



# Artificial Intelligence in India: Laws & Flaws

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**Abstract:** Artificial Intelligence is a new concept. The emergence of artificial Intelligence has reached to all aspect of human life. This is particularly important in domain their accountability and legal compliance are crucial, such as healthcare, finance and legal systems. Explainable models enable individuals to comprehend how decisions are reached, evaluate the reliability of the outputs, and potentially challenge or seek redress in case of errors or harmful outcomes. Promoting transparency and encouraging the development of explainable Artificial Intelligence involves a combination of technical approaches, regulatory guidance, and industry standards. Organizations should adopt practices that prioritize transparency and explainability in their AI development processes. Regulators and policymakers can provide guidelines and standards to promote transparency, while researchers can focus on developing techniques that enhance the explainability of AI systems.

**Keywords:** Artificial Intelligence, Regulatory framework, digital signatures, electronic governance, cyber security, electronic transactions

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## INTRODUCTION

The establishment of a regulatory framework and the resolution of the policy consequences surrounding the integration of artificial intelligence (hereafter referred to as AI) technology are ongoing endeavors that are impacting almost every aspect of society, including the legal field. This study delves into the Indian regulatory landscape, analyses the possibilities and threats presented by AI, and offers suggestions for improving the regulatory landscape.

### Current Legal position in India

It is essential to grasp the current legal framework, which gives an outline of the Indian legal landscape and the laws applicable to AI technologies, before outlining the present legal position of AI in the Indian context that controls key sectors.

#### (i) Intellectual Property Laws:

When it comes to safeguarding IPR, India has a solid legislative framework in place. Protecting intellectual property in India is governed by two separate acts: the Patents Act of 1970 and the Indian Copyright Act of 1957. All works of original writing, advancements in technology, and inventions are protected by these regulations. Nevertheless, these laws were enacted before to the development of AI, which has created some difficulties in modifying them to deal with ownership and works created by AI.

#### (ii) Information Technology Act, 2000:

When it comes to cybersecurity, digital signatures, and electronic transactions, the Information Technology Act, 2000 (IT Act) is the legislation that matters most in India. It makes electronic governance easier and

provides legal recognition for electronic documents. When it comes to privacy and data protection, a few sections of the IT Act—like 43A and 72A—matter.

### **(iii) Data Protection and Privacy Laws**

India has taken a giant leap forward in the fight for data privacy and protection with the passing of the Digital Personal Data Protection Act, 2023. It is intended to provide a regulatory framework for the gathering, handling, and archiving of individual data. Data reduction, purpose limitation, and permission restrictions are sections of the PDP Act that affect AI systems that handle personal data.

### **(iv) Other Regulatory Provisions**

There are several industries in India that are subject to rules that are directly related to AI. One example is:

a. Medical Regulations: Rules and regulations pertaining to the application of artificial intelligence in healthcare and medical practice are found in the Indian Medical Council Act, 1956 and the Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations, 2002. a. Financial rules: Guidelines and rules pertaining to the use of artificial intelligence in the banking, finance, and securities industries have been distributed by the Reserve Bank of India (RBI) and the Securities and Exchange Board of India (SEBI).

### **(v) Judicial Attitude:**

By their rulings and interpretations, Indian courts greatly influence the development of the law. To tackle the legal issues brought up by AI technology, they depend on preexisting laws and concepts. The development of legal concepts and the establishment of standards for the practice of law are both facilitated by judicial precedents.

A number of legal considerations pertaining to artificial intelligence technology may be adequately addressed under the current legal framework in India. To comprehend the legal implications of AI in India, one must delve into the country's IT Act, intellectual property laws, data protection and privacy legislation, and sector-specific rules. Nevertheless, existing rules should be reviewed in view of new technical developments, and the possibility of drafting AI-specific legislation should be seriously considered.

A software program called SUVAAS (Supreme Court Vidhik Anuvaad) was created by the Artificial Intelligence Committee of the Supreme Court. It does crucial duties including language processing and translating orders and verdicts from the highest courts, among others. Superior Court Portal Assistance in Court Effectiveness, a new piece of software, was also created by this Committee. Legal research, data analysis, and case proceedings projection are some of its primary uses.

When it comes to enhancing the standard of court cases, artificial intelligence is also quite useful. In order to keep trials efficient, remove extraneous evidence and data, etc., it is helpful to analyze comparable situations.

The "Quality" of Court Proceedings may be enhanced with the Use of AI. Supporters of judicial AI intend to use the technology to examine precedent-setting cases backed by big data, establish relevant standards for evidence, compare and evaluate these standards, rule out the possibility of faulty or unlawful evidence,

shield judges from outside influence, and improve their credibility. An AI-assisted system may fully disclose the trial process and the court's case-handling procedure with the use of the internet. Justice in the court system might so become more open and accessible. By using large amounts of data and a centralized platform, artificial intelligence in the legal field may help streamline the case record management system, improve oversight of the trial process, and ensure consistency in the outcome. The outcome of similar or identical cases may be reached by the same or comparable legal processes.

#### **(vi) National Strategy for Artificial Intelligence:**

To guide the government's artificial intelligence (AI) initiatives, the National Institution for Transforming India (NITI Aayog), a think tank operated by the government, has been given the responsibility of developing a national AI policy. To help educate and incubate startups that want to build and incorporate AI-based solutions into their business models, NITI Aayog and Google joined together in early May 2018 to increase economic productivity in India. Late May 2018, NITI Aayog and ABB India signed an MOU with the goal of "preparing important parts of the Indian economy for a future where data is king and where connectivity is king," along with the other stated goals of the two organizations.

#### **Recommendations for AI Regulation**

The incorporation of AI into the Indian legal system requires a thorough regulatory framework if it is to be regulated properly. Ethical concerns, data governance, openness, responsibility, and IP rights are all included in this section's important AI suggestions.

##### **(i) Ethical Guidelines and Principles:**

Responsible and ethical AI techniques are built upon a foundation of ethical rules and concepts. They lay down principles that AI systems should follow, making sure that they act in a way that is acceptable to society and doesn't violate basic rights. These rules and concepts play a significant role in influencing how AI systems act and make decisions.

Fairness is a value that stresses the need of treating everyone and every group fairly, with the goal of reducing or eliminating prejudice and discrimination. The importance of AI systems being explainable and intelligible is highlighted by transparency, which allows users to grasp the decision-making process and the elements that impact it. To guarantee that AI systems can be held responsible for their acts and their results, accountability measures must be put in place.

##### **(ii) Data Governance and Privacy:**

Data anonymization and aggregation are important aspects of data governance and privacy legislation that need be addressed in order to safeguard sensitive information and prevent people's identities from being compromised. In addition, they need to make sure that people are notified when there is a data breach and that there are ways for people to exercise their rights, such the right to view, correct, or delete their personal data.

An important part of using AI in a responsible and ethical manner is ensuring data privacy and data governance. Protecting people's right to privacy and ensuring responsible data processing requires strong

data protection rules. The difficulties presented by AI, which often necessitates processing massive amounts of data, should be addressed by these rules.

Fostering trust and openness between businesses and people, strong data governance and privacy legislation may support the appropriate use of AI technology. To aid in the legitimate and ethical use of AI systems, these rules provide forth a framework for the safe and privacy-enhancing handling of personal data.

### **(iii) Transparency and Explainability:**

The need for stakeholders and users to have access to information on the decision-making and operation of these systems may be met via transparency and explainability. Building trust, promoting accountability, and enabling humans to understand and dispute these technologies' outputs are all goals of transparent and explainable AI systems.

To be transparent about algorithms, data sources, and decision-making processes in AI systems is to provide explicit information about these things. It is important for organizations and developers to be transparent with users about the decision-making process and the considerations that go into making judgments. By being open and honest about the limits and hazards of AI systems, people are better able to evaluate their fairness, prejudice, or discriminatory effects.

Regulators may promote responsible, accountable, and trustworthy use of AI technology by placing an emphasis on explainability and transparency. These guidelines help users comprehend and assess how AI systems make decisions, which in turn promotes the just and ethical use of these technologies.

### **(iv) Intellectual Property Protection:**

The significance of AI technologies has prompted serious inquiries about the correct allocation of intellectual property. Machine learning algorithms have the potential to provide original ideas, establish fresh approaches, and add to cutting-edge advancements. Because of the special difficulties associated with AI-created works and innovations, it is important to assess the current state of intellectual property laws and regulations.

Concerns about copyright law come up when thinking about AI-generated creations and who owns them. Attributing authorship to human creators is a common practice in copyright rules at the moment. Nevertheless, it is important to think about legal frameworks that acknowledge AI systems' role and define ownership and rights to AI-generated works as their ability to create original works increases.

Protecting innovations and fostering creativity are two of the most important functions of patent laws. Artificial intelligence (AI) has the ability to solve difficult problems in novel ways and inspire new innovations. It is critical to examine patent regulations and establish the standards for the patentability of AI advancements in order to provide sufficient protection. Questions of originality, non-obviousness, practicality in industry, and the role played by humans in innovation may be considered.

Thoroughly assessing and maybe revising current IP rules may be necessary to resolve these concerns. To ensure a just and efficient IP system that can accommodate works and innovations created by AI,

policymakers should find a middle ground between encouraging innovation and safeguarding the rights of artists and inventors.

When it comes to intellectual property, artificial intelligence presents both unique obstacles and potential; regulators, attorneys, and lawmakers must work together to create rules and frameworks that address these concerns. This involves evaluating the patentability of AI inventions, defining clear standards for AI-generated works, and elucidating ownership rights.

### **Balancing Innovation and Legal Protection**

The integration of Artificial Intelligence (AI) and Machine Learning (ML) technologies in the legal system offers immense potential for innovation and efficiency. However, it is crucial to strike a balance between fostering innovation and ensuring robust legal protection. This section explores the challenges in balancing these aspects and provides recommendations for achieving a harmonious coexistence.

#### **(i) Proactive Regulatory Approach:**

A proactive regulatory approach is essential for effectively regulating AI technologies while fostering innovation. This approach involves anticipating and addressing potential challenges and risks associated with these technologies, without stifling their transformative potential. Here's an explanation of the key aspects of this point:

#### **(ii) Technology-Neutral Regulations:**

Regulations should be designed to be adaptable and technology-neutral. AI technologies are rapidly evolving, and it is essential that regulations are not overly prescriptive or specific to current technologies. By avoiding excessive specificity, regulations can accommodate future advancements and avoid becoming quickly outdated. This approach enables a flexible regulatory environment that can adapt to emerging technologies and innovations.

#### **(iii) Risk-Based Approach:**

The possible dangers and social effects of AI systems must be considered in order to establish a risk-based regulatory framework. Regulators should prioritize areas of AI that provide the most danger rather than trying to impose stringent regulations on the whole field. This promotes innovation in areas with lower risk while allowing for focused control. Legislation may successfully control any negative repercussions while facilitating the beneficial advantages of AI technology by recognizing and addressing the unique risks connected with these tools.

Engaging with stakeholders, keeping abreast of developments and new dangers, and continuously monitoring and evaluating AI technology are all parts of a proactive regulatory strategy. Keeping rules up-to-date with technological improvements while addressing possible hazards to people, society, and ethical issues needs a collaborative effort involving lawmakers, legal experts, technology specialists, and industry players.

To find a happy medium between encouraging innovation and giving people the legal protections they

need, India should implement proactive regulations that are flexible, technology-neutral, and risk-based. A regulatory framework that can adapt to new technology and the ways they may change the law may be created using this method.

**(iv) Collaboration and Engagement:**

Collaboration and engagement are crucial aspects of developing effective regulations that strike a balance between innovation and legal protection in the integration of AI technologies. Here's a breakdown of the key aspects of this point:

**(v) Multi-Stakeholder Collaboration:**

Collaboration among various stakeholders, including legal professionals, technology experts, policymakers, industry stakeholders, and academia, is essential. These stakeholders bring diverse perspectives and expertise to the table, enabling comprehensive and informed discussions on the legal, ethical, and technical aspects of AI technologies. By involving multiple stakeholders, regulations can be more holistic, considering various viewpoints and striking a balance between innovation and legal safeguards.

**(vi) Public Consultation:**

To guarantee that rules are well-received, represent society ideals, and handle public concerns, it is essential to have public consultations. Participation in public consultations allows impacted communities, user groups, civil society organizations, and the general public to voice their opinions, bring attention to the issue, and help shape rules regarding artificial intelligence. By including all relevant parties, we can make sure that rules are open, responsible, and take into account the larger social and ethical effects.

The regulatory process may benefit from a variety of viewpoints and skills when people work together and actively participate. In doing so, we may better anticipate problems, solve social issues, and craft thorough, equitable, and effective rules. Involving stakeholders and the public will help India's regulatory framework for AI technology seem more legitimate and owned by the country, which would increase adoption and compliance.

Working together and actively participating help create a common knowledge of the pros, disadvantages, and ethical issues related to AI. It encourages people to work together to make sure these technologies are developed, utilized, and deployed in a way that doesn't harm people or violate their rights.

All things considered, a well-rounded regulatory framework that encourages innovation while safeguarding legal and ethical concerns in the incorporation of AI technology into the legal system requires active participation and cooperation from all parties involved.

**(vii) Regulatory Sandboxes and Innovation Zones:**

Organizations may conduct controlled experiments with emerging AI technology in regulatory sandboxes, which are overseen by regulators. In these sandboxes, businesses may test the waters with new technology without worrying about breaking any rules just yet. In order to comprehend the consequences, hazards, and advantages of the tested technology, regulators keep a careful eye on these trials. While reducing the



likelihood of negative impacts on the legal system, this method allows regulators to collect useful insights, evaluate risks, and make well-informed policy choices.

To promote the development and implementation of artificial intelligence technology, several places have been designated as innovation zones and have adopted a more relaxed regulatory framework. These zones provide enterprises more leeway to manage regulatory constraints while also providing a supportive atmosphere for creative ideas. Policymakers may encourage experimentation, cooperation, and responsible innovation by designating some domains where rules are adjusted to fit new technology. Attracting investment and talent while encouraging the development of artificial intelligence applications in the legal realm are all goals that innovation zones might strive to achieve.

Policymakers may find a middle ground between encouraging innovation and providing legal protection by creating innovation zones and regulatory sandboxes. While authorities keep an eye on and evaluate the effects of these programs, businesses are able to test the waters with AI in a controlled environment. Insights into the practical difficulties and consequences of these technologies may be gained by regulators via this method, which promotes responsible experimentation and innovation. Finding a middle ground between encouraging innovation and protecting legal and ethical concerns is also made possible when lawmakers draw on real-world experiences to craft suitable rules.

To make sure that trials and ideas in innovation zones and regulatory sandboxes follow all the rules and regulations, there should be adequate supervision systems in place. To evaluate the tested technologies' effects and guide the creation of broader regulatory frameworks, monitoring, assessment, and reporting procedures should be put in place on a regular basis.

When it comes to finding the right balance between innovation and legal protection, regulatory sandboxes and innovation zones provide a collaborative and flexible solution. Regulators may get a better understanding of the potential effects of artificial intelligence technology on the judicial system and craft laws that are proactive, efficient, and responsive by establishing environments that promote experimentation.

#### **(viii) Education and Training:**

Education and training play a vital role in ensuring that legal professionals and the public are well-informed about the opportunities and challenges associated with AI technologies. Here's a breakdown of the key aspects of this point:

#### **(ix) Legal Professionals:**

Those working in the legal field, such as attorneys, judges, and legislators, need specialized training on the ethical and legal aspects of artificial intelligence. These courses should teach lawyers how to deal with new AI-related problems as they arise and help them understand the intricate legal environment. This necessitates familiarity with the ins and outs of artificial intelligence (AI), as well as the relevant legal and ethical frameworks. The formulation and enforcement of AI legislation may be facilitated by strengthening the competence of legal experts. This will provide legal protection while stimulating innovation.

#### **(x) Public Awareness:**

Increasing public awareness and understanding of AI technologies is crucial for responsible adoption and use. Public awareness campaigns, educational initiatives, and outreach programs should be implemented to educate the general public about the potential benefits and risks of AI technologies. This includes informing individuals about their rights and responsibilities, data privacy concerns, and the ethical considerations involved in using AI systems. By promoting public awareness and understanding, individuals can make informed decisions, engage in responsible discussions, and actively participate in shaping AI regulations that align with societal values and interests.

### **CONCLUSION**

The preceding discussion has shown without a reasonable doubt that at this advanced scientific and technological period, the existence of artificial intelligence is inconceivable. We must weigh the benefits and drawbacks of this crucial component. We can't imagine modern life without artificial intelligence. There has to be a steady equilibrium between more conventional methods and more cutting-edge approaches. We must never forget that humans are responsible for creating the idea of artificial intelligence. It follows that the human intellect is crucial.

Collaboration between educational institutions, professional organizations, and interested parties may lead to the development of public awareness campaigns, as well as training and education programs for legal professionals. To stay up with the ever-changing AI landscape, these systems need to be flexible and updated often.

India can prepare its legal community to face the challenges given by artificial intelligence (AI) by increasing funding for education and training. At the same time, raising people's consciousness of AI helps them make better judgments when it comes to their own usage of the technology, which in turn encourages their responsible and ethical adoption and creates an atmosphere conducive to innovation.

In sum, public awareness campaigns and educational programs fill in the gaps in understanding and prepare the general public and legal experts to deal with the ethical and legal challenges posed by artificial intelligence.

The incorporation of AI technology into the legal system must strike a balance between innovation and legal protection in order to maximize advantages while limiting hazards. To strike this balance, it is necessary to have a proactive and flexible approach to regulation, work together as stakeholders, set up regulatory sandboxes, monitor regularly, and educate the public. In order to properly manage AI technology in a way that fosters innovation and preserves the rule of law, India may engage in responsible innovation, work with other countries, and learn from their experiences.

A thorough framework that takes into account ethical concerns, data governance, openness, responsibility, and IP rights is necessary for the regulation of AI technology in India's legal system. The suggested steps would help India find a middle ground between encouraging innovation and safeguarding people's rights and interests. Responsible and successful incorporation of AI technology into the legal environment requires collaboration among stakeholders and international cooperation. Keeping up with rapidly



developing technologies and new threats will need constant review and adjustment of legislation.

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