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ARTIFICIAL INTELLIGENCE AND CONSTITUTIONAL GOVERNANCE IN INDIA: A CRITICAL LEGAL ANALYSIS OF EMERGING CHALLENGES AND REGULATORY RESPONSES

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Abstract

The rapid advancement of Artificial Intelligence (AI) has transformed governance, economy, and social interactions across the globe. In India, AI is increasingly integrated into public administration, law enforcement, healthcare, and digital governance. While AI offers efficiency, accuracy, and scalability, it simultaneously raises serious constitutional concerns related to privacy, equality, accountability, and rule of law. This research paper critically examines the interface between Artificial Intelligence and constitutional governance in India, focusing on fundamental rights under the Constitution, particularly Articles 14, 19, and 21. The study adopts a doctrinal research methodology supported by secondary data, including statutes, judicial decisions, policy reports, and international frameworks. It analyses the adequacy of existing legal mechanisms such as the Digital Personal Data Protection Act, 2023, the Information Technology Act, 2000, and emerging policy initiatives like NITI Aayog's AI strategy. The paper argues that India lacks a comprehensive AI-specific legal framework, leading to regulatory gaps and risks of algorithmic bias, surveillance overreach, and erosion of civil liberties. The study concludes with recommendations for developing a rights-based, transparent, and accountable AI governance model rooted in constitutional values.

Keywords

Artificial Intelligence, Constitutional Governance, Article 21, Privacy, Algorithmic Bias, Digital India, AI Regulation, Rule of Law

1. Introduction

Artificial Intelligence has emerged as one of the most disruptive technologies of the 21st century. From predictive policing to automated decision-making in welfare schemes, AI systems are increasingly influencing governance structures. India, with its Digital India initiative and growing technological ecosystem, is actively adopting AI-driven tools in both public and private sectors.

However, the integration of AI into governance raises fundamental legal and constitutional questions. Unlike traditional administrative actions, AI decisions are often opaque, data-driven, and lacking human accountability. This challenges the core principles of constitutional governance, including transparency, fairness, and protection of individual rights.

The Indian Constitution, particularly through judicial interpretation, has evolved as a living document safeguarding human dignity and liberty. In the context of AI, the role of constitutional law becomes crucial in ensuring that technological advancement does not undermine fundamental rights.

2. Conceptual Framework of AI and Governance

Artificial Intelligence refers to systems capable of performing tasks that typically require human intelligence, such as learning, reasoning, and decision-making. In governance, AI is used for:

- Predictive analytics in policing
- Automated welfare distribution
- Facial recognition and surveillance
- Judicial data management

AI governance involves regulating the design, deployment, and impact of AI systems to ensure ethical and legal compliance. The core principles include:

- Transparency
- Accountability

- Fairness
- Non-discrimination
- Human oversight

However, the “black box” nature of AI often conflicts with these principles, making it difficult to assess decision-making processes.

3. Constitutional Dimensions of AI in India

3.1 Article 21 – Right to Life and Privacy

The landmark judgment in **Justice K.S. Puttaswamy v. Union of India (2017)** recognized privacy as a fundamental right under Article 21. AI systems that collect, process, and analyze personal data directly impact informational privacy.

Mass surveillance technologies such as facial recognition systems pose risks of:

- Unauthorized data collection
- Profiling and tracking
- Chilling effect on freedoms

The three-fold test of legality, necessity, and proportionality established in Puttaswamy becomes essential in evaluating AI-based state actions.

3.2 Article 14 – Equality and Non-Arbitrariness

AI systems are prone to **algorithmic bias**, which may lead to discriminatory outcomes. For instance:

- Biased datasets can reinforce caste or gender discrimination
- Automated decision-making may lack contextual sensitivity

Article 14 prohibits arbitrary state action. If AI decisions are opaque and unchallengeable, they may violate the principle of equality before law.

3.3 Article 19 – Freedom of Expression

AI-driven content moderation and surveillance mechanisms may restrict freedom of speech. Automated filtering systems can:

- Suppress dissent
- Misclassify legitimate speech
- Create chilling effects on expression

Thus, AI regulation must balance national security with civil liberties.

4. Legal Framework Governing AI in India

4.1 Information Technology Act, 2000

The IT Act provides a foundational framework for digital governance but does not specifically regulate AI. It addresses intermediary liability and cyber offences but lacks provisions on algorithmic accountability.

4.2 Digital Personal Data Protection Act, 2023

The DPDP Act introduces:

- Consent-based data processing
- Rights of data principals
- Data fiduciary obligations

However, it provides broad exemptions to the State, raising concerns about surveillance and misuse of AI technologies.

4.3 NITI Aayog AI Strategy

India's national AI strategy emphasizes:

- "AI for All" approach
- Sectoral adoption in healthcare, agriculture, and education

While progressive, it remains a policy document without binding legal force.

5. Challenges and Legal Concerns

5.1 Algorithmic Opacity

AI systems often lack transparency, making it difficult to audit decisions.

5.2 Lack of Accountability

Determining liability in AI-driven decisions remains unclear.

5.3 Data Privacy Risks

Mass data collection increases the risk of breaches and misuse.

5.4 Bias and Discrimination

AI systems may perpetuate systemic inequalities.

5.5 Regulatory Vacuum

India lacks a comprehensive AI law.

6. Comparative Perspective

European Union (EU AI Act)

The EU has introduced a risk-based regulatory framework categorizing AI systems into:

- High-risk
- Limited-risk
- Minimal-risk

It emphasizes strict compliance for high-risk AI applications.

United States

The US follows a sectoral and policy-driven approach focusing on innovation.

OECD Principles on AI

These principles stress human-centric AI, transparency, and accountability.

India can draw lessons from these models to develop a balanced regulatory framework.

7. Findings

- AI integration in governance is increasing rapidly in India
- Existing laws are inadequate to address AI-specific challenges
- Fundamental rights are at potential risk due to unchecked AI deployment
- There is an urgent need for a comprehensive legal framework

- Judicial oversight will play a crucial role in shaping AI governance

8. Suggestions

1. Enact a comprehensive AI regulation law in India
2. Ensure algorithmic transparency and audit mechanisms
3. Strengthen data protection safeguards
4. Establish independent regulatory authorities for AI oversight
5. Promote ethical AI frameworks aligned with constitutional values
6. Incorporate human-in-the-loop systems in decision-making
7. Encourage public awareness and digital literacy

9. Conclusion

Artificial Intelligence represents both an opportunity and a challenge for constitutional governance in India. While it has the potential to enhance efficiency and innovation, it also poses serious risks to fundamental rights and democratic principles. The Indian legal system must evolve proactively to address these challenges by developing a robust regulatory framework grounded in constitutional morality. The future of AI governance in India will depend on the ability to strike a balance between technological advancement and protection of human dignity, liberty, and equality.

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