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Digital Jurisprudence in AI Era in India

Existing legal frameworks and judicial precedents that have been designed for a pre-AI world may struggle to effectively govern AI which is a rapidly-evolving technology.

What is the main challenge in applying existing legal frameworks to Generative AI (GAI) tools?

- The existing legal frameworks were designed for a pre-AI world and struggle to categorize GAI tools. Are they intermediaries (like search engines), mere conduits for user input, or active creators of content? This ambiguity complicates assigning liability.
- There is a doubt whether the **'safe harbor' provision** under **Section 79 of the IT Act** applies for GAI.
 - Safe harbor protection is a legal provision that shields certain entities from liability for content or activities occurring on their platforms. This concept is particularly relevant in the context of internet intermediaries like social media platforms, search engines, and online marketplaces.
 - Safe harbor protection is meant for passive intermediaries, but GAI models like Large Language Models (LLMs) **blur the lines between user-generated and platform-generated content**, making it difficult to determine **who is responsible/liable for any harmful output**
- Also, India's **Copyright Act of 1957** doesn't explicitly address AI authorship. The Parliamentary Standing Committee has acknowledged this gap, leaving questions about whether AI-generated works should be protected and if so, who would own the copyright – the user, the programmer, or the AI itself?
- The **Digital Personal Data Protection Act, 2023**, grants individuals **rights to erasure and to be forgotten**. However, GAI models trained on vast datasets cannot easily "unlearn" personal information, raising challenges for individuals seeking to control their data.

What are the three key steps to pursue in governing Generative AI?

- **Learning by Doing:** A sandbox approach with temporary liability immunity can allow for responsible GAI development while identifying legal issues.
- **Data Rights and Responsibilities:** Overhaul data acquisition for GAI training, ensuring legal compliance and fair compensation for data owners.
- **Licensing Challenges:** Create centralized platforms for licensing web data to simplify access for developers and ensure data integrity

Can you answer the following question?

Critically examine the challenges posed by Generative AI (GAI) to existing legal frameworks in India, particularly with respect to the safe harbor provisions and copyright law. Discuss potential solutions to address these challenges while balancing innovation with ethical considerations.

Tajikistan's Hijab Ban

Tajikistan's government passed a law banning the hijab, the latest in a string of 35 wide-ranging religion-related acts, in a move described by the government as "protecting national cultural values" and "preventing superstition and extremism"

- Instead, Tajikistan citizens are encouraged to wear Tajik national dress.

What are the arguments in favor of hijab ban??

- **Secularism:** Some argue that public institutions like schools and colleges should be secular spaces where religious symbols and attire are not displayed.
- **Women's Empowerment:** In certain contexts, there are claims that the hijab is a symbol of oppression and that banning it promotes gender equality by empowering women to make independent choices about their attire and identity.
- **Social Cohesion** – Proponents of the ban believe it can enhance social cohesion and integration, reducing visible differences between individuals and fostering a sense of unity.
- **Security Concerns** – In certain contexts, the hijab and other face-covering garments can pose security concerns by concealing identities, making it difficult to enforce safety measures

What are the arguments against hijab ban??

- Violates **Freedom of Religion**, Expression, and Personal Choice.
- Discriminates Against and **Marginalizes Muslim Women**, exacerbating social tensions and fostering an environment of exclusion.
- Distracts from Broader Issues of Gender Inequality and Women's Empowerment.
- **Targets a Specific Religious Group** and Lacks Evidence for Security Claims.
- Allowing the hijab **promotes cultural diversity** and acceptance, enriching society by acknowledging and respecting different cultural practices.
- Banning the hijab **might have the opposite effect**, strengthening religious identity and resistance among Muslim communities, leading to further alienation and division.

What is the status of hijab ban in India?

- In 2024, Bombay High Court held Chembur college hijab ban was in 'larger academic interest'.

- In 2022, Karnataka High Court stated that donning the hijab or niqab was “not an essential religious practice” for women professing Islam.
- In 2022, **Supreme Court** delivered a split verdict in the Karnataka hijab case.
 - One of the judges held that ‘secularity’ meant ‘tolerance to diversity’. He said that asking a pre university schoolgirl to take off her hijab at her school gate is an invasion on her privacy and dignity.
 - The other judge said ‘secularity’ meant ‘uniformity’ . He held that adherence to uniform was a reasonable restriction to free expression that reinforced equality.

What lies ahead?

- Encourage **open and respectful dialogue** between different communities to understand the significance of the hijab and the concerns of those who support a ban.
- Consider a **case-by-case approach** to hijab bans in specific contexts, such as educational institutions or workplaces. This allows for flexibility and takes into account the specific circumstances and needs of different communities and individuals
- **Promote education and awareness** about religious freedom, gender equality, and cultural sensitivity. This can help dispel stereotypes and misconceptions about the hijab and other religious practices
- Shift the focus from the hijab itself to **broader issues of women's empowerment** and gender equality.