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Legal Personality of Artificial Intelligence

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Abstract

The role of technology has been deliberately increased in our lives. From the usage of virtual personal assistants like Siri, Alexa, OK Google in our daily lives to the use of robots in our professional life, we have seen tremendous changes in Artificial Intelligence. The use of Artificial Intelligence has become imperative in the whole world but only a few people know about the legal framework related to it. This paper explores the Artificial Intelligence from its genesis to its recent Developments and its legal framework. The researcher has adopted a qualitative approach to the study.

This paper begins with a brief introduction to Artificial Intelligence wherein its background and relevance have been discussed. Further, this paper discusses the meaning of the legal personality of Artificial Intelligence in detail. This paper also talks about how Artificial Intelligence can lend its helping hands in the Legal profession. This paper throws light on the Legal framework of Artificial Intelligence in India. It tells about the Government intervention in the wider implication of Artificial Intelligence. Then, it discusses the legal status of AI in other countries by emphasizing cases from Saudi Arabia and Japan. This paper identifies the pitfalls in Artificial Intelligence and concludes that as the need for AI in our daily lives increases, the need to frame suitable legislations in order to provide adequate legal safeguards also increases.

Keywords: Artificial Intelligence, Legal Personality, Legal Framework.

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1. Introduction

We have seen tremendous inventions in the world of technology, one such innovation is Artificial Intelligence. Innovators were curious to know whether a machine can truly think. The term ‘Artificial Intelligence’ was coined in 1956 by John McCarthy who was regarded as the Father of Artificial Intelligence. To innovate an artificial intelligent being, innovators went through the utmost struggle. Between 1974-1980 various reports were published to criticize the progress in AI, due to these reports Government funding went down. But in 1980, the British Government again started funding it. Artificial Intelligence captured headlines when IBM’s Deep Blue became the world’s first computer to win a chess championship after defeating Russian Grandmaster Garry Kasparov in 1997. Later in 2011, the talking computer “chatbot” became the talk of town who tricked judges in a Turing test.¹³

If we talk about the development of AI in India, actual research started in 1986 when the Indian Government launched the Knowledge Based Computing Systems program with UNDP. Various prestigious institutions have undertaken several projects on AI.

The first thing usually come to people’s mind when they hear the term ‘Artificial Intelligence’ is a robot. Well, to have more clarity on the term Artificial Intelligence let's understand its meaning. According to the Cambridge Dictionary, Artificial intelligence or machine intelligence is the study of how to produce machines that are programmed with the imitation of human intelligence or possess some qualities that the human mind has.

The most impertinent function of AI is to organize or collect that information which is beyond of manual processing. We have seen applications of AI in various areas such as expert systems, Natural Language Processing, Speech recognition, Computer vision, and of course robotics.

From adding value to our life-style to assist in various professions, businesses, AI has come a long way. Its importance is just not limited to any specific area. AI plays a vital role in almost every sector.

¹³ Lewis, T., (2014, December 4), *A brief history of Artificial Intelligence*, LIVESCI=NCE, <https://www.livescience.com/49007-history-of-artificial-intelligence.html>.

2. Legal Personality of AI

Whether AI should be granted legal personality? This question has repeatedly become the subject matter of various debates. Let's first understand the meaning of Legal personality in-depth then we will come to the above question. Personality is a very broad term and it has various meanings. The word personality originated from the Greek word 'persona' which means a person who could bear rights and duties. Legal personality refers to get recognized in the legal system of a particular country. It also refers to the ability to enjoy rights and obligations. Also, a legal person doesn't need to be human but the one who can confer rights and duties such as an idol or a body corporate.¹⁴

Artificial Intelligent beings are not recognized as a legal person. As we know that corporates are considered as legal persons, this gave the precedent to consider whether AI should be considered as a legal person. But Corporations and AI are different. The basis for distinguishing between corporations and AI is that corporates are independent but are liable through their shareholders whereas AI is independent. This again raises the question of whether AI can be held liable for its independent acts? As AI is not considered as a legal person it cannot be held liable in its motion.¹⁵

There are many questions which remain unanswered related to the ascertaining liability of AI due to the absence of laws for AI in the current legal system. At the end of the research paper, a researcher will propose some ideas to consider for determining the liability of an AI.

3. Uses of AI in the Legal Profession

The use of AI is just not restricted to any particular sector. Similarly, the use of AI has been extended to all the professions including the Legal profession. Though still there are some tasks

¹⁴ Aslam, M., *Legal Personality in the light of Jurisprudence*, Legal Service India, <http://www.legalserviceindia.com/legal/article-1904-legal-personality-in-the-light-of-jurisprudence.html>.

¹⁵ Tavawalla, H., (2018, June25) *Can Artificial Intelligence be given Legal Rights and Duties*, Mondaq, <https://www.mondaq.com/india/new-technology/712308/can-artificial-intelligence-be-given-legal-rights-and-duties#:~:text=Legal%20personhood%20is%20inherently%20linked,AI%20as%20a%20legal%20person.&text=The%20general%20rule%20has%20been,liable%20in%20its%20own%20capacity.>

in the legal profession that cannot be replaced by an artificial intelligent being such as negotiating, making briefs of Supreme Court cases, appearing in a court proceeding to argue, etc. But still, AI can be used in diverse areas in the legal profession. Following are the ways by which AI can be utilized for the benefit of lawyers and law firms:¹⁶

- a) **Legal Research:** Legal research is very pertinent in the legal field. It is a very diligent and time-consuming process. Legal practitioners can easily delegate their legal research tasks to AIs. These AIs are embedded with special software that helps them to do Legal research accurately and speedily.
- b) **Due Diligence:** Due diligence involves reviewing various unorganized documents. AI has made this process simple. It organizes and converts various documents in a particular format in just half of the time, if done manually.
- c) **Contract Drafting:** Drafting is one of the key areas in the Legal profession. AIs with their special legal software can assist lawyers and law firms to draft various documents such as contracts, commercial agreements, petitions, etc.
- d) **Legal Analytics:** Lawyers need precedents in the relevant area. AIs are embedded with software to furnish judgments. The AI form pattern and research in line with that pattern. Through this mechanism precedents and judgments can be established.
- e) **Technology of Prediction:** It was found that AIs are capable of predicting the probable result of a case with remarkable accuracy. Even if less information is available, AIs can predict the result very easily.
- f) **Electronic Billing:** AIs help legal professionals to prepare the invoices according to the work done by them. The legal software helps in the accurate preparation of invoices as well as helps in making adjustments in respective invoices.

4. Legal Framework of AI in India

As we have already discussed that there is currently no law in force related to AI in India but the Government has developed some policies on a national level to develop Artificial Intelligence.

¹⁶ Barua, P., (2019, February 24), *Artificial Intelligence and Law*, Law times journal, <https://lawtimesjournal.in/artificial-intelligence-and-law>.

4.1. Report of the Artificial Intelligent Task Force

The main attributes of AI are complexity and pervasiveness. As the study of Artificial intelligence is a multi-disciplinary, it requires astute minds from diverse fields to understand the concept of AI. This task force constitutes an eighteen member from different field who gathered to formulate the content of this report. V. Kamakoti was appointed as the chairman of this report. The contents of this report are- 1) Introduction 2) AI grand challenges relevant to India 3) Enablers for AI Entrepreneurship/ Technology product commercialization 4) Ensuring Responsible use of AI Ethics and social safety 5) AI and employment 6) Specific Recommendations to Government of India¹⁷. This report attempted to answer the following three questions:

- (1) What are the areas where the Government of India can play a significant role?
- (2) How AI can solve problems for Indian citizens and how can it improve quality of life?
- (3) What are the sectors which can grow and develop due to the use of AI?

The significant section of this report is recommendations made to the Government of India. The report recommended 8 key recommendations.

- (1) Report suggested for maintaining fund under Union Budget to give effect to an inter-ministerial National Artificial Intelligent mission, which will help in coordinating AI-related activities in core areas.
- (2) Establishing Digital Data banks, exchanges, marketplaces so that cross-industry data and information shall be made available after certain regulations.
- (3) Participation of India in the standards evolving across the nations related to AI.
- (4) The government of India should put in place policies to encourage and facilitate the growth and deployment of AI-based products.
- (5) Devised AI education strategy to develop human resources in the field of AI.
- (6) Professional education policy for Human resources so that they can vest with required skill sets.
- (7) Participation of India in international policy discussion.
- (8) Bilateral cooperation with other countries to develop AI solutions.

¹⁷ (Mar. 30, 2018), *India: Government-appointed Task Force Issues Recommendations on AI*, GIP DIGITAL WATCH, <https://dig.watch/updates/india-government-appointed-task-force-issues-recommendations-ai>.

4.2. National strategy for AI

The then Finance Minister Arun Jaitley suggested that India's think tank would lead the National Program on AI on February 1, 2018, then the meeting was constituted on February 8, 2018, and the task was given to Niti Aayog to formulate a national strategy on AI. The committee was constituted and as a result, they presented a report titled "National Strategy for Artificial Intelligence #AIFORALL".¹⁸

It considered almost similar points as the report of the AI task force considered. Five sectors have been identified by the committee to focus such as healthcare, smart cities, transportation, Agriculture, Education. This report too suggested some actions for the government along with the Global developments in AI, Study of AI in the context of India, key challenges, etc. There were almost thirty policy recommendations suggested by this report.¹⁹

4.3. Ministry of Electronics and Information Technology Committees

This ministry constituted four committees to research and development a framework on AI.

- (1) **Platforms and data on Artificial Intelligence:** This report is made available to the public as the committee felt that if the report is made available to the public, young or bright minds will be able to understand the problem and will come up with the astute decision. Another reason behind making this report public is to enhance the knowledge related to AI among students, teachers, professionals, etc. Finally, to help the Government in taking initiatives for the development of AI. This report recommended the above 15 recommendations.²⁰
- (2) **Leveraging for identifying national missions on key sectors:** This report recommended to develop the National Artificial Intelligence Resource Platform in India. This platform will accumulate all the information, tools, data, resources, etc to

¹⁸ (June, 2018) *National Strategy for Artificial Intelligence #AIFORALL*, https://niti.gov.in/writereaddata/files/document_publication/NationalStrategy-for-AI-Discussion-Paper.pdf.

¹⁹ Ibid.

²⁰ (July, 2019), *Report of Committee – A on Platforms and data on Artificial Intelligence*, Ministry of Electronics and Information Technology, Government of India, https://www.meity.gov.in/writereaddata/files/Committee_A-Report_on_Platforms.pdf.

enable the public to take up AI tasks individually and in cooperation. It was also recommended by this report that the funding for establishing this platform will be done by Government through Meity. This report further discusses the various functions that would be performed by the National Artificial Intelligence Resource Platform.²¹

- (3) **Mapping technological capabilities, key policy enablers required across sectors, skilling, re-skilling, and R&D:** This committee considered the International scenario to develop the national strategy for AI. Further, this committee also gave some recommendations.²²
- (4) **Cybersecurity, safety, legal and ethical issues:** This report started with the challenges in cybersecurity, further it analyzed the role of AI in cybersecurity. It also considered AI in relation to privacy.²³

4.4. Defense and AI

A multi-stakeholder task force has been established in February 2018 by the Indian Government. It involved various professionals from Government departments, academia, different services, etc. This force was constituted to study the role of AI in national security. This report suggested some recommendations related to AI in the field of aviation, cyber, naval, nuclear, etc. On June 30, 2018 task force submitted its report to the Minister of Defence.²⁴

²¹ (July, 2019), *Report of Committee- B on Leveraging for identifying national missions on key sectors*, Ministry of Electronics and Information Technology https://www.meity.gov.in/writereaddata/files/Committees_A-Report_on_Platforms.pdf.

²² (July, 2019), *Report of Committee- C on mapping technological capabilities, key policy enablers required across sectors, skilling, re-skilling and R&D*, Ministry of Electronics and Information Technology https://www.meity.gov.in/writereaddata/files/Committees_A-Report_on_Platforms.pdf.

²³ (July, 2019), *Report of Committee- D on cyber security, safety, legal and ethical issues*, Ministry of Electronics and Information Technology, https://www.meity.gov.in/writereaddata/files/Committees_A-Report_on_Platforms.pdf.

²⁴ *Regulation of Artificial Intelligence: East/ South Asia and the Pacific*, Library of Congress, <https://www.loc.gov/law/help/artificial-intelligence/asia-pacific.php#india>.

4.5. Justice B.N. Srikrishna Committee

The Government constituted a committee of experts known as Justice B.N Srikrishna committee. This committee presented a draft Bill on Protection of personal data as well as a report titled “A Free and Fair Digital Economy Protecting Privacy, Empowering Indians”²⁵

An analysis was done in relation to this Bill by the Centre for internet and society. In its opinion, the Bill was created to address harms done by AI. It doesn’t empower the individuals to settle how the processing of its data has been done. The issue of ‘Black Box’ also remained unanswered. The Bill was focused mainly on determining the responsibilities to prevent harm to companies.²⁶

4.6. Bill on use of AIs in Automatic Vehicles

The regulation related to motor vehicles is subjected to a concurrent list. Automated vehicles are not allowed in the current Motor Vehicles Act. However, a bill was passed in relation to automatic vehicles in India in Lok Sabha on 10th April, 2017. The Bill hasn’t passed yet in Rajya Sabha. The Ministry of Road Transport and Highways refused to allow automatic vehicles in India as it will adversely affect employment. He further said, India already facing unemployment, so the technology which end up taking people’s job will not be fruitful.²⁷

4.7. Facial Recognition by Artificial Intelligent beings

The private sector with the help of State police tries to deploy AI for facial recognition and predicting tools to detect crimes.²⁸

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

5. Legal status of AI across countries

The technology of AI has been accepted worldwide. From the AI feature in Siri, Alexa, OK Google to the use of robots, AI has come a long way. Various countries have accepted the role of AI in their daily lives. Let's take examples of various countries and then understand the relevance and the legal framework in the respective countries. The list of countries who take steps on AI is non-ending but let's consider a few countries. If we talk about Australia, in a survey it was found that out of 10, 9 businesses have deployed AI. Australia also developed its policies related to autonomous weapons systems and automated vehicles. Indonesia launched its first AI research center in 2018 as its Government itself uses the AI. The Government of New Zealand also took significant steps to develop AI in its country.²⁹

Generally, the implementation of the approach of AI is done in two ways: software packages such as assistants, virtual platforms, programs, chat-box, etc., and the ones who have material shells which are programmed such as robots, drones, etc.

Many countries adopted the AI approach which contradicts current national legal norms. The two most famous cases are from Saudi Arabia and Japan.

5.1. A case from Saudi Arabia

The capital of Saudi Arabia, Riyadh launched 'Sophia', a woman robot in 2017. Sofia was granted the Citizenship of Saudi Arabia under the Saudi Arabia Citizenship Act. The decision to grant citizenship to a robot contradicted the number of laws. It contradicts the Saudi Arabia Citizenship norms. Under Saudi Nationality System, 2018, Saudi Arabia Citizenship can be obtained: a) By Birth; b) By marriage; c) By naturalization under various conditions such as reaching the legal age; fluent in Arabic; settlement over 10 years; a legitimate way of earning; no criminal record; compliance with the norms of conduct set out in the country.³⁰

²⁹ Supra at 12.

³⁰ Atabekov, A & Yastrebov, O., (2018), Legal Status of Artificial Intelligence Across Countries: Legislation on the move, *European Research Studies Journal*, Volume XXI, Issue 4, 2018, pp. 773-782, file:///C:/Users/Singhal/Downloads/Legal%20Status%20of%20Artificial%20Intelligence%20Across%20Countries_%20Legislation%20on%20the%20Move.pdf

The society of Saudi Arabia has introduced some specific requirements in relation to female activities such as hijab-wearing, limits to traveling abroad, travel obligation accompanied by a male mahram, limits on job placement, inheritance rules, and some other restrictions. So, the opportunity was given to speak out on the rights of women of Saudi Arabia.³¹

5.2. A case from Japan

A 7-year-old robot boy Shibuya Mirai, (a chatbot) was provided residence under special regulation (Cuthbertson, 2017) in Japan, 2017. This decision contradicted the laws related to the residence permit procedure of Japan. The Law associated with citizenship is regulated by the Law on citizenship of Japan. Shibuya Mirai was also granted citizenship under Japan Citizenship law. The Law grants citizenship in two cases 1) By birth- if the child is born in Japan and either mother or father holding the citizenship of Japan. 2) By naturalization- The person should reside in Japan for over 5 years, have legal capacity, and reach the age of twenty, etc.³²

5.3. Analysis

If we consider the above cases, it can be analyzed that:

- (1) Both robots didn't apply to the citizenship of their respective countries.
- (2) Both the robots didn't meet the eligibility criteria for getting citizenship according to their respective countries.
- (3) Both the robots do not speak the national language of their respective countries which has been set by law. (Arabic & Japanese respectively)

As we discussed above the society of Saudi Arabia has some restrictions over females. Also, Sophia, the robot does not follow the laws related to clothing, ethics of behavior which could be a reason for attracting penalty under administrative and criminal laws of Saudi Arabia for

³¹ Supra at 18.

³² Supra at 18.

females. Similarly, the age of Shibuya Mirai does not comply with the citizenship laws of Japan.

In relation to this researcher suggests that the respective countries should come up with separate laws for granting citizenship to AIs.

6. Conclusion

This paper highlighted every legal aspect related to AI. Indeed, AI has enhanced our life-style as well as played a significant role in professional life. AI is a very important aspect of technology, still there are no laws that recognize AI. The government of every country which has the technology related to AI should work on their respective countries laws to recognize AI.

AI is very advantageous in every sector, but it also has some pitfalls. One of the major concerns is privacy breaches from the use of AI. Because of this people became more cautious about sharing information. Adoption of AI may lead to unemployment, as most of the work will be dealt with by the programmed robots. As there are no specified laws on AI, it's very difficult to decide the liability of AI.

If we talk about the cases of Saudi Arabia and Japan, the robots of both the countries didn't meet eligibility criteria still they were provided with citizenship. Hence, stringent laws are required for almost every country in relation to developing AI, granting of citizenship of AI, determining its liability, etc.

For ascertaining the liability of AIs, it has been argued that, at this point, technology still is in its infancy, so it is not necessary to grant legal personhood to an AI. Contrary to this, the researcher understands the need of bringing laws for AI. The researcher also proposes that the liability of AI should be determined on a principal-agent basis. The AI entities should be considered as an agent, so accordingly, liability can be determined in similar lines with principal-agent human relation. Firstly, it is necessary to decide the nature of AI entities, then it becomes pertinent to decide whether liability can be shifted from AI's creator to AI. There were constant debates on applying the law of strict liability or absolute liability on Artificial Intelligent beings.

Pertain to this, there are various questions in the minds of researchers, professionals, academicians, etc. As the need for AI in our daily lives increases, the need to frame suitable legislation in order to provide adequate legal safeguards also increases.