ALGORITHMS IN THE BOARDROOM: THE LEGAL AND ETHICAL RAMIFICATIONS OF ARTIFICIAL INTELLIGENCE AS DIRECTORS UNDER THE COMPANIES ACT, 2013

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ABSTRACT

Artificial intelligence ("AI") is moving steadily from the back office into the boardroom. Algorithms now screen investments, monitor compliance and model strategic risk, and in 2014 a Hong Kong venture capital fund publicly announced the "appointment" of an algorithm to its board. This paper asks whether an AI system can lawfully be appointed as a director of a company under the Companies Act, 2013 and, if not, how Indian company law should accommodate the growing use of AI in board decision-making. It argues that, on the first question, the answer is a clear no. Section 149(1) requires a Board to consist of "individuals", and the Act's appointment machinery, namely the Director Identification Number, the consent to act, the disqualification grounds and the regime of personal liability, presupposes a natural person who can be identified, held to account and punished. The duties in Section 166, particularly those of good faith and independent judgment and the bar on assigning one's office, are equally difficult to map onto an algorithm. Drawing on the positions in the United Kingdom, the United States and Hong Kong, and on the theory of legal personhood, the paper contends that conferring directorship on AI would open an accountability gap that existing law cannot close. It therefore cautions against diluting the natural-person requirement at present and proposes a calibrated framework in which AI serves as an advisory or "board observer" tool, while human directors remain fully responsible, supported by disclosure, documentation and oversight obligations that Indian regulators can introduce within the existing statutory architecture.

Keywords: Artificial Intelligence; Corporate Governance; Companies Act, 2013; Directors' Duties; Legal Personhood; Board of Directors

I. INTRODUCTION

A. Background and Significance

Over the past two decades, advances in machine learning and data analytics have transformed the way companies gather information, assess risk and take decisions. For more than two centuries, the board of directors has been the locus of corporate decision-making, and the role of the director has itself evolved from a largely supervisory, compliance-oriented function into that of a strategic steward of the enterprise. AI now promises, or threatens, to reshape that role once more. Systems that can process vast datasets, detect patterns invisible to human analysts and generate recommendations in real time are already used by management, and it is a short conceptual step from AI that advises the board to AI that sits on it.[1] Proponents argue that integrating AI at board level could improve the speed, consistency and evidential basis of strategic decisions; sceptics warn that it could dilute accountability at the very apex of the corporation.[2]

No Indian statute or regulation presently addresses AI systems functioning as directors. In this vacuum, companies experimenting with AI in governance must work within existing law, since compliance is a non-negotiable aspect of board functioning, and it is far preferable for a company to structure its use of AI conservatively than to invite litigation over the validity of its board's decisions. At the same time, the regulation of a fast-moving technology must be kept under continuous review, so that the law neither stifles legitimate innovation nor loses sight of the need for compliance with national and international standards. This paper therefore approaches the problem in two stages: first, what the Companies Act, 2013 (the "Act")[3] currently permits; and second, how the law ought to respond as the technology matures. Technology may well be the key to the future of corporate governance, but that future must rest on transparency and accountability.

B. Research Questions, Objectives and Scope

This paper addresses three questions. First, can an AI system be validly appointed as a director under the Act as it stands? Second, if it cannot, what consequences would follow from a

[1] Michael Hilb, *Toward Artificial Governance? The Role of Artificial Intelligence in Shaping the Future of Corporate Governance*, 24 J. Mgmt. & Governance 851 (2020).
[2] Martin Petrin, *Corporate Management in the Age of AI*, 2019 Colum. Bus. L. Rev. 965.
[3] The Companies Act, 2013, No. 18, Acts of Parliament, 2013 (India) [hereinafter Companies Act].

purported appointment, and what role may AI legitimately play in the boardroom today? Third, what legal and ethical considerations should guide any future reform? The objective is to identify the regulatory gap that exists in light of the practical trajectory of the technology, and to lay a foundation for a legal framework that can accommodate it without compromising accountability.

The analysis is confined principally to the Act and the rules made under it, read with relevant Indian case law on directors' duties and legal personhood. To situate the Indian position, the paper draws comparisons with the United Kingdom, the United States and Hong Kong, jurisdictions that have either expressly addressed the natural-person question or hosted the best-known experiment with an "AI director". It also engages with the theoretical literature on corporate and electronic personhood. It does not examine sector-specific regimes such as banking or insurance regulation in detail, nor the use of AI by management below board level except where that use bears on the directors' own duties of oversight.

Part II examines the statutory framework governing directors under the Act. Part III considers the capabilities and current applications of AI, including the episode of the Hong Kong "AI director". Part IV addresses the theoretical question of legal personhood. Part V undertakes a comparative analysis. Part VI evaluates the opportunities, legal challenges and ethical concerns raised by AI directors, and Part VII proposes a calibrated framework for India. Part VIII concludes.

II. THE STATUTORY FRAMEWORK FOR DIRECTORSHIP UNDER THE COMPANIES ACT, 2013

The Act is the principal legislation governing the incorporation, management and winding up of companies in India, and corporate governance is among its central concerns. It seeks to equip directors with clear norms of conduct and to make them responsible and accountable for the manner in which they discharge their functions. A substantial part of the Act is devoted to directors: who may be appointed and how, what disqualifies them, what they owe the company, and how they may leave or be removed from office. Its object is to ensure that a director applies his or her own mind to the affairs of the company and acts for its benefit rather than for personal advantage, and directors appointed in contravention of the Act are exposed to penalties. The Act has adapted to technological change in some respects; directors may now, for instance,

participate in board meetings through video conferencing or other audio-visual means.[4] Yet every one of its mandates is addressed to a human being. AI may now replicate many of the analytical tasks a director performs, but the legal office of director remains reserved for natural persons.[5]

A. Overview of the Act

The Act replaced the Companies Act, 1956 after an extended consultative process, with the declared aims of modernising Indian company law, aligning it with international best practice, strengthening corporate governance and investor protection, and facilitating the ease of doing business. Several of its innovations are directly relevant to the present inquiry: the statutory codification of directors' duties in Section 166; the institution of independent directors, together with a Code for Independent Directors in Schedule IV; the mandatory appointment of woman and resident directors under Section 149; enhanced disclosure through the Board's report under Section 134; and a more exacting liability regime built around the concept of the "officer who is in default" in Section 2(60).[6] Taken together, these provisions reflect a legislative philosophy that good governance depends on identifiable individuals who can be held to account. It is against that philosophy that any proposal to place AI on a board must be assessed.

B. The "Individual" Requirement and the Appointment Machinery

Section 2(34) defines a "director" as a director appointed to the Board of a company, and Section 2(10) describes the Board as the collective body of the company's directors.[7] Neither definition, by itself, answers whether a director must be human. The answer is supplied by Section 149(1), which requires every company to have "a Board of Directors consisting of individuals as directors".[8] The word "individual" is used throughout Indian law to denote a natural person, as distinct from a company, firm or other artificial person. It is for this reason that a body corporate cannot be appointed as a director of an Indian company, a stricter position than that historically permitted in the United Kingdom and Hong Kong. The surrounding

[4] Companies Act § 173(2); The Companies (Meetings of Board and its Powers) Rules, 2014, r. 3 (India).
[5] *See generally* Vydhrithi Reddy, *Corporate Boards: Human or Bot?*, 22 SCRIPTed 76 (2025).
[6] Companies Act §§ 2(60), 134, 149, 166, sch. IV.
[7] *Id.* § 2(10), (34).
[8] *Id.* § 149(1).

provisions reinforce this reading at every step.

(a) Director Identification Number. Section 152(3) prohibits the appointment of any person as a director unless a Director Identification Number ("DIN") has been allotted to him, and Section 153 requires every "individual" intending to be appointed as a director to apply for one. The rules require the applicant to furnish proof of identity and address and to complete periodic KYC verification.[9] An AI system possesses no identity documents and cannot satisfy these requirements.

(b) Consent to act. Under Section 152(5), a person appointed as a director cannot act as such unless he gives his consent to hold office and that consent is filed with the Registrar.[10] Consent presupposes a legal subject capable of volition and of bearing the obligations it accepts.

(c) Composition requirements. The second proviso to Section 149(1) requires prescribed classes of companies to have at least one woman director; Section 149(3) requires every company to have at least one director who has stayed in India for not less than 182 days during the financial year; and Section 149(6) requires an independent director to be, in the opinion of the Board, "a person of integrity" possessing relevant expertise and experience.[11] Each requirement assumes human attributes.

(d) Disqualifications. Section 164(1) disqualifies, among others, a person of unsound mind so declared by a competent court, an undischarged insolvent, and a person convicted of certain offences.[12] These grounds are meaningful only in relation to a natural person.

It follows that, under the Act as it stands, an AI system cannot be validly appointed as a director. This is not a mere drafting omission: the requirement of an "individual" is woven into the appointment, composition and disqualification provisions alike. A purported appointment would be invalid, could not be registered for want of a DIN, and would leave the company exposed to the consequences of non-compliance with the board-composition requirements of Section 149. Conversely, nothing in the Act prevents a Board from using AI as a tool to inform its deliberations, provided that the directors themselves take, and remain responsible for, the

[9] *Id.* §§ 152(3), 153–154; The Companies (Appointment and Qualification of Directors) Rules, 2014, rr. 9, 12A (India).
[10] Companies Act § 152(5).
[11] *Id.* § 149(1) (second proviso), (3), (6)(a).
[12] *Id.* § 164(1).

decision.

C. Other Provisions Governing the Life Cycle of Directorship

Beyond eligibility, the Act regulates the entire life cycle of directorship. Section 150 provides for the selection of independent directors from a data bank; Section 152 governs appointment and retirement by rotation; and Section 160 confers on persons other than retiring directors the right to stand for directorship.[13] Section 167 sets out the circumstances in which a director's office falls vacant, Section 168 governs resignation and preserves a director's liability for offences committed during his tenure, and Section 169 empowers shareholders to remove a director by ordinary resolution.[14] Sections 184 and 188 require directors to disclose their interests and regulate related party transactions.[15] The personal and continuing character of these obligations, under which an outgoing director remains answerable for what was done on his watch, again presupposes a human office-holder.

D. Directors' Duties under Section 166

Of particular importance is Section 166, which codified directors' duties for the first time in Indian company law and attaches penal consequences to their breach.[16] Each duty raises distinct difficulties when applied to an AI system.

(a) Acting in accordance with the articles. Section 166(1) requires a director to act in accordance with the company's articles. An AI system could in principle be programmed to respect constitutional constraints, but interpreting open-textured provisions of the articles calls for legal judgment of a kind that current systems cannot reliably exercise.

(b) Good faith. Section 166(2) requires a director to act in good faith in order to promote the objects of the company for the benefit of its members as a whole. Good faith is a subjective standard concerned with honesty of purpose. It is difficult to see how it can be attributed to, or proved of, a system that has no intentions of its own; the challenge is as much philosophical as practical.

[13] *Id.* §§ 150, 152, 160.
[14] *Id.* §§ 167–169.
[15] *Id.* §§ 184, 188.
[16] *Id.* § 166.

(c) Best interests of the company and its stakeholders. The same provision requires a director to act in the best interests of the company, its employees, its shareholders, the community and the protection of the environment. Balancing these frequently competing interests is an exercise of evaluative judgment rather than mathematical optimisation, and an AI system will inevitably reflect whatever weighting its designers or its training data embed.

(d) Due care, skill, diligence and independent judgment. Section 166(3) obliges a director to exercise his duties with due and reasonable care, skill and diligence, and to exercise independent judgment. AI can process data at a scale and speed that no human can match, but whether this constitutes "care and diligence" in the legal sense is doubtful. The requirement of independent judgment is still more problematic: an AI system's outputs are determined by its architecture, its training data and the instructions of those who deploy it, so its "judgment" is never truly independent of its developers or controllers. The Supreme Court has long emphasised that a director cannot escape liability by pleading ignorance of the company's affairs; the duty is one of active and informed engagement.[17]

(e) Conflict of interest. Section 166(4) prohibits a director from involving himself in a situation in which he may have a direct or indirect interest that conflicts, or may conflict, with the interest of the company. The concepts of "interest" and "conflict" are hard to apply to an algorithm, yet the underlying risk is real: an AI tool licensed from a vendor that also serves the company's competitors, or trained on data supplied by interested parties, may embed precisely the conflicts that the provision is designed to prevent.

(f) Undue gain. Section 166(5) prohibits a director from achieving or attempting to achieve any undue gain or advantage for himself or his relatives, partners or associates. Applying this standard presupposes an understanding of ethical and fair business practice. An AI system has no relatives or associates, but it may be configured to advantage those who own or operate it, and the provision as drafted would not obviously reach such conduct.

(g) Non-assignment of office. Section 166(6) declares void any assignment by a director of his office. This raises fundamental questions about the identity of an AI director. Is it a singular entity, or merely the latest version of a continually updated model? Would replacing, retraining or migrating the system amount to an assignment of office?

[17] *See* Official Liquidator v. P.A. Tendolkar, (1973) 1 SCC 602 (India).

(h) Liability and punishment. Under Section 166(7), a director who contravenes the section is punishable with a fine of not less than one lakh rupees, which may extend to five lakh rupees.[18] Penal liability presupposes a person who can be identified, proceeded against and made to pay. Were an AI director to cause loss, it is unclear whether responsibility would fall on the system itself, the company, its developers, or the human directors who approved its appointment.

These duties were designed with human directors in mind. The Act's emphasis on judgment, ethics and personal liability does not translate easily to artificial agents, and the absence of any provision expressly addressing non-human directors creates genuine uncertainty as to how the law would respond to an attempt to appoint one.

III. ARTIFICIAL INTELLIGENCE AND ITS CAPABILITIES

A. Understanding Artificial Intelligence

AI refers broadly to computer systems capable of performing tasks that ordinarily require human intelligence, such as perception, prediction, classification and the generation of language.[19] Earlier rule-based or "expert" systems operated by applying rules explicitly programmed by humans. Contemporary systems rely predominantly on machine learning, in which a model infers patterns and decision rules from large datasets rather than being given them in advance. Deep learning, a subset of machine learning, uses artificial neural networks, layers of interconnected nodes loosely modelled on biological neurons, to identify complex structures in data. It has driven advances in image recognition and natural language processing and, more recently, in generative systems capable of producing text, analysis and code.

Two features of these systems matter for company law. The first is capability: machine learning models can analyse far larger volumes of information than any board, identify correlations that humans would miss, and do so consistently and at speed. The second is opacity: the reasoning by which a complex model reaches a particular output is often difficult to explain, even for its developers, giving rise to the so-called "black box" problem. Models also reproduce the biases and gaps in their training data and may perform poorly when circumstances depart from the

[18] Companies Act § 166(7).

[19] Ravil I. Mukhamediev et al., *Review of Artificial Intelligence and Machine Learning Technologies: Classification, Restrictions, Opportunities and Challenges*, 10 Mathematics 2552 (2022).

patterns on which they were trained.[20] The first feature explains why companies are attracted to AI in governance; the second explains why the law should be cautious about entrusting it with formal authority.

Most large businesses now use some form of AI, whether machine learning, rule-based analytics, chatbots or virtual assistants, to automate workflows, personalise and improve customer service, and summarise information for decision-makers. The governance literature increasingly treats AI not merely as an operational tool but as a potential participant in strategic decision-making, and urges boards to integrate AI initiatives within the company's strategic vision while preserving human oversight.[21] In the corporate context, this is increasingly a matter of necessity, since AI has the potential to raise standards of administration, from generating recommendations to enhancing productivity and surfacing valuable insights.

B. Potential Implementation of AI in Board Functions

Although the Act does not permit AI directors, a pathway for AI to assume a greater role in board functions could involve gradual integration. Hilb describes a spectrum running from "assisted" intelligence, in which AI supports human directors with specific tasks, to "autonomous" intelligence, in which decision rights are transferred to the machine.[22] At the near end of that spectrum, AI systems could serve as "board observers" or advisers, providing insights and recommendations without formal voting rights. This approach would allow human directors to retain accountability and liability while benefiting from AI's capacity for data processing and analysis.

As the technology advances and legal frameworks evolve, such systems could be entrusted with specific areas of analysis, such as risk assessment or compliance monitoring, where the ability to process vast quantities of data is particularly valuable. Any such implementation would likely require a hybrid model, in which AI tools operate alongside human directors with a clear delineation of responsibilities and decision-making authority. Robust governance structures would be essential to address risks and to ensure compliance with existing law and ethical norms, and companies would need to invest in systems capable of engaging with complex business environments and stakeholder interests. Ultimately, any integration of AI

[20] Mukhamediev et al., *supra* note 19.
[21] Hilb, *supra* note 1.
[22] *Id.*

into the formal role of director would require significant amendments to the Act and allied legislation, as well as clear frameworks for responsibility, liability and oversight.

C. Current Applications in Business and the Boardroom

In practice, AI is already deployed across corporate functions: analytics tools that automate routine data analysis and forecasting; risk and fraud-detection systems in banking and payments; compliance tools that flag unusual transactions or regulatory changes; and customer-engagement systems that suggest responses to service agents in real time. At board level, AI tools are increasingly used to prepare and summarise board papers, benchmark performance, screen potential acquisitions and model strategic scenarios.[23]

The best-known attempt to take the further step of placing AI on a board occurred in May 2014, when Deep Knowledge Ventures, a Hong Kong venture capital fund investing in biotechnology and regenerative medicine, announced that it had appointed an algorithm named VITAL (Validating Investment Tool for Advancing Life Sciences) to its board of directors.[24] VITAL, licensed to the fund by a UK research agency, analysed data on prospective investee companies, including their financing, intellectual property and clinical trials, in order to generate investment recommendations, and was described as having a "vote" on the fund's investment decisions. The announcement attracted worldwide attention, but its legal significance was limited. VITAL was not, and could not have been, a director under Hong Kong company law, which does not recognise software as a legal person and requires every private company to have at least one director who is a natural person; in substance, it functioned as an observer whose analysis informed the decisions of the human board.[25] The episode is nonetheless instructive. It demonstrates both the commercial appetite for algorithmic participation in governance and the reality that, under existing law, the human directors remained the only legally responsible decision-makers.

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[23] Hilb, *supra* note 1; Tanmay Mukund Pethkar, *Artificial Intelligence (AI) in Corporate Governance: Transformative Trends and Legal Pathways in India*, Chartered Secretary, Aug. 2024, at 93.

[24] Press Release, Deep Knowledge Ventures, Deep Knowledge Venture's Appoints Intelligent Investment Analysis Software VITAL as Board Member (May 13, 2014); *Algorithm Appointed Board Director*, BBC News (May 16, 2014).

[25] Florian Möslein, *Robots in the Boardroom: Artificial Intelligence and Corporate Law*, *in* Research Handbook on the Law of Artificial Intelligence 649, 649–50 (Woodrow Barfield & Ugo Pagallo eds., 2018); *see* Companies Ordinance, (2014) Cap. 622, § 457(2) (H.K.).

IV. LEGAL PERSONHOOD AND THE THEORETICAL QUESTION

Underlying the statutory question is a conceptual one: could the law, if it so wished, recognise an AI system as a legal person capable of holding office? Legal personality is a creation of law rather than a reflection of biology. The company itself is the paradigm example: it has long been settled that a duly incorporated company is a legal person distinct from its members.[26] Indian courts have recognised juristic personality in entities far removed from the human being. The Supreme Court has held the Guru Granth Sahib to be a juristic person,[27] and has recognised that animals possess certain statutory rights,[28] while the Uttarakhand High Court declared the rivers Ganga and Yamuna to be legal persons, an order subsequently stayed by the Supreme Court.[29] These decisions demonstrate that Indian law does not confine personhood to human beings; it confers personhood where doing so serves a legal purpose.

On this view, nothing in principle prevents a legislature from granting some form of legal personality to AI. In 2017, the European Parliament invited the European Commission to consider creating a specific legal status of "electronic persons" for the most sophisticated autonomous robots.[30] The proposal drew sustained criticism and was not taken forward. The European Union's eventual legislative response, the Artificial Intelligence Act, regulates AI as a product and requires effective human oversight of high-risk systems, rather than treating AI as a rights-bearing subject.[31] Courts have taken a similar line in adjacent fields. In the DABUS litigation, both the UK Supreme Court and the US Court of Appeals for the Federal Circuit held that an AI system cannot be named as an inventor, because the relevant statutes require an inventor to be a natural person.[32]

The scholarship also highlights the risks of AI personhood in corporate form. Bayern has argued that existing US entity law could be used to create entities controlled entirely by an

[26] Salomon v. A. Salomon & Co. Ltd. [1897] AC 22 (HL) (appeal taken from Eng.).
[27] Shiromani Gurdwara Prabandhak Comm. v. Som Nath Dass, (2000) 4 SCC 146 (India).
[28] Animal Welfare Bd. of India v. A. Nagaraja, (2014) 7 SCC 547 (India).
[29] Mohd. Salim v. State of Uttarakhand, Writ Petition (PIL) No. 126 of 2014 (Uttarakhand HC Mar. 20, 2017) (India).
[30] European Parliament Resolution of 16 February 2017 with Recommendations to the Commission on Civil Law Rules on Robotics, 2015/2103(INL), ¶ 59(f), 2018 O.J. (C 252) 239.
[31] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), art. 14, 2024 O.J. (L 1689) 1.
[32] Thaler v. Comptroller-General of Patents, Designs & Trade Marks [2023] UKSC 49 (appeal taken from Eng.); Thaler v. Vidal, 43 F.4th 1207 (Fed. Cir. 2022).

algorithm, with no human members,[33] and LoPucki has warned that such "algorithmic entities" could be used to evade legal accountability altogether.[34] Armour and Eidenmüller, examining the prospect of "self-driving corporations", observe that the mechanisms corporate law uses to discipline human managers, such as fiduciary duties, personal liability and the threat of removal, lose much of their force when there is no human to deter.[35] The relevant question for India, therefore, is not whether AI could be made a legal person, but whether doing so would serve the purposes that the law of directors exists to achieve. Directors are made personally accountable precisely so that someone answers for the company's conduct. An AI director, having no assets, reputation or liberty to lose, would weaken that accountability rather than strengthen it.

V. COMPARATIVE PERSPECTIVES

A. United Kingdom

Section 155(1) of the UK Companies Act 2006 requires every company to have at least one director who is a natural person.[36] Unlike Indian law, UK law has historically permitted corporate directors alongside that natural person. That latitude is now being curtailed. Provisions inserted by the Small Business, Enterprise and Employment Act 2015, which the UK Government has committed to bringing into force alongside the Companies House reforms under the Economic Crime and Corporate Transparency Act 2023, will permit a corporate director only where all of its own directors are natural persons whose identities have been verified.[37] The codified duties to exercise independent judgment and reasonable care, skill and diligence closely mirror Section 166(3) of the Indian Act.[38] Since an AI system lacks legal personality, it cannot be a "person" capable of appointment at all, and the policy trajectory runs firmly towards more, not less, human accountability on boards.

[33] Shawn Bayern, *The Implications of Modern Business-Entity Law for the Regulation of Autonomous Systems*, 19 Stan. Tech. L. Rev. 93 (2015).
[34] Lynn M. LoPucki, *Algorithmic Entities*, 95 Wash. U. L. Rev. 887 (2018).
[35] John Armour & Horst Eidenmüller, *Self-Driving Corporations?*, 10 Harv. Bus. L. Rev. 87 (2020).
[36] Companies Act 2006, c. 46, § 155(1) (UK).
[37] Small Business, Enterprise and Employment Act 2015, c. 26, § 87 (UK) (inserting §§ 156A–156C into the Companies Act 2006); Economic Crime and Corporate Transparency Act 2023, c. 56 (UK).
[38] Companies Act 2006, c. 46, §§ 173–174 (UK).

B. United States

In Delaware, the most influential US corporate jurisdiction, Section 141(b) of the General Corporation Law requires that each member of the board of directors be a natural person, and the Model Business Corporation Act similarly provides that a board shall consist of individuals.[39] US law is nonetheless instructive on how the use of AI may be accommodated within human directorship. Directors owe a duty of oversight, which requires a good-faith effort to put in place reporting and monitoring systems for the company's central compliance risks,[40] a duty that increasingly extends to the company's own deployment of AI. Delaware law also protects directors who rely in good faith on information and reports presented by officers, employees, committees or other persons as to matters reasonably believed to be within their professional or expert competence.[41] Whether, and on what conditions, a director may similarly rely on the output of an AI tool is precisely the kind of question that Indian law will need to answer.

C. Hong Kong

Hong Kong's Companies Ordinance requires every private company to have at least one director who is a natural person, and has codified the director's duty of care, skill and diligence.[42] As noted in Part III, this is why the VITAL episode, often cited as the world's first appointment of an AI director, was in law no such thing: the algorithm's role was advisory, and legal responsibility rested with the human board.[43]

D. Lessons for India

Three lessons emerge. First, no major jurisdiction recognises an AI system as capable of holding the office of director; India's requirement that every director be an individual is, if anything, the strictest of the positions surveyed. Second, the comparative trend is towards reinforcing natural-person accountability on boards, not diluting it. Third, regulators are responding to AI in governance by insisting on human oversight of the technology, rather than

[39] Del. Code Ann. tit. 8, § 141(b) (2024); Model Bus. Corp. Act § 8.03(a) (Am. Bar Ass'n 2016).
[40] In re Caremark Int'l Inc. Derivative Litig., 698 A.2d 959 (Del. Ch. 1996); Marchand v. Barnhill, 212 A.3d 805 (Del. 2019).
[41] Del. Code Ann. tit. 8, § 141(e) (2024).
[42] Companies Ordinance, (2014) Cap. 622, §§ 457(2), 465 (H.K.).
[43] Möslein, *supra* note 25, at 649–50.

by elevating the technology to the status of a decision-maker.[44] This is consistent with India's own AI Governance Guidelines, issued by the Ministry of Electronics and Information Technology in November 2025, which favour a principle-based, sectoral approach under which existing laws and sectoral regulators address AI-related risks within their own domains.[45] For company law, that sectoral role falls naturally to the Ministry of Corporate Affairs and, for listed companies, the Securities and Exchange Board of India.

VI. CHALLENGES AND OPPORTUNITIES OF AI DIRECTORS

A. Opportunities

Before any role for AI in the boardroom is expanded, its opportunities and challenges must be weighed together. The Act imposes a series of responsibilities on directors that require not only an understanding of the company sufficient to render sound decisions but also accountability for those decisions. Against this, AI offers companies real opportunities as a source of support in strategy-setting and oversight. It can improve the quality and speed of decision-making by extracting insights from data, enhance operational efficiency and accelerate the implementation of corporate initiatives.[46] It may also yield direct economic benefits, including productivity gains, cost savings and a reduction in strategic risk, and it may counteract certain human failings in the boardroom, such as groupthink, fatigue and the undue influence of dominant personalities. Yet AI at board level carries substantial risks in equal measure, and these must be carefully evaluated before policymakers consider any augmentation of traditional governance models.

B. Legal Challenges: The Accountability Gap

The principal legal barrier is the requirement in Section 149(1) that a Board consist of individuals, which, as shown in Part II, excludes AI from directorship. One possible response would be to relax this requirement through legislative amendment, or through a new framework recognising AI as a distinct category of legal entity, permitting it to perform certain functions traditionally reserved for human directors while remaining subject to fiduciary obligations.

[44] Artificial Intelligence Act, *supra* note 31, art. 14.
[45] Ministry of Elec. & Info. Tech., Gov't of India, India AI Governance Guidelines: Enabling Safe and Trusted AI Innovation (Nov. 5, 2025).
[46] Möslein, *supra* note 25.

Such a reform would, however, confront an accountability gap that is not easily closed.

Indian law attaches liability to directors on a personal basis. The Act imposes penalties on every "officer who is in default",[47] and the Supreme Court has held that a director cannot be made vicariously liable for an offence committed by the company in the absence of an express statutory provision to that effect, or of his own active role and criminal intent.[48] An AI system can possess neither intent nor assets from which a penalty could be recovered. If liability were instead shifted to the developers, the result would be to impose directorial responsibility on persons who are not directors and who may have no relationship with the company beyond a licence agreement. If it were shifted to the human directors who appointed or relied upon the AI, the AI's formal status as a director would add nothing but confusion. A further difficulty is explainability. The Act requires the minutes of board meetings to record the proceedings,[49] and directors who are called upon to justify a decision must be able to show the basis on which it was taken. A decision resting on the unexplained output of an opaque model is difficult to defend as an exercise of due care and independent judgment.

C. Ethical Considerations and Stakeholder Impact

Autonomous systems acting without clear human instruction raise questions about control and agency, and consequently about who is accountable for their decisions. Proposals for decentralised autonomous organisations, in which governance rules are encoded in software, illustrate how corporate decision-making could be structured to operate outside the conventional framework of identifiable, legally accountable managers.[50] The use of AI on boards also engages questions of trust in corporate governance and in governance codes, and ethical concerns relating to fairness, bias and discrimination. To what extent, for example, should the participation of AI in the company's decisions be disclosed to shareholders, employees and regulators?

Law and technology interact in both directions. At times, law establishes norms and technology is then designed to comply with them; at other times, a technological breakthrough prompts lawmakers to create rules that govern the technology itself. In the case of AI decision-making,

[47] Companies Act § 2(60).
[48] Sunil Bharti Mittal v. Cent. Bureau of Investigation, (2015) 4 SCC 609 (India).
[49] Companies Act § 118.
[50] *See* LoPucki, *supra* note 34.

the difficulty is that existing AI systems were not designed with the duties of directors in mind, while lawmakers have not yet developed norms for the use of AI in the boardroom. The result is that competing ethical considerations are often left unresolved. Siebecker suggests that AI may even help corporations become more responsive to the ethical expectations of their stakeholders, but this depends on those who deploy it confronting the relevant ethical considerations within the framework of existing law.[51] The introduction of AI directors would affect stakeholders in at least the following ways.

(a) Shareholders. Shareholders may view AI as a means of enhancing the efficiency of decision-making and reducing human bias, but may doubt its ability to understand and represent their interests, particularly where those interests conflict.

(b) Employees. AI-informed decisions on workforce planning, restructuring and compensation may fail to account adequately for human considerations, which Section 166(2) expressly requires directors to weigh.

(c) Corporate culture. The presence of AI in the boardroom could significantly alter corporate culture, and companies would need to manage its integration carefully to preserve a positive and productive working environment.

(d) Public perception. While the use of AI in governance may be seen as innovative, it may equally raise concerns about the dehumanisation of corporate decision-making and erode public trust.

(e) Diversity and inclusion. AI could reduce certain forms of bias, but care is needed to ensure that it does not introduce new biases drawn from its training data or reduce the diversity of perspectives on the board, an objective the Act pursues through the mandatory woman director.[52]

VII. THE WAY FORWARD: A CALIBRATED FRAMEWORK FOR INDIA

The analysis above suggests that India should neither ignore the use of AI in the boardroom nor rush to recognise AI as a director. A calibrated approach, achievable largely within the

[51] Michael R. Siebecker, *Making Corporations More Humane Through Artificial Intelligence*, 45 J. Corp. L. 95 (2019).
[52] Pethkar, *supra* note 23; Companies Act § 149(1) (second proviso).

existing statutory architecture, would comprise the following elements.

(a) Retain and clarify the natural-person requirement. The requirement that directors be individuals should be retained. To remove any residual doubt, the Ministry of Corporate Affairs could clarify, by amendment or by circular, that "individual" in Section 149(1) means a natural person and that no software system or other non-human agent may be appointed or registered as a director.

(b) Recognise AI as a board-support tool. Companies should be free to use AI as an advisory or "board observer" tool that informs, but does not make, board decisions, with no voting rights and with the human directors remaining fully accountable.

(c) Clarify the standard of care for AI-assisted decisions. Guidance should make clear that the duty to exercise independent judgment under Section 166(3) cannot be delegated to an algorithm, and that directors may rely on AI outputs only where such reliance is reasonable, that is, where they understand the tool's purpose, capabilities, data sources and limitations, and have subjected its recommendations to critical scrutiny. A reliance standard of this kind, analogous to that available under Delaware law for expert reports, would give directors legal certainty while preserving accountability.

(d) Documentation and disclosure. Where AI has materially informed a board decision, the minutes should record that fact and the directors' own assessment of its output, a requirement that could be introduced through the Secretarial Standard on board meetings.[53] The Board's report under Section 134 could disclose the company's material use of AI in governance and the framework for overseeing it.

(e) Risk oversight and board competence. For listed companies, the Securities and Exchange Board of India could require the risk management committee to address AI-related risks, and could extend the familiarisation programmes required for independent directors to cover the use and limitations of AI.[54]

(f) Allocation of responsibility with vendors. Companies relying on third-party AI systems

[53] Companies Act § 118; Inst. of Co. Sec'ys of India, Secretarial Standard on Meetings of the Board of Directors (SS-1).

[54] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, regs. 21, 25(7), Gazette of India, pt. III sec. 4 (Sept. 2, 2015).

for board-level analysis should secure contractual rights to audit those systems, obtain information about their training data and design, and allocate liability for defects, so that the human directors can discharge their duty of care.

(g) Continuous review. Consistent with the sectoral approach of the national AI Governance Guidelines,[55] the Ministry of Corporate Affairs should monitor the use of AI in corporate governance and revisit the framework periodically. Should AI systems ever approach genuine autonomy, any proposal to expand their role should be preceded by public consultation and accompanied by safeguards such as mandatory insurance and a designated human director answerable for the system's conduct.

VIII. CONCLUSION

The conclusion of this analysis is multifaceted. The Act does not merely fail to endorse AI directors; read as a whole, it precludes them. Section 149(1) requires a Board to consist of individuals, and the DIN regime, the consent requirement, the composition rules, the disqualification grounds and the personal liability attached to the duties in Section 166 all presuppose a natural person. No major comparative jurisdiction takes a different view, and the episode most often cited as the first appointment of an AI director was, in law, the appointment of an adviser.

That conclusion does not diminish the significance of AI for corporate governance. AI can materially enhance decision-making by providing data-driven insights and performing analytical tasks beyond human capability, particularly in high-pressure situations requiring rapid responses. The task for Indian law is to harness these benefits without opening an accountability gap at the apex of the corporation. This paper has argued that the appropriate response at present is not to dilute the natural-person requirement, but to recognise AI as a tool of the board rather than a member of it, and to equip human directors with clear standards for its use, supported by documentation, disclosure and oversight. As businesses grow more reliant on technology, the need to adapt the legal framework to the evolving landscape of corporate leadership is increasingly urgent. That adaptation should proceed on the footing that, however sophisticated the machine, the responsibility for a company's decisions must remain with those who can be held to account for them.

[55] *See* India AI Governance Guidelines, *supra* note 45.