"Artificial Intelligence and its Impact on the Rules of Public International Law"

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Abstract

The rules of public international law are stained with rapid development; this development passes through several stages until the international legal rule been mandatory, whether in written or customary form; the caution must be exercised during the formulation of such rules by the natural person; what is the legal perception required if the formulating process of International legal rules is a program? Which relies on artificial intelligence techniques; which in some of its applications, these rules or algorithms by which operate these programs can develop them without human intervention, and affect the decisions of natural humans without their knowledge of this evolution in the rules or algorithms.

An example of this; The insurance programs based on artificial intelligence technologies where the legal status of the insured person is affected by simply wearing a hand watch depends on artificial intelligence technology and changes as a result of his commitment to health habits appropriate to his condition daily clauses of his contract with the insurance company such as Validity application, so we wonder what if The rules of international law in various international relations depend in their development and formulation on techniques of artificial intelligence? So that the
impact of the rules of international humanitarian law, especially the protection of civilians during armed conflict, if they use weapons based on artificial intelligence techniques? Is there a way to international standards for the uses of artificial intelligence; and how to address this at the international level? We explain the answers to these questions in four parts in this Article: Part I Introduction, Part II The international legal concept of artificial intelligence, Part III The impact of the uses of artificial intelligence on the rules of public international law. Part IV Conclusions.

**Keywords:** Artificial Intelligence AI - Public International Law - International Law of Artificial Intelligence.

I. Introduction

The rules of public international law are characterized by a special nature that mimics the society and the persons that address it\(^1\); therefore, when we look at the nature of the rules of public

\(^1\) “The nature of international law displays a highly problematical issue in the Western legal theory. This is due to the fact that many writers, when they speak of law, think of it in terms of national or municipal law, and, consequently, judge the nature of international law by the same standards. This analysis convinced some to deny international law the definition of law since the international society lacks the three indispensable elements required for producing a rule of law; namely, the legislature, the executive and the sanction.” Al Ghunaimi M.T. (1968)
international law, we find them differentiate with new relations in the international community to constitute a new legal branch of public international law\(^1\). Among these new branches such as the international law of communications\(^2\), And international tourism law\(^3\) and international sustainable development law\(^4\); Finally, international law on artificial intelligence\(^5\). So we search in this


Article the international legal concept of artificial intelligence. And the impact of the use of artificial intelligence on the rules of public international law; concluding this Article with several findings and recommendations regarding the future of this new branch of public international law; called the international law of artificial intelligence.

II. The international legal concept of artificial intelligence.

If we want to define international law for artificial intelligence, we must set a general framework for the international relationship according to which an independent branch of international law has several characteristics and advantages. Makes it have a great space of independence and differentiation that makes him unique as other branches that settled in the conscience of the international community. \(^1\)


And if we want to distinguish the new international relations which constitute an independence legal branch of Public international law, has some differentiation that makes it clear in its features and sources, the international relations must be diverse between bilateral, regional or global relations. In rare cases, it may be the individual practices of one country. But it is a role

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1. Law with the Intensification of Relations Among States and International Organizations. In: Internationalization of Law. Springer, Berlin, Heidelberg; https://doi.org/10.1007/978-3-642-54163-6_3 (last acceded 1/6/2020)


model for later international practice\(^{(1)}\). Not as a matter of obligation; rather, as a matter of inference and guidance with international best practice. \(^{(2)}\)We cite an example of this in the

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individual confrontations of some countries in radioactive nuclear accidents, and these are of relative scarcity, which makes one confrontation (international practice) an international custom if international practices are follow it.\(^{(1)}\)

By following the definitional concepts of some other branches of public international law, we find that they agree on a specific definition consisting of several elements \(^{(2)}\)Take, for example, the definition of international humanitarian law\(^{(3)}\); Which


some define as "that branch of general international law that consists of a set of written or customary legal rules applied to persons of international humanitarian law within the international community, especially at the time of armed conflict, whether it is an international or non-international armed conflict."(1) Given this definition, we find it contains several elements; a set of legal rules (2); written(1) or customary(2); applied to persons of international


humanitarian law. Within the international community At the time of armed conflict, whether international or non-international.

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Looking at the definition of international human rights law, we find some have defined it as "a set of written or customary legal rules applicable to persons of international human rights law within the international community, especially in peacetime."\(^{(1)}\) Given this definition, we find it contains several elements: a set of written or customary legal rules applicable to persons of international human rights law \(^{(2)}\) Within the international community in peacetime.


Comparing the previous definitions of two branches of public international law, we find several elements on which the rest of the branches of public international law must be contains\(^{(1)}\); It is a set of written or customary legal rules\(^{(2)}\) Applied to the persons of that branch of public international law\(^{(3)}\) Within the international community\(^{(4)}\) On a specific topic.\(^{(5)}\)

And by landing these elements on a future definition of international public law for artificial intelligence, we find that the

\(^{(1)}\) Id - Supranote No. 2
\(^{(2)}\) Statute of the international court of Justice - Article 38 “1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply: international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; international custom, as evidence of a general practice accepted as law; the general principles of law recognized by civilized nations; subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law. 2. This provision shall not prejudice the power of the Court to decide a case ex aequo et bono, if the parties agree thereto.” Available at https://www.icj-cij.org/en/statute#CHAPTER_II(last acceded 1/6/2020)
\(^{(3)}\) Id - supranote No. 2
\(^{(4)}\) Id - supranote No. 7
definition of international law of artificial intelligence is summarized in "that branch of public international law that is embodied in a set of international written or customary legal rules related to artificial intelligence and its uses that apply to people of international law of artificial intelligence Within the international community, whether at peacetime or war."(1)

It is noted in this definition that it includes the previous elements extracted from the definitions of international humanitarian law and international human rights law, but they have changed them in the subject of the branch itself, which is artificial intelligence. (2) And it applies at peacetime and war. (3) Looking at


these elements in some detail makes us understand the subject of artificial intelligence more clearly on an international scale.

1- A set of written or customary international legal rules.

It goes without saying that the main sources of public international law are international treaties (1) and international custom (2); but what is new here is the recognition of some individual practices of some developed countries in acquiring technology for artificial intelligence (3) in their mind as more reference in regulating that new branch of Public international law; for example, we mention: German law for the protection of personal data (4); the general regulation for data protection (5); and

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(1) Id - supranote No. 17

(2) Id - supranote No. 18


(4) Id

some laws related specifically to the regulation of artificial intelligence. (1)

Whether the international treaty is bilateral, regional, or global in that new branch of public international law, it has not yet registered a global or regional agreement with regard to artificial intelligence in the United Nations Secretariat, as required by Article 102 of the Charter of the United Nations. (2) The overwhelming majority are some individual practices of some countries, which are considered non-binding (indicative) reference in relation to the uses


(2) Article 102 of UN charter “ Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.” Available at https://www.un.org/en/sections/un-charter/chapter-xvi/index.html(last acceded 1/6/2020)
of artificial intelligence, including of course the directives issued by the European Council of the European Union.\(^{(1)}\)

2- Related to artificial intelligence and its uses.

The distinction of that new branch of public international law should be related to artificial intelligence or one of its uses, which opens the door in this definition to everything related to artificial intelligence as long as multiple subjects of public international law are affected\(^{(2)}\) and whether it addresses public international law people from countries or International organizations\(^{(3)}\); or directly touching the natural individuals\(^{(4)}\); and


\(^{(4)}\) Grossi, E. How artificial intelligence tools can be used to assess individual patient risk in cardiovascular disease: problems with the current methods. BMC Cardiovasc Disord 6, 20 (2006).
given the novelty of this new branch of public international law, we must develop the Egyptian perception of the individual state of the Egyptian legal regulation of artificial intelligence and its uses; The initiative was from President / Abdel Fattah El-sisi, President of the Arab Republic of Egypt, under his direction to establish the Supreme Council for Artificial Intelligence. And in which a decree of the Prime Minister No. 2889 of 2019 was issued (1)

3- That applies to the subjects of the international law of artificial intelligence.

The subjects of international law of artificial intelligence mean these addressees of its provisions, whether when drafting the rules of this law in the form of international treaties or international

(1) Prime Minister Decision No. 2889 of 2019 available at https://www.cc.gov.eg/i/l/393826.pdf (last acceded 1/6/2020)
custom\(^{(1)}\) or individual practices followed by other countries despite not being obligatory because they are benefit to maximizing the advantages of the uses of artificial intelligence.\(^{(2)}\)

4- Within the international community.

This phrase is intended to include all international relations involved in one of its stages\(^{(3)}\) the use of artificial intelligence within the international community, regardless of the type of use of artificial intelligence\(^{(4)}\) and where it is used \(^{(5)}\); then this includes the territory of the State party in drafting the rules of this new law,

\(^{(1)}\) Id

\(^{(2)}\) Id


or The uses of this artificial intelligence outside its region\(^1\); for example the use of artificial intelligence from outer space\(^2\); we are now in urgent need of an international agreement regulating the work of artificial intelligence, especially outside airspace; I mean here to add a new convention to the conventions of international law of outer space.\(^3\)

### 5- Peace and war.

We should be aware that international human rights law applies during peace and during war \(^4\), but international humanitarian law applies to relations between parties involved in


\(^{(3)}\) Id. supranote No. 48

\(^{(4)}\) See more about these conventions at https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties.html (last acceded 1/6/2020)

armed conflict, whether international or non-international. (1) From here we set out in our definition of international law of artificial intelligence as it must be applied at peacetime and war because it will interfere in all civil uses (2) and these are related to international human rights law; military uses (3) and these are related to international humanitarian law. With this swift treatment of the

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https://doi.org/10.1007/978-3-030-21836-2_5 (last acceded 1/6/2020)
international legal definition of artificial intelligence we are able to look into the impact of uses of artificial intelligence on the rules of public international law. Here we are exposed to several effects, including but not limited to.

III  The impact of the uses of artificial intelligence on the rules of public international law.

Given the complexity and multiplicity of relationships that AI can enter into its regulation at the international level, we will address the impact of the uses of artificial intelligence on the rules of public international law related to the conclusion of international treaties; international and non-international armed conflicts especially international humanitarian law; and finally the impact of the use of artificial intelligence on rules International Medical Law.

1- The effect of the uses of artificial intelligence on the conclusion of international treaties.

International treaties go through several stages to conclude them, including the stage of negotiations\(^1\), editing\(^1\), signature\(^2\)

, and ratification \(^{(3)}\) ; then registration and publication of the international treaty \(^{(4)}\) ; and if we assume that there is an use of artificial intelligence in the stage of international negotiations; And carrying the credential \(^{(5)}\) just a robot working with one of the pre-programmed artificial intelligence algorithms about concluding treaties in the name of the country that delegated it \(^{(6)}\), then we

= https://doi.org/10.1007/978-3-662-55160-8_9 (last accessed 1/6/2020)


\(^{(5)}\) Id - supranote No. 56

assume several questions that may be answered by the Vienna Convention on the Law of Treaties concluded between states in 1969; Negotiations man who carrying a document of the authorization (1) ; and that it does not exceed the limits of the authorization granted to it unless the state in which it was authorized has approved what exceeded its limits during negotiation (2) ; The limits of his mandate, but he concluded an agreement not in the interest of his country. (3)
This agreement needs a new text that regulates the hypothesis of using artificial intelligence in drafting and negotiating international treaties, meaning referring to the state\(^{(1)}\) as long as the conclusion of the international treaty with this algorithm originating from the negotiator working on artificial intelligence. Therefore, we propose that the text of approval of the international treaty be amended, subject to referring to the country, especially if it is concluded by an artificial intelligence negotiator.

2- The impact of the uses of artificial intelligence on the rules of international humanitarian law.

International humanitarian law is concerned with protecting civilians \(^{(2)}\) and civilian objects \(^{(3)}\) during armed conflict, whether


international or non-international, so that they are not subjected to military strikes from the parties to the conflict. The use of artificial intelligence, especially plans without a pilot, or what has become known as the "Drones" (1) has a great impact on the accuracy of targeting civilian targets, making the responsibility of countries that possess artificial intelligence and its technologies almost absolute responsibility (2) coinciding with their ability to define military targets and fighters accurately. (3) Perhaps the most striking

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example of this is the targeting of Qassem Soleimani (1) with a
drone as a hostile target for the United States of America, which
claimed responsibility at the hands of its president that he had used
the Drones to hit the target accurately. (2)

(1) Seliktar O., Rezaei F. (2020) Rescuing the Assad Regime and Turning
Syria into a Client State. In: Iran, Revolution, and Proxy Wars. Middle
East Today. Palgrave Macmillan, Cham; https://doi.org/10.1007/978-3-
030-29418-2_6(last acceded 1/6/2020); see also
1/6/2020)

(2) See https://www.whitehouse.gov/briefings-statements/remarks-president-
trump-killing-qasem-soleimani/ (last acceded 1/6/2020)
3- The impact of the uses of artificial intelligence on the rules of international medical law.

The legal status of the insured individual is affected in insurance programs that are based on artificial intelligence techniques, as soon as he wears a hand watch in the hand that depends on artificial intelligence technology and changes as a result of his commitment to health habits appropriate to his condition daily clauses of his contract with the insurance company\(^1\) such as the application of Validity \(^2\); as well as the possibility of using Robots and applications operating in artificial intelligence to predict the patient's condition and healthy future.\(^3\) Provided that


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\(^2\) Id

dealing with several criteria, including transparency\(^{(1)}\), accountability\(^{(2)}\), equality\(^{(1)}\), non-discrimination \(^{(2)}\) and data


protection\(^1\), and their use also in cases of epidemics rather than human dealing in areas of the epidemic or the spread of malicious viruses \(^2\); especially biologically developed \(^1\) or treatment In


Ishii, K. Comparative legal study on privacy and personal data protection for robots equipped with artificial intelligence: looking at functional and technological aspects. AI & Soc 34, 509–533 (2019). https://doi.org/10.1007/s00146-017-0758-8 (last acceded 1/6/2020);


specialized laboratories with the aim of using them to produce serums or drugs for certain treatments (2) or used in biological wars that can end the human race. (3)

IV Conclusions

International Law of Artificial Intelligence means "This branch of public international law that is embodied in a set of international written or customary legal rules related to artificial intelligence which addressing to the subjects of international law of

(1) Id
(2) Id
artificial intelligence within the international community in peacetime and war."

- We recommend the Egyptian government to develop an ethical code of framework for the uses of artificial intelligence.

- We recommend the Egyptian Foreign Ministry to submit a draft of international treaty regulating the uses of artificial intelligence in outer space.

- The international community should be invited to establish an intergovernmental organization of artificial intelligence and its applications.

- Countries that use artificial intelligence in armed conflict bear the ultimate responsibility for damage to civilian objects or civilians.

- When using artificial intelligence applications in medical aspects, whether at the domestic level or the international, the countries commitments to the standards of transparency, accountability, equality, non-discrimination and data protection.
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