



### REVIEW OF INDIAN LABOR LAWS AND POLICIES IN THE ERA OF ARTIFICIAL INTELLIGENCE

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#### Abstract:

*The integration of Artificial Intelligence in workplaces across various sectors will have profound effects on the labor and employment landscape. The implementation of AI technologies by companies could result in the replacement of human workers, raising issues regarding employers' responsibilities to notify in advance, act with caution, and offer alternative job opportunities. Even with the simultaneous presence of human and automated labor, significant transformations in the dynamics of employer-employee relationships are anticipated, along with changes to the structure of Trade Unions and the methods of collective negotiation. Worries regarding employee privacy and the use of AI systems for hiring or monitoring continue to be a controversial topic, and in the absence of proper regulations, could lead to unwarranted infringements on privacy. The consequences of artificial intelligence on labor and employment law are briefly covered in this research paper, which also suggests practical and tangible changes to facilitate a seamless transition to an AI-enabled workplace. In order to guarantee human control and supervision over the collective bargaining process, it suggests amending the definitions of employer and employee and adding a provision. Additionally, it suggests imposing a responsibility of restraint on the employer and introducing safeguards to protect workers from being arbitrarily fired for technological reasons. In line with recent advancements in other jurisdictions, it also suggests legislative changes to regulate the use of AI systems in hiring by employers.*

**Keywords** - Indian labor laws, Artificial Intelligence, Hiring, Firing

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#### A Short Overview of How Automation and Artificial Intelligence Affect Work and Employment:

The discussions on robotic rights and legal personhood to robots are becoming more prevalent in the technological age as artificial intelligence (AI) systems replace human labor in a number of industries. However, Indian lawmakers have paid little attention to the consequences for human labor and employment, as well as the implications for labor rights. By next year, automation may cause the loss of 85 million jobs, according to a World Economic Forum (WEF) report. Automation-related job losses could affect many areas

of labor law and policy, which will need to be significantly changed to account for the shift to a highly automated economy. Numerous facets of the labor market and, by extension, various areas of labor law may be affected by job automation. For instance, the working relationships between employers and employees, as well as between human and robotic labor, will be redefined by job automation. Because employers may arbitrarily terminate or violate employment contracts following work automation, Indian labor laws must include protections against dismissal or termination on technological grounds. Additionally, companies' use of Big Data, People



Analytics, and other AI-enabled monitoring systems may give rise to privacy problems for workers. The dynamics of working relationships are altered by surveillance, which also gives the employer unmatched control over employees. Since labor law aims to strike a balance between the rights of employers and employees, it will be necessary to adopt provisions pertaining to worker privacy in order to safeguard workers' rights. Furthermore, because human and robotic labor will coexist, procedures for worker safety must be followed when workers engage with AI or other technologies. Workers' altered connections with their employers and the absence of social interaction brought on by task automation may have an impact on their physical and mental health as well as occupational safety. Most significantly, as employees renegotiate their employment contracts and look for protections against termination on the basis of technology, collective bargaining will take on new dimensions. Moving employees to different jobs, improving their skills, or paying them enough will become important in the context of labor rights. With the adoption of the three new labor codes in 2020, major changes to labor laws were made, specifically:

- 1) The Industrial Relations Code, 2020
- 2) The Code on Social Security, 2020 &
- 3) The Occupational Safety, Health and Working Conditions Code, 2020.

It is regrettable, nonetheless, that the new labor laws do not include clauses pertinent to India's impending automated economy, where the use of robots would have a significant impact on the various aspects of workers' rights. Future-focused legislative revisions will guarantee that the regulatory structure is ready to handle the shift to AI-enabled workplaces.

As a broad framework for defending labor rights against AI-invasion, it is suggested that specific changes to Indian labor laws under a number of headings in the following section.

1. **Amendments to Provisions on Trade Unions:** It is suggested that according to S. 2(m) of the Industrial Relations Code, 2020, which defines the term "employer," before going over the proposed changes to the regulations on trade unions. The following could be the proviso: An employer shall be interpreted to include any AI system or robot acting in an employer's role, regardless of anything stated in the Code or any other applicable law. According to S. 14 of the Code, each of these artificial "employers" must be supervised and controlled by humans in order to engage in collective bargaining with employees.
2. **Legislative Reform for Hiring of Workers:** AI is now frequently used to filter applicants and direct the hiring and firing process. Despite the fact that it has streamlined and expedited the hiring process, there are drawbacks to its use. Even while AI systems are capable of being trained to make impartial decisions, they may still make incorrect judgments when biased information is present in the input data or when the algorithm starts to "learn" from the inputs it gets. To control the use of AI in the hiring process, some western countries have passed laws and introduced proposals. The Illinois Artificial Intelligence Video Interview Act, for instance, offers several protections to prospective employees by requiring prior notice regarding the use of the AI system, educating the applicant about its features, gaining the interviewee's consent to use the AI system, and more. India must also pass an Artificial Intelligence Video Interviews Act in light of the growing usage of AI in recruiting and recruitment. This act includes the following protections, among others:
  - 1) No application of an AI system may be used without the applicant's prior consent.



- 2) The applicant must be given a notice that includes information about the AI system's features and how it will be used in the hiring process, reasonably in advance.
  - 3) Employers are required to take reasonable steps to ensure that the AI system is impartial and reasonably accurate.
3. **Amendments Concerning Termination, Lay-Off or Dismissal of Workers Due to Displacement by AI Systems:** S. 40 of the Industrial Relations Code provides, “No employer, who proposes to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule, shall effect such change, (i) without giving to the workers likely to be affected by such change a notice in such manner as may be prescribed of the nature of the change proposed to be effected; or (ii) within twenty-one days of giving such notice”.
4. Further Chapter IX of the Code contains provisions that safeguard workers against lay-off, retrenchment and closure of industrial establishments. However, nowhere under the Industrial Relations Code has a specific provision been enacted that addresses dismissal of workers on grounds of displacement by robots/machines/AI systems. On parallel provisions in the French Labour Code, under Article L. 1233-3, provides that a dismissal shall be considered as a dismissal on economic grounds if it is decided by the employer for one or more reasons not related to the employee, one of which includes technological grounds of dismissal. A parallel provision under the Industrial Relations Code, 2020 will serve to protect workers against arbitrary dismissals on technological grounds. Further, an inclusion of such a provision may lead to evolution of jurisprudence on labour rights, and

a new obligation may be created on employers, i.e., an obligation or duty to restrain or adapt an employee to the changed working environment, or alternatively, to provide for alternative employment or compensation.

The provision may be included as such:

“Any dismissal by the employer on technological grounds, shall provide prior notice of at least 30 days, and reasons justifying the dismissal.”

Further, a duty to restrain or adapt the employee to the changed workplace, rather than firing the employee, can be included as such:

“Every employer who dismisses an employee on technological grounds must exercise reasonable restraint in terminating the contract of employment, and as far as practicable, efforts shall be made to restrain and/or adapt the employee to the new working environment”.

### Conclusion:

It is observed that the Indian labour law framework lacks preparedness to accommodate a smooth transition into an AI-enabled economy. The three labour Codes introduced in 2020 contain very few provisions that can effectively be utilised by employees as safeguards against displacement by AI systems. It is proposed in this paper that the amendments are limited to the provisions on trade unions, lay-off, retrenchment and closure and recruitment of employees. The amendments proposed may provide an outline to introducing more elaborate and specific changes in labour legislation by Parliament. The penetration by AI systems may happen faster than what is expected and without simultaneous creation of new jobs, the disruption in the labour market may result in a crisis for employees. Therefore, the amendments must be introduced within the legislative framework in the immediate future. The discussion on robotic rights must therefore be preceded by a discussion on human



rights and labour rights, to ensure that human labour rights do not suffer at the cost of automation of work.

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