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Machine Learning and Enculturation: Perspective of International Human Rights in China

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Abstract: *The primacy of ML algorithms has proved it way suffice that it entails due considerations and ontologies on the formation and normativity of the semantic possibilities and dimensionality that they possess. The advent of algorithmic policing, has indicated a special outset, which is seen in the province of Xinjiang, China, concerning with corporate-based CX measures employed towards the due recognition and endurance of multiplicity of identities to exist. It is human privacy issue, where ML algorithms are employed towards generic utilities by governments and corporates in the West and other states, with their semantic freedoms. However, with no answerable solutions in the realm of international cyber law, and lack of active considerations of data protection laws, the enculturation of machine learning entails a problematic sense and reality, where human right violations by methods such as IoT, facial, text and speech recognition, the government in China has adequately entailed a mass surveillance reality, which is automated. Further, such automation, has road to discern beyond the practical ambit of privacy law and technicalities, due to the cultural dynamics of an identity with respect to individuals, in different domains.*

The paper intends to focus on a technological legitimacy of ML attributions with respect to identity as a factor in international human rights law. It poses questions based on case study of automated surveillance in China and its territories, taking specific accord of Xinjiang. Also, the paper analyses the scope of corporates' approach to ML utility and data visualization entailed and dealt, with credibility to be established and rendered. The scope of the paper extends to the legal question of machine learning as a facilitator of human-oriented and receptive enculturation to lead AI systems be regarded in the ambit of cultural property and intangible cultural heritage under UNESCO law. The conclusions clarify the possibilities and limitations in the factual scenarios of techno-social importance.

Keywords: *International Human Rights Law, Enculturation, Machine Learning, Cultural Rapprochement, Algorithmic Policing.*

I. Introduction

Machine Learning is semantic development and involves algorithmic policing to determine modalities for an AI system to receive and behave accordingly with a user. It is true and sui generis to infer that ML-based systems learn and yield action accordingly. This realm of activity renders a growth in the reception of data and its due activities involved. In addition, this is yet involved with the development of human culture, which is a kind of socialization, involved with the development of subjective realities. In UNESCO law, or the law of culture, this is termed as enculturation, where the gradual change of cultures exists as a pragmatic reality. This is signified in the context of identity, as a connoted concept of basic understanding. In fact, culture has special implications to affect the identity and related procedural modalities.

[D]evelopment of the division of labor and its elaboration in bureaucracies can also make it more difficult to see the connections between one's day-to-day work and the people affected by it, as can the operation of a market economy. Wherever work is highly specialized and bureaucratic, or remote from the ultimate purchaser, the individual is usually aware of only the immediate task. Technical responsibility in the office or factory and financial rectitude in the marketplace become more important than moral responsibility for what products or processes [actually] do (Pacey, 1999, p. 176).

In international human rights law (IHRL), identity is a proportionate roster of self-determination, which requires a coherent form of effect and semblance with human artefact. Machine Learning is a fundamental concomitant of an AI, a human artefact, which itself legitimizes the algorithmic policing involved for the data subjects concerned. However, the rate and usage of automated surveillance techniques used by the Chinese Government with unrelated algorithms, has questioned over the due human rights obligations sought up and regarded for a general use. It further keeps contentious concerns over how we regard the utmost role of machine learning at a scale and variability with regards how we can ascertain a deemed role of international legal obligations to prefer a safer, unbiased and amicable ecosystem of algorithmic policing (Cummings, Roff, Cukier, Parakilas, & Bryce, 2018; Hof, 2013)..

The paper establishes the conceptual role of enculturation in the field of machine learning, its policy-based impact on China, with its ontology affecting the role of human rights, data ethics and processing and cyberspace implications. Further, it analyses the legal question of ML as a facilitator of human-oriented and receptive enculturation to lead AI systems to be regarded in the ambit of cultural property and intangible cultural heritage. Relevant conclusions over such frugalities are provided.

II. Enculturation With Machine Learning; A Techno-Cultural Phenomenon

Enculturation, in general, is a transmission process in the realm of sociology. It amounts towards the transfer of cultural attributes from one entity to other. Now, there can be channels of generational meaning, geopolitical scenarios and other circumstances. However, this phenomenon exists with the sense of culture recognition and sustenance. In a general case, enculturation involves material and immaterial artefacts to lead existentiality.

The influx of data mining methods leads to identity collocation, where some information sets have an unusual, or different utility to exist and pertain. However, this pursuance is based on the patterned role of cultural meanings created and resonated. In general, we face enculturation as a technology-objective acceptance and graduation of identity, which happens to improve and improvise the real-time environment for effective algorithmic policing(Tucker, 2016; Hao, 2018).This enables an AI to precede through its own limited creativity, which it extracts by the virtue of ML-oriented data mining, a more concentrated approach of data reception and usage.

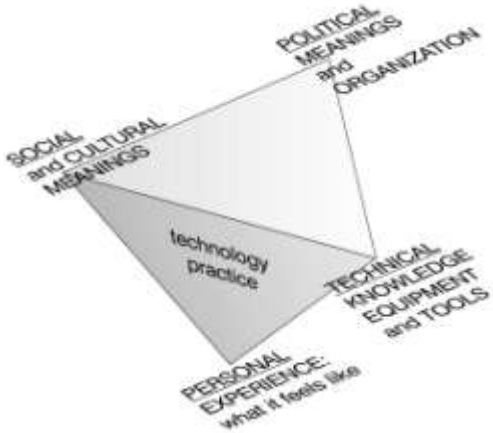

Figure 1: A Figure from a book by Arnold Pacey demonstrating the role of technology (Pacey, 1999, p. 8)

In case of ML, it has an indirect and less visible but real relationship. There are corporates and governments, who are involved in the pursuance of data mining involved with to render the needs or requirements to be fulfilled. This may seem simple, but it is not, in humanist terms. There are two interfaces regarding the issue that ML has with enculturation: (1) Cultural Foot-printing; and (2) Technology Distancing. The role that identity has is connoted with the parameters involved with enculturation to resemble. It happens in case of diverse datasets and the way they talk to each other, which in the pursuance of analysis – is the progeny of multi-utilitarianism(IEEE Standards Association, 2016).Now, it is inevitable that our growth with technology is in the lead towards making the working ethic and its discrete or concrete subsidiaries more suited. We cannot stop that, and the trend of customer experience or CX is preferably at a high rise in 2019(Adobe, 2018, p. 2). This is a social trend, which happens to pertain and dominate human ecosystems, because the material utility of technology is embedded with the same.

[States] should ensure access to the cultural heritage of one's own communities, as well as that of others, while respecting customary practices governing access to cultural heritage. In particular, such access should be ensured through education and information, including by the use of modern information and communication technologies. States should also ensure to that end, that the content of [programmes] is established in full cooperation with the concerned communities (UN Human Rights Council, 2011, p. 21)

The pursuance of human rights has a special essence to human artefacts, and machine learning is also subjected to the same. It is seemed to be a process of tech-oriented socialization fed up to ML systems, with the attribution of involvement. However, learning, where the ML system has not attained an entitative rubric, it cannot be regarded as self-conditioned due to its opaqueness. Even if that opaqueness does exist, the legal question is over the human right violations possible or the penetrating effects of soft power by corporates and governments implemented over people. This, in the end is a big entailment and legal and tech ethical regimes do

not have a solution to the same, with respect to Xinjiang, China as well, where automated surveillance is a subjection.

III. Case Of Automated Surveilance In China: A Techno-Social Issue

China has its own tenable cyber legislations and is not a democratic state. It reveals and instruments that it attains a socialist policy and leads towards social credit systems employed by machine learning with the agency of corporates and think tanks, where every quark of data, from shopping apps to WeChat, from GPS-enabled cycles to automated cameras, the Government knows about the entitative aspect of the people subjected to surveillance. It has not reached much, but in Xinjiang, it is at an impeccable rate to further.

The beginning of a social credit system, which is regarded as a commendable method to regularize human life and provide some state-oriented and ethically expected acts of public order and importance as an expectant observation to the people: is a costly project, which is preceded by governmental entitlements of social standards, as a part of the socialist structure that China aims to provide. This is in the purview of cultural foot-printing and techno-cultural policing with the values that the Chinese require to impose, as seen in the case of Uighur minorities in Xinjiang(McDermott, 2017, pp. 1-2; Moniodis, 2012; MIT Technology Review).

[Xinjiang] ("New Territory") is the traditional home of a Chinese Muslim minority known as Uighurs. […] One result has been an uptick in violence in which both Han and Uighur have been targeted, including a 2009 riot in the capital city of Urumqi, when a reported 200 people died. The government's response to rising tensions has not been to hold public forums to solicit views or policy advice. Instead, the state is using data collection and algorithms to determine who is "likely" to commit future acts of [violence] or defiance […] The Xinjiang government employed a private company to design the predictive algorithms that assess various data streams. There's no public record or accountability for how these calculations are built or weighted(Larson, 2018).

This has been researched by academics and specialists as not an IHRL violation but a public policy approach by the Chinese Government. This activity is on the due approach of algorithmic policing in the territory of Xinjiang, where selective analysis is instrumented with biased algorithms, with no clear socio-statistical study over the geographical realm of the people. Nevertheless, let us analyse the stigmatizing aspect of the relativity with IHRL obligations that are entitled. Human Rights, not only does entitle a course of violations or obligations only on any state actor. The approach of linearity towards human rights obligations was demarcated into positive and negative obligations, which the International Covenants of 1966 changed thoroughly(UN General Assembly, 1966).

Violationism, [of] course, has its own plausibility. It builds on the argumentative momentum generated by a pressing moral concern among many human rights activists: the urgency of addressing the violations of the economic and social rights of the poor and the destitute (Mill & Karp, 2015, p. 54)

This is a legal issue for in case of understanding the course of human rights, where, it is a question if an AI can turn racist. However, the technological part comes into another conjugation, where the aspect of recognition of such modalities extend the limits. An AI is a human artefact, which learns and is capable of relearning and developing such techniques at its own(Turing, 1950). The adherence of the polite convention doctrine by Turing was supported and furthered(McCarthy, Minsky, Rochester, & Shannon, 1955) in the Dartmouth proposal as well. These signify the ontology of an intelligence that a machine could have. This is a course of procedure facilitated by the realm itself, and mere regimes of data protection and security do not apply here in a direct material sense. We can rather take an entitative approach with regards recognizing the juristic personality of AI realms for the same. Some considerations are thereto:

a. Legitimate foundations must be made in regards the discourse of human rights and technology-oriented AI policing;
b. There must exist ethics-oriented rules and initiatives to develop the discourse of ML-based algorithmic policing and legitimate foundations must be settled to channelize routes to recognize and preserve the self-determination of individuals in cyberspace and in personam;
c. There must be a gradual change inthe understanding of human rights violations; there may be such violations or abuses of the same kind, but their degree or observance may render a dimensional perspective, where they might by 'soft' interventions, which has been seen in Xinjiang, China;
d. The process of automation is not against the self-determination of the people but penetrating to attempt for a rudimentary violation; perhaps China has abruptly violated international law, but this intervention is very cross-connected and a minimal obligation approach of the Maastricht Guidelines of 1997 can be applied, where obligations are tested, and not rights;

IV. The Question Of Cultural Property And Cultural Heritage

It is a simple question to regard over what cultural properties are. In international law related to cultural heritage, a cultural property is recognized in the 1954 Hague Convention on Cultural Property, where in case of war or any armed conflict, it is the duty of the parties to the Convention to preserve the cultural properties present at the outset. These include monuments, antique items, coins, and other such concomitant of value. In case of ML-based systems, there is no generality as such. The reason is the structure and origin of artificial intelligence. It was always recognized as a technological development and discovery and not a cultural semblance. However, as in the course of globalization, has it rendered a possibility that such developments, like in the field of technology, have gathered social and cultural influence, importance and impact, the question of enculturation is clear. Now, we need to understand the role of enculturation in a wider scenario, with respect to the data law regime existent today. There are some essential concepts/principles/doctrines introduced, proposed and put into action by the EU legislators, related with the use of data in a protectionist and constitutionally viable sense. These are: (1) Right to rectification and erasure; (2) Right to be informed; (3) The Fairness Principle and (4) Privacy by Design & Default. Although the General Data Protection Regulation (hereinafter GDPR)(European Union, 2016) contains 9 rights related to the law of data protection and privacy, we are dealing with some special rights with respect to the techno-cultural semblance of machine learning-led enculturation.

The (1) deals with the Arts. 13 to 17 of the regulation, ascertaining the due scope of what data can be rectified and removed. Here, the question entitled comes from understanding the exact paradigm of these rights, i.e., rights of rectification and erasure (right to be forgotten). The entitled scope simply justifies as did in the case with Google that a person has a right to invoke the rectification/removal of a set of data present, which is not of any significance and value(Google Spain v AEPD and Mario Costeja González, 2014).However, in case of an AI, this is not practical, if we have a complex operation and basket of data present for the regressive purpose of data mining. The possible way, which can be entitled is to estimate about the problem of such rights, including that in (2), can be an evolutionary approach towards human artefacts like AI, or any other tech artefact. We have to determine it in the sense of entitative resemblance to avoid the complexities and the positive approach of technical confrontation with ML realms. (3) deals with the aspect of a protectionist and anthropocentric leverage of data protection, as to attain a preliminary morality to prevent any issues with AI. However, this approach is to be taken in due care for an ethical and social climate to which a ML realm is exposed to, which is management-oriented and humanist. The last principle, i.e., (4) is a deeper concept of precautionary regularization in a sense of due presumption, with the concept of privacy by design or default. Here, the designing structure must be ensured with the most predictable and possible scopes that an AI can possibly resemble, for the matter of solvability to follow. The other one, which is the default approach, is about the technical restrictions that startups or creators can take in due care, and regard as how such realms are useful and safe at the same time for the data subjects concerned. Here, an AI may surpass the default barriers because the predictability rates are enormous, and may not take much time; yet it is limited to the threshold conjugations. The design problem is more serious, because it entitles many parametric possibilities, with the unsurmised, practical, unimaginable and unpredictable capabilities, for the suited purpose. This is also the dilution of design barriers that are created. The best example to foresee is of a Facebook AI Research project, where two chatbots were shut down after the experts found they had created their own semantics in 9 hours(Carter, 2018). These make cultural foot-printing clearer, probable and reasonable to create.

Recognizing that [the] processes of globalization and social transformation, alongside the conditions they create for renewed dialogue among communities, also give rise, as does the phenomenon of intolerance, to grave threats of deterioration, disappearance and destruction of the intangible cultural heritage, in particular owing to a lack of resources for safeguarding such heritage (United Nations Educational, Scientific and Cultural Organization, 2003)

UNESCO, the primary organization involved with culture and heritage protection, like the European Union, has recognized cultural heritage as a special engagement with mankind and has connoted delved methods to recognize the role of cultural heritage as a whole. Now, social transformation has a specific modality, which lays an important faction over the case of recognition of ML into a cultural heritage:

a. Machine Learning is a technological process, and it is indirect, yet, as per case by case, by utility and social semblance and not by its technical ontology, is tenable enough to be regarded as a cultural property; and this is determinable by the virtue of the recognizing semblance of cultural relativity, fragility and recollection;
b. ML may foster cultural heritage, because it has capabilities to enshrine the basic condition of techno-socialization in general; there are social, medical, educational and management areas, where ML learns effectively and work in accordance with the pigments of human identities;

c. In China, the situation fosters a cultural discrimination and renders a deep yet soft violation of international human rights law;

IV. Conclusion

Enculturation, is a phenomenon of beauty, reality and originality, which technology cannot ignore. It manifests the due formation and is extensive enough for a possible utility and furtherance. We can understand that the cultural manifestation that technology has always driven us from centuries is imperative to maintain, and proceed, which itself has shaped a managing relationship with material products and services. An AI attains the same prerogatives over the made and we nee to understand over the proportionate value of an entitative jurisprudence and methodology that AI now requires to pertain a free and safe future.

Based on the modalities of the consequences faced, here are the proposed conclusions:

a. China has violated international law and accountability modalities are to be framed for deemed purpose, but the approach must be regarded of a soft IHRL violation, because the state concerns involved must entitle;
b. The approach of Maastricht Guidelines of 1997 must be duly implemented and better ethical modalities must be framed to understand the scope of enculturation;
c. Artificial Intelligence can be regulated by GDPR, but not as a mere technology in data law; the approach can improve by recognizing and instrumenting it as an entity;
d. ML can be regarded as per case by case, in a proportionate roster for recognition in UNESCO Law as a cultural entity.

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