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LEGAL ASPECTS OF ARTIFICIAL INTELLIGENCE IN INDIA: THE MISSING STATUTORY RIGHT AGAINST AUTOMATED DECISION-MAKING

~Lakshya Thapliyal

Imagine applying for a critical state welfare benefit or even for a small commercial bank loan, only to be rejected by a faceless algorithm. There is no explanation provided, no human officer to appeal to, and no transparency regarding the data parameters that led to the denial.¹ As Artificial Intelligence (AI) permeates both governance and private enterprise in India, as well as all parts of our lives, this scenario is rapidly becoming the norm rather than the exception. While the Indian government has aggressively championed AI adoption through the IndiaAI Mission, recently unveiling the human-centric "M.A.N.A.V." vision in 2026 to ensure ethical and accountable AI development,² the underlying legal architecture remains heavily reliant on baseline data privacy laws to do the heavy lifting of algorithmic regulation.³ This has created a severe mismatch between policy aspirations and statutory reality for India.

Currently, India is not well-equipped with a single law focused on AI. Instead, AI regulation is governed through numerous laws. The Information Technology Act of 2000,⁴ along with the 2026 revision to the Intermediary Guidelines, has made it clear that platforms must be responsible for content produced through AI and deep fake technologies. In terms of intellectual property, the Delhi High Court's recent interim decision in *ANI v. OpenAI*⁵

¹Indian Inst. of Pub. Pol'y & Rsch., AI and Data Protection: Challenges in Automated Decision-Making, <https://iisppr.org.in/ai-and-data-protection-challenges-in-automated-decision-making/> (last visited Sept. 28, 2026).

²India's M.A.N.A.V. Vision for AI, Drishti IAS (2026), <https://www.drishtias.com/daily-updates/daily-news-analysis/indias-manav-vision-for-ai>. (last visited Sept. 28, 2026).

³Ministry of Electronics & Info. Tech., India AI Governance Guidelines 5 (Nov. 5, 2025).

⁴The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).

⁵*ANI Media Pvt. Ltd. v. OpenAI OpCo LLC*, (Delhi High Ct. July 24, 2026), <https://indiankanoon.org/doc/93327052/>. (last visited sept.28, 2026)

supported content creators and mentioned that using copyrighted written works to train AI and develop large language models is essentially "fair dealing" due to Section 52(1)(a) of the Copyright Act of 1957.⁶

Nevertheless, the main defence for individuals who use AI technologies is the Digital Personal Data Protection Act of 2023.⁷ The provision of the DPDP Act uses a broad definition of "processing" as it concerns AI training processes. Nonetheless, Section 7 of the DPDP Act⁸ allows for processing for "certain legitimate purposes" that include any services provided by the government at no cost. The recent DPDP Rules 2025⁹ implement the Data Protection Board but do not give any assurance as to how AI is used after the data has been obtained legally.

India has a glaring gap in its AI laws in that it does not recognize the right to avoid sole automated decision-making (ADM) or any legal protection against it.¹⁰ In stark contrast, Article 22 of the GDPR of the European Union¹¹ provides for this right when it states that individuals have the right not to be subjected to automated decision-making, which also includes profiling, that has legal consequences for them. The EU AI Act¹² further builds on this by providing for a risk-based classification of AI systems, with strict human oversight requirements for high-risk applications like employment, credit scoring, and public services.

There is a lack of protection under the DPDP Act as it treats information rights akin to accounting rights. A Data Principal can move for correction or deletion of erroneous data in terms of Section 12¹³ but does not have any power to object to the usage of correct data in forming a twisted or arbitrary conclusion by an algorithm. In addition, AI models are based on existing datasets laden with biases related to societal divisions such as class and caste. When a disadvantaged individual is not granted a loan by an AI algorithm, the DPDP Act does not provide a remedy to challenge an algorithm's reasoning or seek the intervention of a human being. The silence of the law on this issue allows for "invisible processing," which means that

⁶The Copyright Act, 1957, No. 14, Acts of Parliament, 1957, § 52(1)(a) (India).

⁷The Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023 (India).

⁸*Id.* § 7.

⁹The Digital Personal Data Protection Rules, 2025 (India).

¹⁰JSA, JSA Prism: Data Privacy — DPDPA ed. 10 (2024), https://www.jsalaw.com/wp-content/uploads/2024/12/JSA-Prism_Data-Privacy-DPDPA_Edition-10.Final81.pdf (last visited Sept. 28, 2026).

¹¹Regulation 2016/679, of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data (General Data Protection Regulation), art. 22, 2016 O.J. (L 119) 1.

¹²Regulation 2024/1689, of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), (L 2024/1689).

¹³The Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023, § 12 (India).

decisions that can dramatically affect a citizen are taken without due process and defeat the principle of "Accountable Governance" as enshrined in the M.A.N.A.V. framework.¹⁴ Strikingly, simply relying on the fundamental principles outlined in Puttaswamy's proportionality test¹⁵ is inadequate in the absence of clear regulations on the use of ADM.

To bridge the gap caused by AI, India does not need to create a complex, broad AI law that could slow down technological development. An alternative option would be to introduce an image of a "human-in-the-loop" requirement in the existing DPDP framework. The section 10 of DPDP Act¹⁶ gives the Central Government the authority to designate any Data Fiduciary or group of Fiduciaries as a "Significant Data Fiduciary" (SDF) depending on such considerations as the amount of the data used and the degree of risk the Data Principals may be exposed to.

The government should issue clear directives for the purpose of DPDP Rules that any organization that employs AI for high-risk ADM including credit scoring, recruiting, or paying social benefits should be classified as SDF. Additionally, such SDFs should implement a human-based review. If there is any damaging effect of an algorithmic solution on the Data Principal, he must have the legal right to call for a human review and get an understandable explanation of the parameters for the decision-making process.

One of the usual counter-arguments against implementing human involvement in automated pipelines is the fact that this might contradict the whole point behind the AI technology performance by slowing down the delivery of government services. However, one cannot allow operational efficiency to compromise the constitutional requirements for fairness and natural justice. The expansion of artificial intelligence systems makes the negative impact of algorithmic bias more severe than the effects of a slight delay caused by the presence of an appellate human reviewer.

The actual challenge facing India's frameworks for Artificial Intelligence lies in the extent to which it not only stimulates the growth of technologies, but also in how much it will be able to protect those who need protection from either state or private enterprise. While current policies and interim judicial orders lean toward promoting the development of AI technologies, the clear absence of legislation pertaining to automated decision-making process leaves Indian

¹⁴Press Info. Bureau, Gov't of India, M.A.N.A.V. Framework for Ethical AI, PRID 2227612, <https://www.pib.gov.in/PressReleaseDetailm.aspx?PRID=2227612>. (last visited Sept. 28, 2026).

¹⁵*Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (India).

¹⁶The Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023, § 10 (India).

citizens vulnerable, it is a fundamental prerequisite to ensuring that AI in India remains a tool for human empowerment rather than an autonomous arbiter of human fate.