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# **CAN ARTIFICIAL INTELLIGENCE MANAGE THE AFFAIRS OF A COMPANY: A CONTEMPORARY ANALYSIS WITH COMPANIES ACT, 2013.**

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## **Origin & Evolution of AI**

Back in the 1950s the outdated technology, as we know today used to be a thing only the rich and intellectual few could afford. Among the ones who could afford, only a further few pursued it and contributed towards research and development of technology. Acclaimed mathematician & computer scientist Alan Turing in his paper “*Computer Machinery & Intelligence*” first introduced the idea of having a super computer, designed in a way in which it could not only mimic human like mind mapping but could potentially solve complex problems and assist in the betterment of human livelihood.<sup>1</sup> Few years later in a conference “*Darhmouth Summer Research Project on Artificial Intelligence*” theorists Allen Newell, Cliff Shaw & Herbert Simon presented a model called “*Logic Theorist*”. This model was a computer program which was designed to mimic human skills required for problem solving and to come up with alternative solutions to day to day human activities. These ideas worked like a catalyst in the late 1990s through late 2010s, resulting in the a potential new form of life, among us, one which can think like a human, work like a human, plan like a human yet what really challenges is the form in which it exists is nothing like the traditional one rather exists as a computer programs in devices, the Artificial Intelligence.

But the question is Can Artificial Intelligence be entrusted with the same responsibilities as a Human Being? Artificial Intelligence for sure has the potential to bring out major reforms to multiple specters of human life and has the required application solve and multitask through complex situations and all this at a fraction of time in comparison to what an ordinary person would have taken. In the personal ambit Artificial Intelligence has found its way into the human

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<sup>1</sup> Turing, Alan “Computing Machinery & Intelligence”

life through multifold approach, be it as an voice assistant, be it as smart home utility gadget, be it professional designing tools, be it the prototype in vehicles and communications. From aiding to work place corporate pitches to civil engineering, from defence mobility to medical research and developments, from education to recreational entertainment and leisure. But the question is can Artificial Intelligence be allowed to use its application to govern itself and thus take critical decisions, operate an organization or apply its commercial wisdom to a corporate entity and balance good governance or should it be regulatorily restricted as only a aiding tool and nothing beyond?

Can Artificial Intelligence be appointed as Key Managerial Persons in companies, can Artificial Intelligence be brought on as a Board Director to optimize the companies' affairs?

## Who are KMP, BOD, MP & Managers

The Companies Act of 2013<sup>2</sup> in India represents a pivotal legislative overhaul aimed at reinforcing corporate governance, secretarial standards and enhancing transparency in corporate entities to help them achieve their economic objectives while protecting the humane element of the ecosystem. Within this statutory framework, Key Management Personnel (KMP), Board of Directors (BoD), and Managers play indispensable roles in steering the affairs of a company. This essay delves into the regulatory provisions governing these entities and their respective responsibilities under the Companies Act 2013.

- Key Management Personnel (KMP):

Under Section 2(51) of the Companies Act 2013<sup>3</sup>, KMP encompasses individuals who wield substantial authority and bear significant responsibilities in the senior/top management hierarchy. The Act explicitly identifies KMP to include the Managing Director, Chief Executive Officer, Chief Financial Officer, Company Secretary, and Whole-time Director. Additionally, any other officer as specified by the Board also falls under the purview of KMP.

Section 197 & Section 203 are notable provision concerning KMP, whit regardsto the disclosure of related information. This ensures transparency regarding the compensation packages of key executives, thereby aligning their interests with those of shareholders. Moreover, Section 203 imposes stringent disclosure requirements on KMP regarding their shareholding in the company, mitigating potential conflicts of interest and promoting

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<sup>2</sup> The Companies Act, 2013 (Act 18 of 2013)

<sup>3</sup> Section 2(51) of the Companies Act 2013

corporate governance best practices.

- **Board of Directors (BoD):**

The Board of Director<sup>4</sup> serves as the apex governing body entrusted with the responsibility of charting the company's strategic course and ensuring its overall governance. As per Section 149 of the Companies Act 2013, the composition of the BoD must comprise executive, non-executive, and independent directors, for companies which meet certain conditions. The inclusion of independent directors enhances objectivity and fosters impartial oversight, safeguarding the interests of stakeholders.

A landmark case that underscores the significance of the Board of Director's role is the Satyam Computers scandal. In this case, the failure of the BoD to exercise due diligence and provide effective oversight led to one of India's most infamous corporate frauds. Consequently, the Companies Act 2013 introduced stringent provisions, such as mandatory rotation of auditors and enhanced disclosures, to bolster board accountability and prevent recurrence of such malfeasance.

- **Managers:**

While distinct from KMP, managers<sup>5</sup> play a pivotal role in executing the strategic directives formulated by the BoD and ensuring operational efficiency. Their responsibilities encompass supervising day-to-day operations, managing resources, and implementing policies in line with the company's objectives. Although managers may not always occupy top executive positions, their contributions are instrumental in driving organizational performance and achieving corporate goals.

Adherence to these statutory provisions is imperative to foster transparency, accountability, and shareholder confidence. By upholding ethical standards and fulfilling their obligations, these entities contribute to the sustainability and resilience of India's corporate landscape.

## **What Law says on Artificial Intelligence**

Navigating the legal landscape of Artificial Intelligence in India requires a multifaceted approach that balances innovation with ethical and societal considerations. While existing laws provide a

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<sup>4</sup> Section 2(34) of the Companies Act 2013

<sup>5</sup> Section 2(53) of the Companies Act 2013

foundation, specific regulations tailored to Artificial Intelligence are imperative to address emerging challenges effectively. By proactively addressing issues of accountability, fairness, and IP protection while promoting ethical Artificial Intelligence development, India can harness the transformative potential of Artificial Intelligence while safeguarding individual rights and societal values. As India continues its journey towards becoming a global Artificial Intelligence powerhouse, a robust legal framework will be instrumental in guiding responsible Artificial Intelligence innovation and ensuring equitable access to its benefits for all. In India, currently no law or guidelines exist which governs the functioning of Artificial Intelligence. However the Information Technology Act, 2000, serves as a foundational statute governing electronic transactions and cyberspace. Additionally, the Digital Personal Data Protection Act, 2023, aims to safeguard individuals' data privacy, including data processed by Artificial Intelligence systems. In 2018 the principle think tank of the Government of India, NITI Aayog came with a 2 part advisory "*National Strategy for Artificial Intelligence*" the 2 parts, Part-1: "*Principles for Responsible AI*" & Part-2: "*Operationalizing Principles for Responsible AI*"

One of the foremost challenges in regulating Artificial Intelligence pertains to accountability and liability. As Artificial Intelligence systems autonomously make decisions, determining responsibility in case of errors or harm becomes complex. Indian law in future must clarify the liability framework, specifying the roles of developers, users, and Artificial Intelligence systems themselves in various contexts, such as autonomous vehicles, medical diagnosis, handling of data or anywhere in general where Artificial Intelligence has applied its own mind & application. Another critical issue is ensuring fairness and non-discrimination in Artificial Intelligence algorithms. Biases inherent in training data can perpetuate societal inequalities, leading to discriminatory outcomes. Indian lawmakers need to mandate transparency and fairness assessments for Artificial Intelligence systems, promoting inclusivity and mitigating bias in algorithmic decision-making. Moreover, protecting intellectual property (IP) rights in Artificial Intelligence innovations poses a significant challenge. Balancing the incentives for innovation with the need for widespread Artificial Intelligence access and development is essential. Indian law should provide clarity on Intellectual Property ownership, licensing, and protection mechanisms to foster innovation while preventing monopolistic practices that stifle competition. Recently in 2023, India became a signatory to the Global Partnership on Artificial Intelligence, a intergovernmental organization comprising of more than 25 top economic countries around the world, this partnership aims developing a responsible Artificial Intelligence with sustainable and inclusive governance and development.

Indian authorities are working on Artificial Intelligence policies for the country, including the Ministry of Electronics and Information Technology, which has created committees on Artificial Intelligence that have submitted reports on the development, safety, and ethical issues related to Artificial Intelligence. The Bureau of Indian Standards, which is the national standards body of India, has also established a committee on Artificial Intelligence that is proposing draft Indian standards for Artificial Intelligence. While the government of India has taken steps to regulate Artificial Intelligence, its approach has mainly been one of pro-innovation with the development of policies and guidelines that acknowledge the ethical concerns and risks around the use of Artificial Intelligence that shall require the adoption of best practices. Given India's advantage of having a robust software development industry, this approach makes sense until the government formally enacts Artificial Intelligence regulations.

### **International Analysis**

Recently in March 2024, Lawmakers in the European Parliament voted overwhelmingly in favor of the Artificial Intelligence Act, five years after regulations were first proposed. The AI Act is expected to act as a global signpost for other governments grappling with how to regulate the fast-developing technology. *“The AI Act has nudged the future of AI in a human centric direction, in a direction where humans are in control of the technology and where it the technology helps us leverage new discoveries, economic growth, societal progress and unlock human potential,”* Dragos Tudorache, a Romanian lawmaker who was a co-leader of the Parliament negotiations on the draft law, said before the vote. The Act is intended to act as consumer safety legislation, taking a *“risk-based approach”* to products or services that use artificial intelligence or platforms which enables AI to use its own application of mind. When it comes to enforcement, each European Union member country will set up their own AI watchdog, tasked with enforcing and supervising the law for general purpose AI systems, where citizens can file a complaint if they think they've been the victim of a violation of the rules.

In historic move Joe Biden the president of United States of America has order all the federal agencies of the state to appoint a Chief AI Officer, who will manage and plan on AI related risks and development and come up with strategies to optimally implement AI throughout the Agencies for better productivity and good governance.

## Future perspective

Artificial Intelligence has already begun reshaping industries and societies, but its full potential is yet to be realized. As we look to the future, the trajectory of AI promises profound transformations across various domains, presenting both opportunities and challenges. One of the most significant aspects of AI's future lies in its continued evolution and advancement. As computing power increases and algorithms become more sophisticated, AI systems will surpass current capabilities, enabling breakthroughs in areas such as natural language processing, computer vision, and robotics. This evolution will lead to AI systems that can understand and interpret human language with human-like fluency, perceive and analyze visual information with unmatched accuracy, and autonomously perform complex tasks with precision.

Another pivotal aspect of AI's future is its integration into everyday life. From smart homes and autonomous vehicles to personalized healthcare and predictive maintenance in industries, AI-driven technologies will become ubiquitous, enhancing efficiency, convenience, and safety. However, this proliferation raises questions about data privacy, security, and ethical considerations, necessitating robust regulatory frameworks and responsible AI governance.

Furthermore, AI holds the promise of addressing some of humanity's most pressing challenges. In healthcare, AI-powered diagnostic tools and personalized treatment plans could revolutionize patient care, leading to earlier disease detection and more effective interventions. In environmental conservation, AI-driven models can analyze vast amounts of data to predict climate patterns, optimize resource allocation, and develop sustainable solutions for mitigating climate change. However, along with its potential benefits, AI also poses ethical, societal, and economic challenges. Concerns about job displacement due to automation, algorithmic bias perpetuating inequalities, and the misuse of AI for malicious purposes underscore the need for thoughtful regulation and ethical AI development. Additionally, the ethical implications of AI-driven decisions, such as those in healthcare or criminal justice, demand transparent and accountable AI systems that prioritize fairness, accountability, and human values.

The future perspective of AI is one of immense promise and possibility, accompanied by significant challenges and responsibilities. As AI continues to evolve and permeate every aspect of society, it is essential to navigate this transformative journey thoughtfully and responsibly. By fostering collaboration among policymakers, technologists, ethicists, and civil society, we can

harness the potential of AI to improve human lives while safeguarding against its risks. With strategic foresight, ethical principles, and inclusive governance, we can shape a future where AI serves as a powerful tool for positive change, advancing humanity towards a more equitable, sustainable, and prosperous world.

## Conclusion

In conclusion, the journey of Artificial Intelligence from its conceptualization by visionaries like Alan Turing to its current transformative impact on society underscores its immense potential and profound implications. As we navigate the complexities of AI's evolution and integration into various facets of life, it is imperative to strike a delicate balance between innovation and responsibility. While AI holds the promise of revolutionizing industries, enhancing efficiency, and addressing pressing challenges, it also presents ethical, societal, and regulatory challenges that must be addressed with foresight and collaboration. By fostering interdisciplinary dialogue, implementing robust regulatory frameworks, and prioritizing ethical AI development, we can harness the transformative power of AI while ensuring that its benefits are accessible to all and its risks are mitigated. As we shape the future of AI, let us remain guided by principles of fairness, accountability, and human-centered innovation to create a world where AI serves as a force for positive change and empowers humanity to thrive.