



Artificial Intelligence and Constitutional Rights in India: A Study of Fundamental Rights

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Abstract

Artificial Intelligence (AI) is rapidly transforming governance, surveillance, law enforcement, and digital platforms in India, ushering in both unprecedented opportunities and significant constitutional challenges. While AI-driven systems enhance administrative efficiency, accuracy, and public service delivery, they simultaneously raise critical concerns about the protection of Fundamental Rights guaranteed under Part III of the Indian Constitution. This paper critically examines the implications of AI technologies on the right to equality (Article 14), freedom of speech and expression (Article 19), and the right to life and personal liberty, including the right to privacy (Article 21). Through doctrinal legal research, constitutional interpretation, and comparative regulatory analysis, the study argues that algorithmic opacity, inherent bias, and the absence of a comprehensive legal framework risk undermining constitutional safeguards. The paper advocates for a rights-based, human-centric AI governance framework grounded in principles of transparency, accountability, proportionality, and constitutional morality to ensure AI serves as a tool for empowerment rather than arbitrary control.

Keywords: Artificial Intelligence; Fundamental Rights; Article 14; Article 19; Article 21; Right to Privacy; Algorithmic Bias; AI Regulation; Indian Constitution

1. Introduction

Artificial Intelligence (AI) represents one of the most significant technological developments of the 21st century, reshaping economies, governance systems, and societal interactions worldwide. In India, AI is becoming increasingly integrated into public administration, law enforcement, welfare schemes, healthcare, education, and digital governance platforms. These applications promise enhanced efficiency, predictive accuracy, and cost-effective service delivery, which hold the potential to revolutionize public sector functioning and citizen engagement.

However, the growing reliance on AI and algorithmic decision-making also introduces profound constitutional and ethical concerns. The Indian Constitution enshrines Fundamental Rights under Part III, designed to protect

individuals against arbitrary state action and to uphold dignity, equality, and freedom. The deployment of AI within governance frameworks directly impacts several of these rights, particularly the right to equality before the law (Article 14), freedom of speech and expression (Article 19), and the right to life and personal liberty, including the right to privacy (Article 21).

AI systems often operate through opaque algorithms, extensive data collection, and automated decision-making processes that may evade traditional mechanisms of transparency, legal accountability, and judicial review. This raises urgent questions about the alignment of AI governance with constitutional values such as fairness, non-discrimination, and due process. Additionally, the risks posed by algorithmic bias, surveillance overreach, mass data profiling, and automated content censorship necessitate a nuanced constitutional inquiry.

This paper seeks to critically analyze the interplay between AI technologies and the Fundamental Rights framework in India. It identifies gaps in the existing legal landscape, explores comparative regulatory models, and proposes normative principles to guide rights-based AI governance that respects constitutional morality.

2. Review of Literature

The academic and policy discourse on AI and constitutionalism reveals a complex balance between the promise of technological efficiency and the challenges of upholding human rights. Scholars have recognized AI's potential to support legal research, precedent analysis, and administrative decision-making by improving accuracy and reducing human error. However, they emphasize that AI systems lack the capacity to independently evaluate ethical considerations, social context, and constitutional morality, which are essential for just governance.

Comparative studies highlight how jurisdictions such as the European Union have taken proactive steps to regulate AI through frameworks like the General Data Protection Regulation (GDPR) and the proposed Artificial Intelligence Act. These regulations impose restrictions on fully automated decision-making, mandate transparency and explainability of algorithms, and require human oversight to prevent infringements on fundamental rights. The EU's approach underscores the necessity of embedding human rights principles in AI governance.

In contrast, India's legal and regulatory framework remains nascent and fragmented. While the government has launched initiatives to promote AI adoption and issued advisory guidelines on responsible AI use, these measures are non-binding and lack detailed provisions to safeguard constitutional rights. The scholarship specifically addressing AI's impact on India's Fundamental Rights is limited, underscoring the need for focused constitutional and regulatory analysis.

3. Research Problems

Research Problems

1. Does algorithmic bias in AI-based decision-making violate the Right to Equality under Article 14 of the Indian Constitution?
2. To what extent does AI-enabled mass surveillance infringe upon the Right to Privacy under Article 21?
3. How does AI-driven content moderation affect Freedom of Speech and Expression guaranteed by Article 19?

4. Objectives of the Study

1. To examine the constitutional framework governing Fundamental Rights in India, especially Articles 14, 19, and 21.
2. To analyze the impact of AI technologies on these rights, highlighting specific risks and challenges.
3. To identify the gaps and limitations in current legal and policy frameworks regulating AI governance.
4. To propose a rights-based regulatory framework tailored to India's constitutional and socio-political context, emphasizing transparency, accountability, and proportionality.

5. Methodology

The study employs a doctrinal and analytical research methodology, relying predominantly on secondary sources such as constitutional provisions, landmark Supreme Court judgments, government policy documents, law commission reports, and scholarly articles. A comparative approach is incorporated to derive insights from international AI regulatory frameworks, particularly those emphasizing human rights and ethical AI governance. The research remains interpretative and theoretical, without empirical or field-based data collection.

6. AI and the Right to Privacy (Article 21)

The landmark judgment in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) firmly established the right to privacy as an intrinsic component of the right to life and personal liberty under Article 21. The Supreme Court emphasized informational self-determination, dignity, and autonomy as core constitutional values requiring protection against disproportionate state intrusion.

AI systems extensively rely on the collection, processing, and analysis of massive datasets, often without meaningful consent or adequate transparency. For instance, the deployment of facial recognition technologies by law enforcement agencies and government surveillance programs in India raises significant privacy concerns. Such systems collect biometric data from public spaces, monitor individuals' movements, and profile citizens in ways that are largely unregulated and opaque.

Predictive analytics tools designed to anticipate criminal behavior, allocate social benefits, or monitor public health also involve large-scale data aggregation, often without clear legal safeguards. The lack of transparency regarding data sources, algorithmic decision criteria, and opportunities for individuals to challenge erroneous or invasive decisions undermines the principles of procedural fairness and accountability.

The proportionality and legality of AI-driven surveillance must be rigorously scrutinized under constitutional standards. Any intrusion on privacy rights must be authorized by law, serve a legitimate state interest, be necessary and proportionate, and include procedural safeguards. Currently, India lacks a comprehensive data protection law equivalent to the GDPR, although the Personal Data Protection Bill, 2019, is under consideration.

7. AI and Equality before Law (Article 14)

Article 14 guarantees that "the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." It enshrines both formal equality (equal treatment of similarly situated persons) and substantive equality (removal of systemic disadvantages and discrimination).

AI systems often inherit and amplify biases present in historical data used for training algorithms. For example, predictive policing tools trained on data reflecting existing social prejudices may disproportionately target marginalized communities, perpetuating cycles of discrimination. Similarly, automated decision-making in welfare distribution or credit scoring may exclude certain groups unfairly due to biased datasets or flawed algorithmic design.

The opacity of algorithms, often considered proprietary by developers, compounds the difficulty of detecting and remedying discriminatory outcomes. Without transparency and mechanisms for contestation, affected individuals may be denied effective legal recourse.

To uphold Article 14, AI governance must incorporate fairness audits, bias mitigation protocols, and mechanisms for redress. The principle of equality demands that AI systems be designed and deployed in ways that actively prevent discrimination and promote inclusiveness.

8. AI and Freedom of Speech and Expression (Article 19)

Article 19(1)(a) guarantees the right to freedom of speech and expression, subject to reasonable restrictions in the interests of sovereignty, security, public order, decency, morality, or defamation.

AI-mediated content moderation and recommendation systems increasingly shape digital discourse on social media platforms, news websites, and public forums. Automated filtering algorithms decide which content is promoted, suppressed, or removed. However, these systems often lack contextual sensitivity and may over-censor legitimate speech due to reliance on keyword detection, sentiment analysis, or blacklists.

For instance, AI tools designed to detect hate speech or misinformation may inadvertently suppress political dissent, minority voices, or satire, thereby chilling free expression. The lack of transparency in content moderation policies and the absence of human oversight mechanisms exacerbate the risk of arbitrary censorship.

Protecting freedom of speech in the AI era requires transparent content moderation frameworks, the right to meaningful appeal against removal decisions, and accountability for platform operators. Balancing AI efficiency with constitutional protections is a critical governance challenge.

9. Policy and Governance Challenges

Despite India's enthusiasm to promote AI adoption for economic development and governance reform, the country currently lacks a comprehensive statutory framework regulating algorithmic decision-making and AI ethics. Existing policy documents, such as the National Strategy for AI, emphasize responsible AI but remain largely advisory and non-binding.

Key challenges include:

- **Absence of Binding Legal Norms:** There is no specific legislation governing AI transparency, accountability, or fairness.
- **Limited Oversight Mechanisms:** Institutional capacity to audit AI systems and enforce compliance is inadequate.
- **Fragmented Regulatory Environment:** Various ministries and agencies address aspects of AI without coordination or clear mandates.
- **Public Awareness Deficit:** Citizens often remain unaware of AI's role in decisions affecting their rights, limiting democratic oversight.

Addressing these challenges requires a comprehensive, rights-based AI regulatory framework aligned with constitutional values, incorporating enforceable norms for transparency, accountability, fairness, and human oversight.

10. Conclusion

Artificial Intelligence offers immense potential for administrative efficiency, economic growth, and improved public service delivery in India. However, without adequate legal and ethical safeguards, AI also poses significant risks to constitutional rights enshrined in Articles 14, 19, and 21 of the Indian Constitution.

To ensure AI serves as an instrument of empowerment rather than control, India must adopt a comprehensive rights-based AI governance framework grounded in constitutional principles. This framework should mandate algorithmic transparency, incorporate mechanisms to detect and mitigate bias, guarantee procedural fairness, and uphold the dignity and autonomy of individuals. Moreover, constitutional morality must guide AI policy to reconcile technological innovation with fundamental rights protections.

A human-centric approach to AI governance that emphasizes transparency, accountability, proportionality, and public participation will enable India to harness AI's benefits while safeguarding its rich constitutional heritage and democratic ethos.

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