THE ARTIFICIAL INTELLIGENCE (REGULATION) BILL, 2022

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THE ARTIFICIAL INTELLIGENCE (REGULATION) ACT, 2022

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to regulate Artificial Intelligence for the purpose of promoting a responsible usage of such technology and lead India as a front-runner in the globalised technology arena, by making it accessible to all as also addressing the challenges posed by it effectively, while ensuring its stable growth and innovation in order to avail its diverse benefits.

Preamble- WHEREAS the technology of Artificial Intelligence has seen exponential growth over the past few years and has opened up new opportunities to explore;

AND WHEREAS Artificial Intelligence technology is expected to unlock huge economic value due to its vast potential and simultaneously presents unprecedented challenges;

AND WHEREAS such technology has the capability to eradicate prevailing social challenges and help in growth of the Indian society;

AND WHEREAS to realise the benefits of this technology it is required to develop a robust ecosystem supporting and regulating it at the same time;

AND WHEREAS India aims to take global leadership in Artificial Intelligence system by realising its value to the fullest;

AND WHEREAS to achieve the said visions, a comprehensive regulation of it is needed to govern, manage and also to prevent acts leading to detrimental consequences;

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows: —

CHAPTER I
PRELIMINARY

1. SHORT TITLE, EXTENT AND COMMENCEMENT

(1) This act may be called the Artificial Intelligence (Regulation) Act, 2022.

(2) It shall extend to the whole of India and, save as otherwise provided in this act, it applies also to any Artificial Intelligence system which is deployed in India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

PROVIDED that different dates may be appointed for different provisions of this act and any reference in any such provision to the commencement of this act shall be construed as a reference to the coming into force of that provision.

2. DEFINITION

In this act, unless the context otherwise requires, —

(a) "Access" means gaining entry into, instructing or communicating with the logical, arithmetical, or memory function, resources of a computer, computer system or computer network[1];

(b) "Algorithm" means a computational or machine learning process using logical formulae with set of rules or operations used for calculation, problem solving, recommendation and decision making;

(c) "Artificial Intelligence system" (hereinafter referred to as AI system) means algorithm developed using computational processes including but not limited to machine learning, data processing and natural language processing to create algorithms in order to aid, or replace human decision making by resembling human cognitive and intellectual abilities, and is capable of learning by perceiving its environment through data acquisition and also processing and interpreting the derived data to take an action or actions based on set of human-defined objectives and generate outputs such as content, predictions, recommendations, decisions etc.;

(d) "Authority" means the National Artificial Intelligence Regulatory Authority of India established under Chapter X;

(e) "Biometric Data" means facial images, fingerprints, iris scans, or any other similar personal data resulting from measurements or technical processing operations carried out on physical, physiological, or behavioural characteristics of the respective persons, which allow or confirm the unique identification of that person, but that does not include writing samples, photographs, signature, physical descriptions etc.[2];

(f) "Deploy" means the supply of an AI system for initial use directly to the user for its intended purpose;

(g) "Developer" means a person, Authority, agency or other body that develops an AI system, with a view to putting into use or deploying it under its own name or trademark, whether for payment or free of charge.

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[1] Section 2(1)(a) of IT Act, 2000
[2] The Personal Data Protection Bill, 2019

Explanation- In cases where the person who develops the AI system is different from the person who places it in the market, then the person who places it in the market shall be considered as developer for the purpose of this act;

(h) "Emotion Recognition System" means an AI system for the purpose of identifying or inferring emotions or intentions of persons on the basis of their biometric data[3];

(i) "Harm" includes— (i) bodily or psychological harm or threat to do so; (ii) loss, distortion or theft of identity; (iii) direct or indirect financial or economic loss or loss of property; (iv) loss of reputation or humiliation; (v) loss of employment; (vi) any biased, unfair, unethical and/or differential treatment; (vii) any denial or withdrawal of a service, benefit or good resulting from an evaluative decision about the data of the principal not in accordance with law; and (viii) any other adverse consequence consistent with the provisions of this act;

(j) "Location data" means data pertaining to where an individual has physically been or directly or indirectly reveals an individual's physical location or the location of a device associated with that individual. Location data includes but not limited to: – (i) IP addresses; (ii) GPS coordinates; (iii) Cell-site location data; (iv) Time-stamped video; (v) Data derived from transportation cards; and (vi) Data related to an individual's visit to certain location etc.[4];

(k) "Machine learning" means a type of artificial intelligence that provides computers with the ability to learn without being explicitly programmed and includes a focus on the development of computer programs that can change when exposed to new data input;

(l) "Person" includes— (i) an individual, (ii) a company, (iii) a firm, (iv) an association of persons or a body of individuals, whether incorporated or not, (v) the State and (vii) every artificial juridical person, not falling within any of the preceding sub-clauses;

(m) "Personal Data" means data about or relating to a person who is directly or indirectly identifiable, having regard to any characteristic, trait, attribute or any other feature of the identity of such person, whether online or offline, or any combination of such features with any other data, and shall include any inference drawn from such data for the purpose of profiling, including but not limited to: (i) financial data; (ii) health data; (iii) official identifier; (iv) privacy sex life; (v) sexual orientation; (vi) biometric data; (vii) genetic data; (viii) intersex status; (ix) caste or tribe; (x) religious or political belief or

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[3] Article 3(34) EU Regulation on Artificial Intelligence, 2021
[4] Senate, No. 1943 -State Of New Jersey -219th Legislature -Introduced February 25, 2020

affiliation; or (xi) any other data categorised as sensitive personal data under Chapter IV;

(n) "Real-Time Remote Biometric Identification System" means a remote biometric identification system whereby the capturing of biometric data, the comparison and the identification all occur on real-time basis;

(o) "Source code" means executable computer program that can be read and understood;

(p) "Stakeholder" means all the persons involved in the process of developing, deploying, managing and administering an AI system, including but not limited to developers, users, persons impacted by the decision of AI system, persons who places such system in the market etc.;

(q) "Tribunal" means the National Tribunal for Artificial Intelligence established under Chapter X of this act;

(r) "User" means any person, authority, agency or other body using an AI system under its authority, except where the AI system is used in the course of a personal non-professional activity;

CHAPTER II
GENERAL PROVISIONS

3. GENERAL PRINCIPLES AND DUTIES

The provisions of this act shall be read and interpreted in the light of the following general principles[5]: –

(1) All AI systems should be deployed reliably as intended and sufficient safeguards must be placed to ensure the safety of relevant stakeholders and to minimize risks. In case of any unintended or unexpected harm arising due to failure of system, accident or negligence, it shall be ensured that appropriate grievance redressal, care and compensation systems are in place.

(2) All AI systems shall be programmed to treat every individual equally.

(3) All AI systems should not deny opportunity to a qualified person on the basis of their identity such as religion, race, caste, sex, descent, place of birth, physical appearance or residence in matters of education, employment, access to public spaces, services, or benefits etc.

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[5] Niti Aayog Report on Responsible AI for all, National Strategy on Artificial Intelligence, Part I & II

Provided where discrimination is necessary for efficient discharge of duty without causing any harmful effects, such act may be permitted.

(4) All AI systems should maintain privacy and security of data of individuals or entities that is used by the AI system by providing access only to those authorized with sufficient safeguards, in accordance with the procedure established by law.

(5) All AI system's system design and functions should be recorded and made available for external scrutiny and audit to ensure maximum transparency and compliance of the provisions of this act.

(6) All stakeholders involved in the design, development and deployment of the AI system must adhere to the regulations laid down in this act.

(7) All AI systems shall be programmed with an aim to promote positive human values and human rights and shall not cause prejudice to peace and public tranquillity.

(8) All AI systems shall be designed and developed with such capabilities to enable the automatic recording of events with traceability function.

(9) All AI systems must be tested to ensure that it withstands any surveillance attempts.

(10) All AI systems shall be carefully tested for violation of any fundamental rights and appropriate measures shall be taken to mitigate such violation.

(11) All AI system shall be accompanied by the instruction to use such AI system when sold to ensure responsible and informed use.

CHAPTER III

PROHIBITED AI PRACTICES AND PREVENTIVE MEASURES

4. PROHIBITION OF DISCRIMINATION BY AI SYSTEM

(1) No AI system shall be programmed to operate in a manner discriminatory only on the basis of Religion, Caste, Race, Sex, Place of Birth, Descent, Political background, class or, such other grounds that result in biased decision of AI system.

(2) No user using AI system to identify potential customer who have applied for services shall discriminate any persons on the above-mentioned grounds.

(3) No user using data obtained from third party entities in accordance with Chapter IV, in order to market or, advertise his services shall discriminate in notifying such services to the public.

(4) No AI system shall be operated in any manner that practices unfair exclusion of persons from using services or obtaining opportunities of benefits.

(5) The user shall not input data to the AI system in any manner indicative of discrimination on any of the above grounds or such other grounds that results in biased decision of AI system.

(6) All AI systems which use data exposed to it for learning purposes even after deployment shall be built in with appropriate measures to stop possible biased behaviour during the term of its functioning.

(7) Provided, in case of any contravention to the provisions under this section, the developer or the updater shall be punished with fine of not less than Rs.60,000/- and shall be liable to compensate the aggrieved person for the loss suffered by him.

5. MANIPULATION

(1) The algorithm of an AI system shall be designed in a manner, withstanding any manipulation of the system, in order to avoid exploitation of system vulnerabilities by adopting appropriate technical solutions that are relevant to the circumstances.

(2) In case any user, developer, updater or unauthorised third party alter the AI system's use or performance illegally in a manner that will contravene the provisions of this act, then such parties shall be punished with fine of not less than Rs.30,000/- along with such other punishments as per the facts and circumstances of the case.

6. AI SYSTEM POSING SERIOUS CONSEQUENCE

(1) Any AI system that,

(a) uses any techniques to distort a person's behaviour in any manner that causes or is likely to cause that person or any other person physical or psychological harm; or

(b) exploits the vulnerabilities of a person or a group of persons due to their age, physical or mental disability, or any other conditions, which will result in distortion of their behaviour in a manner that causes or is likely to cause that person or any other person physical or psychological harm;

shall be strictly prohibited, and developer shall be punished for violation of this section with an imprisonment of seven years or fine of not less than Rs.1,00,000/- or both.

Provided that, if such a harm is caused to children of age 14 years or below, both the developer and the user shall be punished with imprisonment up to seven years and fine of up to Rs. 2,50,000/-.

(2) All users shall be prohibited from the deploying real time biometric system in public places, failing which the user shall be liable for appropriate punishment as the Tribunal may deem fit.

PROVIDED the Central Government or State Government or any officer specially authorised in this behalf by the Central Government or State Government may, if satisfied that it is necessary or expedient to do so, during the time of public emergency or in the interest of public safety, shall use real-time remote biometric identification systems in publicly accessible spaces, subject to consultation with the judicial authority.

(3) No developer shall use, sell, market, and/or make available any AI system as a weapon except to the Central Government for defence purposes.

7. PROHIBITION ON USING AI SYSTEM TO CREATE FAKE MEDIA

(1) No AI system shall be used to create fake media or modify existing media of any kind, in order to deceive a person or a group of persons to represent otherwise than true fact, by circulation in the internet or otherwise, among the public.

Explanation – For the purpose of this act, media shall include photos, audios, videos, files, documents, software, web pages and websites, social media, databases, etc.

(2) Any person guilty of such act shall be punishable with imprisonment for a period not exceeding six months or fine up to Rs. 10,000/- or both.

8. UNAUTHORISED REPLICATION OF AI SYSTEM

Any person who replicates an algorithm of an AI system without due authorisation from the developer of such AI system, for the purpose of illegal distribution shall be liable to compensate the developer for any loss occurring therein. Such person shall, if he had received any benefit thereunder, restore such benefit, so far as may be, to the developer.

9. AI SYSTEM USED IN TRADING AND OTHER FINANCIAL INSTITUTIONS

(1) No trading or other financial institution shall use any AI system that will operate in a manner resulting in unreasonable loss or unjust benefit to themselves, or its customers, or any other person.

(2) Any person or institution guilty of such act shall be liable to punishment as may be decided by the Tribunal established under Chapter XI, based on the facts and circumstances of the case.

CHAPTER IV
DATA PRIVACY

10. GENERAL DUTIES OF ENTITIES DEALING WITH DATA

The users shall: -

(1)   collect and process personal data discreetly and genuinely, only to the extent necessary for carrying out their purpose;

(2)   be protective of personal data which they use and disclose about the risk of processing practices;

(3)   not use personal data in any manner that benefits themselves to the detriment of an individual or results in physical, financial or material harm to an individual or in a manner highly offensive;

(4)   not use personal data of individuals for commercial purposes;

(5)   regularly update the data security and practices;

(6)   disclose the purpose of collecting and processing data as well as categories of data needed for such purposes along with the period of retention of such data;

(7)   publish the privacy and safety policy in its official website; and

(8)   neither refuse to serve an individual who does not approve the processing of the individual's personal data under this section unless the processing is necessary for the primary purpose of the transaction that the individual has requested nor diminish the quality of the product or service.

11. DATA GOVERNANCE PRACTICES

The users shall adapt and maintain data governance practises with special focus on the relevant design choices, data collection, data preparation and processing operation, the formulation of relevant assumptions, examine possible biases, identify data gaps or shortcomings and analyse how those gaps and shortcomings can be addressed.

12. UNAUTHORISED ACCESS OF DATA

The users shall reasonably secure individual personal data from unauthorized access and promptly comply with Information Technology Act, 2000 read with Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011 and Information Technology (Intermediary Guidelines & Digital Media Ethics Code), 2021, in case of a breach of security, as defined therein.

13. CONFIDENTIALITY OF DATA

(1) The users shall not disclose or, sell personal data to, or share any personal data with any other person, unless it enters into a contract with the procuring entity so as to impose on the procuring entity, the same duties of care, confidentiality, privacy and security standards, as applicable to it.

(2) The contractual agreement referred in sub-section (1) shall state the purposes for which the data is procured, provided the same is acknowledged by the respective individuals prior giving consent and shall strictly prohibit further disclosure of such data by the procuring entity except as authorized by the contract.

(3) The users shall disclose the names of third parties to which such entity had disclosed the personal data when requested by any individual.

14. CONSENT

(1) Every user having possession of personal data of individuals shall: -

(a) obtain prior consent by issuing a meaningful notice from respective individuals for the purpose of such collection, possession and processing and the option to refuse the consent shall be placed clearly and prominently;

(b) obtain prior consent from respective individuals for disclosing, causing to disclose or disseminating their personal data to third parties including government agencies;

Notwithstanding anything above, the users are strictly prohibited from collection and possession of such data after an individual has refused his consent and shall not disclose or, cause to disclose or, disseminate the same to third parties including government agencies.

(2) Unless the consent of the individuals is obtained, the user shall not process or cause to process an individual's personal data acquired from a third-party. In cases where no consent is obtained, the respective users are obligated to delete the procured data immediately without any delay, and shall not store such data in any form.

(3) The period of retention of the personal data shall be for one year and such data shall be deleted if the consent is not renewed thereafter.

15. RIGHTS OF INDIVIDUALS

(1) The individuals whose data is sought to be collected shall have the right to:

(a) request the user to stop collecting, processing and delete their personal data;

(b) correct inaccurate personal data stored by users;

(c) withdraw the previously given consent at any time through the mechanism established by the users.

(2) Every user shall comply with the above request made by individuals within 30 days from the date of receipt of such requests.

(3) Every user dealing with personal data shall implement technical safeguards that prohibit indirect retrieving of such data after an individual has directed for deletion of his data.

16. RESTRICTIVE MEASURES

If a user learns that a third-party to whom it has provided access to personal data is using such personal data in violation of this chapter, the user shall immediately–

(a) limit the violator's access to personal data;

(b) seek proof of destruction of personal data previously accessed by the violating or third-party; and

(c) notify about the violation to the Authority established under Chapter X of this act within a period of seven days from the date of knowledge of such violation.

17. PROTECTION OF BIOMETRIC AND LOCAL DATA

(1) The users may collect or process an individual's biometric or location data provided it: -

(a) informs the individual in writing that such data is being collected and processed along with the purpose for which it is being processed and time period of retention of such data; and

(b) obtains express consent, which shall be valid for a period of not more than a year unless renewed by the individual for the purpose of collecting and processing such data before it is collected or processed.

(2) Upon expiration of the consent, any biometric or location data possessed by the user shall be destroyed immediately.

(3) The user in possession of biometric or location data must develop a specific written policy and make it available to the public, establishing a retention schedule and guidelines for permanently destroying of such data, when the initial purpose for processing has been satisfied or within one year of the individual's consent, unless renewed, whichever occurs first.

18. EXCEPTION

The users shall not be required to obtain consent for disclosing or sharing of personal data in accordance with this chapter, if such disclosure is required in order to respond to a legal request under the direction of the court, or for the respective governments to provide benefits to the individuals under welfare schemes, or to respond to a medical emergency.

CHAPTER V
PRE-MARKET OBLIGATIONS
19. ESTABLISHMENT OF A RISK MANAGEMENT SETUP

(1) For the purpose of this chapter, '*Risk Management Setup*' shall mean a program designed to evaluate an AI system and its development process for potential risks to accuracy, bias, discrimination, and privacy of individuals or groups of individuals.

(2) The developer of an AI system shall necessarily establish a risk management setup which shall be maintained and documented by the user.

(3) Such setup shall consist of following measures:

(a) Identification, analysis, estimation and evaluation of the known, foreseeable or other risks associated with each AI system;

(b) Adoption of measures to eliminate or reduce risk as far as possible through adequate design and development; and

(c) Implementation of adequate mitigation and control measures in relation to risks that cannot be eliminated;

(4) Such setup shall be tested prior to deployment of the AI system to ensure consistent and reliable performance with suitable testing procedures in order to achieve the intended purpose.

(5) If an AI system undergoes substantial modification in its function or purpose after being deployed due to any update, the *Risk Management Setup* shall be revised again by the updater; However, there shall be no change in the obligations of the users under this section.

20. QUALITY ASSESSMENT TEST

(1) All developers of AI systems shall conduct a *Quality Assessment Test* which shall focus on the techniques, procedures and systematic actions to be used for the development, quality control and quality assurance of the AI system, and procedures for record-keeping of all relevant documentation and data.

PROVIDED where an AI system undergoes substantial change due to any update, the respective updater shall conduct above-mentioned test again.

(2) The *Quality Assessment Test Report* shall be made available to the public through the official website of the respective developer, updater or user of such systems.

21. CONFORMITY ASSESSMENT PROCEDURE

All developers of AI systems shall ensure that their systems undergo the conformity assessment procedure before being deployed to ensure that it does not contravene any provisions of this act and the assessment report shall be submitted with the competent Authority established in Chapter X.

22. PENALTY

In case of any failure to comply with the provisions mentioned in this chapter, the developer shall be liable to pay a fine of not less than Rs.15,000/-.

CHAPTER VI
AUDITING OF AI SYSTEM

23. AUDITING THE SOURCE CODE AND ALGORITHM OF AN AI SYSTEM

(1) The user shall contract with an independent computer expert to comply the following:

(a) Audit the source code, algorithms and logic formulas of AI systems and evaluate results of an AI system by providing the independent computer expert with required data and facilities;

(b) An assessment of the relative benefits and costs of the AI system in light of its purpose, taking into account relevant factors such as data privacy practises, risk posed by AI system etc.;

(c) Audit the design and functioning of the AI system to ensure that the deployment is fair, honest and impartial, and guarantees accountability.

(2) The independent computer expert shall prepare a periodical report as necessary on the basis of auditing as per above sections and further recommend changes, if any, to improve the accuracy, effectiveness, and fairness of the source code of the computer systems and the algorithms and logic formulas used by it. It shall contain a detailed description of the AI system, its design, training provided on its use, data and purpose.

24. DISCRIMINATORY IMPACT ASSESSMENT

(1) The users shall carry out a *Discriminatory Impact Assessment* and publish the same in its official website.

(2) The Authority established under Chapter X shall prescribe the format of the assessment and take the responsibility of verifying the assessment.

(3) The assessment shall be carried out in accordance with the following:

(a) Determining whether the AI system under review has a disproportionate and adverse impact on a specific group of persons;

(b) Examining the reasonability of the objectives and interest of an AI system.

(c) Recommending alternatives or reasonable modifications that limit the adverse consequences on a specific group of persons.

25. PERIOD OF AUDIT

The user shall conduct the assessment mentioned in this chapter once every two years.

26. PUBLICATION OF REPORTS OF AUDIT

The user shall make the results of the audit under this chapter public through its official website.

27. PENALTY

In case of any failure to comply with the provisions mentioned in this chapter, the user shall be liable to pay a fine of Rs.10,000/- at the maximum.

CHAPTER VII

HIGH-RISK AI SYSTEM

28. CLASSIFICATION

(1) For the purpose of this Chapter, an AI system will be considered as High-risk AI system if it is likely to have a high impact on the fundamental rights, health, or economic interests of people or, likely to cause harm to a person or property or others, or performs critical services which requires high degree of caution and extended application of subjective knowledge, or deals with confidential data not subject to public disclosure and which may include, but not limited to an AI system used for the purpose of following:

(a) Real time remote Biometric identification and categorisation of persons;

(b) Safety components in the management and operation of road traffic and the supply of water, gas, heating and electricity etc.;

(c) Assignment of teachers and assessment of students during their admission or course of study in an educational or training institution;

(d) Recruitment or selection of persons for screening or filtering applications, evaluating candidates in the course of interviews or tests as well as making decisions on promotion and termination of work-related contractual relationships and for monitoring and evaluating performance and behaviour of persons in such relationships;

(e) Evaluating the eligibility of persons for various beneficial schemes of central or state government on behalf of or by public authorities;

(f) Emergency services like firefighting or instant medical aid etc.;

(g) Making individual risk assessments of persons by in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality agency to track past or present offenders of heinous crimes or for evaluating the reliability of evidence during investigation or prosecution of criminal offences or for predicting the occurrence of a criminal offence based on profile of persons by government agencies; and

(h) Assisting a judicial Authority in researching and interpreting facts and the law and in applying the law to a concrete set of facts.

(2) The Parliament shall have the power to revise the list contained in Section 24(1) from time to time to satisfy the then prevailing conditions.

29. OBLIGATION TO INFORM THE PERSONS EXPOSED

(1) Where a High-risk AI system is designed and developed to interact with people, it shall be mandatory for the users to inform the persons exposed thereto, that such system is a High-risk AI system, except in cases where it can be inferred from the context of use or prevailing circumstances.

Provided if such system is used by the government in the interests of the sovereignty and integrity of India, in a manner not contravening the fundamental rights, then there is no obligation for the users to inform the persons exposed thereto.

(2) In case of contravention of the provision of this section, the user shall be liable for a fine of up to Rs. 5000/-.

30. POST-MARKET MONITORING SET-UP

(1) For the purpose of this section, post-market monitoring shall mean all activities carried out by developers of AI systems to proactively collect and review experience gained from the use of AI systems they deploy for the purpose of identifying any need to immediately apply any necessary corrective or preventive actions.

(2) All developers shall establish and track a post-market monitoring set-up of the High-risk AI systems, developed by them in such a manner that it is proportionate to the nature and risks of such system, in order to analyse the performance of such system for at least ten years.

(3) The developer shall be liable for a fine of up to Rs. 20,000/- for failure to establish a post-market monitoring system.

31. MARKET SURVEILLANCE

(1) For the purpose of this act, the Authority established in Chapter X shall undertake the responsibility for market surveillance of the High-risk AI system, and shall have full access to data and documentation of the training, validation and testing datasets used by the developer, in any manner that deems fit.

Provided the Authority shall be granted access to the source code of High-risk AI system only on the reasonable request.

(2) All developers of High-risk AI system, which is in operation, shall report to the Authority, any serious malfunctioning or incidents of those systems, which shall potentially cause threat

to fundamental rights or harm to the people or property, within fifteen days of knowledge of such incident.

(3) Immediately after such notification, the user and the Authority shall establish a causal link between the High-risk AI system and the incident or malfunctioning that took place and, consequently both the parties must proceed with the evaluation of such system and, user shall take all appropriate corrective actions to bring the High-risk AI system into compliance within a reasonable time before deploy again.

Provided if adequate action is not taken by user of a High-risk AI system, the Authority shall take all appropriate provisional measures to prohibit or restrict the High-risk AI system's being made available on the market or to withdraw the product from that market or to recall it, immediately.

(4) The Authority shall maintain a record of all such incidents and malfunctioning with relevant particulars and make it available to public.

CHAPTER VIII

OBLIGATION OF STAKEHOLDERS

32. OBLIGATION OF DEVELOPERS

(1) The developers of AI systems shall ensure that their AI systems are in compliance with the requirements set out under this Act.

In case where the developers are not based in India, they shall appoint an authorised representative who shall perform the task specified in this act.

(2) It is the duty of the developer to ensure that their AI system is duly certified and graded by the Authority established under Chapter X.

(3) If any harm is caused due to the mistake in the AI system's algorithm or the negligence of the developer or otherwise, then the developer shall be liable to compensate the person harmed.

32. OBLIGATION OF USERS

(1) All users of AI systems shall use such systems adhering to the instructions of use accompanying the system and take all the measures mentioned in this act cautiously.

(2) The user shall be responsible in organising their own resources and activities for the purpose of implementing all the measures indicated by the developer unless the he has agreed otherwise.

(3) To the extent the user exercises control over the input data, the user shall ensure that input data is relevant in view of the intended purpose of an AI system and data input is in such a manner that it does not cause any unnecessary discrimination.

(4) In case of serious incidents or malfunctioning of AI system, the user shall report the same to the developer as well as the Authority established under this Act and suspend the use of such system till corrective actions are taken.

(5) The users of the AI systems shall keep the logs automatically generated by that AI system to the extent such logs are under their control, for a period of at least seven years.

(6) Notwithstanding any of the above provisions, in case of any harm caused by the AI system, which the user is identified as responsible due to his actions, committed by him intentionally or unintentionally, or due to negligence in his part, then he shall be liable to compensate the person to whom such harm was caused.

(7) The users shall develop a whistle blower mechanism for the employees at their organisation to report in case where the AI system is failing and produces harmful results.

34. OBLIGATION OF UPDATER

(1) The updater of an AI system shall be placed in the position of developer in respect of all the additional functionalities introduced by him.

(2) In case of any substantial modification to the purpose of or function of an AI system, he shall be considered as the developer of that AI system for the purpose of this act.

CHAPTER IX
DATABASE FOR AI SYSTEM

35. ESTABLISHMENT OF AI SYSTEMS DATABASE

(1) The Authority shall, in collaboration with the Central Government, set up and maintain a database containing data concerning all AI systems including separate database for high-risk AI systems.

(2) The Authority shall make the database accessible to public.

(3) The Authority shall assist the developers with technical and administrative support for furnishing necessary data required to maintain the database.

(4) The Database shall contain data regarding the names, contact details and address of the developer and the user of an AI system.

CHAPTER X

NATIONAL ARTIFICIAL INTELLIGENCE REGULATORY AUTHORITY OF INDIA

36. ESTABLISHMENT AND INCORPORATION OF AUTHORITY

(1) The Central Government shall, by notification in the Official Gazette, establish, for the purposes of this Act, an Authority to be known as the National Artificial Intelligence Regulatory Authority of India to perform the duties and discharge the functions under this act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this act, to acquire, hold and dispose of property, both movable and immovable, and to enter into contract, and shall, by the said name, sue or be sued.

(3) The main head office of the Authority shall be at Delhi and it shall establish other offices at other places in India, as it may deem fit.

37. MANAGEMENT OF THE AUTHORITY

(1) The Authority shall consist of following members namely:

(a) One Chairperson and

(b) Three members from amongst the officers of the Central Government not below the rank of Joint Secretary or equivalent, one each to represent the Ministry of Electronic and Data Technology, the Ministry of Science and Technology and Ministry of Law and Justice;

(c) One member who has held the post of Secretary to the Government of India or any equivalent post in the Central Government for a period of not less than two years;

(d) Five other whole-time members to be nominated by the Central Government, and

(e) Such other officers and employees as it may consider necessary for the efficient discharge of its functions under this Act.

(2) A person shall not be qualified for appointment as the Chairperson of the Authority, unless such a person is one who has been:

(a) a Judge of the Supreme Court or,

(b) Chief Justice of a High Court or, a Judge of a High Court or

(c) an eminent person, or an expert in the AI technology having special knowledge and experience in the field of Artificial Intelligence & Machine Learning, data computing, cyber and internet laws, and knowledge of existing standards and legal requirements and other related subjects,

And he/she shall be appointed by the Central Government in consultation with the Chief Justice of India.

(3) A Person shall not be qualified for appointment as the Member of the Authority, unless such a person has:

(a) expertise in the field of Artificial Intelligence & Machine Learning, data technology, data management, data science, cyber and internet laws, and knowledge of existing standards and legal requirements and other related subjects,

(b) an eminent academician having experience in research and teaching in the above-mentioned fields.

And he/she shall be appointed by the Central Government in consultation with the Chairperson.

(4) The Authority may, appoint such experts and constitute such Committees of experts as it may consider necessary to discharge its functions on such terms and conditions as specified by the regulations adopted by the Authority.

(5) The general superintendence, direction and management of the affairs of the Authority shall vest in the chairman and the members of the Authority, who shall exercise all powers and do all acts and things, which may be exercised or done by the Authority.

38. POWERS AND FUNCTIONS OF THE AUTHORITY

(1) Subject to the provisions of this act, it shall be the duty of the Authority to protect the interests of stakeholders and to promote the development of, and to regulate the AI system usage in India by such measures as it thinks fit.

(2) The Authority shall, without prejudice to the generality of the foregoing provisions, may take measures referred to herein:

(a) Take all such measures as may be necessary to regulate and frame policy and guidelines for the establishment, operation and maintenance of AI system;

(b) Guide and advice on the implementation of this act to all stakeholders including to small-scale developers;

(c) Provide a controlled environment to facilitate development, testing and validation of AI system before such system is put into use and supervise and guide the developers with a view to ensuring compliance with the requirements of this act;

(d) Specify the qualifications, experience and norms for accreditation of AI system developers;

(e) Make recommendations regarding development of infrastructure to enable conducive environments for inventing, developing and regulating AI systems in India;

(f) Develop mitigation process in case if any significant risks to health, safety or fundamental rights identified during the development and testing of such systems;

(g) Hold training, workshops and courses in the area of AI and related area;

(h) Act as a forum for exchange of views and techniques to be adopted for creating a platform to make India a robust centre for Artificial Intelligence system;

(i) Make recommendations to the Central Government on various measures to be adopted to make provision for governing and developing AI;

(j) Devise strategies to improve education on AI and related subjects and enhancing the skills of the persons to develop, manage and maintain AI systems in India;

(k) Promote sustainable innovation in AI systems that does not pose a great negative impact on its ecosystem,;

(l) Address the issue of digital literacy to promote responsible and informed use of AI system;

(m) Formulate model bye-laws that needs to be adopted by AI system developers to ensure human responsibility in the use of such systems and minimizing the adverse impact of such system by measuring its reliability and robustness;

(n) Formulate policies and support emerging enterprises to support a horizontal growth of AI sector and development of human resources;

(o) Encourage and facilitate the drawing up of codes of conduct after consultation with all stakeholders, intended to foster the voluntary application to AI systems with requirements;

(p) Establish a mechanism to receive complaints from the public regarding an AI system;

(q) Find vulnerable sectors where use of AI system poses more harm and lay down regulatory measures for use of AI system in those sectors; and

Such other functions as may be decided by the Central Government and the Authority from time to time.

(3) In addition to the functions laid in the above sub-section (2), the Authority shall carryout the functions assigned as provided in this Act.

39. INVESTIGATION RELATING TO OFFENCES UNDER THIS ACT

Where an AI system is reasonably suspected of contravening the provisions of this act, the Authority shall conduct investigation or inspections necessary therein with reasons to be recorded in writing and inform the Tribunal of such investigation.

40. APPROVAL AND GRADING OF AI SYSTEM

Prior to placing it in the market, the developer shall obtain the required approval certificate from the Authority established herein, which shall grade and certify AI systems, as per the risk it advances and safety to the users, as low risk, medium risk and high-risk AI systems.

CHAPTER XI

NATIONAL TRIBUNAL FOR ARTIFICIAL INTELLIGENCE

41. ESTABLISHMENT OF TRIBUNAL

The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a Tribunal to be known as the *National Tribunal for Artificial Intelligence*, consisting of a President and such number of Judicial and Technical members, as the Central Government may deem necessary, to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this act or any other law for the time being in force.

42. COMPOSITION OF TRIBUNAL

(1) The Tribunal shall consists of--

(a) a full time Chairperson;

(b) not less than ten but subject to maximum of twenty full time Judicial Members as the Central Government may, from time to time, notify;

(c) not less than ten but subject to maximum of twenty full time Expert Members, as the Central Government may, from time to time, notify.

(2) The Chairperson of the Tribunal may, if considered necessary, invite any one or more person having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.

(3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.

(4) The Central Government may, in consultation with the Chairperson of the Tribunal, make rules regulating generally the practices and procedure of the Tribunal including--

(a) the rules as to the persons who shall be entitled to appear before the Tribunal;

(b) the rules as to the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals;

(c) the minimum number of Members who shall hear the applications and appeals in respect of any class or classes of applications and appeals:

Provided that the number of Expert Members shall, in hearing an application or appeal, be equal to the number of Judicial Members hearing such application or appeal;

(d) rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting; and

(e) other such rules that is necessary for the functioning and administration of the Tribunal.

43. QUALIFICATION OF CHAIRPERSONS, JUDICIAL MEMBERS AND EXPERT MEMBERS

(1) A person shall not be qualified for appointment as the Chairperson or Judicial Member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court:

Provided that, a person who is or has been a Judge of the High Court shall also be qualified to be appointed as a Judicial Member.

(2) A person shall not be qualified for appointment as an Expert Member, unless he, --

(a) has a degree in Artificial Intelligence, Machine learning, Data science, Technology and related fields and has an experience of five years in the relevant field including five years practical experience in the relevant field; or

(b) has administrative experience of fifteen years including experience of five years in dealing with Artificial Intelligence and related technology in the Central or a State Government or in a reputed National or State level institution.

(3) The Chairperson, Judicial Member and Expert Member of the Tribunal shall not hold any other office during their tenure as such.

(4) The Chairperson and other Judicial and Expert Members shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal under this act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local Authority or in any statutory Authority or any corporation established by or under any Central, State or Provincial Act.

44. APPOINTMENT AND TERM OF CHAIRPERSONS, JUDICIAL MEMBERS, EXPERT MEMBERS AND OTHER MEMBERS

(1) Subject to the provisions of section 42, the Chairperson, Judicial Members and Expert Members of the Tribunal shall be appointed by the Central Government.

(2) The Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India.

(3) The Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of such Selection Committee and in such manner as may be prescribed.

(4) The Chairperson, Judicial Member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment:

Provided that in case a person, who is or has been a Judge of the Supreme Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of seventy years:

Provided further that in case a person, who is or has been the Chief Justice of a High Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that in case a person, who is or has been a Judge of a High Court, has been appointed as Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years:

Provided also that no expert member shall hold the office after he has attained the age of sixty-five years.

(5) The Central Government shall, in consultation with the Tribunal, provide the Tribunal, as the case may be, with such officers and other employees as may be necessary for the exercise of the powers and discharge of the functions of the Tribunal.

45. ESTABLISHMENT OF BENCHES

(1) There shall be constituted such number of Benches of the Tribunal, as may, by notification, be specified by the Central Government.

(2) The Principal Bench of the Tribunal shall be at New Delhi which shall be presided over by the President of the Tribunal.

(3) The powers of the Tribunal shall be exercisable by benches consisting of two Members out of whom one shall be a Judicial Member and the other shall be a Technical Member.

(4) The President shall, for the disposal of any case relating to high-risk AI systems, constitute one or more Special Benches consisting of three or more Members, majority necessarily being of Judicial Members.

(5) If the Members of a Bench differ in opinion on any point or points, it shall be decided according to the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

46. POWER TO ADJUDICATE DISPUTES

(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to an AI system is involved and such question arises out of the implementation of this act.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon by providing adequate necessary relief or compensation as it deems fit.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

47. POWER TO DECIDE PENALTIES

In cases where there is no penalty prescribed in this act for contravention of any of the provisions under the act, the Tribunal shall have the power to decide the penalty based on the facts and circumstances of the cases.

48. EXECUTION OF AWARD, ORDER OR DECISION OF THE TRIBUNAL

An award, order or decision of the Tribunal under this act shall be executable by the Tribunal as a decree of a civil court or executable by a civil court of local jurisdiction to which the tribunal transferred it, and for this purpose, the Tribunal shall have all the powers of a civil court.

49. APPEAL FROM THE ORDERS OF THE TRIBUNAL

(1) Any person aggrieved by an order of the Tribunal may, within a period of thirty days from the date on which the order, decision, direction or determination is communicated to him, prefer an appeal to the High court:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

(2) Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in Section 100 of the Code of Civil Procedure, 1908 (5 of 1908):

Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.

50. CIVIL COURT NOT TO HAVE JURISDICTION

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Tribunal is empowered to determine by or under this act or any other law for the time being in force and no injunction shall be granted by any court or other Authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this act or any other law for the time being in force, by the Tribunal.

CHAPTER XII
MISCELLANEOUS

51. OBLIGATIONS IN LIEU OF PRIVATE AI SYSTEM

In case where an AI system is a private AI system, the obligations and requirements of the users under this act shall be assigned to the developer himself.

Explanation- For the purpose of this section, a private AI system shall include those AI systems which are designed for the purpose of personal use and interaction, with no wide scale application and which does not possess any High-risk function like analysis of data to produce specific results resulting in any significant harm.

52. AI ENABLED PROFILING

(1) The developer and the user shall not incorporate AI enabled profiling in any AI system to collect any external or internal behavioural characteristics, or psychological data of persons using or exposed to that AI system.

(2) A person shall not use AI-enabled profiling to make decisions that produce legal effects or any other significant effects concerning consumers or effects like financial or lending services, housing, insurance, criminal justice, etc.

53. PROHIBITION OF EXPLICIT CONTENT IN AI USED BY CHILDREN

(1) No AI system which is designed to be used by the children of age 14 years or below shall contain any explicit content that may likely affect their morale and lead to the exploitation of their vulnerable mind.

(2) The developer of such AI system shall be liable to be punished with a fine which may extend up to Rs. 50,000/-.

54. REVIEW OF DECISIONS OF AI SYSTEM IN CASE OF ANY COMPLIANT

In case where any genuine concern is expressed by the stakeholders on the decision of an AI system, the user of that system shall ensure that the decision is reviewed by a human to address that concern and provide for revised decision with reasoning.

55. ACCOUNTABILITY OF GOVERNMENT IN IT GOODS AND SERVICES

The Central government shall disclose to the public any High-risk AI system it purchases or licenses along with the relevant data such as the purpose of procuring such system.

56. FACILITATING EDUCATION IN THIS FIELD

The Central government shall provide educational subsidies and support students studying in the fields of artificial intelligence, virtual reality, autonomous vehicles or quantum computing at institutions of higher education in the state with the object to facilitate development.

57. TAX CREDIT AND SUBSIDIES

The Central government shall allow tax credit and subsidies to businesses which invest in AI and related technology in order to encourage the development of AI sector to the benefit of Indian economy and in doing so it shall take into account the specific interests and needs of the small-scale developers and start-ups.

58. FORMULATING STRATEGIES AND POLICIES TO MITIGATE UNEMPLOYMENT RESULTING DUE TO AI TECHNOLOGY ADAPTION

The Central government shall devise a comprehensive strategy to avoid and mitigate loss of employment opportunities arising due to wide scale adaption of AI Technology in India and develop various schemes to train individuals to adapt to the new situation or to find alternative employment.