THE ROLE OF LEGISLATIVE TECHNIQUES IN THE REGULATION OF AI

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- New Regulatory Culture (NRC) – regulation toolbox
- How TLTs and NRC apply in the regulation of AI?
- Human-centric AI?
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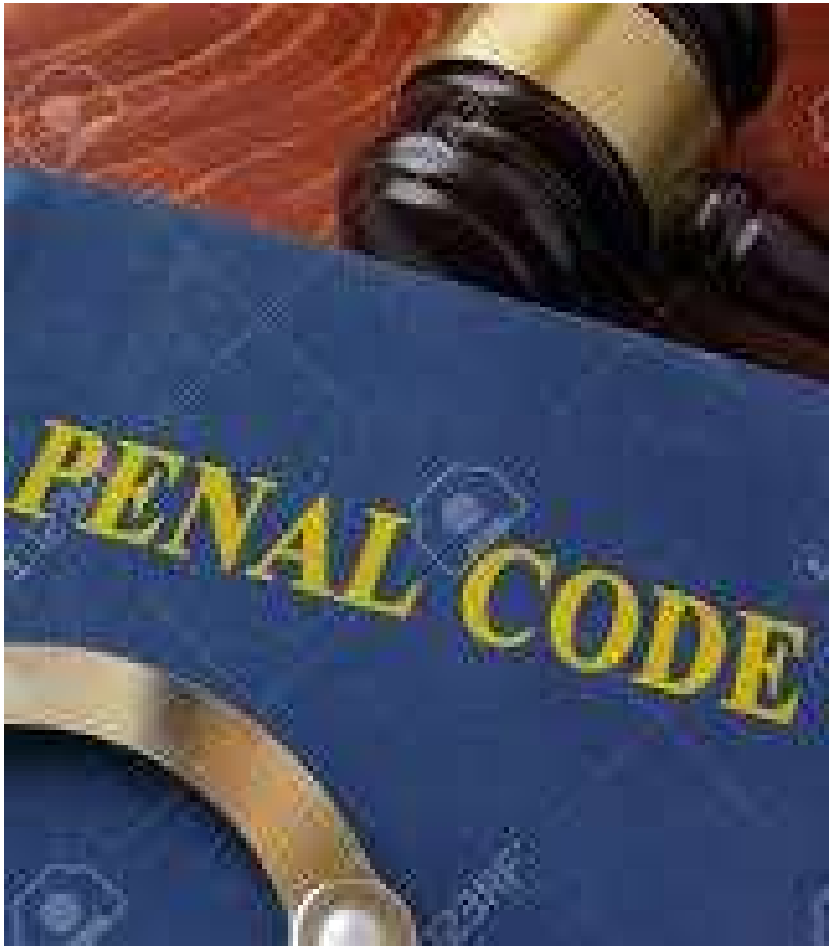
INTRODUCTION

- What are the issues?
  - Challenges of regulating AI: new and fast changing techs that turn laws obsolete, threaten consumers protection and fair competition. Goods transformed into services and vice versa. Techno-function or technology and service divide
  - Traditional Legislative Techniques (TLTs)- command and control, penal and coercive in nature, technology and service divide and stifle innovation.
- What are the key terminologies?
  - AI - new technologies that disrupt established norms/laws, businesses, etc. Examples: eHealth apps and services, drones, and autonomous vehicles.
  - Legislative Techniques (LTs) – this term has been used in its generic sense and it includes aspects of legislative drafting.

THE TLTs AND AI

- TLT focuses on inter alia
  - Detailed and non-detailed legislative drafting styles
  - Technology neutral versus technology specific legislation
  - Functional equivalence principle
  - Criminalisation and banning of certain behaviours, uses and even technologies



NEW REGULATORY CULTURE

- What are NRC: regulatory toolbox- BUT does it complement or supplant TLTs?
  - Generally NRC is goal steering/result oriented
  - Complementary Approach: contract based (self-regulation, code of conduct, etc.).
  - Technological Approach - Code is Law (Lessig, 1999)
  - Proactive Approach- economic incentives, regulatory forbearance (sandboxes), preempting legal problems, nudge, social strategies, information supply, etc.
  - Evolutionary Approach - a shift from behaviour norms to duty of care norms and liability rules

TLTs & NRC Vs AI

- Regulation of design, development and application of AI

How legislative and regulatory techniques apply to regulation of AI?

Unmanned aircrafts/drones – driverless

eHealth apps and services

Lethal automated weapons

HUMAN-CENTRIC AI?

- AI ought to be ethical and embrace societal values (AI-HLEG 2020) see also Tegmark 2017, Harari 2018
- Use regulatory toolbox - blending TLTs and NRC i.e. multimodal - regulatory toolbox
- Understand regulatory environment (Baldwin et al 2012; Reed, 2012) – use expert groups
- Legislation is a scarce resource, regulation is a living process (constant monitoring and evaluation)
- Multistakeholder engagement - state and non state
- Multilayer - national and global (Gasser, 2017)

REGULATION OF AI IS not imPOSSIBLE

THANK YOU FOR LISTENING