



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

ARTIFICIAL INTELLIGENCE AND LAW: EMERGING LEGAL CHALLENGES IN INDIA

Vidhi Mehta

A very crucial question comes to mind whenever we talk about the word “AI”, that whether it is a boon or a curse? No matter how effective and useful it is, yet questions like; who is responsible for the harm caused, IPR challenges, what about the data protection and privacy, constitutional rights, and the harm caused in due process of law; definitely arise. India must create an effective, and useful framework for these challenges, and upcoming obstacles. Which don't only address the AI problems, but also safeguard the citizens, protect their rights and voices. AI is playing an increasingly important role in the sectors of agriculture, law, healthcare, digital governance, education, public administration, and many more other such fields.

LIABILITY ISSUES IN USAGE OF AI?

A key challenge is to determine, who is responsible, when the harm is inflicted? The one who develops the program, or the companies which deploys it, or the ones using it? Generally, when anything new is created, both the risks and benefits are looked upon, and accordingly laws are created. No thing is entirely positive; it definitely carries risks and challenges. For example; before a drug (medicine) is approved, it's side effects and effects are carefully studied, remedy for side effects also exists. Similarly, before the introduction of AI, it's probable risks and benefits should have had been studied, and a proper framework was required. Currently, India needs a framework; which not only safeguards the citizens, but also must clearly identify the one who has caused the harm. The defaulting one, shouldn't have the option to hide behind the veil, and should be held liable. What is important is to have definiteness of the one who is liable. Loopholes should be defined, so there is no misuse of law made.

India is gradually showing changes. Acts like Information Technology Act, 2000¹, Digital Personal Data Protection Act, 2023², NITI Aayog³ etc. are into existence. Every law, and scheme have a role in AI's improvement, yet it is not up to the mark yet. Therefore, reconfigurations are required to face the obstacles. Future legislations will have to classify the risks, and analyze the challenges in different sectors, and ultimately make laws for them accordingly. One of the challenges also constitutes "Black Box", where AI users get the outputs, but the users don't see the working or the process behind it. So, basically the system produces an output, yet the process behind it remains hidden⁴. Therefore, putting an accountability becomes a difficult process. Which is definitely scary, just imagine you are dining at a restaurant, and you are served with a meal, but you don't know what quality of ingredients are used to make the food; whether it is edible, reheated or meets the safety standards or not. So, similarly black box does the same thing, and it doesn't keep the opportunity open to ask its users to question anything.

CREATIVE OWNERSHIP CHALLENGES:

Imagine, you are an author or a poet, and you are struggling to write a work (story). You have poured months and months to write a master piece, and finally after months of dedication you finally are able to publish a book. But, at the same time other person, quickly puts a prompt and generates a story through any AI tool, and publishes it within a month. Is it fair? On the contrary, the question should be "Does it sound fair"? On one side, months of dedication, and on other side just a single prompt. Should this be considered as legal? A human with his/her own true feelings, hard work, and research; writing a story, and a mere machine operated answer; should both be considered equal, or should both have the same copyright recognition⁵?

Machine, can never replace human feelings. It definitely can think faster, correct mistakes, provide alternative outcomes, and make a sound story. Yet, it can never resonate grief, joy, hard work, or any other emotion. AI can never pull out a line which is thoughtfully crafted by a poet. It easily possesses the caliber to replace humans, but can it feel anything like human, and craft wonders? And, a major question arises that, "Who holds the ownership of the work?" The AI system's developer, or the person generating the prompt? A proper framework, has to be made to be able to answer all these questions, and India currently doesn't possess the answer.

¹ The Information Technology Act, No. 21 of 2000, India Code (2000).

² The Digital Personal Data Protection Act, No. 22 of 2023, India Code (2023).

³ NITI Aayog, National Strategy for Artificial Intelligence #AIForAll (2018).

⁴ Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* (2015).

⁵ The Copyright Act, No. 14 of 1957, India Code (1957).

The same problem is faced while considering Patent Law, 1970⁶. For example; an AI system called “DABUS”⁷, was listed as a sole inventor on patent applications. Courts of UK and USA, both of them rejected the same, and held that the inventor should be a human, and not an AI system. AI systems also are used in research institutions like Indian Council of Agriculture Research, for development of new variety of crops. Therefore, the system is contributing towards its growth, and not particularly a researcher. There is all together loss of patent protection, and the idea, as the system cannot be patented.

Therefore, India will need a proper modern framework, to clear all the doubts or challenges which can arise. Laws should be made, forecasting the problems upcoming in future. The more these challenge’s solutions delay, the more human creativity is put to threat. With each day passing by artists, inventors, authors, innovators; originality is vanishing. Therefore, without any delay, laws should be made to protect them.

DATA PRIVACY AND SECURITY ISSUES:

When we consider the term AI- Artificial Intelligence, it raises a significant question, where does this intelligence come from? Because it cannot function independently. And it primarily derives its intelligence from the data being fed to it, from wide range of sources. And, if we carefully think about it, then we are the only ones feeding it data. It basically gets information from sources like; the website we browse, any type of personal communication, any application used. So, the data is being collected, and then fed into the system. It is not about knowing, it is about noticing. AI notices the pattern of how, and which type of browsing habit we have, what we search the most, travel, and location history; everything is known by AI. Just imagine, someone knowing us more than ourselves. Data privacy becomes a primary concern, for which a proper, and effective framework should be constructed. Data exposure, can sometimes have similar consequences like hacking. When a hacker, collects personal information, and leaks it, it is recognized as a crime. And, in the same manner, when a platform collects data through unclear or unconsented way, it is termed as a “Business Model”. Both, cause disruption of personal data, either way data is compromised. India passed the Digital Personal Data Protection Act, 2023; safeguarding the citizen’s personal data, by handing them the authority to use, delete, and correct the personal data, and companies have the liability to process the data carefully. When AI system is used by government, the negative impact is much more than, it’s usage in private sector, because of the availability of personal data with them. The government

⁶ The Patents Act, No. 39 of 1970, India Code (1970).

⁷ Thaler v Comptroller-General of Patents, Designs and Trade Marks [2023] UKSC 49.

has a significant power, and impact over citizens, in various aspects of life, which sometimes cause loss of privacy, discrimination, and other related issues. The AI system can help government keep watch over people; it acts as a watch dog. Due to which citizens, not only lose their privacy, but also, their freedom of speech and expression is curtailed.

However, government also uses it in positive ways such as; improving effectiveness, and efficiency in work, delivering welfare benefits, reducing the red tapism, and minimizing corruption. If it is used in a correct manner, it is beneficial. But checks must also have to be placed on government, to prevent the misuse of AI.

CONSTITUTIONAL CHALLENGES AND DIGITAL STATE:

AI effects important constitutional rights, like equality, privacy, and the interaction between state and citizens. Article 14⁸ and 15⁹ guarantees the right to equality and prohibits discrimination, but as these AI systems are trained, and shaped by social inequalities, so they often strengthen those inequalities. In the case of *Justice K.S. Puttaswamy vs Union of India*¹⁰, the Supreme Court, established the right to privacy as a part of Article 21¹¹ of constitution. AI, is now being integrated in various systems like; Aadhaar, welfare schemes. Tax, financial platforms etc. And, it really is effective, and efficient, but it shouldn't be effective on the cost of citizen's rights.

Another problem face by AI is that, the decisions taken by it, are generally difficult to challenge. For example; a recruitment automated system, trained in the past, and not updated with new information may disadvantage women, if they were hired less frequently in the past. Therefore, if such decision is being taken by the system, then who will be held responsible for the loss caused? India has to form a proper legal framework for the same, because currently it doesn't have enough laws to regulate the usage of AI by government. There are also no proper checks which can be kept on such systems.

This is not an unimportant issue, it constitutes failure of constitutional democracy, and it needs to be addressed as urgently as possible. Democracy cannot allow such unsupervised, and unclear systems to take decisions, which effects citizens, and the state to such extend. A concrete legislation, along with a regulatory system is needed to safeguard the citizens, and

⁸ INDIA CONST. art. 14.

⁹ INDIA CONST. art. 15.

¹⁰ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

¹¹ INDIA CONST. art. 21.

laws which make the process transparent are required. Hence, parliament and state legislature need to step forward for such a change.

A REGULATORY FRAMEWORK IN INDIA:

So, far India has opted for an innovative path for regulation, when it comes to regulating the use of AI in the country. Instead of implementing a general legal framework, the policy makers have also made laws for each and every sectors. Many regulatory bodies have also started coming out with different guidelines for AI, like banking, health care, education, and other related sectors. The NITI Aayog has also been working, and has contributed towards transparency, accountability, and safety of AI. Still, such primary steps won't be enough, in such growing technology. Because many loopholes, and unanswered questions still remain. India, still doesn't have a specific AI liability framework, that will help us define the one accountable, when the damage is caused. Plus, a company doesn't have to answer why, and what decision is being taken, no matter at what risk it is being taken.

And, there is no such effective oversight, which holds government liable for their actions. A law regulating AI will only be effective if courts, policy makers and, other authorities will understand, how the technology works, and are able to interpret evidence related to it.

If we talk about other nations, then in Europe, there is a European Union Artificial Intelligence Act¹², whose model of regulation is risk based. China¹³, also has developed some regulations with emphasis on state control. Every model has a different outcome, and usage. Nonetheless, it is not necessary for India to follow these models, instead have its own more effective model, and framework, which contributes, more efficiently than these models. Because, at the end of the day, the main aim is to safeguard the citizens, and protect their data, and ensure their overall security.

CONCLUSION:

Artificial Intelligence is not arriving in India, it already has arrived, in many sectors, influencing, and impacting lives of people, knowingly, or unknowingly. It is used in courts, significantly impacting legal processes, and decision making, and has a wide spread in all other domains. AI has firmly taken up all the space, so there are no such questions like, whether India can live without AI, or whether it's use might be discontinued. Instead, a major question arises,

¹² European Parliament, Artificial Intelligence Act (2024).

¹³ Cyberspace Administration of China, Interim Measures for Generative AI Services (2023).

whether an improved, effective, efficient, and a more advanced framework will be implemented to govern it in the future or not?

Regulatory measures cannot be taken lightly by India, as it must now focus on technological advancement. All the decisions taken in present, for its improvement, will ultimately determine whether AI will be a tool for public welfare, or not. Every coin has 2 sides, every person has 2 sides, in the same manner, merely criticizing AI, or praising is not going to help. But what matters is making laws to govern it, and advancing a framework. That stands as a crucial moment.

India has a wide range of schemes, for people eligible in it. For example; in a welfare scheme known as Public Distribution System, there are AI system-based authentications, now if any genuine person is denied essential commodities such as wheat, rice, and kerosene at subsidized rate, then who is held accountable here for the loss caused? In a similar manner, in skill development, and government employment programs, an applicant's certification process is managed through centralized digital systems. Now, if any deserving candidate is excluded due to, technical error or inaccurate profiling, then here again who will be held liable for the loss cause to the candidate, including the denial of prospective employment opportunities in the future?

The after math of every consequence, is making sure that AI cannot be treated as an afterthought. Therefore, any system which affects the lives of citizens, must have an opportunity to be questioned, and open to human review. Without safeguarding the citizens, evolving and advancing technology serves no purpose.