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Artificial Intelligence in Corporate Decision-Making and Directors' Liability:A Study

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Abstract- Today, artificial intelligence (AI) is being used more and more in corporate decision-making, whether in credit scoring, recruitment or forecasting of the supply chain, in the analysis of investments or in the modelling of risks or in board reporting. This transformation brings up a fundamental corporate-law issue: who is responsible for the decision made by the board with the aid of an AI system and what is the standard of care expected of directors? There is not yet a comprehensive statute on AI in Indian Law but the Companies Act, 2013 provides the existing governing fiduciary framework. With disclosure, audit and oppression remedies in place, directors' powers are not limited by AI, but may be supplemented by them. The article discusses the relationship between the use of AI in corporate decision-making and the duties of directors in India. It's arguing that while AI can be a valuable decision support tool for directors, it can't replace human judgment, should be backed by some material limitations, and should be documented as part of the decision process, and should be reasonable in the circumstances. The use of AI can be a failure of due care if it is relied upon without any reason, supervision or documentation, but a thoughtful and supervised and documented use of AI can improve the evidentiary basis for the business judgement of directors. The article also discusses the European Union Artificial Intelligence Act, as well as new and upcoming materials from India, and offers a new AI-governance framework for boards to consider.

Keywords: Artificial intelligence; Corporate governance; Directors' duties; Companies Act 2013; algorithmic decision making; liability; business judgement.

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I. INTRODUCTION

Regardless of how information is used in corporate decision making, it was always dependent on information intermediaries such as accountants, auditors, consultants, and committees on management information. That intermediation is scaled, accelerated and made opaque by AI. Machine-learning systems can analyze large amounts of data, find relevant connections that are not apparent, make suggestions and in agentic applications even start transactions if certain criteria are met. These are real governance advantages—but they bring biases, hallucinations, data leakage, cyber vulnerabilities, discrimination and over-reliance by human decision makers. The question on the law isn't whether AI can be used in the boardroom. In India, it definitely can be utilized as a management and analytical tool. The bigger question is whether a director who has accepted the recommendation from an AI system has fulfilled his duties under section 166 of the Companies Act, 2013. A director must exercise due and reasonable care, skill and diligence, and independent judgement in carrying out his or her duties, according to section 166(3). AI has no legal personality, fiduciary consciousness, or responsibility. Indian company law stipulates that only a natural person can be a director, which means that even if the algorithm provides the critical analytical input, the legal author of the corporate determination will nonetheless be the board or the authorised person of a human nature. So the practical question is evidence and institutional — was the company's decision maker aware of the system and test its product, considered the conflicting information and acted in the company's best interest?This article has been divided into seven parts. Part II presents an explanation of the various forms of AI that are relevant to corporate governance. In Part III, the Indian statutory framework has been analysed. In Part IV, a framework for liability liability for AI-assisted decisions is developed. Part V examines the developments in comparison, particularly the EU Artificial Intelligence Act. In Part VI, enforcement and evidentiary issues are discussed. Governance model is proposed in Part VII. Part VIII concludes.

II. AI IN CORPORATE DECISION-MAKING

1. Forms and Functions

The use of AI in the corporate environment is not monolithic. It encompasses predictive analytics, natural language processing, generative AI, robotic process automation, computer vision, and autonomous, agentic systems. It is significant to its governance depending on the extent of autonomy and the significance of the decision.

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Category	Typical corporate use	Governance risk	Board relevance
Descriptive analytics	Dashboards, financial reporting, operational metrics	Data-quality and misinterpretation risk	Low to medium
Predictive AI	Credit scoring, demand forecasting, churn prediction, fraud detection	Bias, model drift, inaccurate correlation	Medium to high
Generative AI	Drafting, research synthesis, investor communication, contract support	Hallucination, confidentiality, IP and disclosure risk	Medium to high
Agentic AI	Automated procurement, trading, customer onboarding, workflow execution	Error propagation, unauthorised action, accountability gaps	High

Table 1: AI applications and governance risk in corporate decision making.

As illustrated in the table, the legal risk is not even. When AI has an impact on credit access, employment, safety, related parties, capital allocation, or public disclosure, a director should be more vigilant when relying on a well audited demand forecasting tool.

2. Decision Support to De Facto Decision Maker

AI is now when it isn't just providing information, but is actually affecting outcomes. There are three situations to be distinguished. AI can give directors background information, which they might independently assess. Secondly, AI can come up with an idea for management that doesn't really get challenged. Thirdly, AI can perform transactions automatically within parameters.

The first situation is a common business risk. The third increases questions about delegation and internal control, while the second increases the risk of "automation bias", which occurs when individuals rely on machine-generated information even though information to the contrary exists. An AI system is not a committee, officer or director, it is an instrument of delegation from the board.

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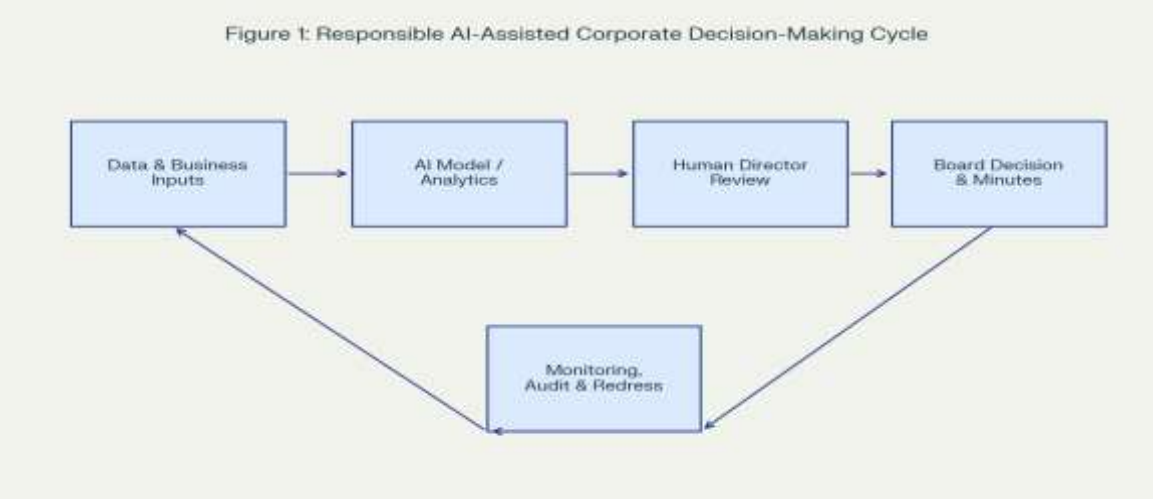


Figure 1: The responsible cycle of corporate decision-making with AI assistance.

The preferred governance loop is shown in Figure 1. AI output should go through a human review, board deliberation (material, contemporaneous documentation, and post decision monitoring). There's no stage, which means the quality of the decision is reduced, and the director's ability to establish due care is also lessened**.**

III. INDIAN LEGAL FRAMEWORK

A. This is on the duties of the Directors under the Companies Act, 2013.

Notably, there is no specific regulation of AI in the Companies Act, 2013. However, its intent is to remain technology agnostic, and works for AI-based decision-making as well. The duties in section 166 are imposed on the company, and not on individual shareholders.

The provision of section 166(2) is significant in the Indian context as it explicitly states that directors must take into account employees, community and environment. Commercial risk would not be the only risk that AI systems would pose to the statutory duty, as the more expansive stakeholder dimension of that duty also comes into play in the context of recruitment, credit, surveillance or environmental reporting, or community impact. Independent judgement is required for s.166(3). This is not an obstacle to using the help of experts and technology. Directors have no responsibility for personally auditing

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source code or creating machine-learning models. But where a director accepts an algorithmic recommendation without fully appreciating its scope and purpose, its limitations, data sources, or material assumptions, independent judgement is undermined.

2. Delegation, Management and Board Control

The powers of the board may be exercised by resolution at a meeting of the board subject to the provisions of the Act and to the provisions of the articles. The Act also provides for committees of directors and delegated management structures.

Delegation is challenging with AI because it can make it difficult to determine the point of decision making. In the event a credit-approval process is delegated to an algorithmic process, the board should make sure the process has a clear mandate, set thresholds, exception handling processes, audit trails and periodic review. Otherwise, the company could have a governance void of human explanation for a decision.'

3. Liability, Misconduct and Class Actions

Directors have civil and criminal liability for incurring breach of duty, fraud, misstatement, oppressive acts or failure to comply with the Act. Under these provisions, certain members are allowed to file a class action if the affairs of the company are carried on in a manner that is prejudicial to the company or its members, and this may occur if the company uses an algorithmic pricing system that facilitates anti-competitive conduct, the disclosure is incorrect because of an AI system, or if an AI-driven decision results in a systemic loss.

Section 166(7) does not impose any liability on a director for an "AI-specific" contravention, but does establish that the "statutory responsibility" is personal. An AI system is not a defence; at the very least, there may be a strong governance process that demonstrates that the director acted honestly and reasonably.

IV. AI-ASSISTED DECISIONS: WHO IS RESPONSIBLE FOR THE ERRORS?

1. The proper medical treatment.

Perfection is not the appropriate standard. Directors should act as a reasonably diligent person would in similar circumstances, taking into account the knowledge, skill, position and importance of the decision. This involves a proportionate investigation of:

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- the purpose of the AI system, and its materiality;
- the quality, source and representativeness of the training and input data;
- known error rates, bias, model drift and cybersecurity risks; There are human override and exception mechanisms;
- representations and contractual safeguards and audit rights of vendors; and
- Regulatory, Privacy, Disclosure and Intellectual-Property implications.

The director doesn't have to be a data scientist. However, where AI has a tangible impact on financial reporting, credit decisions, employment, and treatment of consumers and public statements, the director is required to ensure that competent technical and legal advice has been acquired by the management.

2. Reliance, Independent Judgement and Automation Bias,

The term "reliability" is permissible only when it is reasonable. Indian corporate law doesn't require a board to take personal responsibility on all matters; boards will routinely rely on management, auditors and experts. The question is whether the dependence was conscious and wise. If the output of an AI system is not explainable, the system is not well tested, or there is a known issue with the reliability of the AI, it may not be appropriate to rely on it for a high-stakes decision.

Automation bias is a particular danger. Directors should ask management to report both on the recommendation and the principal assumptions, limitations, results of the model validation, and other analyses that management and directors conducted that raised doubts about the recommendations.

3. Duty of Loyalty and Conflicts of Interest

AI can pose loyalty-related dangers. The model used by the vendor might include commercial incentives, AI-driven procurement decisions might prefer a related party, and/or the management could be using AI to mask unfavourable information. The duties of the directors under section 166(4) and (5) apply no less in the case of a conflict that is created through an algorithmic procurement recommendation.

One new issue of confidentiality is introduced by Generative AI. Directors and officers may knowingly place commercially sensitive information, client information, unpublished financial information or price-sensitive material into an external AI platform, which could result in the disclosure of trade secrets. This may involve insider-trading codes, contractual restrictions on confidentiality and data protection regulations.

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4. Liability Matrix

Table 2: Some examples of liability exposure in relation to AI decision contexts

Decision context	Likely director exposure	Governance safeguard
Routine operational analytics	Low, unless reliance is unreasonable	Data-quality controls and periodic validation
Credit, insurance or employment decisions	High where discrimination or unfair outcomes arise	Bias testing, explainability, appeal mechanism
Financial reporting and disclosure	High where AI output influences statements	Audit trail, management review, auditor access
M&A, capital allocation and strategy	High where the decision is material	Board papers, independent advice, documented deliberation
Automated trading or procurement	High where limits and controls fail	Transaction thresholds, kill-switch, real-time monitoring
Generative AI in communications	Medium to high where confidential or false content is released	Approved use policy, human sign-off, disclosure controls



2.

Figure 2: Directors' exposure to liability in AI-based decision-making.

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The main exposure routes are summarised in Figure 2. The central argument is that AI does not change the standard of evidence needed to make informed judgment, it does not remove the legal burden from AI.

V. COMPARATIVE AND REGULATORY PERSPECTIVES.

1. Artificial Intelligence, Grand Challenges Meet, EU-USAFFI

The EU Artificial Intelligence Act is risk-based. The Act puts new obligations on a provider or a deployer of high-risk AI systems, such as requirements on risk management, data governance, technical documentation, data keeping, transparency, human oversight, accuracy, robustness and cybersecurity requirements, and compliance will influence the board oversight of companies that operate or serve in the EU market, though it does not directly target directors as a distinct group.

The AI Act could have extra-territorial effect in practice for Indian companies with a presence in Europe or customers from Europe and data flows. High risk-AI should be considered as an enterprise-risk/compliance matter and not just an information-technology matter. Traceability and documentation are especially important for directors since they give evidence of a decision not being delegated blindly to a machine.

2. United Kingdom and United States

In the United Kingdom, corporate law is still centered on the directors of the company. Directors are expected to act in a reasonable manner and have reasonable care, skill and diligence under the Companies Act 2006. While there is no dedicated AI-director role, there is a growing narrative about the strategic and risk implications of AI in governance that boards need to grasp.

The role of the business judgement rule in the United States is to shield informed, good faith business decisions from liability when made in the absence of a conflict of interest. While AI may not be a direct threat to that protection, a board that lacks a proper system for cyber or algorithmic risk review and approves disclosures relying on AI without proper diligence could be exposed to claims of fiduciary liability. According to emerging scholarship, it is the "demonstrable stewardship" of AI systems that is expected.

3. The Emerging Regulatory Landscape in India

There has been a move toward a sectoral or policy-based approach to AI instead of a single horizontal statute in India.India has taken a sectoral or policy-based approach to regulating AI, rather than a single

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horizontal statute. There are sectoral regulations, such as those of the Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory and Development Authority of India and Central Drugs Standard Control Organisation, which may have specific expectations on model risk, cyber security, consumer protection and disclosure issues which may be applicable to AI systems which process personal data.

Lack of a single AI Act does not mean an unregulated landscape. It implies directors have to reconcile interacting duties in the field of company law, contract, consumer protection, competition law, data protection, IP and sectoral regulation and even criminal law. This division, in turn, raises governance risks, as compliance gaps can occur at the points of contact between regimes.

VI. EVIDENTIARY CHALLENGES AND ENFORCEMENT.

1. Causation and Attribution

There are complex causation issues when it comes to AI-related liability. Is the director responsible for the algorithmic result if the algorithm excludes candidates; if the director does not test the algorithm; if he or she relies on biased historical data; or if he or she does not maintain human review? Indian adjudication will likely be directed towards the director's knowledge, role, opportunity to intervene, and the reasonableness of the governance process. It is helpful to make the distinction between outcome liability and process liability. Outcome liability is whether the company was in some way harmed or had suffered an illegal outcome. Process liability examines the question of whether the directors exercised appropriate oversight. In AI situations, process failures, including: lack of bias testing, lack of an audit trail, lack of override or lack of board reporting constitute strong evidence of breach, even if the initial technical breach is related to a vendor.

2. Opacity and Black-Box Models and Auditability.

Deep-learning systems can be hard to understand. This can be a problem as directors must make informed decisions, but also for those affected who should have the right to know why their decisions are adverse. While full explainability may not always be possible, this should depend on the materiality of the explanation. A high-risk system with implications for fundamental interests should have more robust safeguards in place, such as validation, documentation and human review than a low-risk internal productivity system.

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Table 3: Evidence pertinent to directors' duty in decisions involving the use of AI.

Evidentiary item	Why it matters	Recommended retention
Model purpose and scope	Establishes the decision's materiality	Board-approved AI inventory
Validation and bias-testing reports	Demonstrates reasonable reliance	Version-controlled audit file
Human-review records	Proves independent judgement	Decision logs and exception reports
Vendor due diligence	Allocates responsibility and identifies controls	Contract, assurance reports, audit rights
Incident and remediation records	Shows monitoring and response	Incident register and board updates

3. Whistleblowers, Auditors and Class Actions

Auditors, internal auditors, chief risk officers, and whistleblowers will be crucial to the identification of failures of AI. Boards should have regular reports to them of high-risk AI systems, model performance, incidents, third-party dependencies and remediation. If the AI causes financial misstatement, fraudulent conduct or oppression of members, then the statutory remedies under the Companies Act may apply.

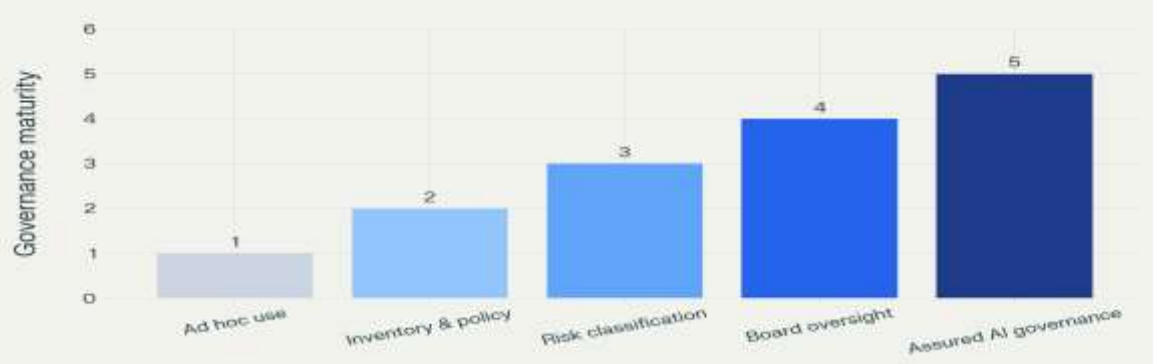


Figure 3: AI governance board-level maturity model.

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Below is a maturity model (Figure 3). Businesses need to move from the use of AI on an ad hoc basis to an inventory-based policy, risk classification, board oversight and finally, independent assurance. The final step is not that the risk now goes away when it comes to AI, it's just that the risk is identified, allocated, and monitored.

VII. PROPOSED GOVERNANCE FRAMEWORK

1. Board-Level Principles

Indian boards should follow five guidelines:

- Accountability: Each use case of AI materials will have a named accountable executive and explicit oversight by the board or committee.
- Proportionality: the level of effort must be commensurate with the impact of the decision, its reversibility and its regulatory sensitivity.
- Human oversight: There must be meaningful human review and challenge and override capabilities of material or high-risk AI recommendations.
- Documentation: The company should keep decision papers, model limitations, validation evidence, exceptions and remediation steps.
- Independent assurance: High-risk AI systems need to be periodically subjected to testing by internal audit, external assurance, or a specialised technical review.

2. Practical Board Actions

Boards need to ensure that management keeps an inventory of AI systems and sets the acceptable use policy for generative AI and report quarterly on the use of systems with high-risk uses. The audit committee should be responsible for monitoring AI-related financial-reporting, cybersecurity and third party risks. The nomination and remuneration committee should address whether or not the directors and senior management have the necessary AI literacy.

Directors should also require contractual safeguards from the AI vendors such as representations with regards to the use of data, intellectual property, security, testing for bias, notification of incidents, audit rights, indemnities, and termination rights. The board should not assume that the marketing claims of an AI vendor are equivalent to independent validation of the model, if that is the case where it is likely to materially impact customers or financial reporting.

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VIII. CONCLUSION

AI can enhance corporate decision-making by providing more information, uncovering patterns and speeding analysis. It's not a fiduciary, however. The director is still the legal and moral nucleus of corporate enterprise, within the framework of the Companies Act, 2013. While AI can provide guidance and information to aid in making a decision, it does not replace the obligation to exercise independent judgement, to act in good faith, and to use due and reasonable care, skill and diligence.

The pragmatic legal stance is not prohibition nor blindly taking the next. Where AI is reasonably used, it can be supervised, documented and proportionate to the risk and should be used by the directors. They should never leave the final decision up to an opaque system, disregard its known limitations, or consider the output of algorithms to be self-justifying. An accountability-based governance framework, which incorporates human oversight, risk classification, documentation and independent assurance, will enhance corporate decisions and provide a defensible framework for directors' actions.

Indian law requires no need to create a new liability regime for AI. It must be able to do things that apply to existing, yet new, principles of fiduciary responsibility decisions. The rule should be obvious: AI can recommend, but the decision will be made by the director and they will be held accountable for it.

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