



NEWSLETTER

ON

AI, LAW & REGULATION

DECEMBER 2025

CYRIL SHROFF
CENTRE *for*
ARTIFICIAL INTELLIGENCE,
LAW & REGULATION *at*
JINDAL GLOBAL LAW SCHOOL



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CYRIL SHROFF
CENTRE FOR AI,
LAW & REGULATION

INTRODUCTION

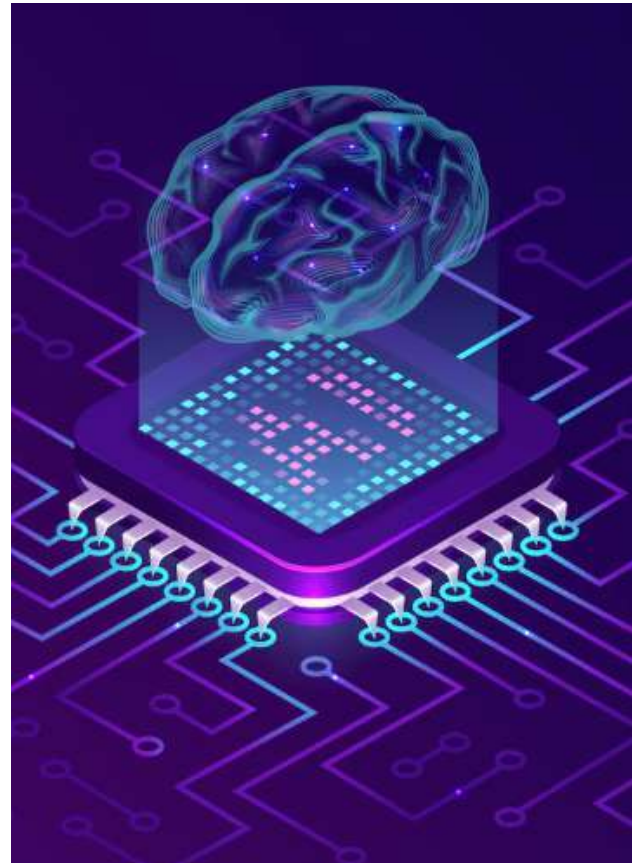
Artificial Intelligence (AI) is fundamentally transforming industries, governance, and society. However, legal and regulatory frameworks frequently struggle to keep up with the speed of this technological innovation. To address this critical gap, the Cyril Shroff Centre for AI, Law & Regulation was established as India's inaugural Global Centre of Excellence, at the Jindal Global Law School, dedicated to the intersection of AI, law, and public policy.

Recognizing that AI is a legal, ethical, and social phenomenon as much as a technological one, the Centre aims to position India as a key contributor to global AI governance. Our mission is to be a thought leader in shaping future regulations, ensuring that AI strengthens institutions and genuinely serves the public good.

The Centre focuses on world-class research, knowledge creation, training, capacity building, and policy engagement. We work closely with legal institutions, think tanks, government agencies, intergovernmental

organisations, corporations, and academia to shape AI governance, policy, and regulatory frameworks nationally and internationally.

Below is a roundup of the key activities undertaken by the Centre from November – December 2025.



Establish a Platform for Discourse on AI, Ethics, Law, and Policy

1

Conduct Interdisciplinary Research on AI's Societal Implications

3

Build Bridges between Academic Theory and Policy Practice

5

2

Design and Deliver AI-focused Legal Education and Training

4

Influence National and International AI Policy Frameworks

SUBMISSION OF COMMENTS ON IT (INTERMEDIARY GUIDELINES & DIGITAL MEDIA ETHICS CODE) AMENDMENT RULES, 2025

to Ministry of Electronics and IT (MeitY),
Government of India

The draft Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2025 marks India's first serious regulatory step toward addressing synthetically generated information. Yet, the draft also raises fundamental conceptual and technical concerns that merit careful attention before notification. The Centre, concluded research as well as comments, and submitted the same to the Ministry of Electronics & IT (MeitY), Government of India.

The submission focused on the scope of the definition of synthetically generated content; the extent of authority mandated under the proposed Rules, as well as examining the technical feasibility of implementing the proposed Rules. It is hoped that the research will aid the Government in its mission of ensuring that AI-based technologies remain safe and are subject to responsible use.



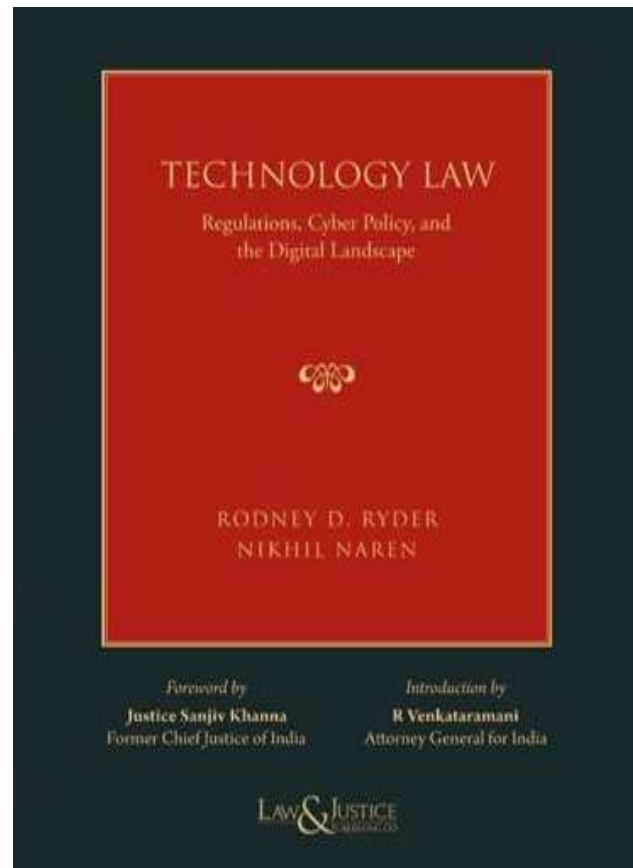
Comments on Draft
Information Technology
(Intermediary Guidelines
and Digital Media Ethics Code)
Amendment Rules, 2025



BOOK RELEASE



We are pleased to announce the release of the book “Technology Law: Regulations, Cyber Policy, and the Digital Landscape” co-authored by Prof. Nikhil Naren, Assistant Director at the Centre. He has co-authored the book with Mr. Rodney D. Ryder, Founding Partner, Scriboard Advocates & Legal Consultants, New Delhi, and a prominent authority on technology and intellectual property law. The book features a foreword by the Hon’ble Justice Sanjiv Khanna, Former Chief Justice of India, and an introduction by Mr. R. Venkataramani, Attorney General for India.



ASIA SOCIETY INDIA CENTRE

Prof. Krishna Deo Singh Chauhan, Associate Director at the Cyril Shroff Centre for AI, Law and Regulation, spoke at a roundtable hosted by the Asia Society India Centre, Delhi. Held as an official pre-summit event of the AI Impact Summit 2026, the discussion,

titled "Utilising DPI as Techno Legal Solutions for AI Governance". The pre-summit brought together policymakers, researchers, legal experts, corporate leaders, diplomats, and representatives from multilateral organisations.



LECTURE SERIES HELD AT TISS, MUMBAI ON TECHNO-LEGAL REGIME AND CRIMINAL JUSTICE POLICY

Prof. Nikhil Naren delivered a lecture-series at the Tata Institute of Social Sciences, Mumbai, to the students of the integrated degree programme in M.A. in Public Policy and Law and LL.M. in Law and Social Policy.

The topic, at the core, was to understand the techno-legal regime and policy for criminal justice. His lecture was aimed at building an understanding of Artificial Intelligence and AI systems to carefully situate risks, and points of caution, useful for both lawyers as well as public policy professionals.

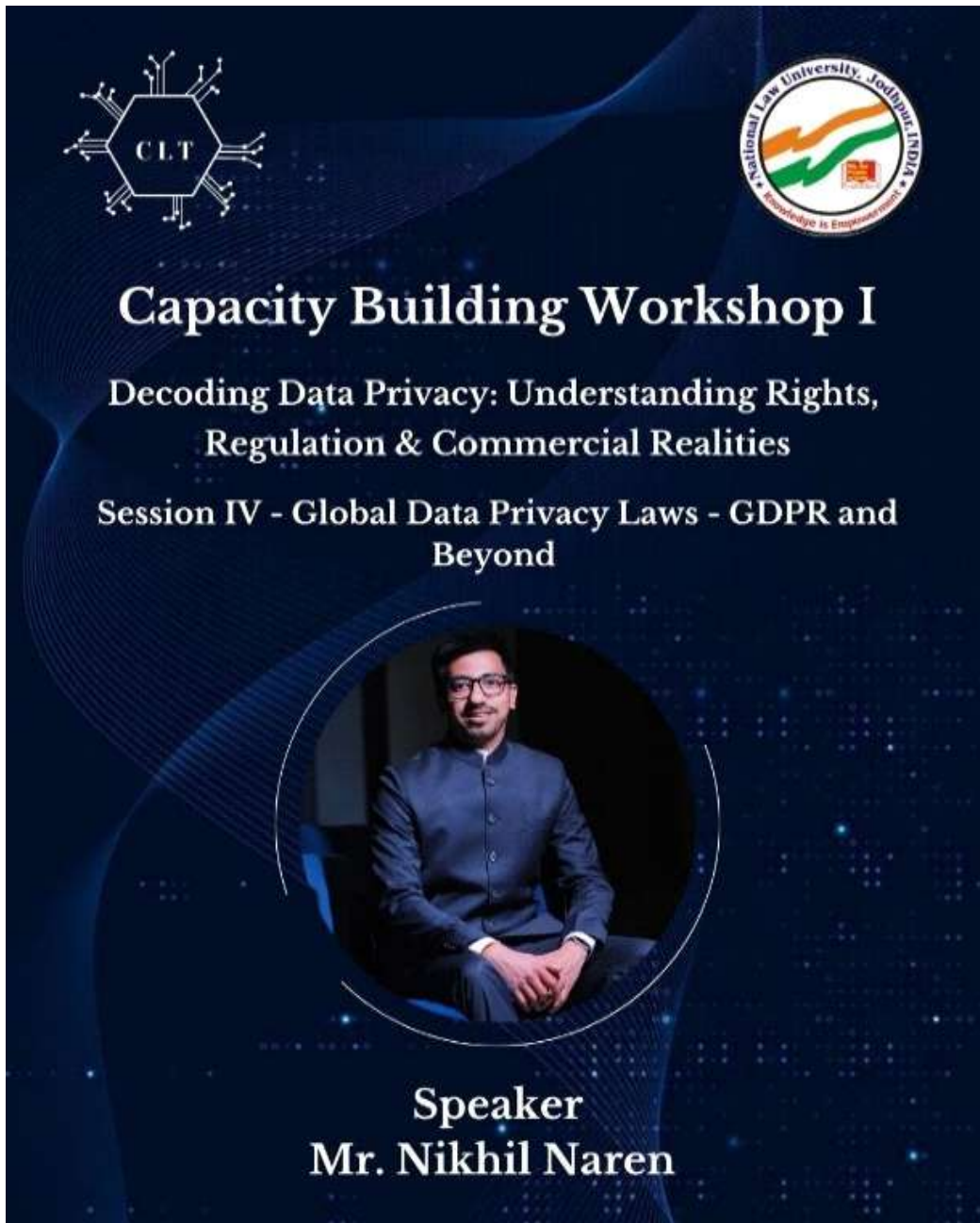


CAPACITY BUILDING WORKSHOP WITH CENTRE FOR LAW & TECHNOLOGY, NLU-JODHPUR

The Centre for Law and Technology (NLU, Jodhpur) conducted a Capacity Building Workshop Series, titled "Data Protection under the GDPR: The EU, India, and the Global Landscape." The event was led by Prof. Nikhil Naren, who unpacked key principles of the GDPR, discussed its global influence through the Brussels Effect, and compared it

with India's Digital Personal Data Protection Act (DPDPA).

Prof. Naren also examined landmark cases involving Meta, X, and Amazon to highlight the balance between user rights, innovation, and accountability in the digital age.



The poster features a dark blue background with a subtle pattern of white dots and lines. In the top left corner is the CLT logo, a hexagon with circuit-like lines extending from its vertices. In the top right corner is the National Law University, Jodhpur logo, which includes the Indian national flag colors and the motto 'Knowledge is Empowerment'. The main text is centered and reads: 'Capacity Building Workshop I', 'Decoding Data Privacy: Understanding Rights, Regulation & Commercial Realities', and 'Session IV - Global Data Privacy Laws - GDPR and Beyond'. Below this text is a circular portrait of Mr. Nikhil Naren, a man with glasses wearing a blue kurta. At the bottom, the text identifies him as the 'Speaker Mr. Nikhil Naren'.

Capacity Building Workshop I
Decoding Data Privacy: Understanding Rights, Regulation & Commercial Realities
Session IV - Global Data Privacy Laws - GDPR and Beyond

Speaker
Mr. Nikhil Naren

PARTICIPATION IN ROUNDTABLE DISCUSSION ON DRAFT IT AMENDMENT RULES – 2025

Prof. Souradeep Mukhopadhyay recently participated in a Roundtable Discussion on the Draft IT Amendment Rules 2025 concerning synthetically generated content. The event, organised by The Dialogue at the India Habitat Centre, brought together experts including law

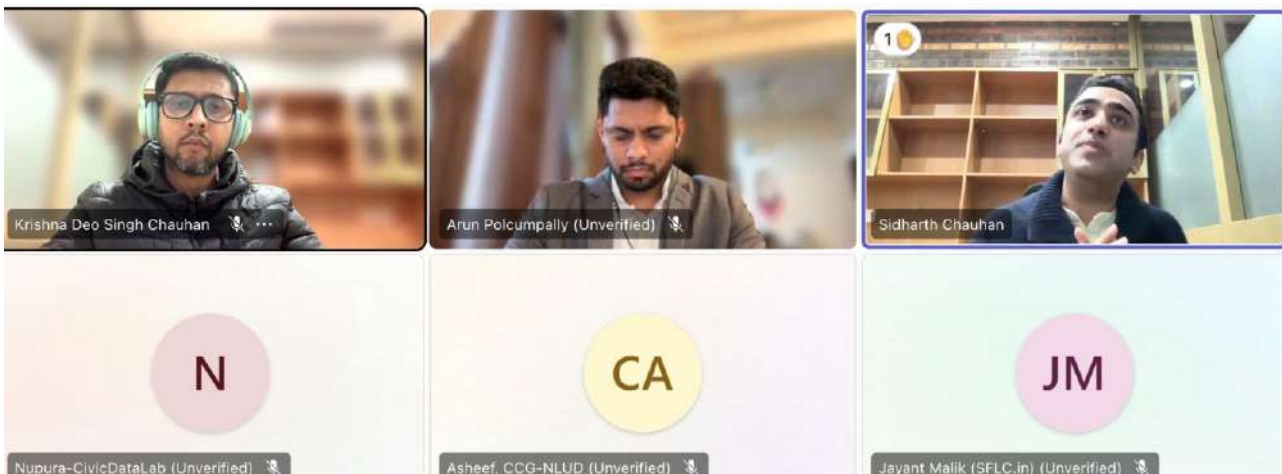
firm partners, practising lawyers, academicians, and representatives from various social media companies for holding consultations on the draft Rules notified by Ministry of Electronics & IT (MeitY), Government of India.



OFFICIAL PRE-SUMMIT AI EVENT ON SAFE & TRUSTED AI CHAKRA

The pre-summit event on the “Safe and Trusted AI Chakra”, was held as part of the official programming of the United Nations Forum on Business and Human Rights 2025. This event forms part of the UN Human Rights B Tech Project’s Asia initiative and contributes to the

preparations for the India AI Impact Summit 2026 that will take place in New Delhi. Prof. Sidharth Chauhan and Prof. Krishna Deo Singh Chauhan participated in the discussion on behalf of the Centre.



OFFICIAL PRE-SUMMIT EVENT ON AI AND HUMAN CAPITAL

The pre-summit event held in collaboration with the All India Council for Technical Education (AICTE) was themed on 'Impact of AI on Human Capital in India and Emerging Economies'. The panelists included the MD and CEO of e-Government Services

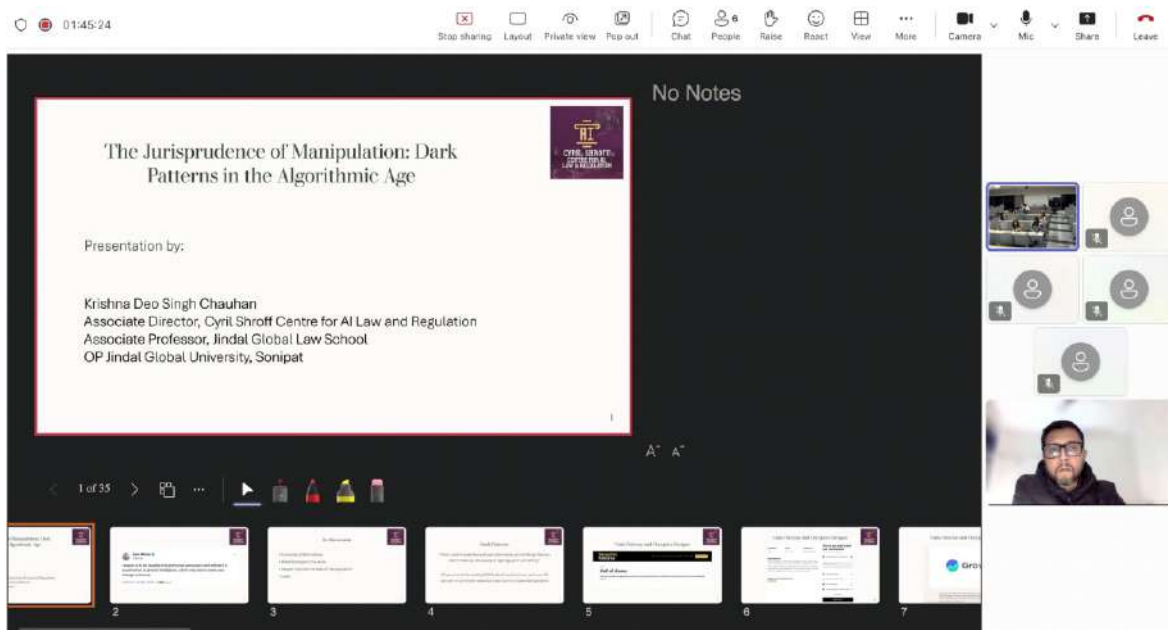
India, along with partners and senior officials from Cyril Amarchand Mangaldas, Google, KPMG, Deloitte, Capgemini, NatWest, Tata Power, Avro India, NASSCOM, SODES and Egrow Foundation.



SESSION AT BITS LAW SCHOOL MUMBAI

Prof. Krishna Deo Singh Chauhan, delivered an expert session for the Society on AI Governance and Ethics (SAIGE) at BITS Law School, Mumbai. The talk, titled “The Jurisprudence of

Manipulation: Dark Patterns in the Algorithmic Age,” delved into the critical intersection of technology, consumer law and behavioral psychology.



PANEL DISCUSSION ON 'TECHNOLOGY AS AN EQUALIZER: BRIDGING GENDER AND SOCIAL GAPS WITH AI INNOVATION'

Prof. Nikhil Naren, Assistant Director at the Cyril Shroff Centre for AI, Law and Regulation, served as a panellist at the India Internet Governance Forum (IIGF), in collaboration with Chase Advisors, on the theme: "Technology as an Equalizer: Bridging Gender and Social Gaps with AI Innovation." The India Internet Governance Forum (IIGF) is part of the broader Internet Governance Forum (IGF) ecosystem – a United

Nations–convened, multi-stakeholder platform that brings governments, industry, academia, and civil society together to deliberate on public policy issues related to how the Internet is governed and shaped. One of the co-panellists was Dr Sapna Poti, Director, Strategic Alliances, Office of the Principal Scientific Adviser to the Government of India.



PANEL DISCUSSION ORGANISED IN PARTNERSHIP WITH THE MOTWANI JADEJA INSTITUTE FOR AMERICAN STUDIES

This panel discussion was themed on 'AI Action Plan: Governance, Innovation and Global Cooperation' and received participation from the Director General of NIC and industry leaders from Tata Sons, Tech Mahindra, Salesforce, IBM Consulting and Ideafarms. We also had representatives from Cyril Amarchand Mangaldas.

The event concluded with a powerful synthesis of ideas, identifying actionable next steps for policy, innovation, and governance. The AI Action Plan discussions underscored India's pivotal role in driving a human-centred, globally connected AI future.



WOMEN IN LEGALTECH

What Can Lawyers Build Anyway? A Few Problems Worth Solving (with or without AI)

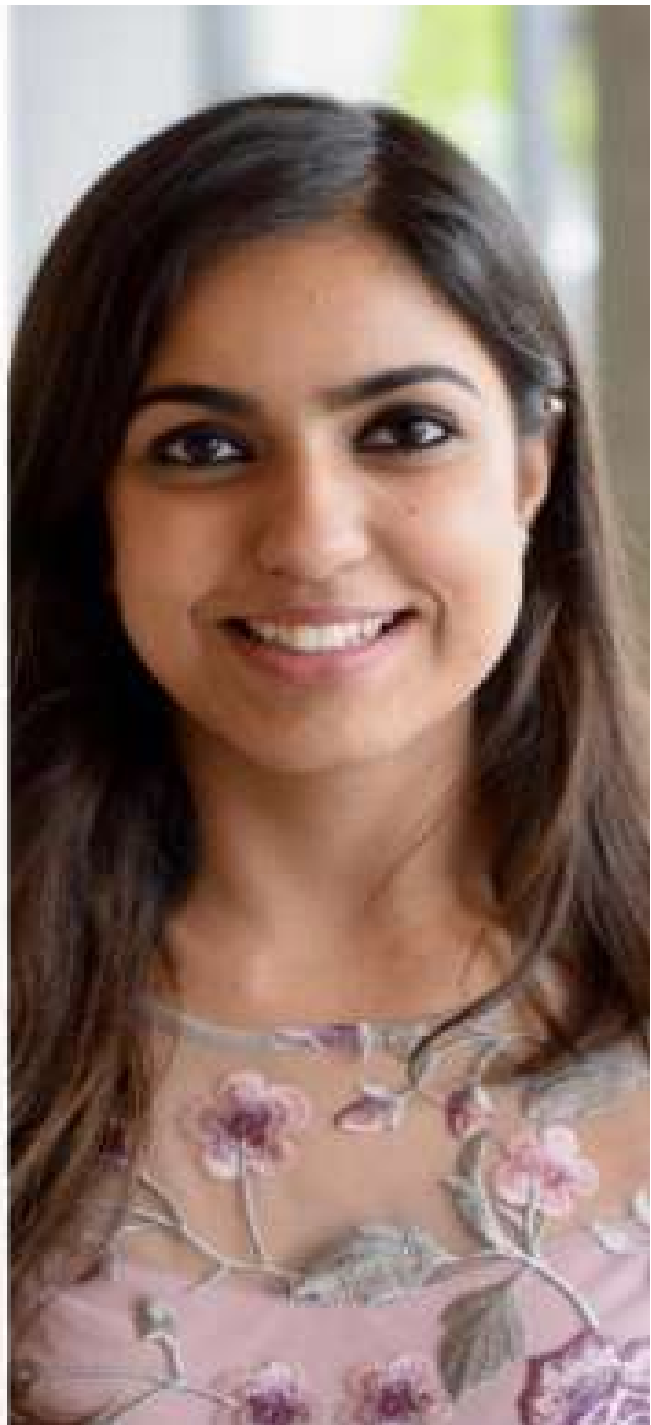
With Spriha Bhandari



27th Sept | 12 PM



Exclusively for
Women in
LegalTech
Members



WOMEN IN LEGALTECH LECTURE SERIES: TALK BY PROF. SPRIHA BHANDARI

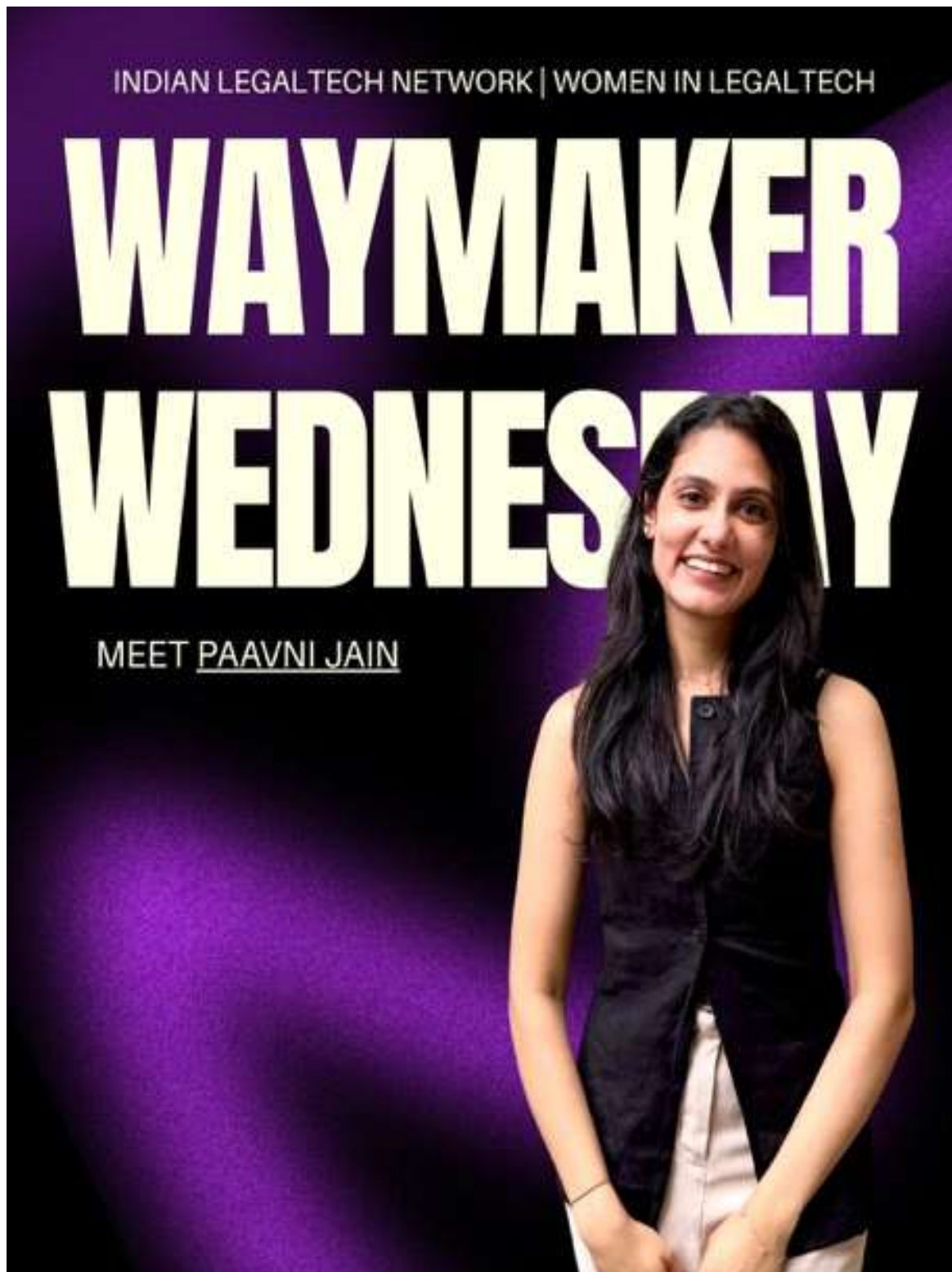
Prof. Spriha Bhandari recently took part in a lecture series organised by Indian LegalTech Network. Prof. Bhandari delivered a lecture on “What Can Lawyers Build Anyway? A Few Problems Worth Solving (with or without AI)”. The lecture focused on identifying opportunities for innovation and

encouraged undertaking a problem-solving approach. Prof. Bhandari emphasised that many real legal problems waiting to be solved (with or without AI) and advised participants to start small, experiment, and gradually build confidence as a problem-solver.

WOMEN IN LEGAL TECH: FEATURED INTERVIEW ON WAYMAKER WEDNESDAY

Prof. Paavni Jain was featured in a recent interview conducted by Indian Legal Tech Network (ILTN). The interview focused on the future of law & technology. Prof. Jain discussed the role

of legal innovators working in the field of legal technology, and how legal systems can evolve alongside emerging technologies.



LEGISLATIVE DEBRIEF: THE ARTIFICIAL INTELLIGENCE (ETHICS AND ACCOUNTABILITY) BILL, 2025 [BILL NO. 59 OF 2025]

INTRODUCTION:

The Artificial Intelligence (Ethics and Accountability) Bill, 2025 was introduced as a Private Member's Bill with the stated objective "to establish an Ethics and Accountability Framework for the use of Artificial Intelligence (AI) technologies in decision-making, surveillance, and algorithmic systems to prevent misuse and ensure fairness, transparency, and accountability and for matters connected therewith or incidental thereto".

The Bill seeks to serve as a general-purpose legislation to anchor AI-related developments in India. Given its sector-agnostic stance, the Bill marks a departure from Government of India's current regulatory approach which seeks to build on existing sectoral regulations rather than introduce a comprehensive overarching legislation. Adding to this context, we must also keep in mind the legislative history, where private member Bills in India have seldom been able to garner the necessary mandate at the floor of the house to become enforceable legislations. Given the drift in regulatory constraints coupled with prior history, it remains to be seen how much traction this Bill would be able to attract to become a law.

OVERVIEW OF THE BILL:

1. Centralised Governance by a singular authority

The Bill proposes a novel solution to AI governance by proposing a single poly-centric body comprising of members from academia, civil society and the government who may be experts in disciplines such as law, data science and human rights. This body, namely the Ethics Committee for Artificial Intelligence, shall be responsible for policy-guidance, regulatory actions and recommending penalties – including hefty monetary sanctions up to Rs. 5 crores and suspension or revocation of licences to deploy AI systems. Notably, the same body would be responsible for administrative oversight, policy direction and recommending penalties. Consequently, AI governance becomes highly centralised in the hands of a single organisation.

Such a setup is directly in conflict with the governance architecture proposed by India AI Guidelines – which proposes a three-tier organisational structure that includes:

1. AI Governance Group - Serves as the apex body for enabling inter-ministerial coordination and administrative leadership at the highest level.
2. Technology & Policy Expert Committee - Advisory body consisting of academia, government as well as industry representatives to provide counsel and recommendations to the AI Governance Group.

3. AI Safety Institute - Responsible for building and adopting technical standards for safe and responsible use of AI.

Arguably, the India AI Guidelines provided a more comprehensive approach towards AI governance – by separately catering to building of technical standards, ensuring multi-sectoral collaboration and coordination at the apex level - as compared to the proposed Bill. Moreover, no guidance has been provided by the Bill regarding how penalties, if imposed, maybe further contested. This lack of clarity may disproportionately impact startups and MSME's as against larger enterprises, given that compliance risk-management and related burdens can potentially increase. Additionally, there is also no expressed opportunity to be heard provided within the Bill, before the Ethics Committee proceeds to impose sanctions.

2.Special Provisions concerning surveillance

The Bill provides for special provision through Clause 5 for certain use-cases of AI-enabled systems. It provides that surveillance shall be limited to lawful purposes and would be subject to approval of Ethics Committee for Artificial Intelligence (AI). Unfortunately, the Bill does not define the terms “surveillance” or what would “lawful purposes” be construed as.

Moreover, perhaps more critically, the Bill does not differentiate between surveillance functions performed by public bodies, such as Ministry of Home at the central level or Home Departments at the state-level, and

private entities, such as banks, private-lending institutions etc. Consequently, in the event of the Bill coming into force, key security agencies may have to apply for approvals to the Ethics Committee before deploying AI-enabled systems for purposes of internal security or defence purposes. Whether this has been intended deliberately or is an oversight remains unclear.

3. Regulation of AI systems involved in critical decision making

Another provision in Clause 5 of the Bill deals with “AI systems involved in critical decision-making”. Such AI systems, convening functions that include but are not limited to law enforcement, financial credit and employment, are subjected to [a]what the Bill calls “stringent ethical reviews” and [b] carry the obligation to not discriminate based on race, religion or gender. Unfortunately, the Bill does not provide any objective standard to classify AI systems involved in critical decision-making. Given the same, there remains uncertainty as to which AI systems would qualify for being regulated under this clause. Moreover, what standard/threshold of inquiry constitutes “stringent” ethical review has not been clarified by the Bill itself. The phrase by itself carries the tendency to not only create uncertainty but also a chilling effect on startups and bootstrapped enterprises hoping to leverage from AI-related developments.

Crucially, since usage of AI-enabled systems in hiring – both within the public as well as the private sector may be expected to increase, there may be associated compliance requirements that can arise if the Bill is passed by both the Houses of Parliament that not

only involve compliance on behalf of HR departments of corporate entities using automated systems to scan profiles but also constitutional bodies such as Union as well as State Public Service Commissions and other government recruitment agencies; besides added compliance responsibility on agencies in the internal security establishment as well as financial institutions.

4.Obligations on Developers of AI models and systems

The Bill provides a definition for developers and imposes specified obligations on them. The term “developer” has been defined to mean “a person who design(s), develop(s), and implement(s) AI models and systems” as under Clause 2(b) of the Bill. Further, the developer is subjected to three obligations under Clause 6:

1. **Obligation to ensure transparency:**
This requires the developer to disclose “intended purpose” and “limitations” of AI systems.
2. **Obligation to prevent Algorithmic Bias:** This obligation requires the developers carry regular audits to mitigate bias and ensure “diversity and inclusivity” in training datasets. The term algorithmic bias has been defined under the legislation to mean “presence of systematic errors in AI systems that result in unfair outcomes”.
3. **Obligation to maintain records for compliance with ethical standards.**

In terms of its applicability, the definition of developer is agnostic to the nature and scale of AI models and systems, thus treating teams working for multi-national organisations at the same pedestal as school or college-going

students incubating a startup. A graded-approach to risk management depending upon nature and scale of AI-based innovations would have necessarily ensured that the governance framework meets requirements of proportionality without stifling innovation. Moreover, developers as per the Bill are defined as those who “design, develop and implement” – such a framing is unfortunately misaligned with how AI-enabled tools are developed and deployed in the current eco-system. In practise, developing and deploying AI-enabled tools encompasses a wide range of entities including, though not always limited to, developers, vendors, entities that curate training datasets, cloud-service operators and end-users. Also, developers whose AI models are used for further building applications may not always have the requisite degree of control over their innovation; and risk attracting responsibility for consequences beyond their control. Moreover, there may be a need to distinguish between those engaged in developing foundational AI models and others who integrate these foundational models into sector-specific applications downstream. Unfortunately, the wide generalisations within the Bill fail to comprehensively account for such nuances.

Additionally, the mandate for ensuring diversity and inclusion is imposed on “Every developer” under Clause 6. However, not all AI systems may in practice require “diversity and inclusivity” in datasets. For instance, AI models built for particular use cases such as handling network traffic or AI models being used to detect genetic anomalies in vulnerable communities may require targeted datasets to train models for accuracy rather than

datasets with wide demographic diversity. Thus, adopting a blanket mandate for diversity and inclusion may not benefit all use-cases for AI-enabled systems.

CONCLUSION:

A key feature of the Bill is its preference for broad definitions and general provisions, which if enforced would carry two essential imperatives. Firstly, they shall cast a wide regulatory dragnet on the AI innovation, which may be subjected to “stringent” ethical reviews as well as hefty penalties, for non-compliance. Secondly, the wide regulatory dragnet is accompanied by generic phraseology which may carry with it risks of overregulation as well as uncertainty within the AI ecosystem. While the proposed Bill pursues a laudable aim to lay down a

comprehensive framework for ethical deployment of AI, its provisions often fall short of comprehensively dealing with issues that it, rightly, flags. The Bill, by hoping to be the anchoring legislation for AI governance in India, remains starkly in contrast with the regulatory direction which India-AI Guidelines and the RBI FREE-AI Framework has adopted in the past. Unlike the latter two, which pursue a sector-specific approach in dealing with AI-related developments, this proposed Bill aims to provide a comprehensive legislative approach to AI governance. While the jury is still out on which governance roadmap must India pursue, the Bill presents an opportunity to discuss future directions concerning AI governance - both within the legislative corridors and outside.

AI MERGERS AND THE NEW ANTITRUST PROBLEM: SHOULD FOUNDATION MODEL ACQUISITIONS BE PRESUMPTIVELY BLOCKED?

By: **Areen Asif**

2nd year of 3 year LLB, Jindal Global Law School

The growth of AI has seen the rise of foundational models as strategic assets. They are considered strategic as they provide massive competitive advantages like better automation, a decrease in labour cost and faster product cycles. They create high entry barriers, are expensive and require huge computational power. The strategic advantage comes from data monopolisation as they collect more data, provide personalised output and provide prediction accuracy. If a company owns a foundational model, it has intellectual property assets worth billions, providing brand value, critical AI infrastructure and unique technological assets.

Foundational model acquisitions raise unique competition concerns, increasing the scrutiny by competition authorities across the globe. The traditional antitrust analysis focuses on “single relevant product market” but ownership of one foundational model impacts core infrastructure of various other downstream product markets like healthcare, logistics, cyber security, education etc. The large incumbents like Google, Microsoft, Amazon, and Meta own their foundation models with bigger models, more data and capital, creating high entry barriers. They create “ecosystem dominance”, and antitrust regulators, applying the conglomerate

theory of harm, will assess them by the foreclosure of competition and entrenched dominance they create in the market.

The Antitrust Problem with Foundational Model Mergers

The Foundational Models are “market shaping assets” as they are general-purpose technologies that function as upstream infrastructure on which the functioning of downstream applications depends. They command influence for deriving benefit from economies of scale, where improvement in performance is related to larger production, lower cost per unit and higher efficiency. Foundational models built on this, as few firms have the capital to use these technologies for increasing their production.

The conventional tools that competition authorities across the globe use will not be efficient to evaluate Foundation Model Acquisitions. First, is the relevant market analysis, which is based on factors like product substitutability, consumer preferences, demand side substitutability, price sensitivity and industry recognition. The foundational models cannot be restricted to one simple market definition; as a result, the assessment of harm becomes hard to prove. Second, is the dominance threshold where regulators assess competition by tools like market share,

number of customers and sales value. The difficulty with Foundational Model Acquisition is that markets are not delineated, and the technology is still evolving; a company may have low revenue, but its model might dominate in the future. Lastly, the turnover-based threshold, many AI-based startups have low revenue but valuable technology, which might be acquired by dominant companies like Google, Meta and Amazon. The notifying requirements are only triggered when a deal crosses a particular threshold. This may, therefore, enable "Killer Acquisitions" where new evolving startups are acquired even before they grow as competitors.

Global Regulatory Responses

United States - FTC Scrutiny

The Federal Trade Commission (FTC) has launched an inquiry into major AI-based partnerships between mega tech companies like Microsoft, Amazon and Google and AI developers like OpenAI. FTC chair Lina Khan and various reports suggest that this may create a lock-in effect, restrict the access of new startups to essential inputs and create algorithmic collusion by increasing anti-competitive effects like collusion, price discrimination or exclusionary practices.

United Kingdom - CMA's Ecosystem Approach

The UK's competition regulator, the Competition and Markets Authority (CMA), is reviewing the partnership of Microsoft with OpenAI as to whether these arrangements will fall under the traditional definition of mergers and whether this arrangement has the ability to influence competition across interconnected markets. The competition issues may arise because of

the network of markets it creates, like computer infrastructure, data control or cloud services and how they create interlinked AI capability and not one single product market.

European Union - AI Act and Digital Market Act

The EU AI Act and the Digital Market Act create extensive documentation requirements, additional compliance costs, and impose additional obligations to ensure fair competition and market contestability. The gatekeepers like Google, Amazon, Meta and Apple are required to notify transactions that are even below the threshold, as even small acquisitions can affect the market structure and must be monitored carefully.

Should AI Foundation Model Acquisitions be Blocked?

The Case for Presumptive Blocking

The proponents in favour of presumptive blocking argue, mergers based on AI foundational models should be blocked as they shrink their competition in the market, leads to concentration of data and gives the control of AI supply chains to big tech companies. This creates the risk of monopolisation of power accelerating systemic risks like biased outputs, security concerns and slow innovation. Blocking mergers of foundational AI models is essential to foster innovation, growth, and reduce systemic technological risks.

The Case Against Blocking

The proponents against blocking such mergers argue that startups lack resources and acquisition by mega firms gives them access to critical R&D infrastructure, fosters innovation and helps them build ecosystems befitting

consumers and researchers. A regime of presumptive ban could deter investment in such startups and isolate their position in the market.

Requirement: Stricter Legal Test

Instead of supporting an absolute ban, regulators should adopt a “balance of harm approach” where the effect of a merger is evaluated by the consumer surplus effect. The focus will then be on effects and future competition, dynamic and ecosystem-based analysis and assessment based on context. This will allow regulators to assess potential future market foreclosure, ensuring intervention only when harm outweighs efficiency and to suggest remedies, whether behavioural or structural, that are effect-based.

Conclusion

Foundational model acquisitions create new antitrust challenges that do not affect a single relevant market but reshape the entire digital ecosystem. Conventional assessment tools are ill-equipped to deal with the real risks posed by these acquisitions. Thus, it is essential that regulators adopt new tools like ecosystem analysis, special reporting obligations, partnership scrutiny and gatekeeper rules to prevent AI markets from creating a dominance that is created by a few players only. A forward-looking antitrust approach ensures that the market driven by AI remains innovative, efficient and dynamic.

GETTY IMAGES V. STABILITY AI DECISION FROM UK HIGH COURT (ENGLAND & WALES) -THE RECALIBRATION OF INTELLECTUAL PROPERTY IN THE ALGORITHMIC AGE

By: **Nishtha Agarwal**

Final Year, BBA-LLB (Hons.), Jindal Global Law School

The recent decision of Getty Images (US) v. Stability AI Ltd, the UK High Court (England Wales) emerged as the first comprehensive judicial analysis of how copyright and trademark laws apply to large-scale AI training.

Getty Images, the world's largest stock-photo library, sued Stability AI, the developer of Stable Diffusion. Getty alleged that millions of its photographs were scraped to train the text-to-image model, enabling the users to generate synthetic images featuring Getty's famous watermark. On this basis, Getty claimed both copyright and trademark infringement, arguing that the training involved unauthorized copying and that the AI's outputs falsely suggested a commercial link.

Against this backdrop, the court two questions of great consequence:

1. Can a machine-learning model, intangible, distributed, and statistical, be an "infringing copy" or "article" under the Copyright, Designs and Patents Act 1988 (CDPA)?
2. Can algorithmic generation of branded watermarks amount to "use in the course of trade" under the Trademarks Act 1994 (TMA)?

In order to demystify the issues, Justice Joanna Smith DBE first examined how Stable Diffusion works. She reviewed

technical evidence on model's learning process, data retention, and image generation process before applying these facts to the language of copyright and trademark law. Her judgment combines technological understanding with doctrinal clarity, resulting in one of the most detailed examinations of AI and IP issues undertaken at a UK court, even globally.

Courts Reasonings and Key findings:

1. Copyright, Designs and Patent Act 1988
 - a. No primary infringement claims remained at trial. Getty withdrew its training and development claim after accepting that the model was trained outside the UK (no territorial jurisdiction). Additionally, Getty abandoned its Outputs Claim (alleging the generated images were infringing reproductions) prior to judgment, noting that Stability had successfully blocked the specific prompts used to generate the infringing examples.
 - b. Claim for secondary infringement was dismissed by the court. Getty had claimed that making Stable Diffusion available in the UK via GitHub, Hugging Face, and DreamStudio amounted to secondary infringement under Sections 22 and 23 of the CDPA.

The Court accepted that an “article” under Section 22 need not be tangible, and it can exist in electronic or intangible form, modernizing the concept for the digital era. However, the claim failed, because Justice Smith found that Stable Diffusion was not an ‘infringing copy’ under Section 27(3). The model’s weights do not store or reproduce the training images, but rather incorporated patterns and probability distributions found in the training data. Since the imported article contained no copies, there was no secondary infringement. The legal finding rested on the fact that the weights are purely the product of learning, not a reproduction of the works.

2. Trademarks Act 1994

The Court granted limited relief to Getty images, as it upheld trademark infringement under Sections 10(1) and 10(2) of the Trademarks Act 1994. This applied to iStock watermarks generated by the model v1.x, and also to Getty Images watermarks generated by model v2.x, where the Court found a likelihood of confusion. Justice Smith found specific outputs

containing the could create a belief that a licensing connection existed between Stability and Getty.

However, Getty’s wider trademark claims under Section 10(3), covering reputation, dilution, and unfair advantage, failed. The Court dismissed Getty’s argument that consumers would circumvent licensing fees as ‘pure supposition’ and found no evidence of a ‘change in the economic behaviour’ of the average consumer, which is a necessary requirement for such claims.

The importance of this case lies in clarifying that models themselves cannot infringe. Further, while the outputs may infringe, if such outputs are prevented from being generated by adding filters to the model, those claims cannot be successfully made either. That leaves copyright holders with the claim that training process involved reproduction, which amounted to violation of the rights. However, both jurisdictional issues (as seen in this case) and fair use issues, which will inevitably be raised by the companies training the AI models, stand in their way.



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