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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJLAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

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Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

ARTIFICIAL INTELLIGENCE IN INDIAN MERGERS AND ACQUISITIONS: A CRITICAL ANALYSIS OF LEGAL RISKS, REGULATORY CHALLENGES AND CORPORATE GOVERNANCE

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Abstract

AI is proving to be a revolutionary tool in corporate deals, especially M&A, improves efficiency, lowers transaction expenses and optimizes the decision making process. These tools are now being used more often when it comes to identifying targets, due diligence, valuation analysis and assessing risk and auditing contracts and integrating after the merger. In the backdrop of the evolving legal and governance landscape in India, the M&A market is poised for significant growth and development with the rise of AI. Implementing AI systems in deal making brings up issues of data privacy, cybersecurity, confidentiality of corporate data, algorithmic bias, accountability and adherence to existing regulatory frameworks.

This paper critically analyses key legal considerations related to the use of AI tools in M&A transactions in India and assesses the suitability of the existing legal framework to tackle this new challenge. The study examines how the various legal tools, such as the Competition Act, 2002, the Companies Act, 2013, the Securities and Exchange Board of India regulations and the Digital Personal Data Protection Act, 2023, relate to the AI technologies. Moreover, it includes governance aspects of using AI and highlights transparency, human oversight and ethical aspects of business transactions. The paper takes the doctrinal and analytical research approach and argues that AI can significantly enhance the efficiency of transactions, yet with no specific AI regulatory regime, there are legal uncertainties and governance risks. The paper concludes with a proposal

for a principle-based governance model that can be used to achieve a balance between innovation and accountability and regulatory compliance.

Keywords: Artificial Intelligence, Mergers and Acquisitions, Corporate Governance, Competition Law, Data Protection, Regulatory Compliance.

1. Introduction

In the business world, the incorporation of Artificial Intelligence (AI) into business operations has completely reshaped the way that companies make decisions on activities, opportunities and business strategies.[1] One of the sectors that has undergone significant transformation due to technological advancement is mergers and acquisitions (M&A). Traditionally, the identification of an appropriate target, due diligence, negotiations, target valuation, target risk assessment and post-merger integration are all time-consuming and resource-heavy tasks.[2] These tended to be tedious, costly and susceptible to human error. AI technologies have ushered in a new era by making companies more efficient at handling massive quantities of structured and unstructured information at a much faster and more accurate rate.

The rise in digitization of business operations and the booming growth of the corporate sector in India have propelled the use of AI in M&A transactions. Organizations use machine learning algorithms and predictive analysis tools to see trends and patterns in their investment strategies, pinpoint acquisition opportunities, forecast financial results and grow their expertise and efficiency.[3] Businesses, investment banks, legal advisors and consulting firms are increasingly leveraging AI-powered predictive analytics and natural language processing capabilities to gain the competitive edge in the acquisition market, anticipate market opportunities, understand the financial performance better and mitigate potential legal risks, enabling them to operate with greater expertise and efficiency. The use of AI has the potential to reduce transaction costs, improve decision making and enhance overall deal efficiency.[4]

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[1] Stuart Russell & Peter Norvig, *Artificial Intelligence: A Modern Approach* 1–5 (4th ed. 2021).
[2] Robert F. Bruner, *Applied Mergers and Acquisitions* 15–22 (2004).
[3] Ajay Agrawal, Joshua Gans & Avi Goldfarb, *Prediction Machines: The Simple Economics of Artificial Intelligence* 23–45 (2018).
[4] Deloitte, *AI and M&A: Transforming Deal Sourcing and Due Diligence* 4–8 (2024).

While these benefits are present, there are a number of legal and regulatory considerations to take into account when implementing AI tools in M&A. AI systems heavily depend on vast quantities of data, some of which may include sensitive corporate and personal information. This poses substantial issues with data privacy, data confidentiality, cyber security and compliance with upcoming data protection laws. Further, governance risks involve algorithmic bias, lack of transparency in the process of automated decision making and uncertainty regarding the legal responsibility.[5] The existing legal framework governing corporate transactions in India was crafted for an era where most decisions are made by people, and may not fully reflect the complexities AI technologies pose.

In this context, the present study explores the legal risk factors, regulatory hurdles and governance issues of using AI in Indian M&A transactions. The paper seeks to critically evaluate the effectiveness of the available legal framework and regulations in India to control AI aided decision making in the context of M&A transactions.

2. Literature Review

The existing literature on Artificial Intelligence (AI) in mergers and acquisitions (M&A) demonstrates growing academic and professional interest in the transformative role of AI in corporate transactions.[6] The literature is also quite large that takes an efficiency approach and emphasizes the potential role of AI in enhancing decision-making throughout the M&A process. Scholars like Ajay Agrawal demonstrate how AI can process massive amounts of data efficiently and thereby aid in strategic decision-making and predictive capabilities.[7] Similarly, industry reports published by KPMG and Deloitte emphasize that AI significantly improves target identification, due diligence and valuation by reducing transaction costs, accelerating document analysis and enabling faster execution of transactions.[8]

But this is not the complete picture, as legal and governance experts have raised concerns about the dangers of adopting AI. AI systems can be considered to be like a black box, where the

[5] Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* 8–20 (2015).
[6] KPMG, *Generative AI in Dealmaking: Creating Value Across the M&A Lifecycle* 2–5 (2025).
[7] Agrawal, Gans & Goldfarb, *supra* note 3
[8] Deloitte, *supra* note 4.

decision-making process is hidden behind layers of complexity, leading to concerns about transparency and accountability.[9] Ugo Pagallo raises the question of legal liability where AI-assisted decision making leads to flawed or bad corporate outcomes.[10] Similarly, Cathy O'Neil cautions that algorithms can also propagate bias and discriminate when fed with data that is biased or inaccurate.[11] As a group, these experts highlight the risks associated with fairness, accountability and governance that accompany AI's efficiencies.

This is one of the significant conflicts in the literature, that between efficiency and accountability. The business-centric research focused on improving productivity and cutting costs in M&A transactions with the help of AI. However, a legal analysis suggests that over-reliance on AI could lead to the loss of transparency, regulatory uncertainty and accountability issues in corporate decision-making. The advantages of using AI in mergers and acquisitions goes beyond just efficiency, and should be considered in the context of legal, ethical and governance issues as well. AI in M&A transactions is a topic that is not extensively discussed in the Indian context. The scholarship on AI governance, data protection and competition law or corporate regulation has focused primarily on these three areas separately, without considering how they interact in M&A transactions.[12] Moreover, there is far less research on the adequacy of the existing Indian legal instruments, like the Companies Act, 2013, the Competition Act, 2002 and the Digital Personal Data Protection Act, 2023, to govern AI-driven decision-making in companies. Hence, the present study aims to fill this void by critically analyzing the legal risks, regulatory hurdles and corporate governance concerns of AI in the context of Indian M&A transactions and also compare the EU AI Act and OECD AI Principles for achieving this objective.

3. Research Methodology

This research adopts a doctrinal and analytical research methodology. The research will be primarily centered on the analysis of primary and secondary sources, such as legislation, statutes, regulations, judgments, reports, policy documents, academic publications, industry publications and regulatory guidance.

[9] Frank Pasquale, supra note 5.
[10] Ugo Pagallo, *The Laws of Robots: Crimes, Contracts, and Torts* 87–101 (2013).
[11] Cathy O'Neil, *Weapons of Math Destruction* 15–35 (2016).
[12] NITI Aayog, *National Strategy for Artificial Intelligence #AIForAll* 32–40 (2018).

The key sources are Competition Act, 2002, Companies Act, 2013, Securities and Exchange Board of India Act, 1992 and SEBI Regulations and Digital Personal Data Protection Act, 2023. Secondary sources are research reports, books, advisory firm publications and scholarly journal articles regarding AI and M&A transactions.

The analytical approach focuses on the analysis of legal risks in relation to the use of AI in decision making, on the analysis of existing legal framework and on the identification of governance implications of the introduction of AI technologies in corporate transactions. This study also examines the potential of the existing principles of accountability, transparency and fiduciary duty to address the activities of AI-assisted M&A.

The study is not empirical or comparative but is critical and legal in nature to examine the issues and possibilities of Artificial Intelligence in Indian mergers and acquisitions.

4. AI Across the M&A Lifecycle

The application of Artificial Intelligence (AI) in Mergers and Acquisitions (M&A) has changed the game with its ability to enhance efficiency, accuracy and strategic thinking throughout the transaction process. Machine learning, predictive analytics, natural language processing (NLP) and generative AI provide companies with the ability to handle big amounts of data, optimize workflows and make better decisions.[13]

4.1. Target Identification, Due Diligence and Valuation

AI is also crucial in uncovering potential acquisition candidates through market trend analysis, financial performance and growth, and industry and competitive landscape insights. AI systems can continuously track markets and detect opportunities that align with an acquires strategic goals, unlike traditional, manual research.[14]

One of the most important phases of an M&A transaction is the due diligence process, where AI can make a significant contribution to efficiency. Risk and liability can be identified by

[13] Thomas H. Davenport & Rajeev Ronanki, Artificial Intelligence for the Real World, 96 Harv. Bus. Rev. 108, 108–116 (2018).
[14] Agrawal, Gans & Goldfarb, *supra* note 3, 23–41.

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systemically reviewing contracts, litigation history, regulatory filings, financial records and intellectual property portfolios using AI-powered systems. This minimizes time, transaction costs and human error.[15]

AI also enhances valuation by incorporating structured and unstructured data to feed into predictive models. AI can help with valuation assessments and estimation of transaction synergies by analyzing historical performance, market conditions and industry trends. It is important to note however, that valuation is a strategic exercise in which human judgment is required, particularly when it comes to qualitative factors like corporate culture, reputation and regulatory issues are concerned.

4.2. Transaction Execution and Compliance

AI enhances the execution of transactions, too, by automating documentation review, compliance monitoring and administrative processes. AI-powered platforms help generate transactional documents in a consistent manner and track regulatory requirements. In India, where the process of M&A transactions involves multiple regulatory clearances, these tools can help streamline the process.

AI also helps companies monitor and mitigate legal threats in the space of competition law and securities regulations, by spotting potential violations early. Microsoft's acquisition of Activision Blizzard illustrates the growing importance of data-driven analysis and regulatory scrutiny in modern M&A transactions.[16]

4.3. Post-Merger Integration and Generative AI

The post-merger integration process may be the most difficult part of a merger or acquisition. AI can assist with this by examining various aspects of operations, including workforce metrics, customer behavior and organizational structures, to detect potential risks and opportunities for integration. It also enables management to monitor synergies and the effective delivery of strategic goals.

Recent advances in generative AI have also further broadened the application of AI in M&A, such as summarizing the outcomes of due diligence, generating analytical reports and supporting the

[15] PwC, *Artificial Intelligence in Mergers and Acquisitions* 6–11 (2023).
[16] Competition & Mkts. Auth., *Microsoft / Activision Blizzard Merger Inquiry* (2023).

documentation of transactions. These attributes have advantages in efficiency, but also pose challenges to accuracy, privacy and accountability.[17] Hence, it is crucial to ensure that legal protection and human oversight are in place to ensure the proper utilization of AI throughout the M&A process.

5. Legal Risks of AI in Indian Mergers and Acquisitions

Artificial Intelligence (AI) is changing the way mergers and acquisitions (M&A) transactions are done by making due diligence, valuation and strategic decision-making more efficient. But the more companies rely on AI also brings with it some substantial legal issues regarding transparency, accountability and regulatory compliance in business transactions. Such concerns are especially relevant in India where the current corporate and commercial laws have been established in an era where humans were the primary decision-makers. Thus, questions regarding data protection, privacy, cyber security, algorithmic bias, accountability and IP rights have become central legal challenges in AI-driven M&A deals.

5.1. Data Privacy and Protection Risks

AI systems need a lot of data to analyze and draw insights and recommendations. Acquiring companies often gain access to sensitive information during M&A transactions, especially during the due diligence process relating to employees, customers, suppliers and shareholders. With the growing prevalence of AI-driven information processing, questions come to mind about the legal aspects of data collection, storage, transfer and utilization.

As AI becomes more and more a part of due diligence, there are significant issues of consent, purpose limitation and data minimization, especially where personal data is used for an additional purpose. In cross-border transactions where the data transfers are made across jurisdictions, these concerns are increasingly becoming relevant. Failure to meet data protection requirements could expose you to regulatory fines, branding and liability.[18]

The privacy impact of AI-driven due diligence must be examined according to the landmark Supreme Court ruling in Justice K.S. Puttaswamy v. Union of India, which has established privacy

[17] Nat'l Inst. of Standards & Tech., *Artificial Intelligence Risk Management Framework (AI RMF 1.0)* 8–19 (2023).
[18] Daniel J. Solove & Paul M. Schwartz, *Information Privacy Law* 75–92 (7th ed. 2021).

as a fundamental right under Article 21 of the Indian Constitution.[19] The decision highlighted the importance of information privacy and data autonomy, which are pertinent to the context of AI-driven M&A transactions where there is significant processing of personal or corporate information.

5.2. Confidentiality and Cybersecurity Risks

Confidentiality is a key element of any M&A deal. In the process of the due diligence, the parties would exchange commercially sensitive information such as financial statements, trade secrets, IP, customer information and business plans. The risks of unauthorized access, misuse, accidental disclosure or data leakage may be greater if AI systems are processing such information.[20]

When using generative AI systems, these risks are especially pertinent because data inputs could be saved or be used in the future for further processing without proper safeguards in place. Contracts, financial damages and damage to the business's reputation are possible consequences for unauthorized disclosure of confidential information.

Confidentiality risks are also closely related to cybersecurity issues, as AI systems frequently rely on centralized databases with sensitive company information. These repositories can be targeted by cyber attacks, industrial espionage and unauthorized access.

Cybersecurity risks were effectively brought into a spotlight during the Verizon Acquisition of Yahoo with the disclosure of the major data breaches, which had an impact on the value of the transaction and due diligence assessment.[21] It shows the importance of cybersecurity failures in transaction pricing and risk allocation in M&A transactions.

5.3. Algorithmic Bias and Discriminatory Outcomes

AI systems can only be as reliable as the data they are trained on. AI systems can produce inaccurate or discriminatory results if the training datasets used are not accurate or contain information gaps or historical biases.[22] In an M&A scenario, it can influence how they choose the target, how much they value it, how they restructure the workforce and how they integrate the target into their current business.

[19] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1.
[20] Sharon K. Sandeen & Elizabeth A. Rowe, *Trade Secret Law in a Nutshell* 65–81 (2d ed. 2017).
[21] Verizon Commc'ns Inc., Current Report (Form 8-K) (Feb. 21, 2017).
[22] Cathy O'Neil, *supra note 11.*

An AI system, for instance, trained using historical transaction data, can find a particular industry, a business model or a corporate structure to be more profitable and let other equally viable business models go uncharted and unprofiled. Likewise, AI-driven employee evaluations can perpetuate discriminatory hiring practices.

Many AI systems are opaque, which makes it challenging to ensure that the output is unbiased. These systems could be vulnerable to legal issues, regulatory attention and reputation damage. Thus, it is crucial that organization have periodic audits and supervision to ensure fairness, transparency and accountability in decision-making processes involving AI.[23]

5.4. Accountability and Liability Challenges

One of the most challenging legal issues in today's M&A transactions is the issue of accountability for decisions made by AI. Traditional law, whether civil or criminal, relies on the idea that the acts of a corporation are taken by a specific person or persons and that they can be held responsible for the actions they took. With AI, this is overturned by shifting the focus to algorithmic systems in strategic decision-making.

It is hard to find out who is responsible when an AI-driven due diligence reports, valuation, or risk assessment is false and causes financial damage. Such parties as corporate directors, acquiring entities, professional advisers, software developers and AI service providers may have a share of responsibility. The legal responsibility for such liability is unclear.

Indian corporate law still places obligations on directors to exercise duty of care, skill and diligence.[24] As a result, the use of AI does not take the place of the manager's role in strategic corporate decisions. The role of the board and fiduciary duty was highlighted in Tata Sons v Cyrus Mistry where governance oversight and duties of the board were at the heart of the dispute.[25] Without proper human oversight, directors and corporations could thus be vulnerable to governance lapses and potential legal liabilities from over-dependence on AI.

[23] Brent Mittelstadt et al., The Ethics of Algorithms: Mapping the Debate, 3 Big Data & Soc'y 1, 3–12 (2016).
[24] Companies Act, No. 18 of 2013, § 166 (India).
[25] Tata Consultancy Servs. Ltd. v. Cyrus Invs. Pvt. Ltd., (2021) 9 S.C.C. 449.

5.5. Intellectual Property Risks

Beyond the regulatory aspects, another significant legal issue in AI-driven M&A is intellectual property (IP) risks. The growing popularity of AI systems in the evaluation of patents, trademarks, copyrights, software and proprietary technologies in due diligence and valuation. But the big legal question remains that, Who owns the products of AI and how can copyrighted content be used in training AI systems without infringing upon the copyright owner's rights?[26]

If the Generative AI is used to assist in drafting reports, analytical assessments and legal documents, who may have legal rights over it and who will be the owner? Failure to properly secure rights or attribute ownership could result in copyright issues and valuation concerns arising.[27]

IP disputes can have a material impact on the outcome of a transaction and the integration after a transaction, as intangible assets are becoming a major part of corporate value. As such, organizations need to be mindful of the risks associated with IP issues when implementing AI in M&A transactions.

While AI can be a powerful tool throughout the M&A journey, there are legal challenges that are not being adequately addressed by current regulations. It is important to highlight that robust governance frameworks, compliance instruments and meaningful human oversight will continue to be critical to ensure that AI is used for making informed decisions and not a source of legal uncertainty and corporate liability.

6. Regulatory Challenges under Indian Law

The growing adoption of Artificial Intelligence (AI) in the field of mergers and acquisitions (M&A) is fraught with legal and regulatory hurdles in India. The use of AI has enhanced processes for deal sourcing, due diligence and valuation and compliance monitoring, but the Indian regulatory regime is largely technology neutral and does not specifically mention the use of AI in corporate transactions. This leaves a legal gray area on whether and how current laws apply, and whether they are sufficient, to the regulation of the use of AI in M&A decision-making.

[26] World Intellectual Property Organization, *WIPO Technology Trends 2025: Artificial Intelligence* 35–46 (2025).
[27] World Intellectual Property Organization, *Revised Issue Paper on Intellectual Property Policy and Artificial Intelligence* 12–25 (2023).

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6.1. Absence of a Dedicated AI Regulatory Framework

The most significant regulatory hurdle in India is the lack of a specific law to regulate AI. While the Government of India's AI strategy by NITI Aayog mandates responsible innovation, India does not have a comprehensive AI law that covers explainability, accountability, transparency and liability when using AI in corporate transactions.[28]

This regulatory gap is especially acute in M&A deals, where AI systems are growing more and more central to the strategic process of valuing, risk assessment, structuring, etc. the transaction. Current corporate and commercial law was built to the human decision-making process and is not suitably equipped with legal institutions to deal with problems of algorithmic error, opaque decision-making, or the failure of governance caused by AIs. As a result, the internal corporate governance system might not be enough to address emerging risks arising from AI.

6.2. Competition Law Concerns

The Competition Act, 2002 regulates mergers, acquisitions and combinations which could have an adverse effect on competition in India.[29] The proliferation of AI use, however, presents regulatory challenges to competition law, which is not sufficiently developed to resolve many of the issues at stake.

Many markets are analyzed, acquisition targets being identified and competitive outcomes predicted using AI tools. These tools increase efficiency, but can also facilitate algorithmic coordination, anti-competitive behavior and market concentration, which traditional competition law analysis could not have detected.[30] AI businesses gain a competitive edge not only through their core assets but also with data ownership, algorithmic prowess and network effects.

A pertinent question in this regard is whether the Competition Act, 2002 can effectively tackle algorithmic decision-making in the digital markets. While traditional merger & acquisition review is largely based on market share, turnover and asset levels, AI-driven markets can gain strength from data centralization and the digitalization of power. The PVR–INOX Merger is an example of the complexity of the competition assessment process in a changing market.[31] The Competition Commission of India (CCI) may, therefore, need to grapple with more sophisticated analytical

[28] NITI Aayog, *supra note 12, at* 67–78.
[29] Competition Act, No. 12 of 2003, §§ 5–6 (India).
[30] U.N. Conf. on Trade & Dev., *Competition Issues in the Digital Economy* 14–23 (2019).
[31] Competition Comm'n of India, Combination Registration No. C-2022/03/966 (PVR–INOX Combination).

tools in assessing how AI-driven combinations and digital market dominance may affect competition.

6.3. Data Protection and Privacy Compliance

The Digital Personal Data Protection Act, 2023 has enhanced data protection laws in India.[32] There are, however, key issues about the effectiveness of the DPDP Act in terms of its regulation of AI-driven due diligence procedures in M&A transactions.

In the course of due diligence, the acquiring entity is likely to receive a lot of private information about employees, customers and business associates. Such data can be used by AI systems to create predictive insights, risk assessments and transaction viability evaluations. These involve worries about lawful processing, purpose limitation, data minimization and cross-border transfers.

The Supreme Court has acknowledged the privacy as a fundamental right in Justice K.S. Puttaswamy v. Union of India. This ruling underscores the importance of enhanced protection for AI-powered mergers and acquisitions with massive data handling.[33]

While the DPDP Act provides a general regulatory structure, it does not specifically address AI-based automated decision-making or algorithmic processing. In this sense, while the Act offers good legal support, it is unlikely to resolve the myriad privacy challenges of AI-enabled due diligence.

6.4. Corporate Governance and Securities Regulation

The advent of AI decision making also brings significant challenges for corporate governance and securities regulation. The directors have a duty to exercise due care, skill, diligence and good faith in their corporate decision making according to Section 166 of the Companies Act, 2013.[34] But as AI becomes more prevalent, it's important to ask whether Section 166 can effectively regulate these AI-driven decisions.

AI can greatly augment decision making but can't take the place of managerial judgment. When making merger, acquisition and corporate restructuring decisions, directors must remain accountable and responsible for the decisions even if they are made with extensive reliance on AI-

[32] Digital Personal Data Protection Act, No. 22 of 2023 (India).
[33] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1.
[34] Companies Act, No. 18 of 2013, § 166 (India).

driven recommendations. The difficulty is deciding upon the standard of care that is required of directors in the context of opaque algorithmic systems.

In the case of Tata Sons v Cyrus Mistry, the need for governance oversight and fiduciary accountability was reinforced as the role of the directors and fiduciary accountability within the board in making strategic decisions was prominent.[35] It indicates that directors cannot simply over rely on the AI tool and shift the blame. But existing corporate governance principles offer few insights into the level of acceptable dependence on AI systems.

In the same way, listed organizations have disclosure requirements as per SEBI policies. Disclosure standards and obligations, transparency requirements and the protection of commercially sensitive information are new challenges as the role of AI in valuation and the handling of risk analysis and transaction planning grows.[36]

6.5. Regulatory Capacity and Future Directions

One of the other key issues is the power to regulate AI activity in corporations. Compliance assessment, investigation and liability determination of AI systems are often complicated by highly developed and opaque algorithms.

This emphasizes the importance of a system of principles for AI governance over a strict set of rules in India. International frameworks of comparison are relevant in this context. With regard to the approach of the European Union AI Act, it is based on a risk-based approach, which means that more stringent obligations are imposed on high-risk AI systems, such as requirements for transparency and human oversight.[37] Along the same lines, accountability, transparency, fairness, robustness and human-centered governance are highlighted in the Principles for AI of the Organization for Economic Co-operation and Development (OECD).[38]

The frameworks provide useful insights for India to create future policies for regulating AI-driven corporate transactions. A principle-based approach with a focus on transparency, accountability, fairness, risk management and human oversight could be the most effective way to tackle AI-powered M&A from a regulatory perspective.

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[35] Tata Consultancy Servs. Ltd. v. Cyrus Invs. Pvt. Ltd., (2021) 9 S.C.C. 449.
[36] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
[37] 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).
[38] Organisation for Economic Co-operation and Development, *OECD Principles on Artificial Intelligence* (2019).

Finally, the existing Indian law is inadequate to provide clarity on the risks of AI in M&A transactions. Current legislation like the Competition Act, Companies Act, DPDP Act and SEBI Regulations provide some level of protection, but are inadequate to adequately govern AI-driven corporate decision-making. Solutions for these challenges lie in the combined action of governments and regulators, accompanied by the participation of corporate actors in order to strike a balance between innovation and accountability, legal security and stakeholder protection.

7. Governance Implications and Corporate Accountability

In mergers and acquisitions (M&A), the application of Artificial Intelligence (AI) is not merely about enhancing efficiency and compliance, it's about the future. There are emerging governance issues with accountability, fiduciary responsibility, transparency and oversight, all of which are becoming significant topics in strategic corporate decisions involving AI. AI tools improve analytical accuracy and efficiency, but they also pose governance challenges that need to be closely monitored.

7.1. Transformation of Corporate Decision Making

In many of the past scenarios, the directors and senior management members informed judgment have been the basis of decision making in M&A. AI integration has made it possible to feed algorithms huge amounts of data and provide recommendations in the fields of target identification, valuation, risk assessment and synergy analysis.[39]

This has resulted in a blended model for decision making, relying heavily on AI-driven insights alongside human judgment. As AI enhances efficiency, over-reliance on algorithm-driven decisions can diminish critical thinking and lead to strategic mistakes. Thus, AI must not replace managerial judgment but be used as a decision support tool.

7.2. Fiduciary Duties of Directors

The directors duties as provided in the Companies Act, 2013, are to act in good faith, by exercising due care, skill and diligence in their corporate decision making.[40] These obligations remain unchanged despite technological developments.

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[39] Davenport & Ronanki, supra note 13.
[40] Companies Act, No. 18 of 2013, § 166 (India).

The use of AI in strategic transactions does not reduce directors responsibilities. Directors are responsible for considering statements or recommendations from AI, even if they were generated during due diligence, valuation or risk assessment. Unauthorized or over reliant use of AI could lead to governance issues and potential liability for the directors.

In Tata Sons v Cyrus Mistry, the roles and responsibilities of the board and its fiduciary duties were prominent features of the case. This further underscores the fact that even with the use of AI-generated recommendations, a director cannot shift responsibility.[41] Meanwhile, many boards might not have technical knowledge to assess complex AI systems, prompting a rise in the need for AI training, expert consultations, and technology committees.

7.3. Transparency, Fairness and Ethical Governance

One of the principles of corporate governance is transparency. Expectation of shareholders, regulators and investors is that all important corporate decisions are taken through rational and understandable processes. Many AI systems are, however, so-called black box systems, which are not easy to understand how certain outputs are produced.[42]

This can present a problem in M&A deals where AI generated outputs affect valuation, acquisition strategy or risk assessment. Explainability may be lacking, diminishing trust and accountability. Moreover, the algorithms can have a negative impact on target selection, valuation modeling, workforce change and post-merger integration.

Organizations need to then promote transparency, fairness and accountability of AI-driven decision-making processes. To minimize governance risks and boost trust in AI-informed business decisions, practices of Explainable AI and periodic audits and bias evaluations are critical.[43]

7.4. Ethical AI Governance and Corporate Accountability

As AI becomes more prevalent in M&A deals, it is essential to consider the ethical, accountability, and fairness issues involved. It can cause target selection, valuation models and workforce restructuring and integration decisions to be influenced by algorithmic bias, which could result in unfair or discriminatory outcomes. Machine learning systems that have been trained using the

[41] Tata Consultancy Servs. Ltd. v. Cyrus Invs. Pvt. Ltd., (2021) 9 S.C.C. 449.
[42] Cary Coglianese & David Lehr, Transparency and Algorithmic Governance, 71 Admin. L. Rev. 1, 15–28 (2019).
[43] Brent Mittelstadt et al., supra note 23.

transaction history of a specific industry, business model or corporate structure can unfairly benefit that group and may be missing other potential viable groups.

Therefore, proactive steps must be taken by organizations to address and reduce algorithmic bias. Ethical governance is not just about following the law, it's about embedding fairness, accountability and non-discrimination within the governance framework of AI. To enhance the accuracy and equity of AI-driven decision-making, it is crucial to perform regular audits, bias evaluations and ongoing monitoring.

Companies should build a structured governance program for AI use in M&A transactions to effectively manage governance risks. Clear accountability processes, risk management systems, periodic audits and meaningful human oversight should be part of such frameworks.[44] The accountability for assessing the output of artificial intelligence should be clearly defined, and the crucial aspects of transactions should be in human hands.

This is particularly useful when looking to comparative international frameworks. The EU AI Act takes a risk-based approach to regulation, placing a strong focus on transparency, accountability and human oversight of high-risk AI systems.[45] Likewise, the OECD AI Principles highlight the principles of fairness, robustness, transparency and human-centered governance.[46] These principles provide useful insights for improved corporate accountability in AI-powered M&A deals.

Therefore, it is critical to have robust governance processes in place to guarantee that AI assists in corporate decision making and ensures transparency, trust with stakeholders and legal accountability.

8. Findings and Recommendations

8.1. Findings

The study reveals that AI is playing a pivotal role in reshaping the mergers and acquisitions (M&A) sector by enhancing efficiency, target identification, due diligence, valuations, risk assessment, compliance monitoring and post-merger integration. By allowing for the processing of vast

[44] Nat'l Inst. of Standards & Tech., *supra* note 17.
[45] Regulation (EU) 2024/1689, supra note 37.
[46] *OECD, supra note 38.*

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amounts of data at a much quicker rate, AI can also help to lower transaction costs and enhance the efficiency of decision-making.

Besides, the study also highlights that AI's role in M&A is bringing significant legal and regulatory hurdles. While there is limited protection available in the existing Indian legal frameworks such as the Companies Act, 2013, the Competition Act, 2002, SEBI regulations and the Digital Personal Data Protection Act, 2023, none of them explicitly address the use of AI in corporate transactions. Consequently, issues involving data privacy and confidentiality, cyber security, algorithmic bias and intellectual property and liability are poorly understood.

The study also underscores the importance of human expertise for strategic business decisions, emphasizing that AI is not a substitute for human judgment. Directors and senior management still have fiduciary and governance obligations in M&A deals. Overuse of AI without proper governance can result in governance issues and liability risks. So, AI is not a replacement for human decision-making but a tool to support the decision-making process.

8.2. Recommendations

8.2.1. Establish a Comprehensive AI Governance Framework

Transparency, accountability, explainability, fairness and risk management should be the key principles for the Government of India in its AI governance framework. This would give clarity to AI-driven corporate transactions.

8.2.2. Issue Regulatory Guidance for AI-Assisted Transactions

The regulatory bodies like the Competition Commission of India (CCI), Securities and Exchange Board of India (SEBI) and Ministry of Corporate Affairs (MCA) should provide clear directives regarding the application of AI in mergers and acquisitions, including governance, compliance and accountability measures.

8.2.3. Strengthen Data Protection and Cybersecurity Measures

To protect sensitive information that flows through AI systems during M&A activity, organizations must have comprehensive data governance protocols in place, such as data minimization, data encryption, cybersecurity audits and compliance systems.

8.2.4. Ensure Human Oversight of Critical Decisions

Where relevant, critical decisions including valuation, risk assessment, transaction approval and post-merger integration should be kept under meaningful human control to ensure accountability and good corporate governance.

8.2.5. Promote Ethical and Board Level AI Governance

Corporate boards should create governance structures for managing the deployment of AI in their companies, perform regular audits and manage algorithmic bias and other governance risks. To support the responsible and accountable use of AI, it is crucial to have AI governance at the board level.

9. Conclusion

The advent of Artificial Intelligence (AI) has revolutionized the field of mergers and acquisitions (M&A) by rewriting the rules of traditional practices including target identification, due diligence, valuation, risk assessment, compliance and post-merger integration. AI helps in processing vast amounts of structured and unstructured data quickly, leading to greater transactional efficiency, cost savings, and effective strategic decision-making. With digital transformation taking place in every industry, AI will increasingly be a key part of the future of the Indian corporate M&A landscape.

This study highlights the benefits which AI brings, but also the legal, regulatory and governance issues it poses to M&A transactions. Indian law has significant gaps regarding concerns about data privacy, confidentiality, cyber security, algorithmic bias and IP and accountability issues. While there are some statutory provisions like the Companies Act, 2013, the Competition Act, 2002, SEBI regulations and Digital Personal Data Protection Act, 2023, offering partial protection, they are not comprehensive enough to fully regulate AI-driven decision making. The analysis also underscores the longstanding fiduciary and governance roles for directors and senior management in corporate transactions that require the human touch, even in the context of AI assistance.

The research finds that AI cannot be regarded as a replacement for human decision-making, but rather as a tool that supports informed human judgment. The regulation and governance of AI in Indian M&A will be pivotal to its future, enabling innovation while maintaining accountability, transparency and safeguarding stakeholders. Essential for enabling AI to enhance corporate decision-making processes in an efficient, fair and legally accountable way will be a principle-based approach that prioritizes responsible use of AI, regulatory clarity, ethical governance and meaningful human oversight.

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