BEYOND THE CORPORATE VEIL: AI LIABILITY AND THE FUTURE OF LEGAL ACCOUNTABILITY.

INTRODUCTION

The development of artificial intelligence has produced cases where AI systems have caused massive harm, triggering immediate legal and ethical questions. In 2018, an Uber test vehicle killed a pedestrian in the state of Arizona[1], striking light on the issue of liability when AI operates independently and causes harm. In 2023, a prominent hedge fund, Two Sigma, was investigated by the Securities and Exchange Commission[2] after a senior vice president made unauthorized changes to trading models,[3] which resulted in substantial financial anomalies. These cases reflect the complexity of imposing liability when AI is used with or without human intervention. Legal personhood of AI, prevalence of the corporate veil doctrine in assigning liability, and potential solutions in the form of AI liability insurance are analysed in this article to effectively tackle related risks.

GRANTING LEGAL PERSONHOOD TO AI: DOCTRINE OF CORPORATE VEIL: A POTENTIAL SOLUTION?

Modern society has grown to rely heavily on artificial intelligence, with narrow AI systems[4] such as Siri and Alexa carrying out certain tasks within predetermined parameters. On the other hand, as development occurs in this field, it is only a matter of time before AI starts replicating human intelligence or even start surpassing it.[5] In the current age, AI can be used to fulfil the ill intentions

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[1] Troy Griggs & Daisuke Wakabayashi**,** *How a Self-Driving Uber Killed a Pedestrian in Arizona*, N.Y. Times (Mar. 21, 2018), https://www.nytimes.com/interactive/2018/03/20/us/self-driving-uber-pedestrian-killed.html (last visited Feb. 1, 2025).

[2] Kanishka Singh, "SEC Settles Charges against US Hedge Fund over Investment Model Vulnerabilities," Reuters (Jan. 16, 2025), https://www.reuters.com/markets/us/sec-settles-charges-against-us-hedge-fund-over-investment-model-vulnerabilities-2025-01-16/ (last visited Feb. 14, 2025).

[3] Jessica Powers, *AI Trading: How AI Is Used in Stock Trading*, BUILT IN (Aug. 16, 2024), https://builtin.com/artificial-intelligence/ai-trading-stock-market-tech (last visited Mar. 1, 2025).

[4] George Dvorsky**,** *How Much Longer Before Our First AI Catastrophe?*, Gizmodo (Apr. 1, 2013, 12:00 PM), https://gizmodo.com/how-much-longer-before-our-first-ai-catastrophe-464043243 (last visited Mar. 2, 2025).

[5] *AI Can Now Replicate Itself: How Close Are We to Losing Control Over Technology?***,** The Economic Times (Jan. 27, 2025), https://economictimes.indiatimes.com/news/science/ai-can-now-replicate-itself-how-close-are-we-to-losing-control-over-technology/articleshow/117601819.cms (last visited Dec. 10, 2025).

of human. In the near future, it is also possible that AI will develop to an extent where it can make decisions without human intervention, this form of AI is called an AI expert system.[6]

Recent developments have fuelled debate around AI personhood across the globe. DABUS, the AI system, was accredited with being the inventor of an innovative food container when South Africa granted it a patent in 2021,[7] breaking the established orthodoxy that only humans are qualified to have intellectual property rights. Additionally, in 2017 a robot called Sophia was also given citizenship by Saudi Arabia[8] which is equivalent to granting legal personhood to a non-human entity. These instances raise questions about the evolving role of AI in society, especially in terms of rights and liabilities.

Further, When AI becomes so prevalent, it is inevitable that it will commit mistakes that can cause harm. This can be best explained through the case of *B2C2 Ltd v Quoine Pte Ltd*.,[9] which points out the legal issue of sophisticated AI systems, specifically in algorithmic trading. Though the technology brings efficiency with it by removing human monitoring, it also has risks when something goes wrong causing huge financial losses. The Singapore International Commercial Court originally believed that liability could be determined based on the intent and knowledge of the programmer about the software. This, however, presumes that AI does not have independent decision making capability. If the software used deep learning, it might develop beyond its initial programming, and its actions would become unpredictable, and it would be unjust to hold the programmer responsible. This also brings the question of whether AI must carry its own legal liability when acting independently.[10]

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[6] *Expert Systems in AI*, GeeksforGeeks (Feb. 3, 2025), https://www.geeksforgeeks.org/expert-systems/ (last visited Jan. 1, 2025).
[7] Utkarsh Patil, *South Africa Grants a Patent with an Artificial Intelligence (AI) System as the Inventor – World's First!!***,** Mondaq (Oct. 19, 2021), https://www.mondaq.com/india/patent/1122790/south-africa-grants-a-patent-with-an-artificial-intelligence-ai-system-as-the-inventor-worlds-first (last visited Jan. 21, 2025).
[8] Chris Weller, *A Robot Has Just Been Granted Citizenship of Saudi Arabia*, World Economic Forum (Oct. 27, 2017), https://www.weforum.org/stories/2017/10/a-robot-has-just-been-granted-citizenship-of-saudi-arabia/ (last visited Fe. 15, 2025).
[9] Quoine Pte Ltd. v. B2C2 Ltd., [2020] SGCA (I) 2 (Sing.).
[10] Gyandeep Chaudhary, *Artificial Intelligence: The Liability Paradox*, ILI L. Rev. (2020), https://ssrn.com/abstract=3709095

In such a situation granting AI legal personhood, similar to that of a corporation, ensures clear accountability[11] for its actions while safeguarding human creators from unfair liability. By treating AI as a distinct legal entity, its actions can be regulated independently, preventing undue punishment for developers when AI operates autonomously. This concept aligns with the corporate veil doctrine, which acknowledges the separation between a corporation and its owners, limiting personal liability.[12] Additionally, legal personhood is able to fuel innovation by decreasing the legal stakes for manufacturers and scientists, and allowing existing legislations like the intellectual property act and the law of free speech to be simply applied to AI.

DOCTRINE OF LIFTING OF CORPORATE VEIL AND AI IN CURRENT TIMES

In the current era, it can be seen that AI at times is also used by humans to commit illegal acts. This can be best explained through the South Korean 2024 Telegram deepfake scandal[13] involving the creation of sexually explicit images of female students and teachers without their consent using artificial intelligence. Besides exposing the victim's personal data, the perpetrators created deepfake images on AI bot accounts, which they distributed, sold, and shared widely. South Korean legislators passed a bill that criminalized possession or watching of sexually obscene deepfake videos and images following the scandal that provoked international outrage.

In such a situation, liability can be assigned by applying the doctrine of lifting the corporate veil, ensuring that the ill intent of the human actor behind the use of AI is punished. The application of the doctrine of lifting the corporate veil rests on the overriding considerations of justice and equity.[14] Courts can pierce the veil of the company where maintaining the separate legal identity of a corporation would be unjust, inconvenient, or against public interest. Nevertheless, in *Balwant Rai Saluja v. Air India*[15], the Supreme Court underscored the need to use the doctrine only

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[11] Ben Chester Cheong, *Granting Legal Personhood to Artificial Intelligence Systems and Traditional Veil-Piercing Concepts to Impose Liability*, SN Soc. Sci. (forthcoming), Pre-Peer Review Working Paper (Apr. 9, 2021), http://dx.doi.org/10.2139/ssrn.3857504.

[12] Jasel Mundhra & Adya Jha, *Inhabiting AI Systems in Modern Corporate Entities: An Indian Perspective*, 10(1) NLUJ L. Rev. 1 (2024), https://nlujlawreview.in/wp-content/uploads/2024/01/NLUJ-10.1-Final.pdf.

[13] Hyunsu Yim, *South Korea Vows Tougher Stance After Outcry Over Sexual Deepfakes in Telegram Chatrooms*, Reuters (Aug. 27, 2024), https://www.reuters.com/world/asia-pacific/south-korea-vows-tougher-stance-after-outcry-over-sexual-deepfakes-telegram-2024-08-27/ (last visited Feb. 25, 2025).

[14] Cox & Kings Ltd. v. SAP India Pvt. Ltd., (2023) INSC 1051 (India).

[15] Balwant Rai Saluja & Anr. v. Air India Ltd. & Ors., (2014) 9 SCC 407 (India).

cautiously and under the circumstances when it is quite evident that fraud is being played for the purposes of avoiding the discharge of lawful obligations.

The doctrine of corporate veil and lifting of corporate veil gives sufficient explanation as to how giving some form of personhood would help in assigning liability to both AI systems and individual acting through AI systems.

When individuals act through AI systems to commit illegal acts, liability can be assigned to those individuals. However, when AI acts autonomously, the question of where liability should be assigned remains a significant concern. One potential solution could be to destroy the AI if the harm caused is severe, but this fails to address situations where compensation needs to be paid. In such cases what should be the appropriate recourse?

LIABILITY INSURANCE: A POTENTIAL SOLUTION?

Imagine a future where AI manages our everyday lives, deciding for us in medicine, finance, and even autonomous cars. What if an AI medical diagnosis tool gets it wrong on a fatal disease? Who is to blame? The doctor who relied on the AI suggestion? The firm that created the software? Or does the AI itself take the liability? These are the sorts of questions that AI liability insurance attempts to resolve.

Similar to corporate liability insurance, AI liability insurance[16] will help cover risks originating from both foreseeable and unpredictable AI behaviour. Risk assessment and uncertainty are associated with AI as AI decisions are a *black box*[17]whose failure cannot be seen. This type of insurance focuses on risks stemming from AI itself, such as system malfunction or misjudgement. The EU AI Act[18] classifies AI systems based on risk levels- high, moderate or low. Therefore, the initial step in the development of AI liability insurance would be to study the range of risks posed by different AI products.

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[16] Yunfei Ge & Quanyan Zhu, *AI Liability Insurance with an Example in AI-Powered E-Diagnosis System*, arXiv (June 1, 2023), https://doi.org/10.48550/arXiv.2306.01149 (last visited Jan. 27, 2025).

[17] Lou Blouin, *AI's Mysterious 'Black Box' Problem, Explained*, Univ. of Mich.–Dearborn (Mar. 6, 2023), https://umdearborn.edu/news/ais-mysterious-black-box-problem-explained (last visited Jan. 19, 2025).

[18] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 12 July 2024 laying down harmonized rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, 2024 O.J. (L 168) 1.

As technology changes over a period of time, Insurers react by being flexible in pricing—paying a premium at a higher rate in the early phases for test AI versions and lowering premiums as AI systems demonstrate reliability over time.[19] Insurability conditions are also crucial, and AI systems must be secure and good in quality before they can be insured. Unlike the traditional policies that consider human behaviour, AI liability insurance considers the tech integrity of AI products and their ethicality and regulatory compliance. It ensures that untrusted AI is not being used in high-risk applications such as healthcare and finance.

Another concern is moral hazard, where AI firms will cut corners on safety if they are over-dependent on insurance protection.[20] To avoid this, there needs to be good quality control and regulation by the insurers, such that AI developers adhere to high standards of safety. This is not just for safeguarding the users against injury caused by AI but also to secure AI innovation, and to reap an equitable legal and financial environment for AI deployment.

CONCLUSION

In a similar sense that pioneers before travelled new terrain, today civilisation is embarking on the domain of artificial intelligence, where the traditional nature of the law no longer quite holds true. AI develops and progresses under human control and also develops with its own reasoning, like a free ship. Due to this, it is at the same time an excellent tool and a risk. In the same way that corporation rules protect entrepreneurs, giving AI legal personality can serve as a compass, keeping it responsible and thus protecting its developers. But AI's journey is not easy as AI's errors can cause serious trouble in security, healthcare, and finance. In order to control these threats, liability insurance can be protective shields used in order to mitigate unexpected damage. In this changing world, properly crafted rules serve as the driver, steering us toward a future of symbiotic partnership between tech and law. In the end, legal structures need to change in the direction of ensuring a safe future for all.

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[19] Seyed Taha Hossein Mortaji & Mohammad Ebrahim Sadeghi, *Assessing the Reliability of Artificial Intelligence Systems: Challenges, Metrics, and Future Directions*, ***4*** *Int'l J. Innovation Mgmt. Econ. & Soc. Scis.* 1, 1–13 (2024), https://doi.org/10.59615/ijimes.4.2.1.

[20] Ge & Zhu, *supra* note 16 at 4.