

Artificial Intelligence, Technology and the Future of Constitutional Rights in India

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I. INTRODUCTION

The last decade has witnessed a significant rise in the use of Artificial Intelligence (AI) and automated digital systems across both governmental and private sectors in India. AI is no longer confined to research laboratories or specialised industries; rather, it now influences ordinary civic interactions such as welfare delivery, digital banking, online speech, automated surveillance, and identity verification. This technological shift has created an environment where decisions that were once taken by human beings are increasingly shaped or executed by data-driven systems.

The Indian Constitution guarantees certain fundamental rights that anchor the legal and democratic framework of the country. Among these, *Articles 14, 19 and 21*—often described as the constitutional "golden triangle"—ensure equality, personal liberty and freedom of expression. The rapid integration of AI into public administration brings into question how these constitutional rights will operate in a future where decision-making may not be transparent, accountable or even accessible to the individual affected.

The Supreme Court has, in recent years, acknowledged changing societal and technological contexts. In *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017), the Court recognised privacy as a constitutional right under Article 21, noting that modern technology is capable of altering the power relationship between the State and citizen. Earlier, in *Shreya Singhal v. Union of India* (2015), the Court struck down Section 66A of the IT Act, reasoning that restrictions on online speech must conform to constitutional standards. These cases illustrate that the Court has begun engaging with the legal consequences

of new technology yet, the emergence of AI presents more complex challenges because AI systems may act without explicit intent, yet still cause constitutional harm.

The relationship between AI and constitutional rights in India. It attempts to map the legal tensions arising out of algorithmic decision-making and assess whether current constitutional principles provide adequate safeguards.

II. TECHNOLOGICAL EXPANSION AND THE RISE OF AI IN INDIA

India's digital transformation accelerated substantially after the introduction of *Aadhaar* and the broader framework of the Digital India initiative. The State now relies heavily on databases, automated verification, predictive risk models, machine learning interfaces, and biometric technologies. For example, welfare programmes increasingly depend on automated beneficiary identification, banking uses AI in fraud detection and credit scoring, and law enforcement agencies experiment with predictive policing and facial recognition systems at public events.

Alongside the State, the private sector has adopted AI extensively in hiring processes, digital marketing, insurance risk assessment, and algorithmic moderation of online content. Many decisions impacting individuals are now partly or entirely automated, often without explicit notification or consent.

Unlike earlier technological systems, AI is characterized by autonomy, adaptability, and scale. It may draw conclusions from patterns and correlations rather than explicit rules. This raises concerns not only about accuracy, but also about fairness and accountability. Algorithmic systems can

reflect societal biases embedded in the data used to train them. A discriminatory outcome generated by an AI system does not excuse the State of responsibility, because constitutional obligations apply regardless of the mechanism through which decisions are made.

The expansion of AI in India is therefore not merely technological it is constitutional, administrative and ethical. The pace of adoption often outstrips the creation of regulatory safeguards, placing the citizen in a potentially vulnerable position.

III. ALGORITHMIC POWER AND CONSTITUTIONAL CHALLENGES

The primary constitutional challenge presented by AI lies in the nature of automated decision-making. Algorithms are often opaque and operate as "black-box models," making it difficult for a citizen to understand how or why a conclusion was reached. The absence of transparency undermines procedural fairness and the constitutional expectation of reasoned decision-making.

Bias and Discrimination

AI systems can unintentionally amplify social hierarchies or prejudices. For instance, if a predictive policing system is trained using historical crime data reflecting biased policing practices, it may disproportionately identify marginalised communities as "*high-risk*." Under Article 14, discrimination that is arbitrary or unreasonable violates the constitutional mandate of equality, a principle reinforced in *E.P. Royappa v. State of Tamil Nadu* (1974),¹ where the Court emphasised that equality is antithetical to arbitrariness.

Lack of Accountability

A central difficulty with AI is determining who bears legal responsibility for an automated decision. If a welfare claimant is denied benefits because a machine learning system categorised them incorrectly, the question arises: who can they challenge the programmer, the ministry, the vendor, or the algorithm itself? Constitutional governance requires

accountability; however, AI systems may diffuse responsibility, creating what scholars describe as "*responsibility gaps*."

Opacity and Due Process

Constitutional due process demands that individuals must be able to contest decisions affecting their rights. In *Maneka Gandhi v. Union of India* (1978),² the Supreme Court held that fairness and reasonableness are essential components of Article 21.

If AI models operate without disclosure or explanation, due process becomes practically inaccessible. Without transparency, judicial review is weakened.

Surveillance and Autonomy

AI intensifies surveillance capabilities through automatic identification and mass data correlation. The concerns expressed in *People's Union for Civil Liberties v. Union of India* (1997),³ regarding telephone tapping, now extend to technologies far more intrusive.

Certain forms of AI surveillance may create a "chilling effect," suppressing legitimate participation in public discourse and, in consequence, constraining Article 19 freedoms

IV. IMPLICATIONS FOR FUNDAMENTAL RIGHTS

The interaction between AI and constitutional rights does not follow a single trajectory. Instead, the impact varies across different rights, often intersecting:

Article 14 — Equality and Non-Arbitrariness

The constitutional principle of equality requires that laws and administrative actions be fair, reasonable and non-arbitrary. AI systems that rely on statistical associations rather than contextual reasoning may inadvertently treat individuals unfairly. The Supreme Court has repeatedly held that arbitrariness violates Article 14, most notably in *Royappa* and subsequently in *Ajay Hasia v. Khalid Mujib Sehravardi* (1981).⁴ An AI system producing unequal or unjust outcomes,

¹ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3

² *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

³ *People's Union for Civil Liberties v. Union of India*, (1997) 1 SCC 301

⁴ *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722

even without deliberate intent, may nonetheless violate Article 14 if the process lacks safeguards.

Article 19 — Free Speech and Democratic Participation

Online platforms increasingly depend on algorithmic moderation for speech regulation. While AI may remove harmful content efficiently, it may also suppress lawful speech through misclassification or over-blocking. In *Shreya Singhal*, the Court emphasised that vague or broad restrictions on speech are unconstitutional.

If speech restrictions are determined by opaque models instead of clear legal standards, the risk to Article 19(1)(a) becomes significant. Moreover, algorithm-driven content feeds can subtly influence political communication and democratic participation.

Article 21 — Life, Liberty and Privacy

Article 21 is perhaps the most directly affected by AI. The recognition of privacy in *Puttaswamy* brought constitutional scrutiny to data processing, profiling and surveillance. The Court observed that informational privacy forms part of personal liberty. AI systems, particularly those involving biometric collection, facial recognition, and automated risk scoring, pose direct challenges to this right.

Furthermore, automated decisions affecting welfare eligibility, financial inclusion or policing may implicate dignity, autonomy and procedural fairness all essential components of Article 21. Cases such as *Selvi v. State of Karnataka* (2010),⁵ where involuntary narcoanalysis was held unconstitutional, demonstrate that technology cannot justify invasive State action without constitutional justification.

V. JUDICIAL AND LEGISLATIVE RESPONSES

India's judiciary has started laying the foundation for protecting digital rights, though there isn't yet a clear, AI-specific legal framework. Over the last decade, several landmark judgments have shaped how the

Constitution applies to the digital world. For instance, in *Puttaswamy v. Union of India* (2017), the Supreme Court recognised the right to privacy as a fundamental right. This case made it clear that our personal data and digital identity cannot be left unprotected. Similarly, *Shreya Singhal v. Union of India* (2015)⁶ struck down overly broad provisions of the IT Act that limited online speech, showing that freedom of expression extends to the internet, and any restriction has to be carefully justified. More recently, in *Anuradha Bhasin v. Union of India* (2020),⁷ the Court emphasised that any limits on digital communication must follow the principles of necessity and proportionality. Even during emergencies or security concerns, citizens' access to the internet and online services cannot be blocked arbitrarily. These cases indicate that the courts are beginning to see digital rights as an extension of fundamental rights, which will be essential in an AI-driven future.

On the legislative side, India has started addressing the regulation of digital data, though gaps remain. The Digital Personal Data Protection Act, 2023 is a first step toward protecting personal information, requiring companies to get consent, safeguard data, and provide grievance mechanisms.

However, critics point out that broad exemptions for the State could weaken these protections. Existing laws, like the Information Technology Act, 2000,⁸ offer some oversight of digital platforms, but they weren't created with AI in mind. While they help regulate cybercrime and certain online activities, they don't cover the challenges posed by AI systems, such as automated decision-making, algorithmic bias, or large-scale profiling.

Older laws as The Indian Telegraph Act, 1885,⁹ and the Criminal Procedure (Identification) Act, 2022,¹⁰ allow the government to collect biometric data and conduct surveillance. While these measures serve security purposes, they raise concerns about overreach, especially when AI could make decisions affecting people's lives. Without proper safeguards,

⁵ *Selvi v. State of Karnataka*, (2010) 7 SCC 263

⁶ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1

⁷ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637

⁸ Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India)

⁹ Indian Telegraph Act, 1885, No. 13, Acts of Parliament, 1885 (India)

¹⁰ Criminal Procedure (Identification) Act, 2022, No. 21, Acts of Parliament, 2022 (India)

automated systems could unintentionally violate privacy, equality, or due process.

The absence of a dedicated AI regulatory framework creates uncertainty for both citizens and institutions. Looking ahead, India will need rules ensuring transparency, accountability, fairness, and explainability in AI systems. People should have the right to know why a decision affecting them was made and to appeal it if it seems unjust. Courts, legislation, and regulatory bodies will all need to work together to ensure AI strengthens governance without compromising constitutional rights.

VI. THE FUTURE OF CONSTITUTIONAL RIGHTS IN AN AI-DRIVEN SOCIETY

As India moves towards using AI on a larger scale, it's clear that technology is going to affect almost every part of our lives, including how our rights are protected. But it's not just about what AI can do it's about how we let it influence our freedoms, our privacy, and our democracy. Technology is never completely neutral; it reflects the biases and priorities of the people who design it. That means if we're not careful, AI could make unfair assumptions, favor some groups over others, or even shape the way we think about politics and society.

One area where this is most visible is elections and political campaigns. Political messaging is now heavily digital, and AI can target voters, predict their preferences, or even amplify certain voices over others. Without proper rules, AI could quietly influence how people vote or what opinions they hear. This isn't just theory globally, we've seen how digital platforms can change the way people engage with democracy. In India, we need to make sure AI doesn't undermine public reasoning or weaken trust in democratic processes.

AI is also being used in public administration, like determining who gets government benefits, social security, or even health services. On the surface, this can make things faster and more efficient. But automated systems are only as fair as the data they learn from. If the data is biased, or if decisions are made without clear explanations, people can be unfairly denied services without knowing why. Citizens should have the right to understand AI decisions and challenge them if they seem unfair.

Surveillance is another area that needs attention. AI-powered cameras, facial recognition, and predictive policing might make security more efficient, but they also risk invading privacy and creating a society where everyone feels watched. Our Constitution guarantees privacy and personal liberty, and these rights should not be weakened just because new technology exists. Oversight by courts, independent boards, and clear rules is essential.

VII. CONCLUSION

AI offers incredible opportunities. It can make governance faster, improve public services, and even help solve social problems. But it can also do real harm if left unchecked: enabling mass surveillance, spreading bias, or manipulating information. The challenge is not to stop technology, but to make sure it follows the rules that protect people.

India's Constitution gives us the tools to deal with these challenges, but the law has to adapt. Courts, lawmakers, and citizens need to actively engage with AI to ensure it strengthens, not weakens, our rights.

If we do this, technology can support democracy and human dignity instead of threatening them. The future of AI isn't just about what machines can do it's about how we, as a society, choose to control and use them responsibly.

VIII. SUGGESTIONS FOR PROTECTING RIGHTS IN AN AI WORLD

1. Make Clear AI Laws: India needs a law specifically for AI that sets rules about transparency, accountability, and fairness. Without clear laws, companies and government agencies might use AI in ways that violate rights.

2. Explainable AI: People should be able to understand why an AI made a certain decision, whether it affects jobs, welfare, or loans. If a decision seems unfair, there should be a way to challenge it.

3. Stronger Court Oversight: Courts should watch how AI is used in policing, social services, and government programs. Judges and lawyers might need training to understand AI better, so decisions are fair.

4. Protect Privacy: AI surveillance must be limited and monitored. Citizens should know what data is collected, how it's used, and have the right to correct or remove it.

5. Prevent Bias: AI systems must be tested to make sure they don't unfairly favor some people over others. If someone is hurt by an AI decision, there should be a simple way to appeal.

6. Teach People About AI: Everyone should know how AI affects their lives. Public awareness campaigns and school programs can help people understand their rights and how to protect them.

7. Regulatory Bodies: A dedicated body should check AI systems, certify them, and investigate complaints to make sure they follow rules and protect rights.

8. Encourage Responsible Innovation: Universities, companies, and government agencies should work together to create AI that is fair, transparent, and serves public interests.

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