

Artificial Intelligence and Constitutional Rights in India: Speech, Equality, And Privacy

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Abstract: *In democratic nations, the rise of artificial intelligence presents both revolutionary possibilities and constitutional difficulties. This study examines how AI and Indian constitutional concepts relate to the country's three core rights freedom of speech, equality, and privacy in the age of digital technologies. The research opens with an overview of AI's quick integration into the business, society, and governance, highlighting both its potential to increase efficiency and the hazards associated with algorithmic control, surveillance, and disinformation. By charting the historical development of the fundamental rights protected by the trinity of equality, freedom, and life and liberty and how judicial interpretation has protected them from technological overreach, it establishes the constitutional underpinning. Examines how the right to free speech is affected by artificial intelligence (AI), including online censorship, moderation, and the chilling effects of automated control emphasises equality, emphasising how algorithmic bias and opaque decision-making can exacerbate discrimination and violate the fairness principles of the constitution. It explores the conflict between information privacy and AI-driven monitoring, especially in light of the Supreme Court's ruling in Justice K.S. Puttaswamy that privacy is a fundamental human right. v. In order to identify significant holes in AI governance, UOI examines the current regulatory framework, which includes the Digital Data Protection Act, the Information Technology Act, and the IT Rules. The paper concludes that artificial intelligence is a constitutional issue as well as a technological one, and that India's constitutional values of liberty, equality, and dignity must serve as the foundation for its government.*

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

1. Introduction

Artificial intelligence's explosive rise has changed how communication, governance, and global social interaction. AI offers both benefits and difficulties in India, a constitutional democracy where fundamental liberties are important to governance. AI, on the one hand, allows efficiency, automation, and creativity in fields like administration, healthcare, education, and law enforcement, however, it also calls into question the extent and protection of constitutional rights, especially those related to equality, privacy, and free speech.¹

It is imperative to highlight the fact that Enshrined in Article 19(1)(a) of the Constitution, the Fundamental Right to Speech and Expression is considered the cornerstone of democratic discourse. However, digital platforms' automated decision-making and AI-driven content moderation have produced new forms of censorship, algorithmic prejudice, and chilling effects that push the limits of Article 19(2). The Supreme Court reaffirmed that only incitement to impending unlawful conduct can support speech restrictions in its ruling in *Shreya Singhal v. UOI*,² invalidating ambiguous prohibitions under Section 66A of the IT Act, 2000. Making sure automated systems adhere to this constitutional requirement becomes crucial in the AI era.

Similarly, AI's ability to replicate or reinforce ingrained societal prejudices in data poses a challenge to the right to equality guaranteed by Articles 14 and 15. In the context of recruitment, predictive policing, or welfare delivery, algorithmic decision-making may lead to unequal treatment

or effects on marginalised groups.³ In addition to undermining the non-arbitrariness principle, this runs the risk of sustaining systemic discrimination in defiance of the substantive equality mandate of the constitution.³

As a fundamental right acknowledged in the Justice Puttaswamy Case (2017), the right to privacy is arguably the AI's most direct implicated Massive datasets, including sensitive personal data, are collected, processed, and inferred by I systems technology for surveillance such as facial recognition, prediction Informational privacy, autonomy, and dignity may be violated by analytics and data profiling. The Supreme Court in Restrictions on the core Digital Rights area must be justified, necessary, and proportionate, according to the Anuradha Bhasin case.⁴ These guidelines offer a crucial conceptual foundation for assessing data practices and surveillance based on AI.

It is difficult for judicial systems around the world to formulate appropriate regulations for AI while upholding human rights. The AI Act (2024) of the European Union takes a risk-based stance, outlawing high-risk applications like as social scoring while requiring transparency and supervision for other AI categories.⁵ India, however, has not yet developed a thorough legislative framework for AI, instead depending on sector-specific legislation like the 2023 Digital Personal Data Protection Act and the Information Technology Act of 2000.⁷ In light of this, constitutional interpretation becomes even more crucial in guaranteeing that AI is used within the bounds of fundamental rights.

¹ Sandeep Raghavan, Artificial Intelligence and the Constitution: Challenges for India, 7 *Indian J. Const. L.* 45 (2021).

² (2015) 5 SCC 1 (SC).

³ Sandra Wachter, Brent Mittelstadt & Chris Russell, Why Fairness Cannot Be Automated: Bridging the Gap Between EU Non-

Discrimination Law and AI, 41 *Computer L. & Sec. Rev.* 105567 (2021).

⁴ *Anuradha Bhasin v UOI* (2020) 3 SCC 637 (SC).

⁵ European Comm'n, The EU Artificial Intelligence Act: Ensuring Trustworthy AI (2024), <https://digital-strategy.ec.europa.eu> (last visited Feb. 5, 2026).

2. Mapping the Constitutional Touchpoints of Artificial Intelligence

Artificial Intelligence (AI) is a system that has a significant impact on the practice and protection of fundamental rights in the digital age, not only a technological advancement. Three basic rights are directly involved in the Indian constitutional framework: the right to equality (Articles 14 and 15), the freedom of expression (Article 19(1)(a)), and the constitutional right to privacy (which was acknowledged as a fundamental right in *Justice K.S. Puttaswamy v. UOI*.⁶ As a result, AI technologies have intersections with constitutional guarantees that call for both regulatory protections and doctrinal clarification.

3. AI and Its Constitutional Intersections

- 1) **Impact on Freedom of Speech:** AI is used by digital intermediaries and social media platforms for automatic takedowns, recommendation algorithms, and content filtering. The extent and calibre of free expression in the online sphere are directly influenced by these actions however automated moderation frequently results in over-enforcement (false positives, when communication allowed by the constitution is eliminated) and has a chilling effect, which deters people from exercising their right to free speech as granted by Article 19(1)(a). In *Shreya Singhal v. Union of India*, the Supreme Court stressed that only incitement to impending unlawful action not just advocacy or discussion can be curbed.⁷ AI-driven moderation runs the risk of breaking this rule unless it is specifically designed.
- 2) **Effect on Equality:** AI-powered decision-making tools have the potential to strengthen societal and historical prejudices in training datasets. Algorithmic models may lead to prejudice in areas such as public welfare distribution, hiring, police, and lending, either by implementing unequal treatment (explicit dependence on protected traits) or disparate impact (using neutral proxies that correspond to gender, religion, or caste) These results run counter to the constitutional prohibitions against discrimination in Article 15 and non-arbitrariness in Article 14.⁸
- 3) **Constitutional Standards Applicable to AI:** Any State activity employing AI must pass three basic conditions established by Indian constitutional jurisprudence:
 - **Legality:** Any restrictions or intrusions must be supported by a clear statute. AI-enabled censorship or surveillance cannot be justified by executive orders or arbitrary decisions without legal backing.
 - **Legitimate Aim:** According to Articles 19(2), 14 and privacy jurisprudence, the goal being pursued (such as maintaining public order, ensuring national security, or preventing crime) must be within constitutionally allowed grounds.

- **Proportionality and Necessity:** As explained in *Puttaswamy* and subsequently reaffirmed in *Anuradha Bhasin v. UOI*, state actions must be required in a democratic society, proportionate to the goal, and supported by legal protections including transparency and periodic review.

4. Freedom of Speech and AI Moderation

The foundation of democratic governance is the freedom of speech and expression, which is protected by Article 19(1)(a) of the Indian Constitution. The quest of truth, the exchange of ideas, and personal fulfilment are all made possible by free speech, which the Supreme Court has often emphasised as being crucial to democracy.⁹ However, new constitutional threats to this freedom are brought about by the development of artificial intelligence in the areas of internet platforms, content control, and surveillance.

All citizens are guaranteed the right to free speech under Article 19(1)(a), but Article 19(2) allows the State to impose legitimate restrictions on this right. These restrictions include issues pertaining to India's sovereignty and territorial integrity, international relations, public order, public morality, judicial authority, reputation, and the prevention of criminal incitement.

1) AI-Driven Moderation and Its Implications:

AI algorithms are being used more and more by digital platforms to identify, filter, and eliminate unwanted or illegal content. These consist of automatic identification of extremist propaganda, hate speech, disinformation, and obscenity. Although AI moderation makes it possible for platforms to manage massive amounts of data effectively, it also brings up three important concerns:

- a) **Over-Enforcement and Chilling Effect:** Because AI algorithms frequently don't comprehend context, they produce false positives, which eliminate speech that isn't real. For example, minority voices, political opposition, and humour may all be mistakenly labelled as inciting or harmful. These errors have the unintended consequence of discouraging the practice of free expression.
- b) **Opacity and Lack of Accountability:** The majority of AI moderation systems operate in an opaque manner, providing minimal justification for the removal or flagging of content. This opacity breaches Article 14's natural justice principles and undercuts the constitutional need of reasoned decision-making.¹⁰
- c) **State Platform Nexus:** Intermediaries are subject to stringent requirements under the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, as revised in 2023, to delete offensive content promptly.¹¹ Without sufficient judicial oversight, these regulatory pressure and AI moderation run the potential of establishing private censorship at the state's request. In summary, private platforms may unintentionally revive

⁶ (2017) 10 SCC 1 (SC).

⁷ Ibid.

⁸ Tarleton Gillespie, Content Moderation, AI, and Free Expression, 22 *Soc. Media + Soc'y* 1 (2018).

⁹ *Romesh Thappar v State of Madras* AIR 1950 SC 124 (SC).

¹⁰ Madhav Khosla, *The Indian Constitution* 86 (Oxford Univ. Press 2012).

¹¹ Chinmayi Arun, AI and the Future of Free Speech in India, 16 *Indian J.L. & Tech.* 45 (2021).

the illegal spirit of Section 66A by over-complying with ambiguous takedown demands.

2) Equality and Algorithmic Bias:

Articles 14 to 18 of the Indian Constitution guarantee equal protection under the law and forbid discrimination on the grounds of religion, race, caste, sex, or place of birth.¹² While Article 15 forbids discriminatory actions, Article 14 ensures equality before the law and equal treatment under the law. The Supreme Court has consistently expanded the meaning of Article 14 to encompass the non-arbitrariness principle and the necessity for State conduct to be reasonable, fair, and just.¹³ In the *E.P. Royappa v. State of Tamil Nadu*¹⁴ case, the court noted that if any arbitrary State action contravenes Article 14.26, arbitrariness and equality are sworn enemies. This idea has been applied in the fields of technology and governance, where the adoption of AI systems by the state is subject to the equality guarantees outlined in the constitution.

a) Algorithmic Bias in AI Systems:

Data sets for training are essential to artificial intelligence, particularly its machine learning branch. These datasets usually reflect systematic discrimination, social prejudices, and historical injustices, producing biased results.

- **Gender Bias:** When hiring algorithms use biased training data, they favour male candidates over female candidates who are equally qualified.
- **Caste and Socioeconomic Bias:** Predictive police algorithms that target marginalised people disproportionately are a reflection of structural inequality that already exists.
- **Language and Regional Bias:** Regional voices are disproportionately removed due to content moderation AI's misinterpretation of non-English speech.¹⁵

b) State Responsibility and Private Platforms:

While social media, job portals, and fintech apps are examples of private platforms where a lot of algorithmic decision-making takes place, state involvement raises constitutional concerns. Article 14 is immediately relevant if the government uses AI for surveillance, predictive policing, or welfare distribution¹⁶. According to the theory of positive obligations, the state has an obligation to shield people against private actors that violate their fundamental rights, therefore, regulate and uphold adherence to equality rules in cases when algorithms on private platforms yield discriminatory results.

c) Right to Privacy and AI Surveillance:

In the Puttaswamy Judgement, a nine-judge panel of the Supreme Court ruled that privacy is inherent to Article 21 (Right to Life and Personal Liberty), recognising the right to privacy in India as a fundamental right.¹⁷ Particularly in the digital age, the Court underlined that privacy protects liberty, dignity, and informational control.

The Court had already connected privacy to telephone tapping and surveillance in *PUCV v. Union of India*,¹⁸ holding that

arbitrary interception was against Article 21. These ideas take on increased importance as AI-driven technologies make large-scale surveillance possible.

Surveillance systems make substantial use of AI, including:

- Facial Recognition Technology (FRT) is utilised in public security, law enforcement, and airports.
- Predictive policing algorithms run the potential of stereotyping minorities despite their claims to predict criminal activity.
- Social media monitoring tools that keep tabs on online activity for voting integrity and national security.
- Inadequate consent, a lack of a thorough legal framework for data protection, and the degradation of anonymity in public areas. In the absence of explicit legal protections, these actions might qualify as "unconstitutional surveillance."

AI-based monitoring is frequently justified by the state using exceptions related to public order and national security. Reasonable limitations on free expression are allowed under Article 19(2) for reasons of morality, security, and sovereignty. Similarly, the Puttaswamy ruling recognised that privacy rights are not unqualified, allowing limitations based on need, proportionality, and legality.

d) AI, Constitutional Governance, and Regulatory Challenges in India:

Artificial intelligence functions at the nexus of governance, law, and technology. AI has the potential to be innovative and efficient, but it also carries the risk of arbitrary decision-making, human rights abuses, and a decline in democratic accountability. To ensure that the deployment of technology does not compromise fundamental rights, AI legislation must be guided by the Indian Constitution, which is the ultimate legal document.¹⁹

India does not currently have complete laws pertaining to AI. Rather, data protection regulations, judicial doctrines, the IT Act 2000, and the IT Rules 2021 indirectly govern AI-related concerns. Due to the regulatory loopholes created by this disjointed approach, constitutional protections may be violated.²⁰

e) Constitutional Doctrines Guiding AI Governance in India:

A normative basis for artificial intelligence regulation in India is provided by three fundamental constitutional ideas. First, all state actions, including those made or aided by AI systems, must have a clear legal foundation and be subject to judicial review, according to the rule of law. Automated decision-making must adhere to legal restrictions, procedural safeguards, and fairness norms; it cannot function in a constitutional vacuum. Second, any restriction on fundamental rights imposed by AI systems must have a legitimate purpose, be appropriate to achieve that purpose, be required in the absence of less restrictive alternatives, and

¹² INDIA CONST. arts. 14–18.

¹³ *Maneka Gandhi v UOI* (1978) 1 SCC 248 (SC).

¹⁴ (1974) 4 SCC 3 (SC).

¹⁵ **Chinmayi Arun**, *AI and the Future of Equality in India*, 17(1) *Indian J. Const. L.* 113 (2022).

¹⁶ *Ajay Hasia v Khalid Mujib Sehravardi* (1981) 1 SCC 722 (SC).

¹⁷ (2017) 10 SCC 1 (SC).

¹⁸ (1997) 1 SCC 301 (SC).

¹⁹ Constitution of India 1950, arts 13, 32, 226.

²⁰ Information Technology Act 2000; Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021.

maintain a proper balance between individual rights and State interests, according to the proportionality doctrine, which was firmly established in Indian constitutional jurisprudence through Justice K.S. Puttaswamy v. Union of India.

must balance innovation with constitutional governance, ensuring AI advances economic growth without undermining liberty, equality, dignity, or democratic accountability.

In conclusion but not least, accountability and transparency, which are mainly derived from Articles 14 and 19(1)(a) of the Constitution, require that people be informed when AI systems are utilised in processes that affect their rights and given insightful justifications for the decisions that are made. These guidelines are necessary to maintain public confidence in AI-enabled governance, avoid arbitrariness, and provide efficient remedies.

5. Conclusion and Recommendations

5.1 Conclusion

There are both enormous constitutional concerns and hitherto unheard-of opportunities associated with the incorporation of artificial intelligence (AI) into social life, communication, and governance. By improving efficiency, openness, and access to justice, artificial intelligence (AI) holds promise for fortifying democratic government. But without protections, it might also jeopardise fundamental rights including equality (Article 14), privacy (Article 21), and freedom of speech (Article 19(1)(a)).

The Indian Supreme Court has often stressed that constitutional rights are still enforceable against technological excesses, as evidenced by rulings like *Shreya Singhal v. Union of India* and *K.S. Puttaswamy v. Union of India*, therefore, the regulation of artificial intelligence in the digital era must be guided by the application of constitutional principles such as proportionality, reasonableness, and the rule of law.

At the moment, India depends on disjointed regulatory frameworks, chiefly the IT Act 2000, IT Rules 2021, and The Act of 2023 to Protect Digital Personal Data. These models, however, fall short in addressing the particular difficulties of algorithmic bias, opacity, and surveillance. A thorough, constitutional framework for AI is vital to enabling technological advancement and preventing breaches of human rights.

5.2 Recommendations

India requires a comprehensive and rights-centric framework for governing artificial intelligence. A dedicated Artificial Intelligence Regulation Act, inspired by the EU AI Act, is necessary to ensure AI systems comply with constitutional safeguards. AI technologies must incorporate “constitutional by design” principles, embedding fairness, non-discrimination, transparency, and accountability at the development stage. The Digital Personal Data Protection Act, 2023 should be harmonised with AI regulation to protect informational privacy under Article 21 and prevent excessive data collection. Mandatory algorithmic impact assessments, periodic audits, and an independent AI regulatory authority would strengthen oversight and accountability. Judicial review must remain available to challenge AI-driven decisions affecting fundamental rights. Ultimately, India