Nexus Journal

ECHOES OF THE GAVEL

The Ripples of our Past Impacting the Laws Today

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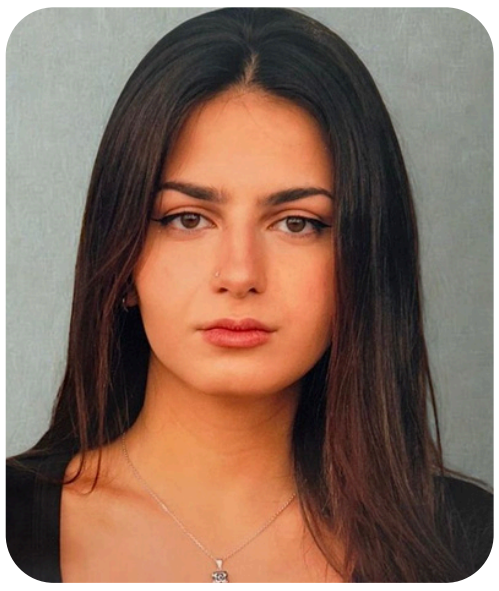

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CHAIRS' NOTE

For our first journal issue, we found that a more thematic approach to modern jurisprudence and legislation was more befitting a way to address the array of topical issues plaguing our world today. Our daily lives are shaped by the law, whether we realize it or not. Generations of men, women, and non-binary persons before us have paved the way for the creation and implementation of the laws of today. But the beauty of the safeguards in modern society's current legal systems is that they are not immutable; we, as a collective, can effect real and lasting change for generations to come.

Each of our articles explores a topic that is sensitive to us and we want to shed light on an area of law or a group of people you may have not considered. We come from all corners of the world; our personal histories and cultural backgrounds enrich our understanding of the past, enabling us to draw legal connections between the former world and the world to come. All of us, though born into highly uncertain times, believe in the rule of just law for all. Our actions today echoes into history.

Thank you for reading,

The Nexus Journal Committee Team
Co-Chair Samantha C. Tomilowitz
Co-Chair Sarah Zelifan

From Biometrics to big BROTHER

LEGAL CHALLENGES TO PRIVACY AND CONSENT IN AI LAW ENFORCEMENT SURVEILLANCE

NIKI SETOODEH-MANESH

George Orwell's dystopian vision in *1984*, long a cautionary tale for collective liberty, finds new prescience as law enforcement adopts increasingly sophisticated surveillance. This technological advance doesn't just elevate traditional monitoring; it constructs an **invisible cage** around our digital selves, transforming the discrete intrusions of the past into the omnipresent gaze of a digital panopticon. This shift dramatically alters the nature of state surveillance and imperils core principles of privacy and consent. Historically, tools such as fingerprinting and wiretapping posed distinct, but limited privacy challenges. State institutions and private corporations relied on targeted, laborious methods for monitoring and information collection. Today, these traditional boundaries are shattered. AI-driven systems, such as facial recognition, turn ephemeral data into a **permanent, pervasive digital footprint**. Privacy today means protection not just from isolated intrusions, but from constant, invisible tracking. While advocates argue that AI's capabilities enable enhanced public safety, these advancements raise urgent legal and ethical dilemmas:

HOW CAN HUMAN RIGHTS BE PROTECTED AS TRADITIONAL NOTIONS OF PRIVACY AND MEANINGFUL CONSENT ERODE, AND THE LAW STRUGGLES TO KEEP UP?

HISTORICAL SURVEILLANCE: THE VISIBLE WALLS OF PRIVACY

Even the most intrusive past practices were constrained by physical, legal, and logistical barriers and were limited to targeted individuals or specific criminal investigations. These visible constraints established a fragile, but discernible boundary against pervasive oversight. Fingerprinting, long hailed as the "gold standard" of identification, required physical contact and extensive human analysis, making its widespread application for mass monitoring impractical without automation (Tavares & Gach, Zabell).

Similarly, early wiretapping, although electronic, generally required physical taps into lines. It was often detectable and predominantly required warrants for targeted communications (Brown, Williams, Kamisar).

Both forms of early surveillance needed **human oversight**, and their application was limited and specific. Privacy breaches were isolated events, not everyday occurrences. This system allowed individuals to anticipate when their privacy might be breached; a sharp contrast with today's continuous, AI-driven data collection, which renders those boundaries invisible.

PRESENT SURVEILLANCE: THE UNBLINKING GAZE OF THE DIGITAL PANOPTICON

The once-visible and limited nature of surveillance now appears quaint in light of today's pervasive, unavoidable, and automated AI reality. Proponents stress that AI's capabilities, such as real-time threat detection, far exceed human abilities and promise safer societies. However, these advanced capabilities innately lead to a **collapse of meaningful consent.**

While traditional legal safeguards, such as the U.S. Fourth Amendment and Article 8 of the ECHR, were designed to protect explicit and limited intrusions, the continuous, largely invisible processing of vast, interconnected datasets by AI, often without physical intrusion, shatters these legal boundaries. It also allows the digital panopticon to extend its unblinking gaze into every corner of our lives, redefining privacy as a struggle against endless, imperceptible tracking.

Furthermore, AI systems passively collect data without leaving any perceivable traces. Thus, the consistent aggregation of data and the opacity of these systems erode any notion of meaningful informed consent. Individuals are unaware of the scope of surveillance or its implications (Hartzog & Selinger)

FLEETING MOMENTS BECOME PERMANENT DIGITAL FOOTPRINTS, FEEDING AN EVER-GROWING DOSSIER CURATED BY THIS UNSEEN OVERSEER.

Such data accumulation heightens data security risks and enables **"function creep"**, where data collected for one purpose is silently repurposed for others, further reinforcing the walls of our invisible cage and undermining any semblance of consent (Simmler & Canova, Pyle).

Moreover, ubiquitous and invisible AI surveillance produces a powerful "chilling effect." The awareness that one is subject to endless digital monitoring has a subtle but substantial impact on behaviour as it suppresses free speech, restricts freedom of movement, and **discourages activism or protest** (Aziz, Miller).

This resulting self-censorship undermines essential democratic values. The sheer scale, rapid speed, and immense abilities of AI transform personal liberty into a performative act within the confines of the digital panopticon, thereby severely undermining consent as a safeguard and prompting an urgent reassessment of privacy protections.

RISKS OF AI SURVEILLANCE: LIVING WITHIN THE INVISIBLE CAGE

AI surveillance creates direct risks to individual liberties and democratic norms. A paramount risk is the **collapse of public anonymity**; through persistent identification and tracking, AI transforms everyday movement into a stream of surveilled data (O'Hagan et al.). The risk escalates due to an inherent, critical lack of transparency, leaving individuals entirely unaware of the scope or intent of data collection and denying them any means to challenge unwarranted surveillance (FRA, Dushi). Such pervasive, unconsented-to observation is the hallmark of the **digital panopticon**, which poses a systemic threat that demands immediate and specific legislative measures.

SHIFTING LEGAL REALITIES: PERMEABLE WALLS AND LEGAL LABYRINTHS

AI blurs traditional definitions of privacy, forcing a re-evaluation beyond physical intrusion and "reasonable expectation" paradigms (Schwartz, Moore). This paradigm shift challenges existing legal frameworks across jurisdictions, exposing their **limitations** in confronting an invisible cage.

In the U.S., the Fourth Amendment proves inadequate. It relies on physical trespass or clear privacy expectations, relics of a pre-digital age, and struggles against AI's invisible data collection. Even the **'mosaic theory'**, an attempt to recognise that accumulating seemingly public facts about an individual over time can, collectively, reveal deeply private patterns deserving protection, faces inconsistent judicial application and is outpaced by the relentless expansion of the digital panopticon's reach (Silva, Crowther).

Similarly, the ECPA (1986), designed for an earlier digital era, is ill-equipped for modern AI processing, leaving major **regulatory gaps** that this invisible cage exploits (Silva, Babikian).

Although the EU's GDPR acknowledges biometric data as "special," it finds its 'walls' permeable by AI's inferential power, complicating the definition of "strict necessity" for data processing, and allowing built-in algorithmic biases to erode non-discrimination standards (Casaburo & Marsh, Mitsilegas et al., Simmler & Canova). Divergent national implementations further fragment these protections, exposing a widening gap between AI's pervasive risks and the protective scope of existing legal regimes (Simmler & Canova, Ruhrmann).

Ultimately, no existing framework fully anticipates or effectively counters AI's ability to redefine privacy itself as a constant struggle against invisible confinement.

SPECIFIC LEGAL BASES: BUILDING THE BLUEPRINT FOR LIBERTY

Addressing AI-driven surveillance requires a technology-specific legislative framework that incorporates human rights principles and serves as a blueprint for dismantling the so-called invisible cage. These frameworks are not designed to hinder innovation or obstruct legitimate security objectives. Rather, its purpose is to ensure that AI's intricate capabilities are used responsibly, transparently, and **within democratic constraints**.

Given the inadequacy of current legislation, there is a clear imperative to establish specific legal bases that define the limits, operational standards, and ethical duties of AI in law enforcement. Such measures provide a pathway out of the digital panopticon and transcend pre-digital legal paradigms.

Such legislation must comprehensively define lawful data collection and retention, establish clear limitations on data types and sources, and implement stringent, time-bound retention policies.

THESE STEPS PREVENT THE ENDLESS CREATION OF DIGITAL DOSSIERS, WHICH ARE THE VERY WALLS OF OUR INVISIBLE CONFINEMENT, ERODING PRIVACY AND UNDERMINING THE POSSIBILITY OF DATA OBSOLESCENCE.

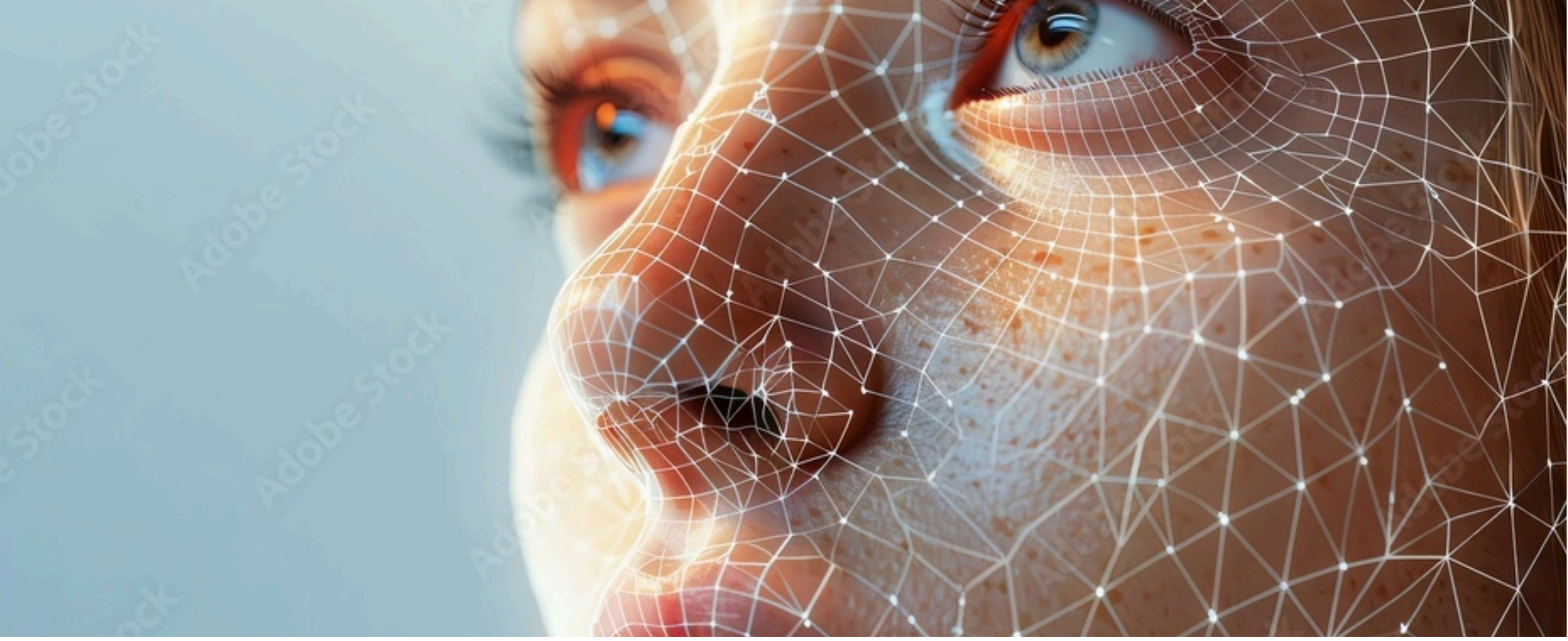
Additionally, the legislation should mandate privacy-by-design, embedding protections into AI systems from their inception, ensuring that anonymisation is a default and that user privacy is built in, not an afterthought. Transparency mechanisms are vital, requiring explicit disclosure of AI system capabilities and algorithms to enable genuine, informed consent (Chen & Wang, Dushi). The establishment of robust oversight bodies is crucial for effective scrutiny, conducting impact assessments on privacy and consent, and ensuring enforcement (Oswald, Pashentsev & Babaeva).

Furthermore, the concept of meaningful consent, too, must be redefined, given AI's unique capabilities; where genuine opt-in or opt-out is impossible, legal frameworks should impose strict limitations on data analysis and repurposing, explicitly prohibiting "function creep" without demonstrable, informed consent (Simmler & Canova). These AI customised legal bases are critical for re-anchoring digital governance in liberty, justice, and human dignity, not as prisoners in an invisible cage, but as citizens in a free society.

CONCLUSION

George Orwell's chilling vision in *1984*, once a distant dystopian fiction that warned against the instruments of state power, now finds new, urgent relevance in a world transformed by AI surveillance. The profound disparity between historical, visible constraints on monitoring and today's invisible, omnipresent digital tracking demands more than adaptive interpretation; it calls for a foundational re-anchoring of our legal and ethical compass.

To prevent Orwell's fiction from becoming our inescapable reality, the choice is clear: we must balance technological innovation with a sacrosanct commitment to human rights. This demands bold, foresighted legislative action to ensure the digital future safeguards liberty, human dignity, and the very essence of a free society, not as unwitting occupants of a digital panopticon, but as free citizens.



OUTPACING DEEPFAKES

NAVIGATING THE CHALLENGES OF REGULATING AI-GENERATED MEDIA

SARAH ZELIFAN

In an age where seeing is no longer believing, deepfakes have blurred the line between truth and illusion, casting a shadow over the very foundations of trust, democracy, and human connection.

The rise of deepfakes represents more than a technological marvel, it is a seismic shift in the landscape of information, one that threatens to erode the pillars of authenticity and accountability. As these hyper-realistic fabrications grow ever more convincing, their potential to deceive, destabilize, and disrupt demands immediate and decisive action. Yet, the legal frameworks designed to safeguard society remain **woefully unprepared**, lagging behind the breakneck pace of innovation.

History, however, offers a glimmer of hope. Just as early legal adaptations confronted the rise of cybercrime, the challenge of deepfakes may yet inspire a new era of adaptive governance; one that is as dynamic and forward-thinking as the technology it seeks to regulate.

REGULATORY DILEMAS

"The camera never lies." Or so the saying goes. But in the age of deepfakes (AI-generated, hyper-realistic synthetic media) this adage has never been more obsolete. **Deepfakes** manipulate or recreate a person's likeness with astonishing accuracy, posing profound legal, ethical, and societal challenges.

While they hold creative potential, their unregulated proliferation threatens individuals, institutions, and even democracy itself.

The term "deepfake" entered public consciousness in 2017, following the emergence of AI-generated pornographic videos. Since then, the technology has expanded to encompass any synthetic media produced using neural networks trained on vast datasets. Deepfakes typically fall into three technical categories:

- **Face swapping:** Replacing one person's face with another.
- **Lip syncing:** Altering speech to match manipulated video.
- **Puppet technique:** Controlling a person's movements or expressions.

Their most insidious applications target vulnerable groups, particularly women, children, and public figures, where the consequences can be devastating.

PORNOGRAPHY AND EXPLOITATION

Since 2017, non-consensual deepfake pornography has surged. Studies reveal that the overwhelming majority of such content features women or minors, often celebrities or adult performers, without their consent. The realism of these fakes makes them nearly indistinguishable from authentic footage, misleading viewers and perpetuating harm. While major platforms like Pornhub, Reddit, and Twitter have banned deepfake pornography, enforcement remains inconsistent. Smaller, unmoderated sites continue to host such content, offering victims little recourse for removal or legal redress.

MISINFORMATION AND POLITICAL MANIPULATION

Deepfakes are increasingly weaponized for **political disinformation**. In 2022, a deepfake of Ukrainian President Zelensky appearing to "surrender" briefly disrupted public perception during the Russian invasion. Similar tactics emerged in the 2023 U.S. election cycle, where deepfakes were used to smear candidates. As Ramluckan notes,

> **"POLITICAL DISINFORMATION REMAINS THE GREATEST RISK POSED BY DEEPFAKES,"**

as a single, well-timed fake can distort public discourse and undermine trust in institutions. The effectiveness of deepfakes stems from human psychology, where research shows that people correctly identify deepfakes only about **63% of the time**, yet they overestimate their detection abilities. Visual content is inherently more persuasive than text, amplifying the impact. At scale, this erodes trust in the media and fuels the "liar's dividend" (the ability for wrongdoers to dismiss real evidence as fabricated.)

REGULATOR CHALLENGES: THE PACING PROBLEM

The accessibility of deepfake tools means anyone with basic technical skills can generate convincing fake content. This raises complex issues around free expression, privacy, and protection from harm. Regulatory responses vary widely across the globe. **China** adopts an **interventionist approach**. Its Deep Synthesis Provision (2023) mandates labeling of AI-generated content and requires consent for creating deepfakes, embedding regulation within its broader online censorship framework.

The **European Union's GDPR** offers partial protection. Deepfakes often involve processing personal data without consent, conflicting with Article 6. The right to erasure (Article 17) is theoretically applicable but difficult to enforce, as deepfakes spread rapidly and cannot be easily traced or removed. The **EU AI Act (2024)** provides a broader framework but leaves gaps, particularly when malicious content is framed as "satire."

THE ROLE OF SOFT LAW: HISTORICAL LESSONS AND HYBRID APPROACHES

The **"pacing problem"**, where technological innovation outstrips the speed of legislative action, is not new. Historically, soft law has played a critical role in bridging this gap, offering flex-ibility and adaptability while harder legal frameworks catch up. Two key examples demonstrate its effectiveness: the U.S. Food and Drug Administration's (FDA) hybrid approach and the early 2000s response to cybercrime.

THE FDA'S HYBRID MODEL: SOFT LAW AS A CATALYST FOR ADAPTATION

The FDA provides a compelling case study in how **soft law** can complement hard law to address rapidly evolving challenges. In industries like pharmaceuticals and medical devices, where innovation moves quickly, the FDA uses guidance documents—non-binding but highly influential standards—to articulate expectations for compliance, safety, and efficacy. These documents are not legally enforceable, but they are widely adopted because they reflect the agency's interpretation of statutory requirements and best practices.

Companies voluntarily adhere to these guidelines, knowing that failure to do so could result in regulatory scrutiny or market rejection. This approach has enabled the FDA to respond nimbly to technological advancements, such as AI-driven diagnostics or wearable health monitors, while **maintaining public trust** and safety.

The FDA's model highlights the value of multistakeholder collaboration. By engaging with industry experts, academics, and patient advocates, the agency ensures that its soft-law instruments are practical, consensus-driven, and responsive to real-world needs. This collaborative process not only accelerates the development of standards but also builds buy-in from those most affected by regulation.

EARLY CYBERCRIME REGULATION: SOFT LAW AS A STOPGAP

In the early 2000s, the rise of cybercrime (phishing, malware, and identity theft) posed a similar pacing problem. Existing laws, such as the U.S. Computer Fraud and Abuse Act (1986), were ill-equipped to address the sophistication of digital threats. Hard-law updates were slow, and enforcement was inconsistent across jurisdictions.

To fill the gap, soft-law initiatives emerged as a **stopgap**. For instance, the Council of Europe's Convention on Cybercrime (2001) provided a framework for international cooperation, encouraging countries to harmonize their laws and share best practices. While not legally binding, it became a reference point for national legislatures drafting cybercrime statutes. The creation of Industry-led standards, such as the Payment Card Industry Data Security Standard (PCI DSS) were key in creating

WHICH OF THESE PHOTOS IS AN AI-GENERATED IMAGE?

voluntary compliance that eventually developed into a **de facto requirement** for businesses handling payment data—reducing vulnerabilities and building consumer trust. These soft-law measures protected victims by raising awareness, standardizing defenses, and fostering collaboration between governments, businesses, and civil society. They also laid the groundwork for harder laws, such as the EU's General Data Protection Regulation (GDPR), which later incorporated many of the principles first articulated in voluntary standards.

LESSONS FOR DEEPFAKE REGULATION

The historical success of soft law in addressing the pacing problem offers valuable lessons for deepfake governance. A **hybrid approach**, combining collaborative, guidance-driven models with the adaptive strategies of early cybercrime regulation, could provide a roadmap for policymakers. By leveraging multistakeholder input, governments can develop flexible norms that evolve alongside technology, while hard laws ensure accountability for concrete harms.

For deepfakes, this might involve industry-led standards for detecting and labeling synthetic media. As well as government-endorsed best practices for platforms hosting user-generated content, balancing free expression with harm prevention. Which can be expanded to international frameworks to harmonize responses across jurisdictions.The goal is not to replace hard law but to create a **dynamic system** where soft and hard laws reinforce each other, closing gaps and adapting to new challenges as they arise.

A HYBRID APPROACH FOR THE FUTURE

Deepfakes expose the weaknesses of traditional legal systems in addressing **technological change**. While hard laws remain essential, they are too slow and rigid to tackle rapidly evolving risks. Soft law, with its flexibility and adaptability, offers a complementary path. Together, they can form a hybrid framework that balances innovation with accountability, ensuring public trust, individual protection, and democratic stability in an era of accelerating technological disruption.

WHICH PHOTOS WERE AI-GENERATED?

THE FIRST PHOTO IS NOT REAL, (AI) BUT THE SECOND ONE IS REAL!

The Streets Are(‘nt) Paved with Gold

THE LEGAL SHIFT AWAY FROM GLOBALISM TOWARDS LEGAL NATIONALISM IN TIMES OF POLITICAL TURMOIL.

MICAH WADE

“The streets are paved with gold” was the exclamation of 19th century Dick Whittington upon arriving at the streets of London. Over time, modernised versions of the famous expression have persisted as the cause of the consistent exodus of entrepreneurs for the promises of overseas business and ‘gold’. Money does, indeed, make the world go around, and the advocacy of **globalism** has usually marked financial incentives as the great motivator that turns its cogs. However, when money is scarce and the politics of scarcity are invoked to posit financial autarky as the only solution, the plaster politics used to inject nationalism into law-making, and to reduce globalism’s mpact, re-emerge.

However, the solution to the bias against globalism in the law relies on the international community demystifying and revising it.

Globalism’s emergence as a reactionary trend away from the **autarky** that defined the extremist politics that festered in the wake of the First World War, and that would go on to characterize the second, was propped up by an overly optimistic reception that failed to falter amidst the turn of the century.

Why, then, globalism is seen as the failed experiment of a bygone century relies on its inability to outlive the austerity politics, recession and economic decline currently experienced on a global scale.

There are **two schools of thought** in this regard, with the first suggesting that **the race to create an international community has seen globalism tarnished**, given its terminally unfinished state in being prematurely implemented into legal practice. The ignorance of its shortcomings is founded on a concern that to critique its capacity for generating **loopholes** for its abuse, is to align oneself with the politically charged alternative of hypernationalism. However, the **second school of thought** is that globalism is the direct result of **a failure to erase the potency of the politics of national identities post-war**, and the means by which the West can maintain its monopoly on deciding world affairs and in dominating global markets.

What role, then, does the law play in this debate? If globalisation is increasingly being remarked as being effectively 'too good to be true', international law is the first to suffer as a result; given it is still regarded by legal scholars as being in its infancy.

POLITICAL POLARISATION IS THE INEVITABLE OFFSPRING OF ECONOMIC AUSTERITY AND RECESSION.

French philosopher Jean-Pierre Faye coined the **'horseshoe' theory** to amplify the fact that extremist factions on the left and right are closer to each other in their ideological fantasticism than they are to the moderate centre. Autarky, posited by far-left and far-right politics as the utopic solution to economic crises, often oversimplifies the complex causes for market dysregulation, however it is a proposition that has spread like wildfire in the preceding years due to the whiplash felt by post-pandemic national economies.

In terms of legislation, acts to tighten access to states; either literally through immigration laws, or through the introduction of citizenship elements to means tested benefits (in socialist countries) and widespread rollouts of inflated visa costs through mass updating schemes has contributed to this discourse immensely. Political slogans like the infamous 'Make America Great Again', or 'Keep Britain British', or "Our own people first" (Dutch "Eigen volk eerst") in the case of the Flemish Bloc in Belgium represent a growing minority of the West's alt-right dissatisfaction at supposed pandering to globalism at the alleged cost of national welfare funding and economies.

Whilst these views are generally stoked by inflamed stories and misinformation spread irresponsibly by right-leaning nationalist politicians, who often themselves are concerned (in private) with promoting distraction politics, these theories have garnered support as scapegoat tactics have a high capacity for success when deployed against those suffering financially in times of recession.

On the other hand, the fatigue of those native to developing nations whose leaders involve the countries in globalisation schemes, only to fall subject to their repeated **Eurocentrism** must not be downplayed, given the echoes of colonial imperialism had been hoped to have been drowned out by the 21st century. Undoubtedly, the concentration of world affairs onto a Western legislative platter seems to reek of similar imperialist values.

So, then, how to marry the two disaffected factions under a functionally operative and effective globalist view of law-making?
Arguably this would rely on a revision of the core values and aims of globalisation and of how to practically implement it with the aid of international law safeguards, so as to not allow for the same distaste to be caused as is currently the case, which enables hyper-

The alleged shortfalls of the Europeanisation of international law is vital to understand the concerns shown with the mode by which globalisation has traditionally been pursued. In addressing these concerns, it is difficult to avoid the glaring trend of international law endorsing globalisation whilst operating a model of international relations that is unnecessarily centralised on, and pandering to, European powers. However, the growing prominence of non-EU states in international organs such as the UN is growing, and an awareness of this bias is, arguably, being coined through initiatives such as COP 28 which is due to be held in the Middle East in a couple years' time.

The central issue in practically navigating globalist politics is that much of international relations revolves around trade and business, thus operating within arguably apolitical and unregulated realms. **Transnational Companies (TNCs)**, unlike states or state actors, are not regulated as successfully by international law, and abuses of human rights and worker's rights along with tax evasion, undercompensated labour, and causing reliance upon and investing in global-scale 'big business' companies in developing nations are common complaints of the internationalisation of business.

Given the reactionary function of international law and its reliance on loose principles of customary law, the international community has been criticised for enabling these behaviours. Therefore, the return to 'nationalism' within legislative spheres may come as some relief to the local business owners, particularly where developing countries are concerned; given the inability, due to investment opportunities and resource distribution, to compete on the scale required with TNCs.

Moreover, unfortunately, there is often a TNC **monopoly** on internal domestic politics where the West is concerned. Take, for example, the United Kingdom's fifty-seventh Prime Minister Rishi Sunak's wife's supposed abuse of the 'non-dom' tax status to save millions on tax payments that would ordinarily be paid by a domestic business within the same profit margin. The avoidance of the tax, albeit legal, came at a time that Sunak was serving at the time as the Chancellor post-pandemic and raising taxes targeting largely smaller domestic businesses, and those falling within the lower economic classes in general; generating a nationalistic sentiment and public outcry. There is a growing fatigue with the loopholes generated by the wealthy, and nationalist politicians enjoy **scapegoating** the morally dubious TNC owner to deflect from their own equal hoard of wealth. The suggestion that the hardships faced by ordinary entrepreneurs reflect that the **supranationalistic** approach taken to law-making in recent years should be disregarded for a nationalist approach, especially in the field of private law, ignores the glaring faults that are generated by domestic legislators when not subordinate to international scrutiny.

DUBAI: WHERE ARGUMENTS FOR LEGAL NATIONALISM GO TO DIE

In recent years, Dubai has become the frequently cited postmodern effigy of unrestricted law-making to the pro-globalist legal scholar. As the poster-boy of an uncanny centralisation of mass wealth, unregulated business practice and the human rights abuses that these issues combined foster, the multifaceted (lack of) legal monitors on the financial growth of the 'city of gold' produces a phantasmagorical cauldron of (largely appropriated) 'cultural' overstimulation as the selling point for foreign investment on a colossal scale.

However, in registering the influx of foreign businesses as being domestic legal actors through the **'kafala' system**, the avoidance of the human rights protections from international supranational bodies allows for a global sphere of international business,

condensed into a city that operates to a national legal playbook. However, in a city where the referee sleeps, mass **abuses of worker's rights** for the immigrant labourers pouring into Dubai is a glaring violation of international law's principles of fairness and equality. Human Rights Watch reports that on average, a construction worker in the UAE makes simply $175 per month.

However, in keeping all activity registered as operating at a state-level only, Dubai businessmen need not worry about these principles; they simply do not apply. The fencing off of Dubai as a playground for TNC owners and CEOs to experiment with extreme exploitation of their employees akin to conditions of modern slavery has been fostered by nothing other than legal nationalism. Critics in favour of supranationalism's role in international law simply await the fall of this dystopian Babylon, suggesting the flaws inherent to the nationalist approach to legislative initiatives far outweigh the lack of autonomy when legally subordinate to the supervisory bodies of international law. Whilst globalism's role in the law is undoubtedly due some revision, the extent of the abuses seen in spheres such as Dubai that still operate to under-scrutinised national legislation are more than merely glaring.

CONCLUSION

Why globalisation is ill-considered relies primarily on the ardent advocacy of it as the solution to the type of hypernationalism promoted by the Nazis during 1930s Germany that launched the world into another World War. The naive optimism that it can, in the reactionary condition it is currently confined to, outlive political turmoil unscathed in the 21st century is irresponsible, and sincere revision of it to provide robust safeguards should be the aim of international legislative initiatives.

However, the hypernationalism propagated by many right-wing political groups in recent years serves to erode international law's human rights protections due to allegedly being 'restrictive'. Legislative aims becoming increasingly nationalist should provide cause for concern amongst legal scholars, and prompt the international community to further develop globalisation as a safeguard to the domino effect unfettered nationalism would have on the principles of international law, formulated in the wake of one of the darkest periods for human rights violations in modern history.

THE PAST IS NEVER DEAD

CANADA, ITS INDIGENOUS WOMEN AND COLONIAL LEGACIES

GODA BENDORIŪTĖ

"Section 6 disadvantages a subgroup of individuals with a history of family enfranchisement by treating them as racially or ethnically different ("less Indian") because of their family history of enfranchisement" - Nicholas v. Canada

"***The past is never dead. It's not even past***". This sentiment from the American writer William Faulkner captures how historical injustices still affect the world of today. Such issues continue to shape the present life, identities, laws and society, highlighting how the past and present always remain inextricably intertwined in an intangible knot.

One of the fundamental past inequalities is the colonial-era discrimination that continues to marginalize Indigenous women in contemporary society. Indigenous peoples often have unique status due to the coexistence of their customary laws within state legal systems. Such customary laws, however, might prioritise patriarchal norms, leading to the marginalization of the women due to their deep historical and cultural roots.

This article, therefore, presents a concrete example of the echoes of the past through the lens of Canada - a country that was chosen because of its complex colonial history and multicultural approach towards minorities. Through the historical overview, case law analysis and its effects on the indigenous peoples legislation the article will illustrate how issues entrenched in the past continue to shape the life of indigenous women today.

TIME TRAVELING: BETWEEN PAST AND PRESENT

Discrimination of indigenous women in Canada is deeply rooted in history, which was legally codified with the introduction of the Indian Act in 1876. The first amendment of the Indian act was made in 1951 when Section 12(1)(b) was introduced. This provision removed legal status from women who married a non-indigenous men, further **entrenching existing gender discrimination**. This amendment was challenged in the case R. v. Lavell (1973), where the plaintiff Jeannette Lavell lost her recognition as an indigenous person after she married non-indigenous man. The majority decision was that there was no discrimination regarding Lavell's loss of status, because marriage was seen as a voluntary act, and status loss was a consequence.

However, this was later reversed in Lovelace v. Canada (1981), where the United Nations (UN) Human Rights Committee ruled that the "removal of the status section" violated art 27 of the International Covenant on Civil and Political Rights (ICCPR). On June 28, 1985 the Bill C-31 was passed by the Canadian Parliament, repealing the discriminatory section.

Unfortunately, discrimination did not end here, as a new rule called the "second-generation cut-off" was introduced under section 6(2). The rule dictated that while women regained Indian status, their grandchildren (born to these women and non-status fathers) were excluded from registration. In other words, the law corrected one form of discrimination only to replace it with another. Subsequent amendments in 2011 and 2019 also retained this provision.

While the legislative reforms were unsuccessful in removing the entrenched discrimination, the recent case *Nicholas v. Canada (2025 BCSC 1596)*, did not let the problem go unnoticed. This case challenged s. 6(1) provisions that blocked status transmission due to their ancestors' discriminatory loss of status. The case is important, as, despite the fact it does not directly challenge the (in)famous "second generation cut off" under section 6(2), there is a clear connection between 6(2) and 6(1). Both provisions deny the status to the same descendants of pre-1985 enfranchised women. The difference between provisions is that 6(1) grants the status if at least one of the parents had "full status" (pre-1985 Indian status), while 6(2) concerns a person of 6(1) status who married a non-status individual.

The problem raised in Nicholas v. Canada was not submerged into ignorance. Canada admitted the existence of an issue, leading to the introduction of Bill-S2. The following section, therefore, delves deeper into the case, illuminating the interconnection between past discrimination, present challenges, and future reforms.

PRESENT CHALLENGES: NICHOLAS V. CANADA

Nicholas v. Canada (2025 BCSC 1596) concerned 16 plaintiffs who are descendants of Indigenous people. The plaintiffs lost **"indigenous status"** through the enfranchisement (defined under the Indian Act as the legal process through which individuals lose their "Indian status"). In this case, Canada acknowledged that section 6 of the Indian Act limited the transmission of status to descendants of those enfranchised under earlier discriminatory provisions. The plaintiffs, however, claimed for the immediate declaration of invalidity of the words "pursuant to an order made under subsection 109(2)" in paragraph 6(1)(a.1) of the Indian Act and the entire paragraph 6(1)(d) of the Indian Act. Canada, on the other hand, argued for the suspension of the declaratory relief, aiming to have time for the preparation of the new Bill.

The BC Supreme Court confirmed that the provisions in question are unconstitutional and declaration was suspended until April 30, 2026, to enable legislative reform through Bill S-2. Thus, despite the fact that provisions weren't immediately invalidated, the Court obliged parliament to act, acknowledging the need for reform.

"As Minister of Indigenous Services, eliminating gender-based inequities and colonial legacies in the Indian Act is a responsibility I take seriously…I look forward to thoughtful study and discussions about this bill as it moves through the parliamentary process.".

Such a statement was made by The Honourable Mandy Gull-Masty, Minister of Indigenous Services, regarding the introduction of Bill-S2, which would amend the present version of the Indian Act. Bill-S2 aims to reduce discrimination of indigenous people by addressing remaining sex-based inequities under s. 6(1) of the Indian Act.

CHANGES: THE BILL-S2 AND THE BRIGHTER FUTURE?

The upcoming introduction of the Bill-S2 is a huge step towards better protection of the indigenous people rights in Canada. However, despite the modifications, the Bill, based on the current suggestions regarding its content, continues to **fail to protect** the rights of indigenous women. An issue, as already seen, is deeply entrenched as a consequence of the post-colonial era of Canada.

Such criticism arises from the fact that Bill S-2 still retains the second-generation cut-off rule under s. 6(2) of the Indian Act, excluding third-generation descendants of enfranchised women. Such a rule disproportionately affects women, as many grandmothers who lost their status before 1985 by marrying non-status men later regained only limited 6(2) status under Bill C-31. Their daughters also received 6(2) status, but the grandchildren born to 6(2) status mothers and non-status fathers cannot be registered at all. The Ontario Native Women's Association (ONWA) review on Bill S-2, (An Act to Amend the Indian Act) was that,

"the second-generation cut-off and the two-parent rule perpetuate discrimination against First Nations women both as women and as First Nations peoples".

Especially as it continues to enforce historical sex discrimination. Thus, the bill's failure to completely abolish the second generation cut-off rule results in the Indian act still being based on the paternal lineage.

CONCLUSION

As Faulkner said in the beginning, the past is not even past, its presence influences the future, as each decision made at this exact moment will lead to consequences that extend far beyond it.

Canada demonstrates how this interconnection operates in practice: the consequences of the post-colonial era are not confined to history books. They remain visible today, most clearly in the continued existence of the second-generation cut-off which the Bill-S2 will not remove. However, the willingness by the courts to address this issue paves a path to the future, which departs from the stereotypes history has prescribed for indigenous people, especially women. Thus, Canada stands at the **crossroad** between simply acknowledging past discrimination issues and completely removing their impact on the future. Achieving the latter would require the complete repeal of sections 6(1) and 6(2) of the Indian Act.

It is true that the past is never dead. However, the past is not even the past until we it make so.

ENDORSEMENT TO ENFORCEMENT

HOW SHIFTING CULTURAL NORMS ARE REDEFINING MODERN SOCIETY'S VIEW ON SEX AND SEX CRIMES

SAMANTHA C. TOMILOWITZ

Humans are nearly indistinguishable from animals. Social creatures bound by community or lack thereof, the human race shares a great many characteristics with these wild beings. Driven by their propensity for continued existence or by their base inclinations, wild animals will commit sexually aggressive acts towards their own kind. But humanity seemingly evolved to be different – conscious-minded and morally-bound – compelling one to consider that we were destined to be judged by more than the worst of our base desires.

Because what is rape but a demonstration of power, control, or humiliation through violent methods?

Can a man be raped by a woman? When did sexual intercouse with children cease being viewed as culturally permissible into an outright criminal offence? **With the rise of criminalization for all other sexual vices, how has sex work subsisted into the modern age? We shall consider the historical impact of this jurisprudence as it transformed over the epochs of civilization.**

Centuries before the Classic Age of Antiquity, rape was conceptualized as a criminal offence when it was promulgated in the Code of Hammurabi in the 17th Century B.C.E. Ascribed predominately to the female sex, penalties for the crime of rape were not made out of deference to women, but to

the men whose charge or care they belonged. For the vast majority of its application in society, the crime of rape was seen through an economic lens and did not weigh a woman's suffering; the assault was against a man's "ownership" of the woman and the violation he then suffered from her decreased value in society. Since to be the victim of such a crime was often seen as dishonourable and more detrimental to her own standing in society, female victims of sexual misconduct or violence shouldered the physical and mental burdens of the deleterious effects of trauma in silence.

What's more, the idea of nonconsensual sex between spouses was not a **criminally prosecutable act** in most countries until the 1970s. English common law, the foundation of traditional law in the United States of America, held that it was not possible for a man to legally rape his wife; the idea was marriage constituted permanent consent that could not be retracted. As such, marital rape only became illegal in the UK in 1991 and in all 50 States in 1993. With sexual autonomy rights being recognized in about 150 countries as of 2019, dozens of countries either explicitly exclude marital rape from the definition of rape or created loopholes in their penal codes to avoid addressing spousal rape. So-called "marry-your-rapist" laws persist around the world according to a United Nations

In these states, men convicted of rape can legally overturn their verdict if they marry the woman they assaulted, further traumatizing the victim by essentially indenturing them to their oppressor. These "marry-your-rapist" laws still exist in Russia, Thailand, Venezuela, and 17 other countries around the globe.

Some would argue progress has been slow with regards to the response of criminal liability and punishment for perpetrators of sex-related crimes. Greater empathy and understanding of the psychopathology of sexual assault would not emerge until the feminist movements of the mid-20th Century, when the condition known as **"rape trauma syndrome" (RTS)** was first diagnosed in the 1970s among women presenting complaints of sexual assault. Around this time in modern society there was a tonal shift around the perception of those impacted by sex crimes and willful members of the sex industry; they were recognized with greater agency than any other time in history.

WOMEN AND MEN WERE NO LONGER VIEWED AS 'VICTIMS' BUT 'SURVIVORS'.

Despite this long-awaited recognition of autonomy, male victims of sexual assault and rape have yet to find the same recognition on the international level as their female counterparts.

Explicit discussions of male rape are much rarer in historical legal texts. It was only during the feminist movements of the mid-20th Century that this discourse began to enter the forefront of the conversation. That should not suggest that men are newfound victims of sexual crimes, on the contrary, the concept of adult male rape as an offence has been found in a legal context in early rabbinic literature as early as the 2nd and 3rd Century C.E. **Male victims** of sexual misconduct report sharing similar feelings of fear and shame as their female counterparts, but a male victim is more likely to question his sexual identity and orientation, more so if the perpetrator is also male.

With that said, men can be and are sexually victimized by women as well. A dangerously pervasive myth is that an erection is physical proof of the man's desire or willingness to have sexual intercourse, when in reality erection and ejaculation are physiological responses that can be triggered through stress, fear, or even physical contact. These physical responses do not and should not suggest consent or satisfaction with the act.

ANYONE CAN BE THE VICTIM OF SEXUAL VIOLENCE.

For a time, young boys were openly lusted and sought after during the ancient periods. The concept of 'pederasty', translated to literally mean 'lust for, or love of, in a strong sexual sense, of male children', is extremely complicated and difficult to understand from a modern standpoint, but it was a **socially admissible** phenomenon in antiquity for centuries. Around the Middle period through the Renaissance, outward child sexual abuse became less palatable.

The notion of consent of minors draws a parallel with the shift in attitude toward adult female rape; children being less viewed as property or extensions of the patriarch and as their own person. By the 18th Century, more cultures outright disregarded the cultural practice, shifting the abuse to the underworld and away from "polite" society. We have yet to see the end of the practice, for it seems to have permeated every level of modern society. As of 2025, Iraq lowered the marriageable age of girls to 9 and

reduced the age for boys from 18 to 15. Niger has the highest child marriage rate in the world among girls, with more than 75% of its population of girls aged 18 being married.

But **child marriage** is not exclusive to impoverished nations. More than half the country of the United States legally permit the marriage of children under 18, with four States not even requiring any minimum age for marriage. England and Wales only raised the legal age of marriage without exception to 18 in 2023.

With the discourse surrounding consent being relatively newfound, taking root in the **2006 MeToo Movement,** a sharp cultural shift promoting bodily autonomy and agency was born. A market for sex has seemingly always existed, with brothels first being mentioned in Sumerian records in 2400 B.C.E. But for the first time in our history, sexually explicit material or performances can be exchanged over a digital platform, and it can be done so legally.

Sex workers, arguably the oldest profession in history, have persisted in the digital age by rebranding their practice under legitimate business models. By operating under these legitimate models and adhering to their strict policies, like content guidelines and age verification, people can post or share illicit materials with anonymous users worldwide. By removing the middle man, purveyors of this content have, in a way, reclaimed a sense of agency when it comes to how they sell their body.

While controversial, adult digital platforms have created a safety net for sex workers that allows them to work without the same fears as their predecessors. One thing is for certain, the demand for sex, by any means, will remain unquenchable for a time to come.

It is the veneer of the **social contract** that safeguards the majority from the most savage and degrading of sexual acts. The con of humans, sexual misconduct of children and adults has subsisted in all cultures throughout the ages and shows no sign of remediation in the near future. An end to these inhumane practices will only come when enough people demand the enforcement of human rights.

Vulnerable Bodies, Cold Homes

Endometriosis, Energy Deprivation and Human Rights

GABRIELA M. RODRIGUES

As development expands across the globe, the need to meet humanity's needs has increased the demand for energy. As a result, the United Nations has incorporated the improvement and expansion of energy access in its 2030 Agenda for Sustainable Development. Even so, access to this right remains unequal, especially among the most impoverished communities across the globe.

Building on this, this paper examines:

TO WHAT EXTENT DOES ENERGY DEPRIVATION EXACERBATE HEALTH CHALLENGES AMONG VULNERABLE STUDENTS, AND HOW EFFECTIVELY DO EU LEGAL FRAMEWORKS ADDRESS THESE VULNERABILITIES.

In essence, it provides a brief analysis of how energy poverty can affect students, with a particular focus on women, in the European context.

Accordingly, the absence of this right is defined by Article 2(52) of the Directive (EU) 2023/1791 as energy poverty; a condition in which individuals or households face the lack of adequate, reliable, and affordable essential energy services, which negatively affects their basic standards of living and health. Although energy deprivation can encompass multiple dimensions of energy access, this paper focuses on electricity and natural gas supply, given its central role in the **Dutch housing context**.

HIDDEN ENERGY POVERTY

Within Dutch housing, natural gas and electricity (stroom) are the two primary forms of energy supply: natural gas is mainly used for central heating (CV-ketel), hot water, and cooking, while electricity typically powers lighting and household appliances.

However, factors such as the European energy crisis, triggered by the Russia-Ukraine war, and environmental degradation driven by climate change and global warming have pushed the country to strengthen its commitment to sustainability and reduce gas dependence. At the same time, energy prices have sharply increased, prompting households to reduce their energy use in order to keep their energy bills affordable.

More precisely, among low-income households living in energy-inefficient homes, the share of people underconsuming energy— commonly referred to **as hidden energy poverty**— rose from 24% in 2021 to 49% in 2024. Although at-risk groups have not yet fallen into energy poverty, their lower incomes combined with higher energy costs in energy-inefficient homes result in them spending a disproportionately large share of their income on energy—on average 7.7%.

According to the Netherlands Organisation for Applied Scientific Research (TNO) and Statistics Netherlands (CBS), as of 2024 around 6.1% of all households in the country were affected by energy poverty. Last year, in the province of Groningen, approximately 27,000 households were unable to adequately afford their gas and electricity bills. In the municipality of **Groningen**, the figure **reached 8.8%**, well above the national average. Some factors that contribute to this higher incidence of energy deprivation include lower average incomes compared to wealthier municipalities and the prevalence of both energy-inefficient and inadequately insulated homes, which increases higher heating demand. In addition, households in larger dwellings also face higher heating expenses, further exacerbating energy burdens.

AMONG THESE VULNERABLE HOUSEHOLDS, YOUNG PEOPLE (AGED BETWEEN 16 AND 29) ARE PARTICULARLY EXPOSED TO ENERGY POVERTY.

Their energy bills often represent a larger share of their monthly income compared to older groups, as they typically have limited control over the condition of their housing or their energy contracts. Yet, even under these circumstances, youths have not been formally recognized as a vulnerable group.

THE GENDER DISADVANTAGE: THE UNIQUE IMPACT ON WOMEN'S HEALTH

Among students, this vulnerability is further intensified for **female students**, who experience an additional gender-based disadvantage. Not surprisingly, Recital 76 of Directive (EU) 2023/1791 emphasizes that EU energy efficiency policies must be inclusive and ensure equal access, with particular attention to groups at higher risk, such as women.
Furthermore, Recital 78 determines that women and men are affected differently by the green transition, highlighting that the energy transition is not gender-neutral and that energy policies may be insufficient if they fail to consider gender-specific vulnerabilities and the differentiated needs of households. Consequently, women's health is disproportionately impacted by these vulnerabilities.

Considering these gendered disparities, scientific studies indicate that **dysmenorrhea** — painful menstrual cramps that can occur with or without underlying gynecological conditions — affects between 16% and 91% of women and it is not only highly prevalent but also understudied. Notably, lower indoor temperatures and energy-inefficient homes are strongly associated with greater severity of dysmenorrhea symptoms.

For those with underlying pre-conditions or generally more susceptible, repeated exposure to cold temperatures can induces vasoconstriction, reduces blood flow and oxygen supply to pelvic tissues, triggering inflammation, reproductive hormone imbalances, and microcirculation disturbances — all of which exacerbate menstrual pain. These physiological mechanisms demonstrate how living in energy-inefficient homes, commonly resulting from energy deprivation, can substantially undermine women's health and overall quality of life.

Among women affected by **endometriosis** — a chronic inflammatory condition that impacts approximately 10% of women in reproductive years worldwide, characterized by the growth of endometrium-like tissue outside the uterus, leading to inflammation and scar tissue formation — are particularly vulnerable to the effects of energy deprivation. The disease itself imposes significant health, social, and economic burdens, as its symptoms often include severe pain, heavy menstrual bleeding, and fatigue. Based on available research, endometriosis substantially undermines women's daily functioning: 22% struggle to manage pain and carry out daily activities, 12% experience reduced working capacity, and

92% experience a decline in daily life — ultimately contributing to higher absenteeism from work or school. Consequently, the exposure to cold temperatures further exacerbates these symptoms. Although Article 14(h) of the Convention on the **Elimination of All Forms of Discrimination against Women** obliges Member States to ensure adequate living conditions for women — including access to electricity — to reduce gender disparities, women continue to experience disproportionate burdens in relation to men. This provision explicitly acknowledges that ensuring energy access is essential for promoting women's health, marking it one of the first international legal instruments to address electricity and energy services as a component of women's well-being.

CONCLUSION

In conclusion, the analysis presented in this paper demonstrates that energy deprivation disproportionately affects women, particularly those with gynecological conditions such as dysmenorrhea and endometriosis, as well as students and low-income households. This **intersection of energy poverty and gender-specific health vulnerabilities** not only undermines quality of life but also implicates fundamental human rights.

ENSURING ACCESS TO AFFORDABLE AND ADEQUATE ENERGY SERVICES IS, THEREFORE, NOT MERELY A MATTER OF ECONOMIC OR ENVIRONMENTAL POLICY BUT A CORE HUMAN RIGHTS OBLIGATION.

As enshrined in Article 3 of the European Convention on Human Rights (ECHR) — which guarantees the right to life and prohibits inhuman or degrading treatment — and Article 23 of the Charter of Fundamental Rights of the European Union — which affirms the right to equality between women and men — energy deprivation that compromises health and well-being can be seen as a **violation** of these principles.

Therefore, energy policies must be gender-sensitive and human rights-compliant, integrating considerations of health, equality, and social inclusion into the design of sustainable and equitable energy systems — a duty that EU Member States are required to respect and implement under both international and European human rights law.

Intersection of Migration Law and Politics

The Evolution of ICE Arrest Policy Across US Administration

ELINA MERT

President Donald J. Trump and Deputy Chief of Staff Stephen Miller set a goal of deporting 1 million undocumented immigrants each year, which requires an expansion of immigration enforcement and the relevant funds. Thus, Trump's **"big, beautiful bill"** provided billions of dollars to the administration's immigration restriction program, including funding for the new detention centres and for hiring new ICE officers.

However, despite what was guaranteed as a crackdown on criminals and "illegal aliens" that live off utilising funds from the Government, dozens of communities have been left in the state of emotional distress by violent and unconstitutional arrests. As recorded by various sources, ICE now possessed the authority to dictate their own enforcement powers, therefore turning into an un-uniformed, masked "army" which had the ability to arrest, detain and deport persons without any cause or due process, whether they had legal status or not.

As many Americans converse regarding the **inhumane conditions** at the ICE detention centres, many highlight the cultural significance and importance of systematic racism in the history of the US. Thus, this paper will examine the politics behind the US immigration policy, inspecting the impact of the evolution of political and social events on the development of jurisprudence.

PRESENT STRUCTURE OF IMMIGRATION POLICY

To comprehend the relevant procedure behind the US's immigration policy, it is essential to look into the primary statutory basis. The Immigration and Nationality Act (INA), which is contained in the United States Code (U.S.C.), covers the question of "Aliens and Nationality" in Title 8 of the code. INA covers a wide range of immigration procedures, including refugee assistance provisions, alien terrorist removal procedures and the general power duties and immunities of immigration policy. Key powers of the INA grant a wide discretionary latitude of arrest for suspected removable persons without a judicial warrant, as a "reason to believe" is deemed a sufficient justification. While INA provides a statutory basis for rules and procedures regarding immigration, it does not spell out detailed enforcement mechanisms.

Instead, this task is delegated by the Congress to the Department of Homeland Security (DHS), the Department of Justice (DOJ) 5 and occasionally the Attorney General (AG) to create regulations which define the details behind enforcement mechanisms, such as establishing bond procedures and ICE's operational practices.

Due to the executive nature of regulations, they do not require any congressional approval, leaving the power to be revised by DHS and DOJ, allowing the regulations to be reinterpreted internally through policy memos. Additionally, it is important to point out the discretionary language of the regulations, which use expansive terms such as "for the time as deemed necessary", "may arrest", and "at the discretion of the officer", which can broaden and alter the scope of who qualifies for detention, as well as shift the interpretation of "probable cause" for detention.

THIS MEANS THAT THE FRAMING OF THE LANGUAGE IN THE LEGISLATION FORECLOSES THE SPIRIT OF THE LAW IN QUESTION.

Thus, we can conclude that due to the broad enforcement discretion established by the INA statute, regulations built on top of it are inherently flexible to reinterpretation.

INFLUENCE OF THE PAST

The plenary power to regulate migration, in particular the power to exclude foreign nationals seeking entry to the US and to exclude aliens already within the territorial bounds of the country, derives from various cases related to **Chinese exclusion.**

Following the **Chinese Exclusion Act,** the Court upheld the deportation of Chinese nationals in the case Fong Yue Ting v. United States, in particular those who failed to obtain the certificate of residence under the Chinese Exclusion Act. The Court states that "the right of a nation to expel or deport foreigners who have not been naturalised, or taken any steps towards becoming citizens of the country, rests upon the same grounds, and is as absolute and unqualified, as the right to prohibit and prevent their entrance into the country". Therefore, based on the Supreme Court's jurisprudence, Congress, and by extension, the Executive Branch, had virtually **unlimited authority** to exclude and deport aliens from the United States with little judicial intervention.

The limits to such powers gradually evolved with the developments of the 20th century. Constitutional protections began to be applied to those not just of American nationality but everyone on American soil regardless of nationality. This is further implicated in the Japanese Immigrant case , which reviewed the legality of deporting an alien who had lawfully entered the United States, stating that "an alien who has entered the country and has become subject in all respects to its jurisdiction and a part of its population" cannot be deported without the opportunity to be heard upon the questions involving his right to be and remain in the US. Thus, this leads to the notion that "once an alien lawfully enters and resides in this country, he becomes invested with the rights guaranteed by the Constitution to all people within our borders."Eventually, these **constitutional protections** applied to all aliens within the US, stating that "aliens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law". This means that the aliens physically present in the US, regardless of their legal status, are recognised as "persons" and

ARE GUARANTEED DUE PROCESS OF LAW BY THE FIFTH AND FOURTEENTH AMENDMENTS.

However, despite this notable constraint on the powers of the Federal Government, the extent of due process protection may vary depending on the alien's status and circumstance. In the Mandel case, the Court further stated that in the face of a constitutional challenge, the decision to exclude an alien from the country may be upheld as long as there is a "facially legitimate and bona fide reason" for it.

INFLUENCE OF POLITICS ON US ADMINISTRATIONS

When looking at most recent history, we can trace the link between past political events driving the formation of immigration policies and how that affects present policies. Following the 9/11 terrorist attacks, the Bush administration reframed immigration as a national security problem, producing broad public and congressional support for stronger executive tools of enforcement, leading to the establishment of the DHS and later on ICE. Furthermore, protests and high social unrest due to the failure of the **DREAM Act** impacted immigration policy under the Obama administration, causing the announcement of DACA and providing legal relief to American youth. 13 These examples, as well as many other relevant issues and the policies that followed them, provided a path for the present Trump's approach to immigration.

Trump's zero-tolerance route caused large-scale deportations and detainments, using the Alien Enemies Act as leeway to deport suspected illegal immigrants with no or limited due process. This violates the right to a fair trial under the Sixth Amendment, as well as citizens' rights under the Fourth and Fourteenth Amendments.

The event in question caused a public outrage, as many immigrants with no criminal background, as well as even American citizens, were detained or deported. Thus, most of the protections introduced by previous democratic candidates (Obama, Biden) will be removed, ending birthright citizenship, various naturalisation programmes, subsidies, memos and more.

CONCLUSION

The humanitarian, political and social consequences of the shifts in immigration highlight the **fragility of protections** established by administrative policy rather than statutory. Due to this, present immigration issues cannot be divorced from the ones that preceded them, making US immigration policy inherently vulnerable to political interpretation. Therefore, the shifting priorities of upcoming presidential administrations will continue to shape the future of immigration enforcement, rather than stable legal standards. It is essential to understand how political and social events influence the development of policies in order to establish a system that is in accord with the principles of national sovereignty and national security and manages to guarantee the protection of human rights.

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