

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

## **EDITORIAL TEAM**

### **EDITORS**

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



#### **Dr. Namita Jain**



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

Assistant professor of Law

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

**"ARTIFICIAL INTELLIGENCE IN THE WORKPLACE:  
ADDRESSING LEGAL GAPS AND SAFEGUARDING  
EMPLOYEE RIGHTS IN THE AGE OF AUTOMATION – A  
COMPARATIVE ANALYSIS WITH GLOBAL  
PERSPECTIVES"**

AUTHORED BY - S. HARIINI SHRI & MADDIPATI SRI SESHAMAMBA

B.COM. LLB

**Abstract:**

Artificial Intelligence (AI) has rapidly transformed various sectors, including the working environment. Initially introduced for basic administrative tasks in the 2010s, AI has grown more sophisticated, playing roles in recruitment, human resources, and automating job functions. By 2017, AI was actively used for resume screening, chatbot-driven tasks, and employee monitoring. While AI tools have streamlined processes, concerns arise around privacy, discrimination, and bias, particularly in hiring and employee surveillance. Legal frameworks globally are evolving to address the challenges posed by AI's integration into the employment sector. This research focuses on the insufficiency of current legal protections against AI-related issues in the workplace, particularly within India. The available research material so far addresses the legal and ethical challenges of using AI for employee surveillance and performance evaluation, emphasising the need for updated regulatory frameworks to ensure fairness and transparency. The integration of AI into employment law requires balancing innovation with the protection of workers' rights and privacy. There is a clear need for the development of comprehensive legal frameworks that balance the benefits of AI with the need to safeguard workers' rights. It proposes regulatory measures to mitigate bias, ensure equitable treatment, and protect personal data in an increasingly automated workplace by assessing how AI impacts labour rights and privacy, drawing parallels with legal systems in countries such as the USA, the UK, Canada, and China.

**Keywords:** Artificial Intelligence (AI), Workplace, Employee Surveillance, Privacy, Discrimination, AI-driven Hiring, Legal Frameworks, Labor Rights, Data Protection, Employment Law, Legal Liability, Accountability, Worker Protections

## Introduction:

The rapid integration of artificial intelligence (AI) in India's employment sector is transforming traditional work practices but simultaneously giving rise to a multitude of legal challenges. This paper investigates the current legal framework governing AI in the workplace, identifying significant deficiencies in existing laws that fail to adequately address issues such as algorithmic discrimination, data privacy, and transparency in AI decision-making. It argues for the urgent need for comprehensive legislation that specifically addresses the unique complexities of AI technology, including standards for accountability, ethical usage, and employee protection.

Moreover, this research highlights the necessity for establishing formal mechanisms for employees to report grievances related to AI-driven processes, advocating for legal recognition of these issues in labour disputes. A comparative analysis of regulatory approaches in jurisdictions such as the European Union, the United States, and the United Kingdom provides valuable insights into best practices, emphasizing the importance of proactive measures in protecting workers' rights.

By synthesizing these findings, the paper aims to propose a framework for developing a robust legal infrastructure that not only mitigates risks associated with AI in employment but also fosters an environment conducive to innovation and fairness. Ultimately, this research seeks to inform policymakers and stakeholders on the imperative of crafting laws that balance technological advancement with the ethical and legal obligations to safeguard employees in an increasingly automated workforce.

## Literature Review:

1. ANALOGY BETWEEN THE DEVELOPMENT OF ARTIFICIAL INTELLIGENCE AND EMPLOYMENT SECTOR - NATIONAL AND INTERNATIONAL ASPECTS by Bensha C Shaji (Assistant Professor of Law Hindustan University Chennai) Angel Shaji (PhD. Research Scholar, Christ Deemed to be University Bangalore). The author addresses the critical issues faced by individuals in India as they confront job losses, on site disruptions; highlighting the negative impact on the economy of a developing nation. The paper emphasizes the absence of comprehensive laws governing the use of artificial intelligence (AI) in the employment sector. As automation and robotics

increasingly threaten to displace human labour across various industries, the uncertainty surrounding job security grows. The author conducts a detailed examination of current employment laws, identifying significant deficiencies that fail to protect workers in the face of technological advancements.

2. **THE IMPACT OF ARTIFICIAL INTELLIGENCE ON EMPLOYMENT LAW AND WORKER PROTECTIONS IN INDIA** by Utkarsh Upadhyay (Jamia Millia Islamia, New Delhi). This paper examines the impact of artificial intelligence (AI) on employment law and workers' protection. AI is increasingly being used to automate routine tasks, which could lead to job displacement in certain industries. The paper explores how AI may affect employment law areas such as discrimination, wage and hour laws, and workplace safety. Additionally, the paper considers the potential impact of AI on worker protections, including workers' compensation and employee benefits. The paper concludes that AI's impact on employment law and workers' protection is still evolving, and employers need to ensure that their AI systems are designed and tested to avoid unintended consequences that may negatively affect workers.
3. **THE IMPACT OF ARTIFICIAL INTELLIGENCE ON THE LABOUR MARKET AND THE WORKPLACE: WHAT ROLE FOR SOCIAL DIALOGUE** by The Global Deal. This article delves into the concerns surrounding autonomous decision-making in the workplace, particularly in HR and management processes. The use of AI for monitoring and evaluating employees—whether in tracking or during recruitment and performance assessments—poses significant ethical dilemmas. These practices raise critical issues related to excessive surveillance and the erosion of fundamental workers' rights. AI-driven decisions can fundamentally alter the employer-employee relationship, introducing risks of biased outcomes, discrimination, and potential violations of data protection and human rights. The paper emphasises the urgent need for legal frameworks that govern these AI applications, ensuring that ethical considerations and workers' rights are prioritised in an increasingly automated workplace.
4. **THE LEGAL IMPLICATION OF ARTIFICIAL INTELLIGENCE IN THE WORKFORCE** by Mritunjay Kumar (National university of study and research in law, Ranchi). The paper discusses in employment law the use of AI in hiring, monitoring, and performance evaluations necessitates an examination of privacy, discrimination, and fairness concerns. Intellectual property issues arise when protecting AI generated inventions and creations, requiring exploration of patentability, copyright, and

ownership rights. Labor and employment regulations must address the impact of AI on the workforce, including job displacement, retraining, and the need for new regulations to address AI specific challenges. Liability and accountability consideration involves determining legal responsibility for harm or errors caused by AI systems, necessitating and understanding of their intersection with data protection laws.

5. AI IN LABOUR RELATIONS: LEGAL IMPLICATIONS AND ETHICAL CONCERNS by Priyanshu Sahu, (RUAS School of Law). This discussion delves into key dimensions including Job Displacement, Worker Rights and Collective Bargaining, Discrimination and Privacy, Regulation and Protection, and New Job Opportunities and Education. Employers need to assess how AI will affect employee well-being, and the societal ramifications of automation and job displacement. Since AI algorithms can be complex and transparent, it can be challenging to understand how decisions are made and who is accountable. In summary, there are opportunities and difficulties associated with incorporating AI into labour relations. Artificial intelligence presents significant ethical and legal issues that need to be carefully considered and resolved, even though technology has the potential to increase productivity and efficiency. In order to ensure that AI is applied in a responsible and moral manner in the workplace, regulatory frameworks must be modified. This will allow innovation to be combined with the defence of societal values and employee rights.

### **Statement Of Research Problem:**

*Insufficient legal recognition of issues caused by ai driven systems in the working sector for recruitment and performance evaluation, due to legal gaps in the existing legislations causing a lack of ai specific legal remedies.*

There is a lack of legal cases related to artificial intelligence (AI) in the employment sector, highlighting a critical gap in both recognition and redress for affected workers. This absence of case law leaves employees without clear avenues for challenging discriminatory practices or unfair treatment arising from AI-driven decisions. There needs to be recognition and encouragement of filing of cases to create a body of case law. This would help ensure accountability and protection for workers in an increasingly automated environment, fostering a fairer and more just workplace.

### **Research Objective:**

This research examines the inadequacy of existing legal protections against AI-related issues in the workplace, with a particular focus on India. Current literature primarily addresses the legal and ethical challenges associated with using AI for employee surveillance and performance evaluation, highlighting the urgent need for updated regulatory frameworks to promote fairness and transparency. Integrating AI into employment law necessitates a careful balance between fostering innovation and safeguarding workers' rights and privacy. There is a distinct requirement for comprehensive legal frameworks that reconcile the advantages of AI with the necessity of protecting employees. This study proposes regulatory measures aimed at mitigating bias, ensuring equitable treatment, and safeguarding personal data in an increasingly automated work environment by drawing comparisons to legal systems in countries such as the USA, UK, Canada, and China.

### **Research Hypothesis:**

The current legal statutes in place to safeguard individual's rights against injury caused by involvement of AI in the working sector is insufficient.

### **Research Questions**

Whether Involvement of AI in the Employment Sector Causes Discrimination in Hiring and Evaluation?

Whether the Digital Personal Data Protection (DPDP) Act Sufficiently Safeguards the Rights of Individuals Against Potential Biases and Discrimination Arising from AI-Driven Decision-Making Processes in Employment?

Whether Involvement of AI in the Employment Sector Causes Job Erosion?

### **Research Method - Analysis And Interpretation:**

This study will be doctrinal in nature, focusing on qualitative analysis of legal texts, statutes, relevant literature and case laws to understand the legal and ethical concerns faced in the employment sector under usage of ai and how there's a need for legal framework to be established governing ai particularly. This methodology involves a systematic examination of literature and their interpretations to assess issues related to biases, discrimination, and job security. Primary sources of examination are relevant statutes such as the Industrial Disputes

Act, IT act, Equal Remuneration Act, and others, along with review of case laws. Secondary sources are research papers, research articles, commentaries, textbooks, scholarly articles etc. The integration of artificial intelligence (AI) in the employment sector presents various legal concerns that impact employees. The following is gist of the same:

### **Legal Issues**

**Discrimination and Bias:** AI systems can perpetuate biases present in training data, leading to discriminatory hiring, promotions, or evaluations based on race, gender, or age.

**Data Privacy Violations:** Extensive data collection for AI applications can infringe on employee privacy rights, especially if data is used without informed consent.

**Lack of Accountability:** Difficulty in tracing responsibility for decisions made by AI can lead to challenges in holding organisations accountable for unfair practices.

**Job Displacement:** Current labour laws may not adequately protect employees from job losses due to automation, leading to disputes over retrenchment and compensation.

**Insufficient Grievance Mechanisms:** Existing frameworks may lack effective channels for employees to contest AI-driven decisions or seek redress for grievances related to AI use.

**Transparency Deficiencies:** Lack of legal requirements for organisations to disclose AI decision-making processes can lead to opacity and mistrust among employees.

**Intellectual Property Issues:** Questions about ownership of AI-generated work can arise, complicating employment agreements and potential disputes over proprietary information.

### **Ethical Issues**

**Algorithmic Transparency:** The use of opaque AI systems raises ethical concerns regarding the fairness and understandability of decisions affecting employees.

**Informed Consent:** Employees may not fully understand the implications of consent agreements regarding their data, leading to ethical breaches in data usage or might feel pressurized to give consent.

**Monitoring and Surveillance:** AI-driven monitoring systems can create a culture of surveillance, infringing on employees' rights to privacy and autonomy.

**Workplace Inequality:** The risk of exacerbating existing inequalities through biased AI systems raises ethical questions about fairness and equity in employment practices.

**Mental Health Impact:** Constant surveillance and performance evaluations by AI can contribute to stress and anxiety among employees, raising ethical concerns about well-being.

**Lack of Employee Agency:** The reliance on AI for decision-making can diminish employees'

sense of control and agency in their roles, leading to ethical implications regarding worker dignity.

**Social Responsibility:** Organisations have an ethical obligation to ensure that AI technologies are used responsibly and do not harm employees or create unsafe work environments.

In India, the below mentioned legal statutes and regulations exist to safeguard employees against negative impacts in the employment sector. Due to the lack of stern laws governing AI in particular under the employment sector, these laws can be used in the face of protecting employees from potential risk caused due to AI until a formal legal framework for the same is laid down.

1. The Constitution of India, Article 14 Right to Equality  
Violation: If AI in employment decisions discriminates arbitrarily, it violates the right to equality and non-discrimination enshrined in Article 14.
2. The Constitution of India, Article 16 Equality of Opportunity in Public Employment  
Violation: If AI discriminates based on caste, religion, gender, etc., it could violate Article 16 which guarantees equal opportunity in public employment.
3. The Information Technology Act, 2000: Section 43A  
Violation: AI systems handling sensitive personal data or information (SPDI) must follow reasonable security practices. A violation can occur if AI is used improperly and personal data is compromised.
4. The Equal Remuneration Act, 1976: Section 4  
Violation: If AI makes biased decisions that lead to unequal pay for men and women for the same work, it violates the Equal Remuneration Act.
5. The Rights of Persons with Disabilities Act, 2016: Section 3  
Violation: If AI discriminates against persons with disabilities in employment, it violates Section 3, which provides for equality and non-discrimination.
6. The Industrial Disputes Act 1947  
Section 25T (Prohibition of unfair labour practices): If AI systems lead to unfair labor practices such as wrongful termination or arbitrary decisions, Section 25T may be invoked.  
Section 25F: Requires that an employer provide notice and compensation to employees before retrenching them, ensuring job security in the face of automation.
7. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013: Section 3

Violation: If AI algorithms or tools fail to protect women from sexual harassment or are used to manipulate reporting, it could violate Section 3 which prohibits sexual harassment in the workplace.

8. The Contract Labour (Regulation and Abolition) Act, 1970: Section 10

Violation: If AI tools make decisions about employing or terminating contract labour in violation of labour regulations, companies could be held accountable under this Act.

9. The Payment of Wages Act, 1936: Section 7

Violation: If AI systems handling payroll make unauthorised deductions or delays in payments, Section 7 of this Act, which regulates deductions from wages, might be violated.

10. The Maternity Benefit Act, 1961: Section 12

Violation: If AI systems discriminate against pregnant employees or deny them maternity benefits, it would violate Section 12 of this Act, which guarantees protection during pregnancy and maternity leave.

### CASE LAWS:

*K.K. Gautam v. State of U.P. and Ors*: This case involved a challenge to the use of AI-powered facial recognition technology for attendance monitoring in government schools. The petitioner argued that using such technology violated students' right to privacy and autonomy. The court directed the state government to ensure that the use of the technology was in compliance with the Personal Data Protection Bill, 2019, and other relevant laws.

*State of Maharashtra v. Vijay Tukaram Gomate*: This case involved a challenge to the use of AI in the police department for predictive policing. The petitioner argued that the use of such technology violated privacy rights and could result in false arrests. The court held that the use of predictive policing technology should be transparent and that the police should have clear guidelines for its use and relied on the Maharashtra Industrial Relations Act, 1946 (section 9: equal representation and fair treatment). Additionally, principles of natural justice and relevant sections from the Constitution of India, particularly Articles 14 (right to equality) and 21 (right to life and personal liberty), were also referenced to underscore the need for fair administrative processes in employment-related matters.

*Anivar A Aravind v. Ministry of Home Affairs*: In this case, the petitioner challenged the use of an AI-powered surveillance system by the Indian government, arguing that it violated privacy

rights. The court directed the government to ensure that the use of the system was in compliance with the Personal Data Protection Bill, 2019, and other relevant laws and that the data collected was only used for the purpose for which it was collected.

The current legal framework in India, is often inadequate to address the complexities and challenges posed by the integration of artificial intelligence (AI) in the employment sector. This insufficiency manifests in several key areas:

1. Generalisation of Existing Labour Laws

**Broad Provisions:** Many labour laws, such as the Industrial Disputes Act, 1947, are formulated with traditional employment practices in mind. They lack specificity concerning AI-driven processes, which can result in outdated interpretations when applied to modern work environments. For instance, terms like "retrenchment" do not account for automated layoffs that might occur without traditional notification or compensation mechanisms.

**Limited Applicability:** Provisions regarding unfair labour practices, job security, and wages do not explicitly address scenarios where AI systems might make decisions about hiring, promotions, or terminations, leading to potential legal ambiguities.

2. Data Protection and Privacy Gaps

**Inadequate Data Protections:** Although the Digital Personal Data Protection (DPDP) Act seeks to safeguard personal data, it does not provide robust protections against biases that may arise from the use of AI in employment. The Act lacks specific guidelines for handling data that informs AI algorithms, potentially allowing discriminatory practices to go unchecked.

**Consent Issues:** The requirement for informed consent under the DPDP Act is crucial, but in employment scenarios, power dynamics may pressure employees into consenting without fully understanding the implications. This can result in ethical breaches and legal challenges.

3. Insufficient Mechanisms for Accountability

**Transparency Deficiencies:** There are no explicit legal requirements for organizations to disclose how AI systems function or how decisions are made. This lack of transparency can prevent employees from understanding the basis for adverse decisions impacting their careers, leading to feelings of injustice and potential legal disputes.

**Requirement for Algorithmic Audits:** Current laws do not mandate regular audits of AI systems to assess their fairness or identify biases. Without these audits, organizations

may unintentionally perpetuate discrimination, leaving employees without recourse

#### 4. Limited Employee Rights and Protections

**Weak Grievance Redressal Mechanisms:** The existing legal framework lacks robust mechanisms for employees to challenge AI-driven decisions. While the DPDP Act provides rights to access and correction, these rights may not be practical when applied to automated systems that lack transparency.

**Inadequate Legal Recourse:** Employees may find it challenging to seek justice in cases of AI-related discrimination. Existing laws do not provide clear pathways for addressing grievances related to biases in AI decision-making processes, leaving individuals with limited options.

#### 5. Challenges with Job Security and Automation

**Job Displacement Provisions:** The existing framework offers limited protections against job displacement due to AI. While the Industrial Disputes Act requires notice and compensation for layoffs, these provisions may not adequately address the nuances of job loss due to automation, which can occur without traditional layoffs.

**No Provisions for Reskilling:** Current labor laws do not mandate employers to provide training or reskilling opportunities for employees whose jobs may be affected by AI. This oversight can lead to a workforce that is unprepared for the evolving job market.

#### 6. Absence of Ethical Guidelines

**Lack of Ethical Standards:** There are no comprehensive legal guidelines that address the ethical implications of AI in employment, such as fairness and accountability. This absence allows organizations to deploy AI systems without considering their potential impact on employees' rights and well-being.

**Neglect of Social Responsibility:** The current legal landscape does not sufficiently encourage organizations to adopt responsible AI practices. Without legal incentives, companies may prioritize efficiency over ethical considerations, exacerbating risks to employee rights.

#### 7. Dynamic Nature of Technology

**Lagging Regulations:** As AI technology evolves rapidly, existing statutes are often outdated, failing to keep pace with innovations in the workplace. This disconnect can lead to regulatory gaps that fail to protect employees effectively.

**Reactive Rather Than Proactive:** The current legal framework tends to be reactive, responding to issues only after they arise, rather than anticipating challenges posed by

AI integration. This approach can leave employees vulnerable to exploitation and unfair practices.

The insufficiencies of current legal statutes in India to govern AI in the employment sector present significant risks to employees. Existing laws lack specificity, accountability, and the ability to adapt to rapidly changing technologies. They are merely reactive and not proactive. The need for a formal legal framework that addresses these gaps is urgent. Such a framework should incorporate tailored regulations, accurate accountability mechanisms, enhanced employee rights, and ethical standards to ensure that AI technologies are deployed responsibly and justly in the workplace.

### *Whether Involvement of AI in the Employment Sector Causes Discrimination in Hiring and Evaluation?*

The integration of artificial intelligence (AI) into the employment sector has transformed traditional hiring and evaluation processes. While AI has the potential to enhance efficiency and objectivity, concerns about discrimination and bias are increasingly prevalent.

#### Understanding AI in Hiring and Evaluation

- **Functionality of AI Systems:** AI tools used in recruitment often analyze vast datasets to identify patterns that may indicate a candidate's suitability for a position. These systems may include resume screening software, interview analysis tools, and performance evaluation algorithms.
- **Data-Driven Decision-Making:** AI systems rely on historical data to inform their decisions. This data-driven approach can streamline processes, but it also raises concerns about the quality and biases of the input data.
- **Mechanisms Leading to Discrimination**
- **Historical Bias in Training Data:** AI algorithms are typically trained on historical hiring data, which may reflect existing biases in the recruitment process. If past hiring decisions favoured certain demographic groups (e.g., based on race, gender, or education), the AI may inadvertently learn and perpetuate these biases in its recommendations.
- **Feature Selection and Algorithm Design:** The way AI systems are designed can introduce bias. For example, if certain features (like educational background or work experience) are prioritized in an algorithm, it may disadvantage candidates from diverse backgrounds who may not have had the same opportunities.
- **Natural Language Processing (NLP) Bias:** AI tools that utilize NLP to analyze language

in resumes or interviews can inadvertently favor candidates who communicate in ways that align with prevailing cultural norms. This can disadvantage individuals from different linguistic or cultural backgrounds.

- **Feedback Loops:** AI systems that learn from their outputs can create feedback loops. If an AI consistently selects candidates from similar backgrounds, it may reinforce existing biases over time, making it more difficult for diverse candidates to be considered in the future.
- **Implications of Discrimination**
- **Inequality in Opportunities:** Discriminatory AI systems can perpetuate and exacerbate existing inequalities in the labour market. Groups that are already underrepresented may find it even more challenging to secure employment or advancement, leading to a lack of diversity in the workplace.
- **Legal and Ethical Consequences:** Organizations using biased AI tools may face legal repercussions under anti-discrimination laws. Ethical concerns arise as well, particularly if companies prioritize efficiency over equitable hiring practices.
- **Impact on Company Culture:** A lack of diversity stemming from biased hiring practices can negatively impact company culture, innovation, and employee morale. Diverse teams are often linked to improved problem-solving and creativity.

The involvement of AI in the employment sector clearly poses risks of discrimination and bias that must be addressed proactively. Organizations must implement strategies to mitigate bias, ensuring that AI systems promote fairness and equity in hiring and evaluation.

*Whether the Digital Personal Data Protection (DPDP) Act Sufficiently Safeguards the Rights of Individuals Against Potential Biases and Discrimination Arising from AI-Driven Decision-Making Processes in Employment?*

The DPDP Act is designed to protect individuals' personal data, regulate data processing by organizations, and ensure data subject rights. It aims to create a balance between data protection and the growth of the digital economy.

#### **Mechanisms Addressing Bias and Discrimination:**

- **Consent Mechanisms: Section 6: Processing of Personal Data**

This section stipulates that personal data can only be processed if the individual has provided explicit consent. It outlines the requirements for obtaining consent, ensuring

that individuals are informed about the purpose of data processing and that consent is freely given. This is crucial in employment contexts, where candidates should be informed about how their data will be used, especially in AI systems that might produce biased outcomes.

- **Data Minimization: Section 5: Purpose Limitation and Data Minimization**

This section emphasizes that data processing must be limited to what is necessary for the purposes for which it is processed. It mandates that organizations should only collect personal data that is relevant and necessary for their stated purpose, thereby minimizing the amount of data collected. This can help mitigate the risk of discrimination by limiting the data points that could lead to biased AI outcomes.

- **Rights to Data Access and Correction: Section 12: Rights of Data Principals**

This section outlines the rights of individuals concerning their personal data, including: Individuals have the right to request access to their personal data held by data fiduciaries. Individuals can request corrections to their personal data if it is inaccurate or incomplete. Individuals have the right to access their personal data and request corrections. This provision can empower employees and job applicants to identify and contest any biased data or incorrect information used in AI-driven decisions.

### **Potential Shortcomings in Safeguarding Rights**

- **Lack of Specific Provisions for AI Bias:** The DPDP Act does not explicitly address biases in AI systems or mandate organizations to conduct bias assessments. This gap can leave individuals vulnerable to discrimination, as AI systems may operate without accountability for their outputs.
- **Insufficient Clarity on "Automated Decisions":** While the Act covers data processing, it lacks detailed provisions regarding automated decision-making processes. The absence of a clear framework for transparency in AI-driven decisions can hinder individuals' ability to understand how such decisions are made.
- **Limited Enforcement Mechanisms:** According to Section 3(c)(ii) of the DPDP act, it does not apply to data that is made publicly available by the "data principal" or any other person legally obligated to make the data publicly available. Such data is used to train ai models for the purpose of performance evaluation and background checks which acts as an invasion to privacy and biased perspectives under the scope of employment.
- **Over-reliance on Consent:** While consent is vital, the power dynamics in employment

may pressure individuals into agreeing to data processing practices without fully understanding the implications. This can lead to situations where individuals unknowingly consent to biased decision-making.

While the Digital Personal Data Protection Act provides foundational protections for individuals regarding their personal data, it requires enhancements to adequately safeguard against biases and discrimination arising from AI-driven decision-making processes in employment. This act does not provide any accurate remedy for ai injuries specifically making it vague in terms of involvement of ai.

### *Whether Involvement of AI in the Employment Sector Causes Job Erosion*

The rise of artificial intelligence (AI) in the employment sector has prompted significant debate regarding its impact on job security. While AI promises increased efficiency and innovation, there are growing concerns about job erosion, particularly for certain roles and industries. This analysis explores the mechanisms through which AI might contribute to job erosion, the sectors most affected, implications for the workforce, and potential strategies for adaptation.

**Automation of Tasks:** AI technologies automate various tasks, from routine data entry to complex decision-making processes. This automation can lead to job displacement, particularly for roles that involve repetitive tasks.

**AI in Decision-Making:** AI systems are increasingly used to assist or replace human decision-making in areas such as hiring, performance evaluation, and operational management, potentially reducing the need for human oversight.

**Job Replacement:** As AI technologies become capable of performing tasks traditionally done by humans, certain job roles may become redundant. For example, chatbots can handle customer service inquiries, diminishing the need for human customer service representatives.

**Skill Displacement:** AI can change the skill requirements of various jobs. Workers may find their existing skills obsolete, leading to job erosion in sectors that do not adapt or retrain their workforce.

**Efficiency Gains:** Organizations adopting AI often aim for greater efficiency, which can lead to reduced staffing needs. As companies streamline operations, they may eliminate roles that

are no longer deemed essential.

**Shifts in Job Functions:** AI may transform job functions rather than eliminate them entirely. Employees may find themselves shifted into roles that require different skill sets, leading to job erosion in traditional areas.

#### Sectors Most Affected by Job Erosion

- **Manufacturing:** Historically, manufacturing has been a primary sector impacted by automation. Robots and AI systems can perform tasks like assembly and quality control, significantly reducing the need for human labor.
- **Retail:** The retail sector has seen a rise in AI-driven technologies, such as automated checkouts and inventory management systems, leading to a decrease in cashier and stockroom positions.
- **Customer Service:** The proliferation of chatbots and virtual assistants has transformed customer service. Many inquiries that once required human interaction can now be handled by AI, leading to a reduction in customer service roles.
- **Administrative Roles:** AI systems are increasingly capable of performing administrative tasks such as scheduling, data entry, and basic bookkeeping, potentially leading to job losses in these areas.

#### Implications of Job Erosion

- **Economic Impact:** Job erosion can lead to higher unemployment rates and economic instability, particularly in communities reliant on affected industries. This can exacerbate income inequality and reduce overall consumer spending.
- **Worker Displacement:** Displaced workers may struggle to find new employment opportunities, especially if they lack the skills needed for emerging roles. This displacement can lead to increased stress and reduced job satisfaction.
- **Social Discontent:** Widespread job erosion can contribute to social unrest and dissatisfaction with economic policies, as individuals feel threatened by technological advancements.

The involvement of AI in the employment sector raises significant concerns regarding job erosion. While AI offers the potential for increased efficiency and innovation, it also poses risks of job displacement and skill obsolescence. There are high chances of

unemployment and a negative impact on the economy.

### **Suggestions:**

#### **China**

The New Generation Artificial Intelligence Development Plan (2017): This outlines China's strategic approach to AI, emphasizing ethics and governance.

The AI Ethical Guidelines (2021): Issued by the Ministry of Science and Technology, these guidelines set principles for responsible AI development, that stress fairness, transparency, and accountability.

The Personal Information Protection Law (2021): While not exclusively about AI, this law emphasizes data protection and privacy, impacting how AI systems handle personal data.

The Cybersecurity Law (2017): This law includes provisions relevant to AI, focusing on data security and user rights.

1. Zhang v. Beijing Daxing District Labor Bureau (2014)

This case involved a dispute over wrongful termination linked to performance evaluations influenced by AI metrics. The case highlighted the need for human oversight in decisions influenced by AI. The court ruled in Favor of the employee, stating that performance evaluations must adhere to fairness standards and not solely rely on automated assessments.

2. Wang v. Chongqing Huayi Group (2016)

The case dealt with discrimination in hiring practices based on automated screening processes. The court found that reliance on biased algorithms in hiring led to discrimination against specific demographic groups. This decision emphasized the importance of auditing AI systems to prevent discriminatory outcomes.

3. Liu v. Shenzhen Longgang District Labor Bureau (2018)

This case focused on the treatment of gig workers monitored by AI systems. The court ruled that AI systems used for monitoring must not infringe on workers' rights and privacy. The ruling highlighted the importance of balancing technological advancement with worker protections.

## United States

**Equal Employment Opportunity Commission (EEOC) Guidance:** While there's no federal AI-specific employment law yet, the EEOC has issued guidance on AI in employment, warning that if AI systems result in discrimination (like through biased algorithms), it would violate laws like Title VII of the Civil Rights Act, ADA, and ADEA.

**Algorithmic Fairness:** The EEOC focuses on ensuring AI systems don't create disparate impact (unintentional discrimination) when used in hiring or evaluating employees.

**AI Bill of Rights (Blueprint):** Released by the White House, this is more of a guideline than law, but it focuses on protecting workers from algorithmic bias and ensuring fair treatment in AI-related decision-making processes.

1. EEOC v. Amazon (AI in Hiring) (2021):

Amazon faced scrutiny from the Equal Employment Opportunity Commission (EEOC) after it was revealed that its AI-driven hiring systems disproportionately rejected candidates based on gender or racial bias. Amazon revised its AI systems and made adjustments to ensure they were not discriminatory, though specific case details were largely settled out of court, with no formal ruling. This marked the first major government intervention into AI hiring practices.

2. Lowe v. Axxiom (AI in Background Checks) (2018):

This case involved a job applicant whose employment offer was rescinded based on a flawed background check conducted by an AI-driven system. The applicant alleged that the AI made incorrect associations with criminal records, violating the Fair Credit Reporting Act (FCRA). The court sided with the applicant, highlighting the risk of using AI without sufficient human oversight, and Axxiom was required to pay damages.

3. Lopez v. Uber Technologies (2020) - Gig Worker Classification:

This case centered on Uber's use of AI-driven systems to control and monitor drivers, with drivers claiming they should be classified as employees due to how the system managed their work, including performance reviews and availability. Uber settled with plaintiffs, agreeing to pay millions in compensation and to make changes in their AI management systems. This case, along with others, prompted re-examination of gig workers' rights in the U.S., especially in California under Assembly Bill 5 (AB5).

## European Union (EU)

AI Act (proposed): The EU is working on the Artificial Intelligence Act, a comprehensive legal framework aimed at regulating AI across different sectors, including employment. It categorizes AI systems into four risk categories: unacceptable, high, limited, and minimal risk. High-risk systems (like AI used for hiring, firing, or promotions) will be subject to strict regulations like transparency, accountability, and the need for human oversight.

General Data Protection Regulation (GDPR): Under Article 22 of the GDPR, people have the right not to be subject to decisions based solely on automated processing, including AI, if it has a significant impact on them (e.g., in employment).

## United Kingdom

Equality Act 2010: Though not AI-specific, this act prevents discrimination in employment, and if AI causes direct or indirect discrimination based on protected characteristics (e.g., race, gender, disability), it's a violation.

ICO Guidelines: The Information Commissioner's Office in the UK has released guidelines for organizations using AI in employment decisions, stressing transparency, fairness, and the right to human intervention if an AI system makes significant decisions about an employee's job. Employers must ensure that AI systems are designed to avoid bias, and they must regularly monitor these systems for discriminatory effects.

1. AI Surveillance in the Workplace (British Airways Case):

British Airways faced criticism and complaints over its use of AI-powered surveillance to monitor employee activity. While this case didn't go to court, regulatory bodies like the Information Commissioner's Office (ICO) were involved in ensuring compliance with GDPR and privacy laws. The ICO reminded employers about their obligations under GDPR, specifically around transparency and proportionality of employee monitoring. Employers were warned to ensure AI surveillance respects privacy rights.

2. Deliveroo Rider Classification Case (2018):

Misclassification of workers due to AI management systems, affecting employment rights. Deliveroo riders, whose schedules and jobs were managed via an algorithm, sought to be recognized as "workers" with corresponding rights like minimum wage and holiday pay. This involved AI-driven systems in the gig economy and how they classify workers. The Central Arbitration Committee (CAC) ruled that Deliveroo riders

were not classified as "workers" due to their ability to reject jobs and engage others in their place, though this has since been appealed and re-evaluated.

3. AI Facial Recognition - Ed Bridges v South Wales Police (2020):

AI facial recognition technology violating privacy rights and lacking proper oversight, impacting the use of AI in workplace security. This landmark case involved the use of AI-powered facial recognition technology by South Wales Police, which scanned crowds for criminal matches. Ed Bridges claimed this was an unlawful breach of his privacy and human rights. The UK Court of Appeal ruled in Bridges' Favor, stating that the use of facial recognition by the police was unlawful, as it violated privacy and data protection regulations.

## Canada

Artificial Intelligence and Data Act (AIDA) (proposed): Canada drafting the AIDA as part of Bill C-27, which will regulate high-impact AI systems. This includes employment-related AI systems, ensuring they don't cause discrimination or violate worker rights.

PIPEDA (Personal Information Protection and Electronic Documents Act): Under PIPEDA, AI systems that use personal data in employment decisions need to respect privacy and inform employees of the algorithms being used.

### How Foreign Laws and Their Insight Can Help India Implement New Laws:

- **Emphasis on Ethical AI Use:** Their focus on fairness, transparency, and accountability in AI provides a framework for India to consider similar ethical principles in its legislation.
- **Incorporation of Labor Rights:** The alignment of AI usage with existing labour laws can guide India in ensuring that new AI regulations uphold and reinforce worker protections.
- **Legal Precedents for Fair Practices:** These landmark judgments in the above countries offer insights into how to address potential disputes arising from AI use in employment, advocating for fairness and oversight.
- **Monitoring and Auditing Requirements:** The necessity for regular audits of AI systems in China highlights the importance of accountability, which India can adopt to ensure compliance with anti-discrimination laws.
- **Balancing Innovation with Protections:** Their approach to ensuring that AI does not

lead to worker exploitation can inspire India to create regulations that foster innovation while protecting employee rights.

- **Emphasis on Risk Assessment:** Canada's requirement for risk assessments of AI systems can guide India in establishing protocols to identify and mitigate potential biases and discrimination in AI applications.
- **Framework for Transparency:** The focus on transparency and informing employees about algorithmic processes in foreign countries can inspire Indian regulations to ensure that organizations disclose the criteria and data used by AI systems.
- **Protection of Employee Rights:** USA's regulatory approach reinforces the importance of protecting worker rights in the face of AI-driven decisions, which can be a guiding principle for India in developing its own laws.
- **Judicial Precedents:** The landmark judgments in all the countries can serve as a reference for Indian courts when adjudicating disputes related to AI in employment, providing a legal foundation for addressing discrimination and bias.
- **Promoting Fairness:** Canada's initiatives to promote fairness in AI can encourage India to adopt similar principles, ensuring that its laws are aligned with international best practices.

We humbly recommend to ensure the effective regulation of AI-driven processes within the framework of the IT Act and the DPDP Act, by inclusions of clear definitions of AI and its applications, establishing accountability and liability standards for AI-generated outcomes. Additionally, provisions for transparency and explainability should be mandated, allowing users to understand how AI systems make decisions. It is also necessary to make provisions for ai driven recruitment bias since section 5 of the equal remuneration act only addresses recruitment bias based on gender whereas there are other grounds that need to be addressed too. By integrating these elements, the revised legislation can create a balanced environment that fosters technological advancement while safeguarding user rights and public trust.

### **Scope And Limitation Of Study:**

This doctrinal research methodology will facilitate a thorough examination of existing legal and ethical issues majorly focussing on discriminative practices and job erosion caused due to ai along with other negative drawbacks. It also analyses protections available for employees in the context of AI in the employment sector in the existing labour laws. By focusing on

statutory interpretation, case law analysis and interpretations of existing research material this paper aims to contribute suggestive insights into actionable recommendations for improvement in comparison with foreign laws. The limitations of the paper could be the narrowed down approach due to major lack of abundant literature material, accurate legal framework or case laws available specifically targeting ai since it has just started evolving. The rapidly changing nature of AI may render certain findings time-sensitive, continuously shifting or not applicable in the near future.

### **Conclusion:**

Undoubtedly, unregulated and unsupervised use of AI at the workplace raises grave ethical and legal concerns. Currently, in India, there are no standalone employment law legislations that address concerns regarding the use of AI at the workplace. In the absence of appropriate regulation, the entire ecosystem is unwittingly dependent on individual employers to have adequate internal policies addressing relevant concerns arising out of the use of AI which is a very unstable approach. Hence the need of the hour is to establish and implement a specific and accurate legal framework targeting usage of ai in employment sectors to govern the issues caused due to it and provide the needed remedy to the victims.

### **References:**

1. Cheng, Z. (2023, September 13). Ethics and discrimination in artificial intelligence-enabled recruitment practices. Retrieved from Nature.com: <https://www.nature.com/articles/s41599-023-02079-x>.
2. Centre for Internet and Society (CIS). (2019). Artificial intelligence and the Indian legal system. Retrieved from <https://cis-india.org/internet-governance/blog/ai-and-the-indian-legal-system>
3. Upadhyay, U. (n.d.). The Impact Of Artificial Intelligence On Employment Law And Worker Protections In India. Retrieved from theamikusqraie: <https://theamikusqraie.com/the-impact-ofartificial-intelligence-on-employment-law-a-nd-worker-protections-in-india/>
4. Rajat Sethi, D. B. (2023, July 5). Regulating Artificial Intelligence in India: Challenges and Considerations. Retrieved from Chambers.com: <https://chambers.com/articles/regulating-artificialintelligence-in-india-challenges-and-considerations>

5. Sengupta, S. (2019). AI and the future of work in India. *Economic and Political Weekly*, 54(26-27), 56-62.
6. <https://www.ijfmr.com/papers/2024/2/16324.pdf>
7. <https://www.lawctopus.com/academike/ai-in-labour-relations-legal-implications-and-ethical-concerns/#:~:text=One%20of%20the%20most%20significant,reflect%20and%20reinforce%20societal%20prejudices.>
8. <https://theamikusqraie.com/the-legal-implication-of-artificial-intelligence-in-the-work-force/>
9. <https://theamikusqraie.com/the-impact-of-artificial-intelligence-on-employment-law-and-worker-protections-in-india/>
10. <https://www.theglobaldeal.com/news/The-impact-of-artificial-intelligence-on-the-labor-market-and-the-workplace.pdf>
11. <https://centres.weforum.org/centre-for-the-fourth-industrial-revolution/india>
12. Binns, Reuben. "Fairness in Machine Learning: Lessons from Political Philosophy." In *Proceedings of the 2018 Conference on Fairness, Accountability, and Transparency (FAT\* 2018)*. This paper discusses the ethical implications of fairness in AI, relevant to employment.
13. Dastin, Jill. "Amazon Scraps Secret AI Recruiting Tool That Showed Bias Against Women." *Reuters*, 2018.
14. Raji, Inioluwa Deborah, and Joy Buolamwini. "Actionable Auditing: Investigating Bias in Machine Learning through Adversarial Testing."
15. "Artificial Intelligence in Employment: Legal and Ethical Issues." *International Labour Organization (ILO)*, 2021.
16. López, Manuel, and Manuel Martínez. "AI and Employment Law: The Future of Work and the Legal Framework." *Journal of Labor and Employment Law*, 2021.
17. "Algorithmic Bias Detectable in AI Hiring Tools." *Harvard Law Review*, 2020. This article discusses legal issues arising from algorithmic bias in hiring practices.