2008 to fulfil its signatory obligations. The Act brought much-needed reforms and important salient features of the Act are⁴⁷:

- a) It suitably amends existing laws in India to facilitate E-commerce.
- b) It provides legal recognition of Electronic Records and Electronic/Digital Signatures.
- c) It provides legal recognition to the transactions carried out using Electronic Data Interchange (EDI) and other means of electronic communication.

⁴⁴ Consumer Protection Laws and Regulations Japan 2024 *available at* <https://iclg.com/practice-areas/consumer-protection-laws-and-regulations/japan> (last visited Feb. 24, 2023).

⁴⁵ Consumer Rights Act 2015 *available at* <https://www.legislation.gov.uk/ukpga/2015/15/enacted> (last visited Feb. 24, 2023).

⁴⁶ The Civil Code of the Russian Federation and the Consumer Protection Act. No 2300-1-FZ 1992.

⁴⁷ Jyoti Rattan, CYBER LAW AND INFORMATION TECHNOLOGY 80 (Bharat Law Publisher, 2022).

- d) It provides legal recognition to business contracts and the creation of rights and obligations through electronic media.
- e) It establishes a regulatory body to supervise the Certifying Authorities issuing Electronic/Digital Signature Certificates.
- f) It creates civil and criminal liabilities for contravention of the provisions of the Act and to prevent misuse of e-business transactions.
- g) It facilitates E-governance and encourages the use and acceptance of electronic records and digital signatures in Government offices and agencies. This would also make the citizen-government interaction more hassle-free.
- h) It makes consequential amendments in the Indian Penal Code, 1860, and the Indian Evidence Act, 1872 to provide for necessary changes in the various provisions which deal with offenses relating to documents and paper-based transactions.
- i) It amends:
 - a. the Reserve Bank of India Act, 1934 to facilitate electronic fund transfers between the financial institutions; and
 - b. the Bankers' Books Evidence Act, 1891 to give legal sanctity for books of accounts maintained in the electronic form by the banks.

However, the MLEC is a set of model laws that only provide a guideline or seed for its signatory countries. The signatory country can modify and bring in legislation that suits its demographics the best. Although it does often lead to strict and sometimes biased regulations to have to be followed by offshore business entities. For instance, the most recent one would be the change in Foreign Direct Investment (FDI) policy for e-commerce in India. The rationale behind the policy change is to protect the unorganized/small sellers of the country who cannot economically compete with major e-commerce entities, yet at the same time, it stunts the growth of such e-commerce entities that receive funding from offshore investors, thereby limiting potential market in sectors such as employment.

It is commendable to note that in India the Information Technology Act, 2000 was enacted to cover e-transactions. This Act has amended various conventional laws and some statutes were given wider interpretation to cover all the issues in cyberspace. Significantly, the Consumer Protection Act, (The CPA) 1986 is one of such statutes which was not amended but was given wider interpretation to cover e-consumers within its purview.

In the case of *Amazon Seller Service Private Limited (OP1) v. Love Kumar Sahoo & Others(OP2)*⁴⁸, Mr Sahoo ordered a specific brand of phone from Amazon. Due to defects he got the product replaced for two times and the third time also he experienced yet more defects in the phone. In the District consumer forum, he raised

⁴⁸ *Amazon Seller Service Private Limited v. Love Kumar Sahoo & Others*, Appeal No.FA/2018/05.

some pertinent questions relating to the legality and extent of dominance a seller exercises for framing a blanket/biased/unfettered policy for refund/exchange of goods in e-commerce and the lacunae of protection of the Consumer in the IT Act. It was observed by the Forum that the IT Act is limited and focused on encouraging the growth of e-commerce nevertheless, it fails to pursue and protect the basic preconditions for such growth that is building trader and consumer confidence. In the appeal it was held that continuously defective mobile handset was provided by the Amazon to the complainant, so both Amazon and seller are jointly or severally liable to refund the above amount, to the complainant.

Therefore, with new problems emerging with emerging technologies, the e-commerce industry, and the modern methods of providing goods and services such as online sales, teleshopping, direct selling, and multi-level marketing in addition to the traditional methods, the Government enacted a new Act instead of amending the CPA, 1986. Significantly, the Consumer Protection Act, (The CPA), 2019 came into force in August 2019.

Let's briefly analyse the salient provisions of the Consumer Protection Act, (The CPA), 2019.

In India, in 2014 Minister of State for Food and Consumer Affairs in a written reply to the Lok Sabha to a query whether there is any proposal to bring e-commerce operations under the Consumer Protection Law given numerous complaints of cheating and other malpractices by such companies, stated, "E-commerce is covered under the Consumer Protection Act and the central government is not facing any loss in indirect tax revenue due to expansion of online retail business" and "E-commerce operations are already covered under the Consumer Protection Act, 1986."

Salient Features of the Consumer Protection Act, 2019 are:⁴⁹

- a) Commerce includes "e-commerce and e-service providers also.
- b) Online transactions and consumers are also covered under the Act⁵⁰ and it provides that the expressions "buys any goods" and "hires or avails any services" include offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing. Therefore, earlier it was implied that a person who "buys any goods" and "hires or avails any services" online was a consumer by giving a wider interpretation to the CPA 1986 but now it has been made clear that such a person is consumer under the Act.
- c) "Unfair trade practice" means a trade practice which, for the purpose of promoting the sale, use, or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice.

⁴⁹ Jyoti Rattan, *CYBER LAW AND INFORMATION TECHNOLOGY* 80 (Bharat Law Publisher, 2022).

⁵⁰ The Consumer Protection Act, 2019 Explanation (b) to Section 2(7)

E-commerce and Unfair Trade Practices

The Government had issued Consumer Protection (E-commerce) Rules⁵¹, 2020 in July 2020 under the Act imposing duties on the following entities and, under the Rules, e-commerce entities are, inter alia:

- a) required to provide in a clear and accessible manner on its platform details of the grievance officer, details of the importer or seller of imported goods and services, principal geographic address of its headquarters and all branches;
- b) prohibited from adopting any unfair trade practice including, manipulation of the price of goods or services or discrimination between consumers of the same class;
- c) required to establish a fastback grievance redressal mechanism and appoint a grievance officer; and
- d) required to appoint a nodal person of contact or an alternate senior designated functionary resident in India;
- e) prohibited from imposing cancellation charges on consumers unless such charges are also borne by the e-commerce entities upon unilateral cancellations; and
- f) prohibited from automatically recording consent for purchase in ways such as pre-ticked checkboxes instead of recording explicit consent for each purchase.

VI

Conclusion and Suggestions

In conclusion, it can be said that Artificial Intelligence has brought tremendous change in the way we run our day-to-day lives, the way we communicate with each other, businesses and governments and, by and large, it has made our lives more efficient. AI has various advantages and helps us do everyday things more easily such as connecting with friends, using an email program, or using a ride-share service. Apart from businesses, even governments all over the globe are increasingly using AI for the benefit of consumers besides citizens at large. However, though AI is transforming for good the way businesses and governments operate across the globe, yet it is also a source of violations of the human rights of consumers especially the right to privacy. Data protection and other laws relating to transparency and

⁵¹ Consumer Protection (E-Commerce) Rules, 2020, *available at* <https://consumeraffairs.nic.in/sites/default/files/E%20commerce%20rules.pdf> (last visited Feb. 24, 2023).

accountability are also not in a position of preventing such violations and more work is required to protect human rights as the use of AI is becoming more advanced and increasing every year.

The United Nations Guidelines for Consumer Protection (UNGCP) which were further adopted by the General Assembly as well. Subsequently, considering the spread of the internet and technology in business, there was a proposal to amend these guidelines to protect consumers also. Further, efforts to protect consumer include the Model Law on E-commerce, 1996 and model Law on E-Signature, 2001.

In India, for the protection of consumer's human rights, we have the Information Technology Act, 2000 amended in 2008 and the recently enacted Consumer Protection Act, 2019. However, the Data Protection Bill is pending and law is still awaited. The Consumer Protection Act, 2019 covers the technological advancements in the industry, provides for easier filing of complaints, and also imposes strict liability on businesses including endorsers for violating the interest of the consumers in electronic form. It also empowers consumers with clearly defined rights and dispute resolution processes which will enable them to get their grievances addressed with a fast-track mechanism.

In light of the above situation and various technological and other developments, some important suggestions are as follows:

- i) The United Nations, at the earliest, should adopt a specific Model Law for protecting the human rights of consumers due to misuse of AI and member states must make their State Laws in tune with such a Model Law.
- ii) Governments across the world must ensure by taking appropriate administrative and legal measures that the use of artificial intelligence by businesses or governments must be transparent, subject to independent human rights supervision, and not violate the human rights of the consumers.
- iii) In India, till such time when the United Nations adopts any Model Law for protecting the human rights of consumers, the need of the hour is strict implementation of the Consumer Protection Act, 2019 so as to provide quick relief to the consumer or e-consumer. Also, the enactment of the Data Protection Law should be expedited.