



## The Ethics of Emotion AI in Legal Practice- Risks, Bias, and the Future of Human Judgment

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**Abstract--** Now days artificial intelligence is being designed to read emotions of a human, and this moved way and well beyond automation. This growing field is so often called AI or affective computing, the same has been tested in various spectrums of life may it be education, advertisement or healthcare. If we look at the context of legal and legal world, concerns have been raised which are very different nature to the general. Law is not Marely just logic and evidence but also on judgement, empathy and a sese of fairness which are inherent traits of a human. This research paper explores, both the risks and the possible use of emotion AI in context of law. The same has both sides, supporters and critics, the supports may argue that technology is more than competent to detect hidden emotions and the same can assist lawyers in negotiating, helping courts notice signs of stress or if there are any dishonest witnesses, but on the latter critics have opinions like, these could undermine core principals of law and nature like equality, dignity and even reinforce systematic bias and more so even reduce the value of human judgement. Here comes then the deeper question about whether these machines can ever be trusted to decode emotions in situations that effect a person's right and freedom. This paper argues for caution by examining the danger posed, safeguards that are needed and the surprising role of a human judgement in a system which is lured by technological solutions, while no doubt there is appeal of reliance on these machines which can also be considered strong but is it at the risk of justice being risked where an human emotions are needed to play out rather than what an predictive algorithm on the same says so.

**Keywords--** Emotion AI, legal ethics, bias, artificial intelligence in law, affective computing, human judgment, legal technology, fairness, justice, algorithmic decision-making.

### I. INTRODUCTION

Legal world has always been highly entangled with technology but this traditional system also been conscious of the same. While new upcoming exciting tools can without any doubt improve efficiency, courts and other players like clients and lawyers are still deeply intertwined to the traditions that indeed do emphasise human reasoning with judgment. Over the past few years, legal practices have still yet indeed are open to use of technology like electronic online databases, case management systems and even remote hearings, whose popularity increased indeed after COVID 19.

The concept that AI might go beyond the same, and delve into concepts like emotions and empathy does indeed raise questions which can be deemed far more unsettling and odd, and here is where the debate over emotion Artificial intelligence begins

Emotion AI, even so reffered as affective computing, refers to those systems which are designed to detect and decode human emotions. The same is done through different inputs, them being: facial expressions, tone of one's voice, movements of eye or even physiological signals like rate of one's heart and temperature of one's skin.<sup>i</sup> While here the claim is that such systems can "read" emotions but in reality these systems can classify data into categories like anger, fear, confidence and the same is based on patterns in larger datasets. There isa a gap between an actual human experience and what here the algorithm identifies is precisely where ethical problems do indeed start to emerge.

In sectors other than legal, Emotion AI has already established its foothold, for example Marketing companies use the same to test how Audiences respond and react to new ideas of advertisements or movie/song trailers <sup>ii</sup> Industry people are experimenting with AI tools to analyse things like job applicants facial expression during interviews, with the hope to predict trustworthiness or appropriate cultural fit., more so even school's use the same, where they have tested software that do track student engagement by monitoring their facias during classes conducted through an inline medium, these examples might so appear innovate but they do indeed highlight how quickly technology is spreading into extremely sensitive domains. If something as Marely of a machine can "read" or decode students attention level,it is not an impossible of a thought to delve into this concept being used in courtrooms to interpret whether a witness is lying.

The given possibility has already been tested in border control settings, like in parts of Europe, Artificialintelligence systems have been deployed at airports to scan passengers facial expressions and deduct irregularities, mismatch and so forth on predict dishonesty.<sup>iii</sup> While these experiments are controversial and are beyond from perfect they indeed show that emotion Artificial intelligence is now moving closer to areas that indeed do involve serious consequences.



**International Journal of Recent Development in Engineering and Technology**  
**Website: [www.ijrdet.com](http://www.ijrdet.com) (ISSN 2347-6435(Online) Volume 14, Issue 12, December 2025)**

If applied in law, where judgments affect things which are fundamental to human and their nature like freedom, property, reputation etc then the given danger indeed does multiply. A misinterpreted facial twitch could indeed have consequences far more severe than merely a job interview which failed or an advertisement which don't work as expected.

The main concern here is not simply if emotion AI works but whether the same belongs in law at all. Courts are spaces where truth, fairness and dignity are pillars which guide outcomes. Introduction of a tool that reduces human emotions to risks caused by data which undermine those values. Can a system really, which is trained mostly on a narrow datasets, culturally capture the emotional reality of a person from different backgrounds? Can legal actors truly rely on a software to tell them if a witness is stressed, scared or deceptive? The same cannot be posed as absurd questions. They are very integral to how justice is perceived and practice in today's world and in comparison on how the same was, pre AI.

This paper tries to explore the ethical implications of Emotion AI in legal practice, by placing them into 03 stages. First, this paper aims to discuss the risks of relying on automated emotional recognition more specifically in spaces where accuracy and fairness are absolutely non negotiables. Second being, it'll look at how bias which is already present, in human systems and AI design could be amplified if emotion AI becomes a standard practice legal tool, lastly the paper will reflect on what is the growing role of machines in legal practises and what they might essentially mean for the future of human judgement itself. The main argument here is that while technology can help and contribute, the same shall not be allowed to overstep into domains where human sensitivity and moral responsibility are key and the centre of the given situation, without checks and caution, risks in law will become less and comparatively insignificant about justice and more about automated prediction.

## II. RESEARCH OBJECTIVE

Each research paper has to be guided by a few clear objectives so that the essence of the main discussion is not lost. In this paper, here objectives are shaped by concerns around emotion AI's emergence in the field of law. This paper doesn't aim to reject the idea of technology altogether but so carefully, understand where the same fits and in what place it creates risks which can hamper with the justice system. With that in mind, the following objectives are proposed:

1. To examine probable risks of applying a system like emotion AI in legal practice: The same includes question of whether such systems can indeed fairly decode emotions or if they merely just create simplified image which might mislead actors of a legal filed.
2. Analyse the role of bias and how the same can be reinforced by emotion AI: As algorithms learn from data and this data can/may carry social prejudices hence it is important to see how these given systems might increase already inherent inequality because of such biases rather than reduce it
3. To examine the balance between Human judgement and automated systems: the paper aims to explore whether role of legal actors( judges, lawyers) could be reduced to supervisory functions of the machine and what the same signifies for humans and decision which involve concepts like rights, justice
4. To recognise what are the safeguards to these systems and what are the ethical boundaries : One of the objectives being is to recommend/suggested what rules, safeguards or frameworks might be required if Emotion AI is ever uniformly applied to legal world so that principals like fairness and human rights are protected
5. Reflection on the future of justice in an AI driven world: this goes beyond immediate risks, the paper will also explore on the fact of how increasing use of AI in law can potentially mean for the future, and whether if courts will still feel like spaces which are form humans rather than a space controlled and driven by AI, technology where the space becomes inherently something driven by automated prediction.

To put it in a concise way, objectives are built around one large question, whether how far should we let machines enter into deeply human centric spaces where concepts like rights and justice comes in to place.

## III. HYPOTHESIS

This paper is under the assumption whether emotion AI might be able to provide some supportive role in legal practices in the present form carries grave risks which are substantially more than the benefits, technology is likely to misjudge emotions, can reproduce hidden biases and even weaken role of human judgement. Till the time strict safeguards like regulations are put into place, emotion AI could undermine fairness and dignity in law rather than strengthen them.

#### IV. REVIEW OF LITERATURE

The literature on emotion AI spans computer science, psychology and law but the ethical debate are not the most precise in the legal context. Early work such as Rosalind Picard's *Affective Computing* (1997)<sup>iv</sup>, the same was first not primarily about ethics but about what are the possibilities of effective computing, however she has indeed noted on how teaching machines to recognise emotions will/ can raise questions about trust and misuse, hence ethics was present in the background of this given paper since the start.

As the field started to develop, scholars indeed began to ask Whether the same is morally acceptable to allow machines interpret feelings. Rana el Kalioub<sup>v</sup>, an important figurine in commercial emotion AI has talked about its benefits in education and healthcare, very optimistically but created a balance by also talking about its concerns, as per her, if any technology has the ability to track subtle expressions in a classroom, how does the same stop the government or employers from using the same to monitor people without their consent, the ethical boundary between helpful assistance and invasive surveillance is very thin and the given literature circles back to risks quite repetitively.

In legal studies, the debate is given more space than other spaces, some researchers have cautiously critiqued that emotion AI, could support legal actors In legal studies, the debate is even sharper. Some researchers have cautiously argued that emotion AI could support judges or lawyers by flagging symptoms like stress in witnesses or by reducing subjective human error<sup>vi</sup>, yet critics do indeed underline how law is not only about accuracy, facts but also values which are inherent to human. Crawford and Caloargue that AI quite often reproduces structural inequalities and when the same is applied in law, it becomes an ethical crisis rather than a technical flaw.<sup>vii</sup>

“Emotions can be objectively measured” is stated by Another body of work which challenges this very idea the very idea. Lisa Feldman Barrett argues that due to socially and culturally cues, emotional are constructed which ultimately means that any system which can be classified as universal is bound to be biased.<sup>viii</sup> If courts are reliant on these systems, people from weaker- sensitive groups could be subjected to unfair judgement just because their expressions just do not fit in the set data cultural model which is embedded in the algorithm, this hence makes the ethical danger extremely clear, a claim to fairness- in the context of 50-50 does indeed hinder and causes injustice and doesn't follow natural human universal principals like equality for all.

Legal ethics like Yanisky - Ravid and Hallisey have focused on privacy and autonomy, as per there argument about when these systems infer emotions without ones

consent they indeed do violate a person's right to control their own personal life.<sup>ix</sup> As per law, where dignity is central and a universal concept to human rights, the given intrusion is troubling on a very large extend. The Europe Unions GDPR does also indeed reflect the given concern as they place limits on such given automated profiling, a concept which is directly applied to emotion AI<sup>x</sup>

Overall, the given literature does indeed show how the main debate isn't about weather Emotion AI is technical possible, but weather the given is defensible in the yes of law and justified. The critics do indeed dominate the given conversation where they warn of biases, inequality and human judgement his is missing, but doesn't mean there aren't a group of supports, there are small group of supporters in proportion, they often do increase efficacy but indeed efficiency is not just one thing which has to be looked upon as its not the core legal vale, justice, fairness and respect for human dignity is centric.

#### V. DISCUSSION

In a legal practice, Ethical concerns have been raised over emotion AI, the same can be grouped into 3 essential areas- Risk to fairness, amplification of bias and erosion of human judgement.

1. *Risk to fairness:* Law is not just dependent on efficiency but even on legitimacy Infront of the eyes of citizens, if any algorithm misjudges a witness or a defendant who is grieving as aggressive, the risk is not Marely just of a false outcome but the same also breaches concepts of equality and fairness<sup>xi</sup> theories revolving around ethics suggest , justice needs to “be seen to be done” yet when an invisible algorithmic error does indeed create a gap in idle of legal outcomes and public trust.<sup>xii</sup> When any litigants would feel judged by a machine and not human reasoning, the actuality of the Courts inherently becomes weaken to its core structure.

2. *Amplification of Bias:* These systems are trained on data and this data does indeed often reflect some if not major inequalities of the society. <sup>xiii</sup>Emotion Ai is constructed majorly on western datasets, cultural variations in peoples expression as such of anger, respect or even fear is displayed, and the same can be misclassified when the same is applied elsewhere<sup>xiv</sup>.

The same has raised a deep ethical issue and not really correcting any biases which are present in law, but rather emotion AI could institutionalise it, weaker and marginalised communities may already face high

scepticism in courts and over that if these algorithmic systems confirm into stereotypes, this grave harm does indeed becomes very systematic<sup>xv</sup> and even so ethically this violates principles like equality before law.<sup>xvi</sup>

3. *Human Judgment and Responsibility*: The key pressing ethical issue is Wheater reliance on a system depletes the ethical and moral responsibility of legal actors.<sup>xvii</sup> Law is built on the core reasoning that mixes logic with empathy, compassion and reflection on morality. An system, by contrast only predicted patterns.<sup>xviii</sup> If courts will deploy and give in these predictions, responsibility for decisions continually shifts away from actual human beings, their behaviour, emotions and their inferences.<sup>xix</sup> The real question is who is accountable for these mistakes and errors. The ethical risk in not Marleymiscalculations nut also the gap in the legal decision itself.

In different words, emotion AI does tempt these courts as they offer speed and objectivity but it indeed risks displacing qualities which are core to the legal system like dignity, fairness and moral accountability, which gives law ethical foundation by nature.<sup>xx</sup>

## VI. CONCLUSION

Emotion AI does indeed embodies a paradox, on one side it indeed fulfil the promise of effectivity, objectivity and even insights into things that a person does miss.<sup>xxi</sup> but on the other side, these systems strike directly at the ethical core of a legal practice, hampering and playing with fairness, dignity, and the irreplaceable role of human judgment<sup>xxii</sup> there is risks like of bias misinterpretation, loss of accountability which do suggest that the given technology in just not a tool but even a potential threat to justice if used without caution.<sup>xxiii</sup>

<sup>i</sup>Rosalind W. Picard, *Affective Computing* (MIT Press 1997).

<sup>ii</sup>Rana el Kaliouby, *Girl Decoded: A Scientist's Quest to Reclaim Our Humanity by Bringing Emotional Intelligence to Technology* (Penguin 2020)

<sup>iii</sup>Karen Hao, "AI Lie Detectors Are Being Used at European Borders. They're Not Ready," *MIT Technology Review*, November 2019.

<sup>iv</sup>Id. 3

<sup>v</sup>Id. 3

<sup>vi</sup>Jevan Hutson et al., "Debating the Ethics of Artificial Intelligence in Law," *Washington Law Review* 96 (2021): 1-42.

This given paper has argued on how Emotion AI is innovative but the same shall be approached with scepticism in the legal world. Ethical safeguards are a must and needed, there shall be a strict oversight and cultural sensitivity are very key and essential while application of such system, by the end courts do not just exist just Marley for deciding cases but even to embody and play the role of justice in ways that people can trust the system<sup>xxiv</sup>.

This given trust depends on human judgment which can be failed but one can hold the same accountable, rather than opaque algorithms general public would not be able to understand reason or defend when it comes to emotion, hence in law, ethics cannot be outsourced by machines is the conclusion, but help can be taken secondarily.<sup>xxv</sup>

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**International Journal of Recent Development in Engineering and Technology**  
**Website: www.ijrdet.com (ISSN 2347-6435(Online) Volume 14, Issue 12, December 2025)**

<sup>xii</sup>Id. 5

<sup>xiii</sup>Id. 3

<sup>xiv</sup>Id. 5

<sup>xv</sup>Id. 5

<sup>xvi</sup>Id.

<sup>xvii</sup>Id. 6

<sup>xviii</sup>Andrew T. Guzman, “Negotiation and AI Tools,” *Journal of Legal Studies* 45 (2018): 223–240.

<sup>xix</sup>Rana el Kaliouby, *Girl Decoded* (Penguin 2020).

<sup>xx</sup>Id. 5

<sup>xxi</sup>Id. 5

<sup>xxii</sup> Id. 6

<sup>xxiii</sup> Id. 5

<sup>xxiv</sup>Id. 6

<sup>xxv</sup>Id. 5