



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

**Peer - Reviewed & Refereed Journal**

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **AI AND THE LAW: REGULATING MACHINE LEARNING AND AUTOMATED DECISION-MAKING**

AUTHORED BY - SHIVANI DIKSHIT

## **Introduction**

Artificial Intelligence (AI) is no longer just a concept from science fiction. It's a real part of our lives. From how banks approve loans to how companies hire employees, AI is changing how decisions are made. This technology is especially driven by a process called Machine Learning (ML), which allows computers to learn from data and make decisions on their own. While AI brings many benefits, it also creates serious legal and ethical challenges. What if the machine makes a wrong decision? What if it's biased or unfair? Most importantly, how do we regulate these systems and ensure people's rights are protected?

## **What Is Automated Decision-Making?**

Automated decision-making (ADM) means that a machine or algorithm makes a decision without much or any human involvement. These decisions can affect important parts of our lives—like whether we get a job, a loan, or even medical care.

For example, many companies now use AI software to screen job applications. Some governments use predictive policing tools to try and prevent crimes. Even social media platforms use AI to decide what content to show or block.

While ADM can improve efficiency, the lack of human oversight can lead to mistakes, unfair outcomes, and decisions that no one can fully explain.

## **Why Is This a Legal Problem?**

The legal system is designed to hold people or organizations responsible for their actions. But with AI, things get tricky. If a machine makes a harmful decision, who do we blame? The programmer? The company that used it? Or the machine itself?

This is a big problem because our laws are not yet designed to handle situations where a non-human is involved in making decisions that affect human rights.



## AI Can Be Biased

One of the biggest concerns with AI is that it can be biased. Machines learn from data, and if that data reflects social or historical inequalities, the AI will repeat them.

For instance, if a hiring algorithm is trained on resumes of mostly male employees, it might start favoring men automatically. This kind of bias can lead to discrimination, even if it's unintentional.

In India, Article 14 of the Constitution guarantees the right to equality. But if a machine is doing the discriminating, how do we make sure this right is protected?

## The Problem of Transparency

Another issue is the "black box" nature of many AI systems. These systems are often so complex that even the people who built them can't explain how they make decisions.

If a person is denied a loan or is misjudged by a predictive tool, they have a right to know why. But with AI, it's not always possible to give a clear answer. This raises concerns about fairness and due process.

## Privacy Concerns

AI systems need a lot of data to work. Sometimes, this data is collected without clear consent or used in ways that people don't understand.

In 2017, the Supreme Court of India declared that privacy is a fundamental right. But if AI systems are using personal data without proper safeguards, this right can be violated.

India's Digital Personal Data Protection Act, passed in 2023, is a step in the right direction. But it doesn't yet address all the ways AI uses data.

## What Other Countries Are Doing

Some countries are already working on AI laws.

The European Union has introduced the **AI Act**, which divides AI systems into different categories based on risk. High-risk systems (like those used in policing or hiring) will have to follow strict rules. Systems considered too dangerous, like social scoring, may even be banned. In the United States, there isn't one single AI law, but there are efforts to protect people from harmful AI use. For example, the **AI Bill of Rights** gives people the right to know when AI is being used and to challenge unfair decisions.

Global organizations like **UNESCO** and the **OECD** have also published guidelines, asking



countries to ensure that AI respects human rights and promotes fairness.

## What About India?

Right now, India does not have a specific law to regulate AI or machine learning. Some existing laws touch on related issues, but they aren't enough.

The **IT Act, 2000** focuses on cybercrime but not on AI decision-making. The **Consumer Protection Act, 2019** can deal with defective AI services, but only after harm has already occurred.

India's policy think tank, **NITI Aayog**, has released a framework called "Responsible AI for All," which encourages fairness and accountability. But it's just a guideline, not a law.

## What Can India Do Next?

India has the opportunity to build a strong legal framework that both encourages innovation and protects people's rights. Here are some ideas:

### 1. Algorithmic Impact Assessments:

Companies should test their AI systems before using them—especially in sensitive areas like healthcare, policing, or hiring—to make sure they don't cause harm.

### 2. Right to Explanation:

People should have the right to know why an AI made a certain decision about them. This is especially important for decisions that affect someone's job, money, or freedom.

### 3. An AI Regulator:

India could create an independent body to oversee AI systems and make sure companies are using them responsibly.

### 4. Regular Bias Testing:

Companies should be required to check if their AI systems are unfair or discriminatory, and fix them if they are.

### 5. A Safe Space for Innovation:

India can also set up a "regulatory sandbox" where companies can test new AI technologies under close monitoring. This way, innovation can happen without risking public harm.

## Conclusion

AI is a powerful tool that can make life easier, faster, and smarter. But it can also make mistakes, reinforce discrimination, and invade privacy. The law has a big role to play in making sure AI works for everyone—not just for big companies or governments.

India is at a point where it can create smart, forward-thinking laws that support technology but also protect human dignity, privacy, and fairness.

By acting now, India can become a leader in ethical AI and show the world how to use this powerful technology in a way that benefits all citizens.

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