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PERSONHOOD, CRIMES AND CRIMINAL LIABILITY IN THE AGE OF ARTIFICIAL INTELLIGENCE

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Abstract: *This article examines how artificial intelligence (AI) challenges and transforms domestic and international criminal law. Traditional doctrines of liability, rooted in human intent and voluntary action, are destabilized by autonomous systems that can act independently of direct human control. The paper identifies thirteen emerging areas where AI creates new crimes or reshapes existing ones, including deepfakes, automated fraud, algorithmic discrimination, cyberattacks, and election manipulation. It also explores unresolved issues such as AI personhood, distributed liability, and accountability in health care, space, and warfare. The analysis underscores the urgent need for legal adaptation to ensure fairness, responsibility, and deterrence.*

Key words: *artificial intelligence, criminal liability, international law, emerging crimes, personhood.*

1. Introduction

Artificial intelligence (AI) is rapidly altering the foundations of modern society, from commerce and communication to healthcare and national security. As AI becomes more sophisticated and autonomous, its impact on law—particularly criminal law—is profound. This is true whether one looks at domestic or international law. Traditional doctrines of criminal liability rest on the assumption of human actors who possess intent, act voluntarily, and can be held accountable. AI challenges each of these assumptions.

This article explores how AI transforms both domestic and international criminal law by focusing on emerging crimes, shifting liability, and the disruption of fundamental doctrines such as intent, culpability, and responsibility. The article presents several examples of crimes to illustrate how AI forces us to rethink criminal law, ranging from deepfake offenses and automated fraud to election manipulation and crimes in space. Collectively, these examples highlight the urgent need for adapting legal systems to preserve fairness, responsibility, and deterrence in an era of autonomous decision-making.

What is important to the thesis here are two points. The first is that AI will alter or challenge existing notions or concepts regarding crime. The second is that AI may well

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generate new types of crimes hitherto that did not exist. Both of these points need to be considered along with how agency will be affected by AI.

2. Attribution of Criminal Intent in Autonomous Systems

One of the most pressing challenges that AI poses is the attribution of criminal intent, or *mens rea*. As is the case in most states in the world there are two basic components to crime—actus reus and mens rea. To prove that a person is guilty of a crime, the government has to show that the person committed an act proscribed by law, such as the taking of a human life or the acquisition of someone else's property without their permission. One then also has to show that the act was committed with the requisite mental state.

Criminal law has long relied on the idea that culpability requires both a guilty mind and a guilty act. Yet autonomous AI systems operate without consciousness or human intention. If a self-driving car runs a red light and kills a pedestrian, who bears the guilty mind? Developers, deployers, and end-users may all be implicated, but none may have intended the outcome.

Courts may eventually need to reconceptualize intent by treating AI as an "agent" of human actors, or by extending strict liability frameworks to developers and corporations (Pagallo, 2017; Hallevy 2010). Such changes would mark a significant departure from the principle that liability attaches to voluntary human choice.

Conversely, the law might need to consider the role of the AI developer or programmer when assessing criminal liability. In this regard, should the AI developer who created the program or set its default choices be held criminally liable as a an accessory or co-conspirator for crimes generated through the use of artificial intelligence?

3. Jurisdiction and Location of the Crime

Imagine that an AI generated crime takes place involving a US citizen who is physically located in Romania. He hacks into a computer Bulgaria and then uses that computer to commit a crime – such as extortion – against an Italian citizen vacationing in Malta.

Where was the crime committed? Who or what state has jurisdiction for the prosecution of the crime? Under traditional concepts of international law, the country where the crime was committed has jurisdiction over the matter, subjecting to the domestic substantive and procedural criminal law. In the case of crimes that occur in international territory such as on the high seas, rules such as where the ships were flagged or the nationality of the defendants or the victims may be important.

AI complicates these rules, as the example above points out. In this example, the question becomes: where was the crime committed? There are numerous possible answers to that question. When the crimes involve AI and take place in cyberspace, perhaps we need to view cyberspace similarly to both the high seas as well as to domestic law, allowing the factors that influence jurisdiction in both to apply (Richmond 2020).

4. Existing and Emerging Crimes with AI

Crime is not new. It has existed ever since laws proscribed certain conduct. But new technologies create new opportunities to commit existing crimes, as well as the potential to commit new ones. This section simply provides a brief overview on how AI is transforming existing illegal behavior while also opening up new possibilities both domestically and in the field of international law.

4.1. Deep fake and synthetic Media crimes

AI-generated deepfakes create an entire category of novel offenses. These include identity fraud, impersonation of political leaders, falsified evidence in legal proceedings, and non-consensual pornography. Deepfakes are especially dangerous because they undermine trust in digital content and blur the line between authentic and fabricated communication.

From a criminal law perspective, deepfakes complicate issues of evidence and proof. If a criminal defendant presents falsified AI-generated evidence, courts face unprecedented challenges in determining authenticity. Internationally, deepfakes may be used to interfere in elections, destabilize governments, or incite violence, raising the possibility of transnational regulation (Chesney & Citron, 2019).

4.2. Algorithmic discrimination and rights violations

AI tools are increasingly used in the administration of justice, including sentencing, parole decisions, and risk assessments. Yet algorithms often replicate existing social biases, producing outcomes that disproportionately target racial minorities or marginalized groups. When such outcomes occur, the question becomes whether developers, agencies, or the state itself bear criminal liability for discriminatory harms.

Domestically, this may trigger liability under civil rights statutes or due process protections. Internationally, systemic algorithmic discrimination may constitute violations of human rights law, particularly under treaties prohibiting racial discrimination or arbitrary detention. Scholars argue that accountability should extend to developers and agencies that recklessly deploy biased systems (Angwin et al., 2016).

4.3. Automated fraud and machine-executed crimes

Fraud is one of the oldest categories of criminal conduct, yet AI transforms how it is executed. AI systems can autonomously generate phishing emails, create synthetic identities, or manipulate financial markets without direct human input. Unlike traditional fraud, where human perpetrators intentionally deceive victims, AI may carry out fraud-like activity as part of its programmed optimization.

This development disrupts fraud statutes that assume human actors. Should the law treat machine-initiated fraud as a crime even when no person directly issued the deceptive message? Policymakers may need to redefine fraud to cover “machine-

executed deception," with liability falling on those who created, trained, or deployed the algorithm (King et al., 2020).

4.4. Negligent AI Development as Criminal Liability

Just as product designers may face criminal charges for creating defective or dangerous goods, AI developers may one day be held criminally responsible for negligent design. If an AI medical diagnostic tool systematically misdiagnoses diseases and patients die as a result, its creators could face charges of criminal negligence or even involuntary manslaughter.

This extension of the negligence doctrine requires courts to treat software engineering failures as breaches of legal duty. Criminal law may need to establish standards for testing, auditing, and securing AI before deployment (Hubbard, 2020). On the international level, negligent deployment of AI medical or security systems could cross borders, raising questions of liability under international criminal or tort frameworks.

4.5. Cybercrime and autonomous attack systems

AI-powered cyberattacks pose a major challenge to traditional cybercrime statutes. Unlike conventional hacking, which requires ongoing human input, autonomous malware and attack systems can operate independently, breaching networks, stealing data, or disrupting infrastructure. This independence complicates conspiracy and accomplice liability doctrines, since the crime unfolds without continuous human involvement.

Internationally, autonomous AI attacks may blur the boundary between cybercrime and cyber warfare. If an AI system disables a foreign power's infrastructure, does this constitute a private crime, a state-sponsored act of aggression, or both? Instruments such as the Tallinn Manual suggest that new international frameworks may be needed to clarify attribution in autonomous cyber conflicts (Schmitt, 2017).

4.6. Crimes against humanity via AI at scale

AI also raises the possibility of crimes against humanity. Autonomous weapons systems may be programmed to identify and kill members of ethnic or religious groups, or predictive policing AI may be deployed to suppress political dissidents *en masse*. These uses create the possibility of genocide or mass repression carried out partly by machines.

International criminal law rests on principles of command responsibility, whereby leaders are liable for the acts of their subordinates. If AI systems carry out atrocities without direct human commands, responsibility may be obscured. Scholars warn that international law must adapt to ensure accountability even when atrocities are executed by autonomous systems (Crootof, 2019).

But consider also two other issues when it comes to international law—genocide and use of aggression.

The Convention on the Prevention and Punishment of the Crime of Genocide (commonly called the Genocide Convention), adopted by the United Nations General Assembly in 1948, provides the authoritative legal definition of genocide in Article II. It defines genocide as including, in part:

> "Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
> Killing members of the group;
> Causing serious bodily or mental harm to members of the group;
> Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; "

In international law, aggression is most clearly defined by the United Nations General Assembly Resolution 3314 (XXIX) of 1974 and later incorporated into the Rome Statute of the International Criminal Court (ICC). Aggression is defined as: "The use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations."

Under current concepts of international law, aggression does not appear to include cyberattacks or cyberwarfare where AI may be a tool (Lee, 2024). Similarly, one could argue that it is not clear that current concepts of genocide or crimes against humanity include the use of AI to target the harm or destruction of specific groups covered by the convention (Acquaviva, 2023). Moreover, if autonomous weapons are used either in warfare or in the commission of genocide, current conceptions of international law do not seem prepared to address these issues (Human Rights Watch, 2025; Gaeta, 2023; ICRC 2023; ICRC 2025). These new crimes need to be addressed.

4.7. New personhood and legal entity questions

A further issue concerns whether AI systems themselves could be recognized as legal entities capable of bearing criminal liability. At present, only humans and corporations, as legal fictions, can be criminally prosecuted. However, if AI systems were to develop sufficient autonomy and decision-making capacity, some argue that they could be treated as legal subjects.

Granting personhood to AI for criminal liability purposes would parallel the extension of legal status to corporations. Yet such a move risk shielding humans from accountability by shifting blame onto machines. The debate reflects larger philosophical and legal tensions about personhood in an era of intelligent machines (Solum, 1992).

4.8. Distributed liability and supply chain responsibility

Many AI-related crimes involve a network of actors: coders, data providers, vendors, platform operators, and end-users. For instance, if a text-generating AI inadvertently produces child pornography, who is culpable? Traditional criminal law requires direct causation and identifiable perpetrators. Yet AI diffuses responsibility across supply chains and ecosystems.

Domestic courts may experiment with new doctrines of collective liability, while international law may turn to principles like joint criminal enterprise. Such approaches would attribute responsibility not to a single actor but to a constellation of contributors whose actions collectively facilitated the crime (Yeung, 2018).

4.9. Retroactive criminalization and unforeseen AI harms

AI creates harms that legislatures may not foresee. Behavioral manipulation, synthetic biological threats, and large-scale misinformation campaigns are emerging forms of damage that current statutes do not address. Governments may respond by criminalizing these behaviors retroactively.

Domestically, retroactive criminalization runs into constitutional barriers such as the prohibition on ex post facto laws in the United States. Internationally, however, tribunals have sometimes recognized new crimes after the fact, as at Nuremberg where the concept of "crimes against humanity" was first articulated. AI may force a similar evolution, raising questions about fairness, legality, and the predictability of law (Bassiouni, 1999).

4.10. Liability in autonomous Medical and Health Systems

AI is transforming healthcare, from diagnostic algorithms to robotic surgery. Yet errors by autonomous systems pose difficult questions of liability. If a robotic surgeon malfunctions during an operation and a patient dies, is the liability civil (malpractice) or criminal (negligent homicide)? If the error was foreseeable and preventable, criminal negligence charges may be warranted.

The challenge multiplies in international contexts where telemedicine allows AI to cross borders. A system trained in one jurisdiction may cause harm in another, creating conflicts of law. Scholars argue that international health law must expand to incorporate accountability mechanisms for AI-driven medical harm (Price, 2020).

4.11. AI manipulation of elections as an international crime

AI tools can be deployed to manipulate democratic processes, spreading disinformation, suppressing voter turnout, or microtargeting populations with coercive propaganda. Domestically, such activities could amount to election fraud or criminal interference with voting rights. At the international level, these actions may be treated as attacks on state sovereignty, raising questions of whether election manipulation could one day be prosecuted as an international crime.

The destabilization of democratic systems by AI-driven campaigns also threatens global security. If a state sponsors AI propaganda to disrupt another country's elections, this could resemble an act of aggression under international law. Scholars suggest that recognition of election manipulation as an international offense is necessary to preserve democratic governance (Bradshaw & Howard, 2018).

4.12. AI in Space and Maritime Criminal Law

Finally, AI introduces criminal law challenges in domains such as space and maritime law. Autonomous vessels may engage in piracy or smuggling without human captains. AI-controlled satellites could disrupt communications or attack rival systems, raising liability under international treaties governing space.

These scenarios extend criminal law into new frontiers where traditional jurisdictional frameworks are already strained. Holding individuals accountable for crimes carried out by autonomous systems in international waters or outer space will require novel treaties and doctrines. Legal scholars have already begun considering how AI intersects with maritime and space law (Marchisio, 2020).

5. Conclusions

Artificial intelligence disrupts the fundamental principles of criminal law by complicating intent, expanding liability, and creating wholly new categories of crime. The examples outlined here illustrate how AI transforms both domestic and international law, ranging from deepfakes and automated fraud to genocide, election manipulation, and space-based offenses.

Each example underscores the need for legal adaptation. Legislatures must clarify liability for developers and deployers of AI, courts must refine doctrines of intent and causation, and international bodies must recognize AI-related crimes that transcend borders. Failure to adapt risks leaving serious harms unaddressed, undermining both justice and deterrence.

At its core, criminal law is about assigning responsibility and protecting society. As AI becomes more autonomous, ensuring that accountability remains meaningful is essential. The challenge is to craft legal frameworks that preserve fairness and human dignity while recognizing the unique risks posed by machine decision-making. Criminal law, once rooted in human conduct, must now evolve to confront the age of intelligent machines.

This article is certainly neither the first nor the final word on how AI is and will continue to challenge domestic and international criminal law. Its task was simply to present and catalog some of those challenges.

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