THE IMPACT OF AI AND TECHNOLOGY ON INDIAN LABOUR LAWS

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Abstract:

The transformative impact of artificial intelligence (AI) and advanced technology is significantly altering the employment landscape in India, presenting a host of opportunities and challenges that call for a thorough reassessment of the existing labor laws. In this era marked by technological evolution, the effects of AI on labor laws are diverse, covering crucial aspects such as job displacement, safeguarding worker rights, addressing issues of discrimination and privacy, and establishing a robust legal framework.

As AI becomes increasingly integrated into workplaces, concerns regarding potential job losses and the vulnerability of the workforce have gained prominence. This has led policymakers to reevaluate and fortify existing labor laws. 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.

While AI has the potential to displace certain jobs, it simultaneously creates opportunities for the emergence of new roles. To harness these prospects, it is essential for the government to invest in education and training programs, ensuring that the workforce is equipped with the necessary skills. This article emphasizes the necessity for comprehensive and adaptable labor legislation capable of effectively addressing the nuanced impact of AI on India's evolving job market. A forward-thinking legal framework is crucial to navigate the dynamic convergence of technology and labor, fostering a balanced and sustainable employment ecosystem.

Introduction:

Artificial intelligence and technology have been helpful but also problematic for the human race. The Industrial Revolution has taken us by storm. Being able to get all you want with one click on your computer is a blessing and a curse. Artificial Intelligence and modern technology are reworking various industries and reshaping the manner work is completed.

Artificial Intelligence(AI) refers to the foundation for simulating human intelligence processes through the development and use of algorithms built into a dynamic computing environment. It is a way of making computers think like humans. Artificial intelligence technologies have a very large impact on the labor markets, workers, and workplace.

The development and implementation of AI technologies have advanced dramatically in recent years, especially in the fields of computer programming, predictive analytics, and picture, text, and voice recognition. Automation and machines have changed the way organizations used to work. These developments have increased the fears about job loss and unemployment because of AI's ability to automate not only repetitive tasks but also non repetitive tasks at an increasing speed. It has the power to potentially affect every sector of the economy.
According to the survey conducted by FlexJobs, forty one percent of those surveyed have adopted AI.

1.The Consequences and Impact of AI on labor laws:

AI is expected to have a substantial impact on labor markets, promote creativity, and automate monotonous tasks for professions in the future. According to the World Economics Forum, over 69 million jobs will be generated by 2027.
The WEF report states that the AI adoption rate in companies is significant and 75% of companies surveyed would adopt AI in the workplace.

AI is thought to be useful in regulating labor laws and ensuring that they are followed. It has been stated that it can help in the monitoring process by automation. AI systems can be used for analysis, regulating, promoting the laws and guidelines It can facilitate effective management and evaluating the data relating to labor laws.

But there are many difficulties caused because of the use of AI in workplaces. They not only affect the labor laws but also cause a multitude of problems.
The Indian labor law includes a myriad of issues, including discrimination, wage and hour laws, and workplace safety. AI systems have the potential to improve efficiency and accuracy in the workplace, but if not properly designed and tested, they may also unintentionally cause discrimination or create new safety hazards. Worker's rights, such as workers' compensation and employee benefits, may also be affected by the use of AI in the workplace.

1.1 Job displacement:

One of the biggest effects of automation and AI is the job displacement of workers, as machines and robots are becoming increasingly capable of performing activities that were before done by humans. According to studies, some professions are more vulnerable to automation than others, mostly those that involve repetitive manual work. The concerned workforce faces the danger of losing their jobs as AI becomes more adept at replacing humans working in manufacturing, transportation, customer service, etc.

AI has made a significant impact, both negative and positive in the last few years. It is said to affect the next generation of workers as it continues to become more cumulative.
"The Future of Jobs Report 2020" by the World Economics Forum projects that by 2025, artificial intelligence would displace 85 million jobs..
The report also stated that AI can potentially generate 97 million new roles.

Companies all over the world have included AI in their way of work. Information technology, telecom, media entertainment, and service sectors have started to redesign their global workforce and their hiring plans to cut off the jobs that can be done by AI.

As AI tools become sharper, job displacement and redundancy will be inevitable. Professions that require manual work are more vulnerable to automation and AI. As AI systems replace human workers in transportation, construction, and manufacturing, the workforce is more in danger of losing their jobs. Robots and other AI-based technologies, including machine learning, are incredibly fast, accurate, and efficient at doing rote and repetitive tasks. Of those who responded to the FlexJob survey, 31 % of workers said that they are concerned for their jobs security in the future.

Companies Gent and PwS believe that the most job loss will happen in the IT sector as automation technology is allowing software to carry out routine IT support work and repetitive tasks previously performed by humans, as these are the tasks the MNCs mostly outsource to India. There is a real danger of widespread job loss in the IT sector.

During the Global virtual summit on AI, RAISE 2020, Prime Minister Narendra Modi stated that he aims to make India a global hub for AI. According to him, " Artificial intelligence is a tribute to human intellectual power. This power to think has enabled humans to make tools and technologies. Now, those tools have also acquired the power to think and learn". He believes that AI can do wonders for our future and it is supported by his initiative "Digital India".

But recently, during the "DiwaliMilan" event, he changed his views on the matter and stated that the use of AI for creating 'DeepFake' content is concerning. The act of manipulating photos or videos of real people making it appear as though they performed the conduct depicted in the video, something they never did, is DeepFake. It is rather popular these days and can be found in many social media apps.

There will also be a huge impact on the jobs and employment opportunities for people. Even though it has been said that there will be more employment generation than what is lost, there will be a need to learn and reskill for those positions. Not everyone will have the opportunities and ability to learn new skills for the new professions generated by AI.

1.2 Discrimination and bias:

In the case of Soma Mondal v Union of India, the petitioner challenged the use of AI in the recruitment process of public sector banks, stating that it discriminated against candidates from rural and underprivileged backgrounds.

One of the concerns about using AI in the workplace is it will be more prone to discrimination and bias. Algorithms utilized by AI are only as prejudiced as the data that was used to train them.

For instance, an AI system will choose one group over another if it is educated on data that contains gender or racial discrimination.

This will raise several legal and ethical problems as discriminating against a person because of their gender, race, religion, age, and disability is a violation of their fundamental rights and is prohibited under the law. Employers have a legal obligation to make sure that their hiring process is ethical and free of bias.

In a country where class, religion, gender, and money are all deeply divided, researchers worry that AI could exacerbate these differences.

According to Narayan, a member of the Algorithmic Governance research work," Databases used to train AI systems are biased against caste, religion, gender, even location of residence and so those AI systems will further entrench bias and discrimination against them.

Critics say that facial recognition technology is one of the applications that will risk more surveillance of Muslims, lower caste Dalits, transgender and other marginalized groups. Artificial intelligence conclusions will be discriminatory if the database is discriminating against itself.

Siva Mathiyazhagan, an assistant professor at the University of Pennsylvania says that These biases are made worse by the rising use of generative AI applications like chatbots.

"If you ask a chatbot the names of 20 Indian doctors and professors, the suggestions are generally Hindu dominant-caste surnames - just one example of how unequal representations in data lead to caste-biased outcomes of generative AI systems," he said.

1.3 Right of privacy:

By processing personal information and data into AI tools, it won't be hard to lose control of the data and find it publicly available or But there will be a huge impact on the jobs and employment opportunities for people. Even though it has been said that there will be more employment generation than what is lost, there will be a need to learn and reskill for those positions. Not everyone will have the opportunities and ability to learn new skills for the new professions generated by AI.

Clause 3(c)(ii) of the Digital Personal Data Protection Act (DPDP) states that this act does not apply to data that is made public or is made publicly available by the user to whom that personal data relates. This clause affects how AI companies can access and process the data of other people without their consent and any legal repercussions. Currently, there is no statutory provision preventing privacy infringement by AI. Services like OpenAI's ChatGPT can use any publicly available data from the internet without any legal consequences.

This new law, while an act to provide for the processing of digital personalized data in a manner that recognizes both the rights of the individuals to protect their data and the need to process such personal data for lawful purposes and other related matters.

In the case of K.K Gautam v State of UP and others, the petitioner argued that the use of AI-powered facial technology for attendance monitoring is violative of the children's right to privacy and autonomy.

The same was petitioned in the cases of Shramik Bharti v. State of U.P. and Ors and Anivar Aravind v. Ministry of Home Affairs stating that such technology is violative of the personal and privacy rights of the citizens.

However, the court declared that none of this is violative of the Personal Protection data and is in compliance with the said law.

1.4 Rights of workers and collective bargaining:

AI will not only impact the employment opportunities in the country but also the rights of the workers. Because of automation, there will be less use for workers in the service sector. Manufacturing, transportation, and other industries will use automation and AI algorithms to do their work.

It will be difficult for the workers to fight and defend their rights, such as fair wages, proper working hours, and safe working conditions. The increasing use of AI in the workplace will also raise questions about collective bargaining rights and the right to organize the workers union. They won't be able to negotiate with the employers about their working conditions when their job is hanging by a loose thread.

AI systems can also be used to monitor the workers and their performance, leading to stress and overall pressure and stress. It may assign tasks to people that are beyond their skill level and overly challenging. It can heavily impact the decision-making process and working autonomy of the industry, not allowing in the opinion of any of the employees or workers. The working environment could become hostile.

There is limited protection for workers leaving them vulnerable to exploitation in AI-powered platforms.

2. Laws concerning AI:

While there are no specific laws about AI in India, there are provisions in the existing laws. They are:

2.1 Section 43A and 72A of Information Technology:

According to section 43A, if an organization handles sensitive personal data on a computer resource and neglects to put appropriate security practices and procedures in place, resulting in wrongful gain or loss, the company may be held liable for damages. This section gives compensation to those whose data privacy is breached from negligent handling of personal information. Section 72A of this act deals with the people who breach the lawful contract and obtain personal information about others without their consent. They may face imprisonment
fines or both. If any person commits a crime using AI then he will be punished under the IT Act.

2.2 Personal Protection Bill:

This bill was introduced to govern the processing of personal data of Indian residents by public and commercial organizations situated both inside and outside of India. This law is to regulate the personal data of people in and out of India. While this law was ultimately changed to the Digital Personal Protection Bill, it emphasizes the consent from individuals when processing personal data. But, as stated above, this law does not apply to those to whom the personal data relates.

2.3 K.S Puttaswamy Case:

In this landmark decision, the Supreme Court emphasized the significance of having a thorough legal framework for data privacy that can control emerging issues like the use of AI in India. In this case, the right to privacy is recognized as a fundamental right. This ruling stresses the need to safeguard personal data from AI-based systems.

2.4 Indian Copyright Act:

Original literary, artistic, musical, and dramatic works are protected under this Act, which grants creators exclusive rights and forbids unapproved use or duplication. As AI-generated content has grown in popularity, debates over copyright ownership and infringement liability have developed.
In the 2011 case of Gramophone Company of India Ltd. v. Super Cassettes Industries Ltd., the court ruled that music created by artificial intelligence (AI) software is not creatively created by humans and is therefore not protected by copyright. This case sheds light on India's copyright laws governing AI-generated media. While this act does not deal with the rights of workers, it is an important act nonetheless.

These acts and provisions concerning the AI systems in India discuss the punishments for those who use AI. But it does not provide any legal obligation to the AI itself, nor does it regulate it.

3. The International Labour Organization:

ILO published a research paper in 2018 discussing the introduction of technologies and automation in the workplace and the future of work. It examines the issues relating to the quality of jobs in future labor markets. With the debate of loss of employment because of automation and AI in mind, this paper addresses the rights of workers and the negative effect that will be caused by awarding legal rights and capacity and obligations to machines. It stresses the need for regulation in governing automation and the impact of technology in the workplace. It discusses the need for the worker's representatives to be involved in managing and protecting the jobs and rights of the workers. It states that is crucial to ensure a vital "human-in-command approach".

According to another article by the ILO from August 2023, the most important impact of the technology is likely to be augmenting work – automating some tasks within an occupation while allowing time for other responsibilities - rather than automating jobs entirely.

It is said that the occupations will be mostly augmented i.e. increased rather than the automation of jobs. According to the report, it will be the high-income and upper-middle-income countries that will be affected by this change and clerical work will be with the highest exposure to the technology. The job redundancy will be the most at risk in this job category. In other occupational groups like managers, technicians, professionals, etc.

In the end, the authors concluded that the socioeconomic impact of AI will depend on the way it is adopted and rolled out. They emphasized the necessity of creating policies that facilitate a smooth, equitable, and consultative transition, emphasizing the importance of workers' perspectives, skill development, and sufficient social security.

4. Ways to deal with AI:

To deal with the impact of AI and automation on labor laws, measures have to be taken. While AI causes concern about job displacement, income inequality, and job polarization, AI also presents opportunities for job transformation, economic growth, and innovation. But that will only happen when AI and humans are working together in harmony. It is necessary to recognize the fact that the integration of AI into workplaces will only be successful when there is a collaboration between humans and AI systems. Sound policies and laws need to be implemented. Some of the ways to deal with the impact of AI on the legal guidelines are:

4.1 Update Employee contracts:

Employment contracts must reflect the evolving nature of labor in the context of AI technology, clearly defining the obligations and privileges of both employers and employees. By updating them, they can change accordingly.

4.2 AI regulation:

AI regulation is necessary for the protection of workers and for the goal of labor protection to be fulfilled. However, India's position on regulating AI is not clear. While the Digital Personal Protection Bill protects people from harm, it does not mention anything about regulating AI.

AI has the power to invade personal and private information without any problem. This is dangerous and invades the citizen's privacy. Labor laws should set up regulations for AI use in workplaces to ensure transparency, efficiency, and fairness. India's position is not fully clear on the matter of regulating AI.

During the G20 Summit, PM Narendra Modi called for global regulation of AI, citing concerns over the technology's potential misuse. "An increasing number of people worldwide are worried about AI being used negatively. India has a clear vision: we must collaborate to regulate AI globally", he declared. He spoke of the dangers faced by using DeepFake and how it affects society.

4.3 Protect Workers Privacy:

It is very important to protect the personal data and information of the employees. There should be laws made protecting people not only from other users but AI itself. Right now there are no laws regulating AI systems from invading people's privacy. AI is the future of technology, it is here to stay. The government should make plans and changes to the law for the betterment of society.

4.4 Generation of employment:

Many researchers state that AI has the potential to generate new jobs and replace occupations and that new job opportunities are frequently arising as a result of automation. While it is clear from various studies and reports that there is a negative impact on the jobs and employment scenario in India, In the long term it can lead to compensation of job loss

by new job creation. However, the jobs that will be generated would require new skills and training that the graduates or employees might not have. It is the responsibility of the government to educate and train the people in these skills.

The Ministry of Human Resource Development and other ministries should lead the efforts to develop the skills of the country's workforce. Initiatives like e NASSCOM's 'Future Skills' to train education students and government officials should be efficiently utilized to teach them the skills they need.

There needs to be a social policy implemented for this purpose and to make sure there is more gain than loss to using AI in the workplace.

4.5 Collective Bargaining and Social Dialogue:

Social dialogue and collective bargaining have a huge role to play in mitigating the impact of AI in the labor market. They also help to introduce new technologies and support governmental policies that implement retraining and upskilling initiatives. Collective bargaining has the power to enhance the security of the labor markets and strengthen the worker's labor market adaptability. It can also help companies define fair, ethical, and pragmatic responses to AI introduction at the workplace. It has been proven that social dialogue and collective bargaining can enhance the quality of the working environment and that it can help companies make the right and fair solutions to any organizational changes. Collective bargaining is necessary to make sure that the workers and human rights are respected. When social partners work cooperatively, then the social dialogue and collective bargaining can support and be useful. The right to collective bargaining is not only necessary for the workers but also for the betterment of the organization.

Conclusion:

It is necessary to formulate plans and make a law for AI technology in this new era. The fourth industrial revolution is growing faster than many predicted. The growth of AI gives both opportunities and challenges for Indian legal guidelines. While AI can increase productivity, create new job roles, and lead us to development, it also raises concerns about job displacement, information privacy, discrimination, worker safety, and the rights of employees.

The impact of AI on the labor economies in India is complex. There are as many difficulties as there are gains. There is a need to amend the current labor laws to be inclusive of AI technology or pass a new law for its purpose. There is a need to have a law on the use of AI in recruitment, promotion, and termination decisions to ensure fairness and prevent discrimination and bias.

To promote a just and equitable future of work, policymakers and stakeholders should collaborate to create comprehensive rules and regulations that address the impact of AI on employment law and worker protection. By embracing AI's promise and putting appropriate regulations in place, we can navigate the evolving labor economics landscape and create a future in which AI enhances human skills and fosters prosperity for all.

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