THE GROWING ROLE OF AI AND WHAT IT MEANS FOR CRIMINAL RESPONSIBILITY

-Chandan Kumar Singh[1]

INTRODUCTION

Artificial Intelligence (AI) has moved beyond tech labs and sci-fi fantasies—it's now embedded in our cars, hospitals, courtrooms, and even our smartphones. From self-driving vehicles and predictive policing to facial recognition and automated decision-making, AI is reshaping how we live and govern. But with great power comes great responsibility. When things go wrong, who should we hold accountable? Can a machine commit a crime? What if an AI makes a harmful decision without any human pushing the button?

These are no longer hypothetical questions. As AI systems become more autonomous, our legal systems must catch up. This article takes a deep dive into how AI challenges the very foundation of criminal law and what we might need to change moving forward.

THE RISE OF AI IN MODERN SOCIETY

AI is everywhere now. It's diagnosing diseases in hospitals, driving cars through city streets, helping banks detect fraud, and even making predictions about where crimes might occur. Here are just a few areas where AI has made a mark:

- <u>Healthcare:</u> AI assists with diagnostics, treatment plans, and drug discovery.
- <u>Transportation</u>: Self-driving vehicles promise safety but raise serious questions about fault in accidents.
- <u>Finance</u>: Algorithmic trading and fraud detection rely heavily on machine intelligence.
- <u>Transportation</u> Enforcement: Predictive policing and surveillance tools are using AI to monitor and predict criminal behavior.

But as these systems grow more complex—using machine learning, natural language processing, and deep learning—they also become less predictable. That unpredictability is what raises serious concerns when things go wrong.

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[1] 5th year BBA LLB, NIMS University, Jaipur, Rajasthan

TRADITIONAL CONCEPTS OF CRIMINAL RESPONSIBILITY

At the heart of criminal law are two classic ingredients:

1. <u>Actus Reus (the guilty act)</u>: Someone did something wrong.

2. <u>Mens Rea (the guilty mind)</u>: They meant to do it, or at least should have known better.

These ideas work fine when you're dealing with human beings. But AI doesn't have a mind, or feelings, or morals. It doesn't "mean" to do anything—it just follows data and algorithms. So when AI causes harm, applying these human-centered standards gets tricky.

KEY LEGAL DILEMMAS

CAN AI BE CONSIDERED A LEGAL PERSON?

Some experts have floated the idea of giving AI its own legal identity—similar to how corporations are considered "legal persons." But this is hotly debated. Unlike companies, AI systems don't have human oversight baked in. Giving machines legal status could make it easier for humans to dodge responsibility.

WHO IS LIABLE FOR HARM CAUSED BY AI?

When AI causes harm, fingers start pointing in different directions:

- <u>Developers</u> – Did they code the system poorly?
- <u>Manufacturers</u> – Was the product defective?
- <u>Users</u> – Did they misuse the AI or ignore guidelines?
- <u>Third</u> Parties – Was there tampering or sabotage?

Things get even messier when AI systems act in ways nobody could have predicted.

AUTONOMY VS. PREDICTABILITY

The more autonomous an AI system becomes, the harder it is to predict its behavior. But the law typically hinges on foreseeability—if you couldn't have seen it coming, should you still be blamed? That's the tough call courts may increasingly face.

CASE STUDIES AND PRECEDENTS

1. THE UBER AUTONOMOUS CAR TRAGEDY (2018)

In 2018, an Uber self-driving car hit and killed a pedestrian in Arizona. The human safety driver was distracted. The AI didn't recognize the pedestrian in time. Who's at fault?

The AI's object detection system failed.

The safety driver was negligent.

Uber's safety protocols were questioned.

This incident shows how human and machine errors can intertwine, complicating legal accountability.

2. PREDICTIVE POLICING AND BIAS

AI systems used in policing have sometimes shown racial or socio-economic bias, reflecting skewed training data. No single person may be criminally liable, but the harm is real.

Should developers be held accountable for systemic discrimination? What about the institutions deploying these tools? This raises deep ethical and legal questions.

PHILOSOPHICAL AND ETHICAL CONSIDERATIONS

Criminal law is more than rules—it reflects our moral values. So what happens when harm is caused without human intent?

Deontological ethics focuses on intention, which AI lacks.

Utilitarian ethics looks at outcomes—AI might reduce total harm, even if some is unavoidable.

Virtue ethics asks about the character of the people building and deploying the AI.

In many cases, assigning responsibility—even without intent—may deter careless or unethical behavior and push for safer AI.

EMERGING LEGAL FRAMEWORKS AND PROPOSALS

Lawmakers are starting to act, especially in the European Union.

1. EU AI ACT

This upcoming law categorizes AI by risk level. High-risk AI systems must meet stricter rules:

- Transparency
- Human oversight

- Liability standards

2. AI LIABILITY DIRECTIVE

This proposed law would make it easier for victims to sue when AI causes harm—especially by shifting the burden of proof.

3. CRIMINAL LAW REFORMS

Scholars are floating bold ideas:

- <u>Strict liability:</u> Hold operators of dangerous AI accountable, even without fault.
- <u>Vicarious liability:</u> Treat companies or managers as responsible for AI actions, like corporate crimes.
- <u>Audit trails</u>: Build in record-keeping to trace how decisions were made.

FUTURE DIRECTIONS

To get ahead of these issues, we'll need to make several big changes:

1. REGULATORY SANDBOXES

Governments should allow AI to be tested in controlled, real-world settings—where safety and legal impacts can be studied closely.

2. MANDATORY ETHICAL STANDARDS

AI developers should follow built-in ethical guidelines—like testing for bias and ensuring systems are explainable.

3. AI INSURANCE MODELS

Just like cars have liability insurance, AI systems might need similar protections to ensure victims are compensated.

4. JUDICIAL AND TECHNICAL TRAINING

Judges, lawyers, and regulators must understand AI well enough to make fair decisions. Courts may also need expert witnesses on AI.

CONCLUSION

AI is transforming our world—for better and for worse. And as it becomes more autonomous, the old ways of assigning criminal responsibility may no longer fit.

We shouldn't try to squeeze AI into outdated legal molds. Instead, we need new frameworks that match its unique nature. That could mean hybrid legal models, chain-of-responsibility approaches, and brand-new categories in criminal law.

What's clear is this: AI isn't a moral agent, but the people and organizations behind it must be held to account. If we act wisely now, we can enjoy the benefits of AI—while protecting our rights, safety, and sense of justice.

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