

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed

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ISSN

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# **ARTIFICIAL INTELLIGENCE AND CONSTITUTIONAL RIGHTS: ASSESSING INDIA'S LEGAL FRAMEWORK FOR NEW TECHNOLOGIES**

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## **ABSTRACT**

Algorithms and artificial intelligence (AI) have a significant impact on many aspects of life in the modern day, so it is necessary to critically evaluate the Indian Constitution's ability to support the emergence of "new age rights." Even while these rights—which include access to information, privacy, and data protection—are essential for protecting people in a technologically advanced environment, they are still not sufficiently covered by previous laws. This article looks at how well the Indian Constitution protects these rights from possible AI-driven violations, namely Articles 14 (equality), 19(1)(a) (freedom of speech), and 21 (protection of life and personal liberty). Significant obstacles persist even if the judiciary has acknowledged privacy as a basic right under Article 21. Because there are no formal regulations governing AI, there are "legal vacuums," which allow for possible abuse and exploitation. While AI-driven censorship may restrict freedom of speech Article 19(1)(a), Although the Digital Personal Data Protection Act, 2023 (DPDP Act) is a step in the right direction, it is unclear if it will be effective in fully regulating AI. The admissibility of AI-generated evidence, ethical issues in AI development, and the practical consequences of unregulated AI are all covered in this article's exploration of these legal issues, and also regarding the global perspectives on AI regulation lessons for India. This article emphasizes the possible harms and current legal loopholes by examining pertinent case studies and constitutional provisions. It also shows the urgent need for strong, AI-specific legal frameworks to guarantee the protection of new age rights in India. Although AI has advantages, its unrestrained use poses serious threats to constitutional principles, necessitating a fair and rights-based regulatory framework.

**Keywords-**Artificial Intelligence (AI), New Age Rights, Right to Privacy, Data Protection, Indian Constitution

## 1. INTRODUCTION

India's constitutional framework faces both potential and problems as artificial intelligence (AI) rapidly propagates over the country's many industries.<sup>1</sup> A crucial concern is raised by the growing integration of AI-driven systems into decision-making processes: to what extent does the Indian Constitution provide for the "new age rights" required for individual security in this highly technological age? These rights—which include access to information, privacy, and data protection—are essential for protecting citizens from possible violations brought on by AI. Although the Indian Constitution offers a basic framework, this article contends that its current provisions are inadequate to handle the particular difficulties presented by AI, calling for a review of legal frameworks and the creation of particular AI rules. India's fundamental rights are based on the "golden triangle" of Articles 14 (equality), 19(1)(a) (freedom of speech), and 21 (protection of life and personal liberty) of the Constitution. The application of AI, however, raises questions regarding the infringement of fundamental rights. Many AI systems exhibit algorithmic bias, which can erode equality by sustaining bias results. Freedom of expression may be violated by the use of AI for censorship and content moderation, and the right to privacy may be threatened by the massive volumes of personal data that AI systems gather and process. The "conflict of artificial intelligence with Indian Constitutionalism" is highlighted by the growing use of AI, as Talwar points out. Furthermore, transparency and due process are severely hindered by the "black box" nature of many AI algorithms. AI decision-making's inability to be explained makes it challenging to evaluate responsibility and contest possibly unfair results. AI-generated evidence presents additional difficulties for the Indian Evidence Act, requiring revisions to address dependability and admissibility concerns. The aforementioned constitutional conflicts will be examined in this essay together with the shortcomings of the current legislative framework, especially the "Digital Personal Data Protection Act of 2023", and possible approaches to bring AI governance into line with Indian constitutional values. This research seeks to add to the current conversation on AI legislation in India by referencing pertinent case laws and global best practices, highlighting the necessity of a well-rounded strategy that protects fundamental rights while promoting innovation.

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<sup>1</sup> Deksha S, Deepak Kumar E, Janani M & Dr. R. Gnanakumari, *Constitutional Law AI: Identifying Relevant Indian Laws Through AI-Powered Query Resolution*, 6 IRJMETS 1 , 3163 ,3163-3165 , (2024).

## **2. THE EMERGENCE OF ARTIFICIAL INTELLIGENCE IN INDIA AND ITS BALANCING OPPORTUNITIES AND CHALLENGES**

The development of artificial intelligence (AI) in India offers a complicated environment with many exciting prospects as well as difficult obstacles.<sup>2</sup> AI technologies are changing the labor market and the economy as a whole as they are incorporated into more and more industries. Positively, AI is predicted to boost economic growth by increasing productivity and generating new, non-existent job roles. For example, AI solutions like chatbots and predictive analytics are revolutionizing industries like healthcare, finance, and customer service by increasing productivity and service quality. By 2025, AI may create millions of new jobs in India, particularly in the IT and data management sectors, according to a number of studies, including those published by the World Economic Forum and NASSCOM. However, there are serious drawbacks to these developments, especially in terms of job displacement and the requirement for labor reskilling. As regular jobs are automated, many traditional roles may be in jeopardy, raising concerns about economic inequality and unemployment. The problem is made more difficult by the absence of a trained labor force that can adjust to these developments, which could increase the divide between those who can prosper in an AI-driven economy and those who cannot. India must thus create a thorough legislative framework that not only tackles these issues but also encourages moral AI application while defending individual liberties. India can take advantage of AI while making sure its workforce is ready through promoting cooperation between government agencies, business executives, and academic institutions.

## **3. THE PIVOTAL ROLE OF PUBLIC POLICY IN SHAPING ETHICAL AI PRACTICES**

The ethical development and application of artificial intelligence (AI) are greatly influenced by public policy, which makes sure that these potent technologies respect human rights and society values.<sup>3</sup> Frameworks to manage possible hazards connected with AI, such as bias, discrimination, and privacy infringement, must be established by governments and regulatory agencies<sup>5</sup>. Guidelines encouraging openness, responsibility, and equity in AI decision-making processes are frequently included in these frameworks. Policymakers may promote responsible use of AI technology and build public trust in them by establishing clear norms and regulations.

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<sup>2</sup> NASSCOM Community, <https://community.nasscom.in/communities/ai/ai-and-its-impact-labor-market>, (last visited Feb 16, 2025).

<sup>3</sup> The Indian School of Public Policy (ISPP), <https://www.ispp.org.in/ethics-of-ai-in-public-policy-in-the-indian-context/> (last visited Feb 16, 2025).

To guarantee that companies are accountable for the results of their AI, the General Data Protection Regulation (GDPR) of the EU, for instance, contains measures for accountability and recourse systems.

International partnerships, such the UNESCO Recommendation on the Ethics of Artificial Intelligence, provide thorough recommendations for the implementation of ethical AI, highlighting the necessity for AI systems to uphold democratic principles and human rights. Government programs and regulations are being established in India to use AI for the benefit of the public while maintaining moral compatibility with human values. In order to address local ethical concerns and incorporate a variety of viewpoints, public involvement and interdisciplinary research are also essential elements in forming ethical AI methods. Societies can guarantee that AI technologies are applied in ways that benefit everyone by giving ethical considerations top priority in AI policy and governance. This will encourage long-term sustainability and social acceptance of AI advancements.

#### **4. "NEW RIGHTS, NEW RISKS: NAVIGATING PRIVACY, DATA, AND THE DIGITAL AGE"**

The idea of rights has broadened in the digital era to include "new age rights" that are essential to personal freedom and welfare.<sup>4</sup> The growing reliance on information and technology is reflected in these rights, particularly those related to privacy, data protection, and digital rights. Assessing how successfully the Indian Constitution protects citizens in a society driven by artificial intelligence requires an understanding of the difficulties these rights face. AI systems are posing a growing threat to the right to privacy, which includes a person's sovereignty over their personal data and freedom from unauthorized access. There are serious worries about the enormous volumes of personal data that AI collects, processes, and analyzes. Building confidence in digital services is crucial, but too lax data gathering methods can undermine personal freedom and open the door to abuse. It is essential to keep this balance. In order to prevent data breaches, information abuse, and unauthorized access, data protection entails putting strong protections in place for the gathering, storing, using, and sharing of personal data. Consumer trust can be increased by data protection rules, however there may be drawbacks due to their complexity. The Digital Personal Data Protection Act, 2023, is being

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<sup>4</sup>IndiAai, <https://indiaai.gov.in/article/impact-of-ai-in-the-indian-legal-system-on-indian-constitution-day-2023> (last visited Feb 16,2025).

implemented in India with the goal of requiring correct data for automated decision-making. However, concerns have been raised over its ability to handle all potential AI-related damages and its thorough enforcement. The proprietary nature of algorithms and the requirement for transparency in AI decision-making can occasionally clash, posing a problem that has to be resolved. There are many barriers to digital rights, which include the freedom to access, utilize, create, and engage with digital technologies. Freedom of expression is seriously threatened by the proliferation of hate speech and false information on the internet, necessitating rigorous evaluation of how to strike a balance between this right and the necessity to stop harmful content. Concerns regarding market domination and the possibility of customer behavior manipulation are also raised by the growing concentration of data and AI models in a small number of companies. To guarantee that digital rights are adequately safeguarded, these issues must be resolved. Even though new age rights have been acknowledged, there are still many obstacles to overcome in the Indian setting. It is challenging to properly address AI-related concerns when there are no particular restrictions in place, which breeds uncertainty. Digital rights, privacy, and data protection are seriously threatened by algorithmic prejudice, data breaches, and opaque AI decision-making. India must create comprehensive legal frameworks that give the defense of fundamental rights first priority in order to overcome these issues. This entails fortifying data protection regulations, encouraging algorithmic openness, and putting in place explicit accountability frameworks for AI systems.

## **5. THE CONSEQUENCES OF AI MISUSE: IMPACTS ON SOCIETY AND INDIVIDUAL RIGHTS**

Artificial intelligence (AI) abuse has major repercussions that can have a big impact on society and individual rights. AI technologies have the potential to be abused and have a number of detrimental effects as they become more widely used. Algorithmic bias, in which AI systems unintentionally reinforce discrimination and result in unequal treatment in domains like recruiting, financing, and law enforcement, is one of the main problems. This prejudice has the potential to worsen already-existing socioeconomic injustices and erode institutional trust. Furthermore, privacy invasion is a serious issue; AI's capacity to gather and examine enormous volumes of personal data may lead to illegal monitoring and data breaches, endangering people's right to privacy.

Additionally, the development of deepfake technology makes it possible to produce false material that can sway public opinion and propagate false information, thereby weakening

democratic processes. Economic worries are also raised by the possibility of job displacement brought on by automation, since many traditional roles may become outdated, increasing unemployment and causing societal discontent. Society runs the risk of establishing a setting in which technology increases inequality and curtails individual liberties if these issues are not resolved by sensible legislation and moral standards.

## 6. THE INDIAN CONSTITUTION: A FRAMEWORK FOR RIGHTS – ADAPTING TO THE AI AGE

The emergence of artificial intelligence (AI) and algorithmic decision-making has presented hitherto unheard-of difficulties for the Indian Constitution<sup>5</sup>, a founding instrument that protects fundamental rights. Although the Constitution offers a strong foundation for rights, it is important to carefully consider how well it can adapt to the subtleties of the digital age, especially with regard to artificial intelligence. The "conflict of artificial intelligence with Indian Constitutionalism," as Samridhi Talwar points out, is a central problem that necessitates striking a balance between constitutional restrictions and scientific advancement<sup>1</sup>. Given how quickly AI is being incorporated into many fields, it is imperative to critically assess how current rights are impacted and determine whether new rights or interpretations are required.

In the context of artificial intelligence, the "golden triangle" of Articles 14 (equality), 19(1)(a) (freedom of speech), and 21 (right to life and personal liberty, including privacy) is especially pertinent. Algorithmic biases, on the other hand, pose a challenge to the equality principle as computers increasingly impact decision-making, potentially discriminating against people on the basis of socioeconomic class, gender, or race. Freedom of speech may also be restricted by the use of AI for censorship or content moderation, and privacy issues may arise from the way AI systems gather and use personal data.

Furthermore, transparency and accountability are hampered by the "black box" nature of many AI systems. <sup>6</sup>The Indian Constitution's 'Golden Triangle' ideals may be compromised by algorithmic biases, as Kaushal points out. It becomes challenging to contest potentially unjust

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<sup>5</sup>Varun Pathak , *Balancing AI , Ethics and Constitution* , Indian Business Law Journal , (Feb 16,2025,6.28AM) <https://law.asia/ai-regulation-india/#:~:text=India's%20approach%20to%20AI%20regulation,constitutional%20values%20and%20ethical%20principles>.

<sup>6</sup> Indian Society of Artificial Intelligence and law, <https://www.isail.in/post/the-conflict-of-artificial-intelligence-with-indian-constitutionalism-a-normative-critique> (last visited Feb 16,2025).

or discriminatory outcomes without comprehensive explanations of how AI choices are made, weakening due process and the rule of law. Thus, even while the Indian Constitution offers a solid foundation for rights, its implementation in the era of artificial intelligence necessitates careful thought and modification to meet the particular difficulties presented by this game-changing technology.

### **6.1 LEGAL CHALLENGES IN REGULATING AI**

Effective regulation of artificial intelligence (AI) is fraught with difficulties in India<sup>7</sup>. The absence of a specific legal framework for AI is a major obstacle, creating a "legal vacuum." The complexity of AI cannot be adequately addressed by current legislation, such as the Digital Personal Data Protection Act (DPDP Act) and the Information Technology Act. For instance, there are still worries that the government exemptions under the DPDP Act could compromise privacy.

Accountability and liability are other issues. When AI harms people or makes biased decisions, traditional legal frameworks find it difficult to apportion blame, leaving developers, users, and regulators in the dark. The "black box" issue, also known as algorithmic opacity, makes regulation even more difficult. Ensuring justice and due process becomes challenging when AI decision-making lacks transparency, particularly in domains like hiring or law enforcement.

Furthermore, current regulations are ill-prepared to tackle the new hazards that AI brings, such as deepfakes and false information. Experts recommend a multifaceted strategy that regulates algorithmic operations, data inputs, and AI outputs independently. As India adopts AI, it is imperative to create comprehensive law that addresses growing hazards, improves transparency, and clarifies liability in order to safeguard individual rights and promote constitutional values.

## **7. "GLOBAL PERSPECTIVES ON AI REGULATION: LESSONS FOR INDIA"**

Numerous nations are taking important actions to safeguard individual rights and govern artificial intelligence (AI). <sup>8</sup>The EU AI Act, for example, was created by the European Union

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<sup>7</sup>India's Advance on AI Regulation, Carnegie Endowment for Int'l Peace, <https://carnegieendowment.org/research/2024/11/indias-advance-on-ai-regulation?lang=en&center=india>, (last visited Feb 17,2025).

<sup>8</sup>IndiaAI, <https://indiaai.gov.in/article/revise-ai-advisory-how-ai-regulation-can-impact-india> ,(last visited

and sets stringent standards for the usage of AI systems while classifying them according to risk categories. The purpose of this act is to protect personal information and guarantee that AI technologies do not violate fundamental rights. In a similar vein, Canada is moving forward with its Artificial Intelligence and Data Act (AIDA), which aims to enforce strict regulations on high-risk AI systems while encouraging accountability and openness.

If India were to adopt similar regulations, it could effectively address many of the current challenges posed by AI technologies. Implementing a comprehensive legal framework would help clarify liability issues, ensuring that developers and users are held accountable for any harm caused by AI systems. Moreover, establishing clear guidelines for data protection and algorithmic transparency could mitigate risks such as bias and discrimination.

India can develop a strong system that not only encourages innovation but also defends individual rights by taking inspiration from other countries' regulatory strategies. In the end, this would increase public confidence in AI technologies and guarantee that they be used as instruments for empowerment rather than as causes of inequality or violations of constitutional principles. Implementing such policies would be a big step in balancing India's fundamental rights protection with technological growth.

## 8. JUDICIAL VERDICTS

### K.S. PUTTASWAMY V. UNION OF INDIA<sup>9</sup>

The Supreme Court ruled in this case that, in accordance with Article 21 of the Constitution, the right to privacy is a basic right. In the context of AI and data protection, the Court's decision that people have the right to control their personal information is vital. Future debates on how AI systems should protect people's right to privacy were paved with this ruling.

### ANURADHA BHASIN V. UNION OF INDIA<sup>10</sup>

This lawsuit involved limits on internet access in Jammu and Kashmir following the abrogation of Article 370. According to the Supreme Court, internet access is covered by Article 19(1)(a) of the right to freedom of speech and expression. This verdict underlined the importance of digital rights in contemporary society and affirmed that limits on communication must meet

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Feb17,2025).

<sup>9</sup> K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

<sup>10</sup> Anuradha Bhasin v. Union of India, (2020) 3 SCC 637.

constitutional requirements.

## 9. CONCLUSION

Both enormous opportunities and difficult obstacles arise from the incorporation of artificial intelligence (AI) into Indian society, especially when it comes to safeguarding the Constitution's fundamental rights.<sup>11</sup> It is crucial to evaluate critically how AI developments fit with the values of equality, privacy, and free speech as they develop. Despite having strong fundamental rights, the current legal system needs to be modified to handle the particular consequences of artificial intelligence.

To avoid possible violations of individual rights, important concerns including algorithmic bias, a lack of transparency, and accountability must be given top priority. The absence of precise regulations increases uncertainty, making it difficult to hold parties accountable when AI systems do harm or perpetuate discrimination. Furthermore, in order to defend citizens' rights in a digital world, it is critical to establish clear criteria for data protection and the moral use of AI. India must create a thorough regulatory framework that not only tackles present issues but also accounts for upcoming advancements in AI technology as it traverses this challenging landscape. Through the promotion of cooperation among interested parties, such as legislators, technology developers, and civil society organizations, India can guarantee the preservation of its constitutional principles. The ultimate objective should be to use AI as a tool for empowerment while preserving the liberties and rights that are essential to a democracy. In order to create a future where technology strengthens rather than diminishes individual liberty, this balanced approach will be essential.

## 10. SUGGESTIONS

**Strengthen Data Protection:** To provide better defenses against data exploitation by AI technologies, the Digital Personal Data Protection Act (DPDP) needs to be improved. People should have more control over their personal data by requiring stricter consent.

**Assure Algorithmic Transparency:** Companies should be required by law to reveal the inner workings of their AI algorithms, particularly in crucial domains like recruiting and law enforcement. People will be better able to comprehend and question AI-driven decisions as a

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<sup>11</sup> Legal Cyfle, <https://legalcyfle.in/ai-and-infringement-of-fundamental-rights> (last visited Feb 18,2025).

result.

**Promote Cooperation:** When developing AI rules, the government should consult with a range of stakeholders, such as technologists, ethicists, and civil society. More inclusive and successful policies will result from this.

**Bring Continuous Monitoring into Practice:** Provide procedures for the continuous assessment of AI systems in order to spot hazards and modify laws as necessary to safeguard the rights of citizens.

**Increase Public Awareness:** Run campaigns to inform people of their rights about AI technologies so they may speak up for themselves.

**Learn from International Practices:** India should take into account effective regulatory models from other nations, such as the AI Act of the EU, and modify them to suit its own situation.”

