AI AND CONSTITUTIONAL LAW: FREEDOM OF SPEECH, EQUALITY, AND PRIVACY RIGHTS IN THE AGE OF TECHNOLOGY

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Abstract

The emergence of Artificial Intelligence poses both transformative opportunities and constitutional challenges in democratic societies.This research article analyzes the relationship between AI and constitutional principles in India with a focus on three fundamental rightsfreedom of speech, equality, and privacy rights in the era of digital technology.The study begins with an introduction to AI's rapid integration into governance, economy, and society, emphasising its potential to enhance efficiency while also creating risks of surveillance, misinformation, and algorithmic control.it's provides the constitutional foundation by tracing how fundamental rights guaranteed by The trinity of equality,freedom,and life & liberty have historically evolved and how judicial interpretation has safeguarded them against technological overreach.explores the effect of Effects of AI on the right to free speech, analysing online censorship,content moderation,and the chilling effects of automated regulation.focuses on equality,highlighting how algorithmic bias and lack of transparency in decision-making can reinforce discrimination,thereby violating constitutional guarantees of fairness.examines the tension between AI-driven surveillance and informational privacy,particularly considering the Supreme Court's recognition of recognition of Privacy recognized as a basic human right in Justice K.S. Puttaswamy (Retd.) v. UOI reviews the existing regulatory framework including the Information technology Act, IT Rules,along with the Digital Data Protection Act while identifying key gaps in AI governance.Ultimately,the article finds that Artificial Intelligence is not just a technology issue but a constitutional one,and its governance must be guided by India's constitutional principles of liberty,equality, and dignity.

Keywords: Artificial intelligence, Freedom of speech,Governance, framework,data protection, Union of India.

1.Introduction

The rapid growth of Artificial Intelligence has transformed the nature of governance,communication, and social interaction across the world.In India,a constitutional democracy that places fundamental rights at the centre of governance,AI presents both opportunities and challenges. On the one hand, AI enables efficiency,automation,and innovation in areas such as healthcare, education, law enforcement,and

administration.On the other hand,it raises critical questions about the scope and safeguard of constitutional freedoms, particularly freedom of speech,equality,and privacy.[1]

Fundamental Right to Speech and Expression,enshrined under Article 19(1)(a) of the Constitution,is regarded as the bedrock of democratic discourse. Yet,AI-driven content moderation and automated decision-making by digital platforms have led to novel modes of censorship,algorithmic bias,and chilling effects,which test the boundaries of Article 19(2).The Supreme Court's decision in **Shreya Singhal v. UOI** struck down vague restrictions under Section 66A of the IT Act, 2000,reaffirming that only incitement to imminent lawless action can justify restrictions on speech.[2]In the AI era, ensuring that automated systems respect this constitutional standard becomes a pressing concern.

Similarly, the right to equality under Articles 14 and 15 is threatened by AI's propensity to reproduce or might deepen entrenched societal biases embedded in data. Algorithmic decision-making in welfare delivery, predictive policing, or recruitment can result in disparate treatment or disparate impact on marginalized groups.[3]This not only undermines the principle of non-arbitrariness but also risks perpetuating structural discrimination contrary to the constitutional mandate of substantive equality.

The right to privacy,recognized in Justice **Puttaswamy Case (2017)** as a fundamental right, is perhaps the most directly implicated by AI.[4]AI systems thrive on the collection,processing,and inference of massive datasets,including sensitive personal information.Surveillance technologies like facial recognition, predictive analytics, and data profiling may infringe informational privacy, autonomy, and dignity.The Supreme Court in The **Anuradha Bhasin Case (2020)** emphasized that restrictions on fundamental Digital Rights domain must satisfy legality, necessity, and proportionality.[5]These principles provide an important doctrinal framework to evaluate AI-based surveillance and data practices.

Globally,Judicial systems are finding it challenging to phrase properly to regulate AI while protecting human rights. **The European Union's AI Act (2024)** adopts a risk-based approach, banning high-risk applications like social scoring, while imposing transparency and oversight obligations on other categories of AI.[6]India, however, has yet to formulate a comprehensive AI regulatory framework, relying instead on sectoral laws such as the **Information Technology Act, 2000** and **The 2023 Digital Personal Data Protection Act**.[7]Against this background, constitutional interpretation assumes greater importance in ensuring that AI is deployed within the guardrails of fundamental rights.

Thus, the study of AI and Constitutional Law is both timely and essential.This research seeks to critically analyze the intersection of AI with free speech, equality, and privacy in India, drawing upon judicial precedents, comparative models, and normative principles. The objective is to propose a rights-by-design framework, ensuring that constitutional protections remain robust and relevant in the digital age.

2.Mapping the Constitutional Touchpoints of Artificial Intelligence

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[1]Sandeep Raghavan, 'Artificial Intelligence and the Constitution: Challenges for India' (2021) 7(2) Indian Journal of Constitutional Law 45.

[2]Shreya Singhal v UOI (2015) 5 SCC 1 (SC).

[3]Sandra Wachter, Brent Mittelstadt and Chris Russell, 'Why Fairness Cannot Be Automated: Bridging the Gap Between EU Non-Discrimination Law and AI' (2021) 41(2) Computer Law & Security Review 105567.

[4]Justice K.S. Puttaswamy (Retd) v UOI(2017) 10 SCC 1 (SC).

[5]Anuradha Bhasin v UOI(2020) 3 SCC 637 (SC).

[6]European Commission, 'The EU Artificial Intelligence Act: Ensuring Trustworthy AI' (2024).

[7]The Digital Personal Data Protection Act, (Act No 22 of 2023).

In the digital era, Artificial Intelligence (AI) is not just a technological innovation but a system that deeply influences the exercise and Safeguarding of fundamental rights. Within the Indian constitutional framework, three core rights are directly implicated:Liberty of expression (Article 19(1)(a)), the right to equality (Articles 14 and 15),and the constitutional right to privacy(recognized as a fundamental right in Justice K.S. Puttaswamy v. UOI).[8] AI technologies, therefore, intersect with constitutional guarantees in ways that require both doctrinal clarity and regulatory safeguards.

2.1 AI and Its Constitutional Intersections

AI systems impact multiple domains that are central to constitutional governance:

- **Impact on Freedom of Speech:**Social media platforms and digital intermediaries deploy AI for content filtering, recommendation algorithms, and automated takedowns.These practices directly shape the scope and quality of free speech in the online space.However,automated moderation often leads to over-enforcement (false positives where constitutionally protected speech is removed) and creates a chilling effect,Consequently discouraging individuals from availing their right to freedom of expression guaranteed by Article 19(1)(a).The Supreme Court in **Shreya Singhal v. Union of India** emphasized that only incitement to imminent lawless action can be restricted, not mere advocacy or discussion.[9]AI-driven moderation, unless narrowly tailored, risks violating this standard.

- **Impact on Equality:**AI-driven decision-making systems can reinforce historical and social biases present in training datasets. In sectors like public welfare distribution, hiring, policing, and lending, algorithmic models may cause discrimination, either through disparate treatment (explicit reliance on protected characteristics) or disparate impact (use of neutral proxies that correlate with caste, gender, or religion).[10]Such outcomes contradict the constitutional commitment to non-arbitrariness under Article 14 and the prohibition of discrimination under Article 15.

- **Impact on Privacy:**AI fundamentally relies on data collection, processing, and inference. Technologies such as facial recognition, predictive analytics, and large-scale surveillance systems allow the State or private entities to profile individuals, infer sensitive traits, and monitor activities on a massive scale. This raises risks of unauthorized surveillance, profiling, and breaches of informational autonomy, thereby infringing on the right to privacy recognized in Puttaswamy.[11]

2.2 Constitutional Standards Applicable to AI

Indian constitutional jurisprudence provides three guiding tests that any State action involving AI must satisfy:

- **Legality-**Restrictions or intrusions must have a clear statutory basis. Arbitrary or executive directions without legal sanction cannot justify AI-enabled censorship or surveillance.[12]

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[8] Justice K.S. Puttaswamy (Retd) and Anr v UOI(2017) 10 SCC 1 (SC).

[9]Shreya Singhal v UOI(2015) 5 SCC 1 (SC).

[10]Tarleton Gillespie, 'Content Moderation, AI, and Free Expression' (2018) 22(3) Social Media + Society 1.

[11]K. Lahiri, 'AI and Privacy: The Indian Constitutional Context' (2021) 63(2) JILI 245

[12]Gautam Bhatia, Offend, Shock, or Disturb: Free Speech under the Indian Constitution (Oxford University Press 2016).

- **Legitimate Aim-**The objective pursued (such as public order, national security, or prevention of crime) must fall within constitutionally permissible grounds under Articles 19(2), 14, and privacy jurisprudence.
- **Proportionality and Necessity**-As elaborated in Puttaswamy and later reinforced in **Anuradha Bhasin v. UOI,**State measures must be proportionate to the aim, necessary in a democratic society, and accompanied by legal safeguards like periodic review and transparency.[13]

2.3 Doctrinal Significance

The interaction between AI and constitutional rights demonstrates that technology cannot operate in a constitutional vacuum. While AI promises efficiency, scalability, and innovation, its unchecked application may erode fundamental freedoms. Therefore, embedding constitutional values, speech, equality, privacy into AI governance frameworks is crucial to guarantee that technological
 progress that remains consistent with democratic principles.

3. Freedom of Speech and AI Moderation

The freedom of speech and expression, guaranteed under Article 19(1)(a) of the Indian Constitution,forms the cornerstone of democratic governance.The S.C has consistently underscored that free speech is not only the lifeblood of democracy but also essential for the pursuit of truth, exchange of ideas, and individual self-fulfilment.[14]However,The rise of Artificial Intelligence in the realm of online platforms, content moderation, and surveillance introduces new constitutional challenges to this freedom.

3.1 Constitutional Framework for Free Speech

Article 19(1)(a) guarantees liberty of expression to all citizens, but Article 19(2) permits the State to enforce lawful constraints on this right Matters concerning India's sovereignty and territorial integrity,national security, international relations, public order, public morality, judicial authority, reputation, and prevention of criminal incitement .[15]

In **Shreya Singhal v. Union of India**, the Supreme Court invalidated Section 66A of the Information Technology Act,2000, holding it unconstitutional for its vagueness, overbreadth, and chilling effect on online speech.[16]The Court drew a crucial distinction between discussion, advocacy, and incitement: while discussion and advocacy are protected, only incitement to imminent lawless action can be curtailed. This doctrine now serves as the constitutional litmus test for regulating speech in the digital age.

3.2 AI-Driven Moderation and Its Implications

Digital platforms increasingly rely on AI systems to detect,filter,and remove unlawful or harmful content.These include automated detection of hate speech, misinformation,obscenity,and extremist propaganda.While AI moderation enables platforms to handle large-scale data efficiently, it raises three critical issues:

- **Over-Enforcement and Chilling Effect**:AI algorithms often lack contextual understanding, leading to false positives, where legitimate speech is removed.For instance,satire,political dissent,or minority

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[13]Anuradha Bhasin v UOI (2020) 3 SCC 637 (SC).

[14]Romesh Thappar v State of Madras AIR 1950 SC 124 (SC).

[15]Constitution of India 1950, art 19(1)(a) and 19(2).

[16]Shreya Singhal v UOI (2015) 5 SCC 1 (SC).

voices may be wrongly flagged as "harmful" or "inciting."These mistakes create a chilling effect on the exercise of free expressio,thereby creating a chilling effect.[17]

- **Opacity and Lack of Accountability:**Most AI moderation systems are opaque in their functioning, offering little explanation for why content was flagged or removed. This opacity undermines the constitutional requirement of reasoned decision-making and violates principles of natural justice under Article 14.[18]

- **State Platform Nexus:**The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, as amended in 2023, impose strict obligations on intermediaries to remove objectionable content within short time frames.[19]This regulatory pressure, combined with AI moderation, risks creating private censorship at the behest of the State, without adequate judicial oversight. In essence, private platforms may end up over-complying with vague takedown demands, indirectly resurrecting the unconstitutional spirit of Section 66A.[20]

3.3 Judicial and Doctrinal Concerns

Indian courts have underscored that restrictions on speech must be precise, necessary, and proportionate.[21]With regard to AI moderation, this means that:

- Any State directive requiring AI filtering or takedown must have a clear statutory basis.
- Restrictions must conform strictly to the grounds listed under Article 19(2), and not be based on vague categories such as "offensive" or "harmful."

There must be procedural safeguards, including notice to the affected user, publication of takedown orders, and access to independent review or appeal.[22]

3.4 Towards Rights-Respecting AI Moderation

A constitutional-compliant framework for AI moderation should include:

- **Transparency-**Platforms should disclose moderation criteria, algorithms, and error rates.
- **Accountability-**Affected individuals must have access to reasons and appeals, including human review of automated decisions.
- **Proportionality-**Restrictions must be narrowly tailored, targeting only incitement or unlawful speech, consistent with the Shreya Singhal standard.
- **Independent Oversight-**A regulator or judicial authority should monitor State takedown orders to prevent abuse.

By embedding these safeguards, India can balance the need to address harmful online speech with the constitutional mandate of protecting freedom of expression in the digital age.

4.Equality and Algorithmic Bias
4.1 Constitutional Guarantee of Equality

The Indian Constitution enshrines the right to equality under Articles 14 to 18, prohibiting discrimination on the basis of religion,race,caste,sex,or place of birth and ensuring equal protection of the laws.[23]Article 14 guarantees equality before the law and equal protection of laws,while Article 15 prohibits discriminatory

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[17]Kate Klonick, 'The New Governors: The People, Rules, and Processes Governing Online Speech' (2018) 131(6) Harvard Law Review 1598.

[18]Madhav Khosla, The Indian Constitution (Oxford University Press 2012) 86.

[19] IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, amended in 2023

[20]Chinmayi Arun, 'AI and the Future of Free Speech in India' (2021) 16(2) Indian Journal of Law and Technology 45.

[21]Anuradha Bhasin v UOI (2020) 3 SCC 637 (SC).

[22]Gautam Bhatia, Offend, Shock, or Disturb: Free Speech under the Indian Constitution (Oxford University Press 2016).

[23]Constitution of India 1950, arts 14–18.

practices.[24]The Supreme Court has continually widened the explanation of Article 14 to include the principle of non-arbitrariness and the requirement that State action must be just,fair,and reasonable.[25]The **case of E.P. Royappa versus State of Tamil Nadu**,the Court observed that arbitrariness and equality are sworn enemies if any arbitrary State action violates Article 14.[26]This principle has been implemented in the domain of technology and governance,where State adoption of AI systems must adhere to constitutional equality guarantees.

4.2 Algorithmic Bias in AI Systems

Artificial Intelligence, notably its machine learning branch depends on training datasets.These datasets frequently mirror historical inequalities,social prejudices, and systemic discrimination,leading to biased outputs.Examples include:

- **Gender Bias:**Hiring algorithms that prefer Male candidates being chosen over equally eligible female candidates due to biased training data.[27]
- **Caste and Socioeconomic Bias:**Predictive policing algorithms disproportionately targeting marginalized communities, echoing existing structural discrimination.[28]
- **Language and Regional Bias:**Content moderation AI misinterpreting non-English speech, leading to disproportionate takedowns of regional voices.[29]

Such biases directly conflict with the constitutional principle of equality, as they perpetuate unfair treatment against already disadvantaged groups.

4.3 State Responsibility and Private Platforms

While much algorithmic decision-making occurs on private platforms (social media, employment portals, fintech apps), constitutional scrutiny arises where there is State involvement. If the government deploys AI for welfare distribution, predictive policing, or surveillance, Article 14 is directly applicable.[30]Under the doctrine of positive obligations,the State is duty-bound to protect individuals against violations of fundamental rights by private actors.[31]Thus,where private platforms' algorithms produce discriminatory outcomes,regulate and maintain compliance with equality requirements.

4.4Judicial and Doctrinal Concerns

Indian constitutional jurisprudence has developed tests such as:

- **Reasonable Classification Test:**Classification must be based on an intelligible differentia and have a rational nexus with the object sought to be achieved.[32]
- **Proportionality Test:**Adopted in K.S. Puttaswamy v Union of India, proportionality requires that restrictions or differential treatment must be suitable, necessary, and balanced against rights.[33]

Applied to AI, these doctrines imply that algorithmic decision-making systems must:

- Avoid arbitrary classifications (e.g., filtering candidates by caste surnames).

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[24]The State of West Bengal versus Anwar Ali Sarkar, AIR [year] SC [page]
 1952 SC 75 (SC).
[25]Maneka Gandhi v UOI (1978) 1 SCC 248 (SC).
[26]E.P. Royappa v State of Tamil Nadu (1974) 4 SCC 3 (SC).
[27]Joy Buolamwini and Timnit Gebru, 'Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification' (2018) Proceedings of Machine Learning Research 81.
[28]Virginia Eubanks, Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor (St Martin's Press 2018).
[29]Chinmayi Arun, 'AI and the Future of Equality in India' (2022) 17(1) Indian Journal of Constitutional Law 113.
[30]Ajay Hasia v Khalid Mujib Sehravardi (1981) 1 SCC 722 (SC).
[31]Vishaka v State of Rajasthan (1997) 6 SCC 241 (SC).
[32]The Anwar Ali Sarkar case (AIR 1952 SC 75).
[33]K.S. Puttaswamy v Union of India (2017) 10 SCC 1 (SC).

- Be transparent and reviewable, ensuring that affected individuals can challenge biased outcomes.
- Be subject to regular audits for discriminatory effects.

4.5 Towards Equality-Centred AI Governance
To harmonise AI with constitutional equality, India should adopt:
- **Algorithmic Transparency Laws**-Mandating disclosure of datasets, training methods, and bias-testing results.
- **Independent Oversight Bodies**-To monitor AI deployment in public governance, welfare distribution, and criminal justice.
- **Affirmative Regulation**-Guaranteeing that AI systems are developed using inclusive datasets representative of social diversity.
- **Judicial Review Mechanisms**-Allowing courts to scrutinize algorithmic decision-making under Articles 14 and 21.

By ensuring that AI systems respect the principle of substantive equality, India can prevent technological tools from reinforcing historical discrimination.

5.Right to Privacy and AI Surveillance

5.1 Constitutional Foundation of Privacy
The Right to Privacy in India was recognised as a fundamental right in **The Puttaswamy Judgment**,where a nine-judge panel of the Supreme Court held that privacy is intrinsic to Article 21 (Right to Life and Personal Liberty).[34]The Court emphasised that privacy safeguards autonomy, dignity, and informational control, especially in the digital era.

Earlier, in **PUCL v. Union of India** the Court had already linked privacy with telephone tapping and surveillance, ruling that arbitrary interception violates Article 21.[35]With AI-driven technologies enabling large-scale monitoring, these principles gain renewed significance.

5.2 AI, Surveillance, and Data Collection
AI is extensively used in surveillance systems, including:
- Facial Recognition Technology (FRT) used in airports, policing, and public security.[36]
- Predictive Policing Algorithms, which claim to forecast criminal activity but risk profiling minorities.[37]
- Social Media Monitoring Tools, which track online behaviour for both national security and electoral integrity.[38]

Lacking a comprehensive legal structure for data protection,lack of consent,and the erosion of anonymity in public spaces. Without clear statutory safeguards,such measures could amount to "unconstitutional surveillance".

5.3 Privacy vs. Security Dilemma

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[34]Justice K.S. Puttaswamy v UOI (2017) 10 SCC 1 (SC).

[35]People's Union for Civil Liberties v Union of India (1997) 1 SCC 301 (SC).

[36]Apar Gupta, 'Facial Recognition and Constitutional Rights in India' (2020) 12(3) Indian Journal of Law and Technology 45.

[37]Andrew Guthrie Ferguson, The Rise of Big Data Policing (NYU Press 2017).

[38] Chinmayi Arun, 'AI and Surveillance in India: The Democratic Risks' (2021) Economic and Political Weekly 56(24).

The State often justifies AI-based surveillance under national security and public order exceptions. Under Article 19(2), reasonable restrictions on free speech are permitted for sovereignty, security, and morality. Similarly, privacy rights are not absolute, as the Puttaswamy judgment acknowledged, permitting restrictions on grounds of legality, necessity, and proportionality.[39]

However, unchecked surveillance risks creating a "surveillance state", undermining democratic freedoms. The Court in Puttaswamy stressed the proportionality test, requiring that State surveillance must:

- Have a clear legal basis.
- Be necessary for a legitimate aim.
- Use the least intrusive means.
- Maintain proportionality between intrusion and objective.[40]

5.4 AI and Informational Privacy

AI thrives on big data, making privacy concerns particularly acute. The collection, storage, and processing of personal data by AI systems implicates informational privacy. For instance:

- Health-related AI apps collect sensitive personal data.[41]
- Fintech AI systems process financial data, raising risks of profiling and exclusion.[42]
- Social media algorithms track browsing behaviour for targeted advertisements, affecting autonomy.[43]

In the absence of a strong legal framework for data protection, individuals face vulnerability to exploitation, discrimination, and surveillance. Although the Digital Personal Data Protection Act, 2023 has been enacted, critics argue it gives the government wide exemptions, weakening privacy protections.[44]

5.5 Global Developments and Indian Context

Globally, courts and legislatures have emphasised privacy protection:

- In Carpenter v United States, the US Supreme Court required warrants for accessing cell phone location data, recognising privacy in digital records.[45]
- The EU's GDPR framework establishes rigorous regulations governing data collection, processing, and AI deployment, with emphasis on individual consent and accountability.[46]
- India, by contrast, is still developing its regulatory framework. The lack of independent oversight over surveillance projects like Aadhaar authentication systems, NATGRID, and facial recognition databases raises constitutional concerns.[47]

5.6 Towards a Rights-Respecting AI Framework

For AI to align with the constitutional right to privacy, India should:

- Legislate clear boundaries for AI-driven surveillance, balancing security with privacy.
- Mandate transparency in AI decision-making, allowing individuals to know how their data is used.
- Ensure judicial and parliamentary oversight of State surveillance projects.
- follow globally recognised norms, such as GDPR-inspired data minimisation, purpose limitation, and right to erasure.

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[39]Justice K.S. Puttaswamy v UOI (2017) 10 SCC 1, para 325 (SC).

[40]ibid para 325–330.

[41] Malavika Raghavan, 'Data Governance in India's Digital Economy' (2020) Carnegie India Working Paper.

[42]Nandan Kamath, 'AI and Fintech: Privacy Challenges in India' (2019) 8(2) Indian Journal of Law and Policy Review 89.

[43]Zuboff, The Age of Surveillance Capitalism (2019).

[44]Prasanth Sugathan, 'Digital Personal Data Protection Act 2023: A Critical Review' (2023) Internet Freedom Foundation Report.

[45]Carpenter v United States 138 S Ct 2206 (2018) (USSC).

[46]The General Data Protection Regulation (EU) 2016/679 (GDPR)

[47]Usha Ramanathan, 'Aadhaar and the Right to Privacy' (2018) 53(38) Economic and Political Weekly 43.

By embedding these safeguards, India can prevent AI from becoming a tool of oppression, instead using it responsibly within constitutional limits.

6. AI, Constitutional Governance, and Regulatory Challenges in India

6.1 The Challenge of Regulating AI within a Constitutional Framework

Artificial Intelligence operates at the intersection of technology, law, and governance. While AI promises efficiency and innovation, it also poses risks of rights violations, arbitrary decision-making, and erosion of democratic accountability. The Indian Constitution, as the supreme legal document, must guide AI regulation to guarantee that technological adoption does not undermine fundamental rights.[48]

At present, India lack,a comprehensive AI-specific legislation. Instead, issues arising from AI are indirectly governed through IT Act 2000,IT Rules 2021, data protection laws, and judicial doctrines.[49]This fragmented approach creates regulatory gaps that risk violating constitutional protections.

6.2 Constitutional Principles as a Framework for AI Regulation

Three key constitutional doctrines can guide AI governance in India:

- **Rule of Law:** All State actions, including AI-driven decisions, must be consistent with law and subject to judicial scrutiny.[50]
- **Proportionality**: Adopted in Puttaswamy v Union of India, this doctrine requires that AI restrictions on rights must be suitable, necessary, and balanced.[51]
- **Accountability and Transparency:** Rooted in Article 14 and Article 19(1)(a), these principles demand that individuals know when and how AI affects their rights.[52]

6.3 Risks of Unregulated AI

Unregulated or poorly regulated AI may lead to:

- **Opaque Decision-Making:**Algorithms often function as "black boxes," making it difficult to challenge outcomes.[53]
- **Mass Surveillance:**Without safeguards, AI surveillance tools may erode privacy and chill free speech.[54]
- **Algorithmic Discrimination:**Biases embedded in AI may disproportionately harm vulnerable communities, undermining substantive equality.[55]
- **Erosion of Democratic Accountability:**Delegating public functions to AI without oversight risks arbitrary governance.[56]

6.4 The Role of Judiciary and Separation of Powers

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[48]Constitution of India 1950, arts 13, 32, 226.

[49] Information Technology Act 2000; Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021.

[50]Kesavananda Bharati v State of Kerala (1973) 4 SCC 225 (SC).

[51]K.S. Puttaswamy v UOI(2017) 10 SCC 1 (SC).

[52]Maneka Gandhi v Union of India (1978) 1 SCC 248 (SC).

[53]Frank Pasquale, The Black Box Society (Harvard UP 2015).

[54]Chinmayi Arun, 'AI and the Rule of Law in India' (2021) 9(2) Indian J of Law and Technology 45.

[55]Virginia Eubanks, Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor (St Martin's Press 2018).

[56]Karen Yeung, 'Algorithmic Regulation: A Critical Interrogation' (2018) 12(4) Regulation & Governance 505.

The Indian judiciary has historically acted as a guardian of rights against executive overreach. In the digital era, courts must determine how constitutional rights apply to AI. In **Shreya Singhal v UOI,**The S.C struck down Section 66A of the IT Act unconstitutional for being vague and overbroad, affirming that technology laws must respect free speech.[57] Similarly, judicial scrutiny will be critical in reviewing AI-driven governance tools for compliance with constitutional guarantees.

6.5 Towards a Constitutional AI Framework in India

To align AI with constitutional principles, India must adopt:

- **Comprehensive AI Legislation-**Enshrining rights-based protections, including fairness,non-discrimination, and explainability.
- **Data Protection and Privacy Safeguards**-Anchored in The 2023 Act on Digital Personal Data Protection,ensuring AI systems comply with privacy rights under Article 21.[58]
- **Algorithmic Accountability Measures-**Requiring impact assessments, audits, and publication of bias-testing results.
- **Independent Regulatory Authority**-A specialised body to oversee AI governance, similar to the EU's AI Act approach.[59]
- **Judicial Review of AI Systems**-Ensuring that AI decisions affecting fundamental rights remain subject to constitutional scrutiny.

6.6 Balancing Innovation and Rights Protection

India must strike a balance between promoting AI innovation and safeguarding constitutional rights. Over-regulation could stifle technological growth, while under-regulation may lead to rights violations. A rights-centric, innovation-friendly framework is essential to ensure AI strengthens, rather than undermines, constitutional democracy.

7.Conclusion and Recommendations
Conclusion

The integration of Artificial Intelligence (AI) into governance, communication, and social life presents both unprecedented opportunities and profound constitutional challenges. AI has the potential to strengthen democratic governance by enhancing efficiency, transparency, and access to justice. However, without safeguards, it may also undermine fundamental rights such as freedom of speech (Article 19(1)(a)), equality (Article 14), and privacy (Article 21).

As seen in judicial pronouncements such as Shreya Singhal v Union of India and K.S. Puttaswamy v Union of India, the Indian Supreme Court has consistently emphasised that constitutional rights remain enforceable against technological excesses.The application of constitutional principles like proportionality, reasonableness, and rule of law must therefore guide the regulation of Artificial intelligence in the digital age.

India currently relies on fragmented regulatory mechanisms, primarily the IT Act 2000,IT Rules 2021,and The 2023 Digital Personal Data Protection Act.However, these frameworks are insufficient to address the unique challenges of algorithmic bias, surveillance, and opacity. A comprehensive, constitutional AI framework is essential to prevent rights violations while enabling technological progress.

Recommendations

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[57]Shreya Singhal v Union of India (2015) 5 SCC 1 (SC).

[58]Digital Personal Data Protection Act, 2023

[59]European Commission, Proposal for an Artificial Intelligence Act COM (2021) 206 final.

- **Comprehensive AI Legislation:**India should enact a dedicated Artificial Intelligence Regulation Act, drawing inspiration from the EU's AI Act, to ensure AI systems comply with constitutional safeguards.
- **Embedding Constitutional Rights in AI Design**:AI technologies deployed in India should be required to incorporate"constitutional by design" principles ensuring that algorithms are tested for fairness, non-discrimination, and accountability before deployment.
- **Strengthening Privacy and Data Protection:**The Digital Personal Data Protection Act 2023 must be harmonised with AI regulation to prevent excessive data collection and protect informational privacy under Article 21.
- **Algorithmic Transparency and Accountability:**Mandatory algorithmic impact assessments (AIAs) and periodic audits should be introduced to ensure that automated decisions comply with Articles 14 and 19.
- **Independent AI Regulatory Authority:**Establish a National AI Regulatory Commission with oversight powers, technical expertise, and judicial accountability mechanisms to monitor the deployment of AI in governance and private sectors.
- **Judicial Oversight and Remedies:**Courts must remain empowered to review AI-related decisions that affect constitutional rights. Judicial remedies should include the right to challenge algorithmic decisions and demand explanations from State authorities.
- **Promoting Public Awareness and Digital Literacy:**Citizens must be informed about their rights in relation to AI systems. Public digital literacy campaigns should be undertaken to empower individuals to resist arbitrary technological control.
- **Balancing Innovation with Rights Protection**:India must pursue a dual approach,Encouraging AI as a catalyst for driver of economic growth while keeping it accountable to constitutional governance.Regulatory frameworks should encourage innovation without compromising civil liberties.

AI is not merely a technological issue, it is a constitutional question.The Indian Constitution,as a living document, must adapt to the realities of the era of Advancing digital transformation while upholding the fundamental values of liberty, equality, and dignity.In the years ahead, AI governance will determine not only the trajectory of India's technological development but also the resilience of its constitutional democracy.

A rights-centric regulatory framework, grounded in constitutional morality and judicial oversight, offers the most viable path for India to harness the benefits of AI while safeguarding against its risks.

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[13]Analysis of Anuradha Bhasin's requirements for transparency and proportionality.

[14]Practitioner briefings on EU AI Act key features & timelines.

[15]Digital Personal Data Protection Act, 2023-official text and bill materials.

[19]General press explainer on what the EU AI Act means for privacy and compliance.