
ARTIFICIAL INTELLIGENCE AND THE LAW: REGULATORY CHALLENGES AND THE NEED FOR A RIGHTS-BASED FRAMEWORK IN INDIA

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ABSTRACT

Artificial Intelligence (AI) has emerged as one of the most influential technological developments shaping contemporary governance, administration, and legal processes. In India, public authorities increasingly rely on AI-driven tools in domains such as policing, surveillance, welfare distribution, biometric identification, taxation, and judicial administration. These technologies are often justified on grounds of efficiency, accuracy, and objectivity. However, their rapid adoption without a dedicated regulatory framework raises serious constitutional, legal, and ethical concerns.

AI-based systems frequently operate through opaque algorithms, making it difficult for affected individuals to understand how decisions are reached. Issues such as algorithmic bias, lack of transparency, absence of explainability, excessive data processing, and weak accountability mechanisms pose direct threats to fundamental rights guaranteed under the Constitution of India. In particular, automated decision-making has significant implications for the right to equality under Article 14 and the right to life and personal liberty under Article 21.

This paper undertakes a doctrinal and analytical examination of Artificial Intelligence within the Indian legal framework. It analyses constitutional principles, judicial interpretations, statutory provisions, and policy initiatives relevant to AI governance in India. The paper identifies gaps in existing laws, including the Information Technology Act, 2000 and the Digital Personal Data Protection Act, 2023, in addressing AI-specific risks. It ultimately argues for the adoption of a comprehensive, rights-based regulatory framework that ensures transparency, accountability, and human oversight, while permitting technological innovation in conformity with constitutional values and the rule of law.

Keywords: Artificial Intelligence, Constitutional Law, Fundamental Rights, Algorithmic Governance, Due Process, Technology Regulation.

Introduction

Artificial Intelligence has rapidly evolved from a theoretical concept discussed within academic and scientific circles into a practical instrument increasingly embedded in systems of governance. AI technologies today possess the capacity to perform tasks that traditionally required human intelligence, including pattern recognition, predictive analysis, and decision-making based on complex datasets. Governments worldwide have begun to rely on these technologies to improve administrative efficiency, minimise human error, and enhance public service delivery.

In India, the integration of Artificial Intelligence into governance structures has been particularly swift. Law-enforcement agencies deploy facial recognition systems for identification and monitoring purposes. Automated tools are used to determine eligibility under welfare schemes, identify irregularities in taxation, and assist in compliance monitoring. The judiciary has also begun experimenting with AI-enabled tools for case management, translation of judgments, and legal research. These developments reflect India's broader commitment to digital governance and technological advancement.

Despite these developments, the legal framework governing Artificial Intelligence in India remains underdeveloped. The Indian constitutional order is built upon principles such as transparency, accountability, fairness, and judicial review. Administrative decisions are expected to be reasoned, open to scrutiny, and subject to legal challenge. AI-driven decision-making, however, often relies on complex and opaque algorithms that are difficult to interpret, even for experts. When decisions affecting life, liberty, dignity, or livelihood are taken by automated systems, individuals may be deprived of meaningful explanations and effective remedies.

This disconnect between rapid technological adoption and legal preparedness raises serious constitutional concerns. The increasing delegation of decision-making authority to algorithms risks transforming governance into an opaque and unaccountable process. This paper contends that while Artificial Intelligence offers undeniable benefits, its unregulated use threatens fundamental rights and democratic accountability. It therefore seeks to examine the legal challenges posed by AI-based governance in India and to argue for a regulatory approach grounded in constitutional values.

Conceptual Understanding of Artificial Intelligence

Artificial Intelligence may broadly be understood as the capability of machines or computational systems to simulate aspects of human intelligence, such as learning, reasoning, perception, and decision-making. In legal and administrative contexts, AI is most commonly implemented through machine-learning models that analyse large volumes of data to generate predictions, classifications, or recommendations.

AI systems may generally be categorised into rule-based systems and learning-based systems. Rule-based systems function on predefined instructions, while machine-learning systems adapt and evolve based on patterns identified within data. It is the latter category that raises more complex legal concerns, as their outputs are not always predictable or easily explainable. Many machine-learning models operate as “black boxes,” making it difficult to understand the precise reasoning behind a particular outcome.

From a legal standpoint, the deployment of Artificial Intelligence challenges traditional notions of responsibility and accountability. Administrative law assumes that decisions are taken by identifiable human authorities who can be questioned, reviewed, and held accountable. When decision-making functions are delegated to automated systems, responsibility becomes fragmented among developers, operators, and public authorities. This fragmentation complicates the enforcement of legal remedies and weakens established mechanisms of constitutional control.

Artificial Intelligence in Indian Governance and Public Administration

The Indian State has increasingly embraced Artificial Intelligence as a tool for governance across a wide range of sectors. AI-based systems are now used in policing, welfare administration, taxation, healthcare, education, and urban governance. These technologies are often promoted as neutral and objective mechanisms capable of improving efficiency and reducing administrative discretion.

One of the most visible applications of Artificial Intelligence in India is in the area of surveillance and law enforcement. Facial recognition technologies have been deployed by police authorities for identifying suspects and monitoring public spaces. While such tools may assist in crime detection, they raise serious concerns relating to privacy, consent, data accuracy,

and potential misuse. The absence of a comprehensive statutory framework regulating surveillance technologies intensifies these risks.

Artificial Intelligence is also increasingly utilised in the administration of welfare schemes. Automated systems are employed to assess eligibility based on data-driven criteria. Although automation may reduce corruption and leakages, errors in data collection or algorithmic design can lead to the wrongful exclusion of deserving beneficiaries. Such exclusion has direct implications for the right to life and dignity under Article 21 of the Constitution.

In the field of taxation and financial regulation, AI-driven tools are used to detect patterns of evasion and non-compliance. While these systems may enhance revenue collection, they also risk profiling individuals without adequate procedural safeguards. When adverse decisions are based on automated assessments, affected persons may find it difficult to challenge them due to the lack of transparency and explainability.

The judiciary's engagement with Artificial Intelligence further illustrates both its potential and its risks. AI-assisted tools used for legal research and case management may improve efficiency, but adjudicatory functions must remain firmly under human control to preserve judicial independence and constitutional accountability.

Artificial Intelligence and the Challenge to Administrative Law

Indian administrative law is grounded in principles such as reasoned decision-making, natural justice, proportionality, and judicial review. The growing reliance on Artificial Intelligence poses significant challenges to these principles. Automated decision-making systems often function without providing intelligible reasons for their outputs, making it difficult for affected individuals to understand or contest adverse decisions.

The principle of natural justice requires that individuals be given a meaningful opportunity to be heard before adverse action is taken against them. Automated systems may exclude human intervention entirely, thereby undermining this requirement. Moreover, the absence of recorded reasons weakens the capacity of courts to conduct effective judicial review.

The Supreme Court has repeatedly held that arbitrariness is antithetical to the rule of law. When AI-based decisions are taken without transparent criteria or adequate safeguards, they risk violating constitutional guarantees. The increasing reliance on algorithmic governance

therefore necessitates a re-examination of administrative law doctrines to ensure their continued relevance in a technologically mediated governance landscape.

Need for Constitutional Scrutiny of AI-Based Governance

The deployment of Artificial Intelligence by the State is not merely a technical or policy issue; it is fundamentally a constitutional concern. The Constitution of India imposes limits on State power and mandates the protection of fundamental rights. Any technological instrument used by the State must operate within these constitutional constraints.

The absence of a dedicated legal framework regulating Artificial Intelligence results in unchecked discretion and weak accountability. This creates a tangible risk of violations of equality, privacy, dignity, and due process. As AI systems become increasingly embedded in governance structures, the need for rigorous constitutional scrutiny becomes more urgent.

This paper therefore proceeds on the premise that Artificial Intelligence must be regulated as a form of State action subject to constitutional limitations. The subsequent parts of this study will examine the constitutional provisions, statutory framework, and policy initiatives relevant to AI governance in India, identify existing lacunae, and propose a rights-based regulatory model capable of reconciling technological innovation with constitutional values.

Constitutional Framework Governing Artificial Intelligence in India

The increasing reliance on Artificial Intelligence by State authorities must be examined within the framework of Indian constitutional law. When AI-based systems are deployed by public institutions, their operation constitutes State action and is therefore subject to the limitations imposed by Part III of the Constitution. As algorithmic decision-making becomes embedded within governance structures, constitutional doctrines must be reinterpreted to ensure that technological mediation does not dilute fundamental rights.

The Constitution does not oppose the use of technology by the State. However, it requires that every exercise of public power—irrespective of the medium through which it is exercised—conform to principles of legality, reasonableness, and accountability. Artificial Intelligence, when used without adequate safeguards, has the potential to bypass these constitutional checks, thereby necessitating closer judicial and legislative scrutiny.

Article 14: Equality Before Law and the Prohibition of Arbitrariness

Article 14 of the Constitution of India guarantees equality before the law and equal protection of the laws. The Supreme Court has repeatedly clarified that this guarantee extends beyond formal equality and includes a substantive prohibition against arbitrariness in State action.

Artificial Intelligence poses a distinct challenge to the principle of equality. Most AI systems rely on historical datasets to generate predictions or classifications. These datasets often reflect pre-existing social inequalities and institutional biases. When such biased data is used to train algorithms, the resulting decisions may disproportionately affect marginalised groups, even in the absence of explicit discriminatory intent.

Predictive policing tools provide a clear illustration of this concern. Algorithms trained on past crime data may repeatedly flag certain communities as “high risk,” thereby reinforcing cycles of surveillance and over-policing. Similarly, automated decision-making systems used in welfare administration may exclude eligible individuals due to inaccuracies in data or flawed algorithmic assumptions.

The Supreme Court’s decision in *E.P. Royappa v. State of Tamil Nadu* firmly established that arbitrariness is antithetical to equality.¹ This understanding was reinforced in *Maneka Gandhi v. Union of India*, where the Court emphasised that reasonableness and equality are interconnected constitutional values.² AI-driven decisions that lack transparency, intelligible criteria, or meaningful oversight therefore risk violating Article 14.

Furthermore, constitutional morality requires the State to actively prevent systemic discrimination rather than merely avoiding overt unequal treatment. In *Navtej Singh Johar v. Union of India*, the Supreme Court underscored the obligation of the State to protect individual autonomy and dignity.³ When Artificial Intelligence systems entrench structural disadvantage through automated processes, they undermine this constitutional commitment.

Article 21: Life, Personal Liberty, Privacy, and Dignity

Article 21 of the Constitution guarantees the right to life and personal liberty and has been

¹ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 (India).

² *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).

³ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (India).

expansively interpreted to include rights essential to human dignity. The Supreme Court's jurisprudence has consistently held that any action affecting personal liberty must be accompanied by a procedure that is fair, just, and reasonable.⁴ This principle assumes heightened significance in the context of AI-based governance.

Artificial Intelligence systems increasingly influence decisions that affect individuals' lives, freedoms, and livelihoods. Automated surveillance, profiling, and classification may operate continuously and invisibly, leaving individuals unaware of how or why they are being monitored or assessed. Such practices raise serious concerns regarding procedural fairness and individual autonomy.

The recognition of the right to privacy as a fundamental right in *Justice K.S. Puttaswamy (Retd.) v. Union of India* marked a turning point in constitutional law.⁵ The Court held that privacy is an intrinsic component of dignity, autonomy, and personal liberty. AI technologies such as facial recognition, behavioural analytics, and large-scale data profiling directly implicate this right by enabling intrusive forms of surveillance and data processing.

Concerns regarding surveillance are not new to Indian constitutional jurisprudence. In *Kharak Singh v. State of Uttar Pradesh*, the Supreme Court cautioned against State practices that intrude upon personal liberty without legal justification.⁶ More recently, in *Anuradha Bhasin v. Union of India*, the Court reaffirmed that any restriction on fundamental rights must satisfy the test of proportionality.⁷ AI-driven surveillance systems frequently fail to meet this standard due to the absence of clear legislative authorisation, purpose limitation, and procedural safeguards.

The Court has also recognised that dignity and autonomy lie at the heart of the right to life. In *Common Cause v. Union of India*, individual autonomy was identified as a central aspect of human dignity.⁸ AI systems that reduce individuals to data points and subject them to automated assessment without consent or explanation threaten these foundational constitutional values.

Due Process and Natural Justice in Algorithmic Decision-Making

The principles of natural justice—particularly the right to be heard and the obligation to provide

⁴ INDIA CONST. art. 21.

⁵ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).

⁶ *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295 (India).

⁷ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637 (India).

⁸ *Common Cause v. Union of India*, (2017) 9 SCC 499 (India).

reasons—are integral to Indian administrative law. The increasing use of automated decision-making systems challenges these principles by diminishing or excluding human participation in decision-making processes.

Many AI systems generate outputs without providing intelligible explanations. When individuals are denied benefits, categorised as high-risk, or subjected to adverse administrative action based on algorithmic assessments, they are often left without any meaningful understanding of how such decisions were reached. This lack of transparency undermines the right to challenge State action and weakens judicial oversight.

In *Selvi v. State of Karnataka*, the Supreme Court highlighted the importance of mental autonomy, consent, and procedural fairness.⁹ Although the case did not directly concern Artificial Intelligence, its emphasis on autonomy and non-coercion is highly relevant to algorithmic governance. Automated systems that operate without consent or explanation raise similar concerns under Article 21.

Due process also requires clarity in the attribution of responsibility. When decisions are made by algorithms, accountability becomes fragmented among multiple actors, including software developers, vendors, and public authorities. This diffusion of responsibility creates significant obstacles to the enforcement of legal remedies and increases the risk of constitutional violations without accountability.

Artificial Intelligence and the Limits of Judicial Review

Judicial review is a cornerstone of the Indian constitutional system and serves as a primary mechanism for enforcing fundamental rights. However, the rise of AI-based governance presents new challenges for the exercise of judicial review.

Courts traditionally examine the reasoning process underlying administrative decisions to assess their legality and reasonableness. When decisions are generated by opaque algorithms, courts may be unable to access or evaluate the underlying logic, data, or assumptions. This opacity weakens the effectiveness of judicial review and threatens constitutional accountability.

The Supreme Court has consistently emphasised the necessity of reasoned decisions. In *Union*

⁹ *Selvi v. State of Karnataka*, (2010) 7 SCC 263 (India).

of India v. Mohan Lal Capoor, the Court observed that reasons constitute the “soul” of administrative decisions.¹⁰ AI systems that do not generate intelligible reasons therefore undermine a fundamental requirement of lawful administration.

To preserve the effectiveness of judicial review, it is essential that AI systems used by the State incorporate mechanisms for explainability and human oversight. Without such safeguards, the constitutional promise of judicial review risks becoming ineffective in an era of algorithmic governance.

Democratic Accountability and Algorithmic Governance

Democratic governance rests on transparency, accountability, and public participation. Artificial Intelligence, when deployed without adequate legal safeguards, risks shifting decision-making power into opaque technological systems that operate beyond meaningful public scrutiny.

Algorithmic governance may present decisions as purely technical or data-driven, thereby masking underlying policy choices and value judgments. This technocratic framing undermines democratic accountability by limiting opportunities for debate, contestation, and dissent.

The Constitution of India envisions a participatory democracy in which citizens can question and challenge the exercise of public power. AI-based systems that operate without transparency or explainability are incompatible with this vision. Ensuring democratic accountability therefore requires that the deployment of Artificial Intelligence be governed by clear legal standards, institutional oversight, and robust constitutional safeguards.

Statutory Framework Governing Artificial Intelligence in India

Despite the expanding use of Artificial Intelligence across governmental functions, India does not presently have a dedicated statute regulating AI-based systems. The existing legal framework addresses certain related aspects such as electronic transactions, data protection, and cyber security, but it does not adequately engage with the distinctive risks posed by automated and algorithmic decision-making. As a result, the regulation of Artificial Intelligence

¹⁰ Union of India v. Mohan Lal Capoor, (1973) 2 SCC 836 (India).

in India remains fragmented and incomplete.

Information Technology Act, 2000

The Information Technology Act, 2000 was enacted primarily to facilitate electronic commerce and to provide a legal framework for addressing cyber offences.¹¹ While the Act includes provisions relating to unauthorised access, data security, and intermediary liability, it does not contemplate the governance of Artificial Intelligence or the constitutional implications of algorithmic decision-making.

The IT Act is largely premised on the assumption that wrongful acts are committed by identifiable human actors. Artificial Intelligence systems, however, often operate autonomously and involve multiple stakeholders, including software developers, technology vendors, and State authorities. This structural mismatch makes it difficult to attribute responsibility or impose liability when harm arises from algorithmic decisions.

Furthermore, the Act does not impose any affirmative obligations on public authorities to ensure transparency, explainability, or human oversight in the deployment of AI systems. Its remedial framework is largely reactive, addressing harm only after it has occurred. Consequently, the IT Act offers limited protection against the constitutional risks associated with AI-driven governance.

Digital Personal Data Protection Act, 2023

The Digital Personal Data Protection Act, 2023 represents a significant step towards regulating the processing of personal data in India.¹² The Act introduces key principles such as consent-based processing, purpose limitation, and data minimisation, and establishes obligations for data fiduciaries.

However, while the DPDP Act strengthens data protection, it does not comprehensively address the governance of Artificial Intelligence. The Act does not explicitly recognise a right against decisions based solely on automated processing, nor does it mandate algorithmic transparency or explainability in cases where AI systems are deployed by public authorities.

¹¹ Information Technology Act, No. 21 of 2000, INDIA.

¹² Digital Personal Data Protection Act, No. 22 of 2023, INDIA.

In the context of AI-based governance, data protection alone is insufficient. Even where data is collected lawfully and with consent, the manner in which it is processed by algorithms may still produce discriminatory, arbitrary, or disproportionate outcomes. The DPDP Act therefore addresses only one dimension of AI-related risks and cannot substitute for a comprehensive AI regulatory framework.

Indian Policy Initiatives and Committee Reports on Artificial Intelligence

In the absence of binding legislation, the Indian government has relied on policy initiatives and expert reports to guide the development and deployment of Artificial Intelligence. These documents reflect growing awareness of AI-related risks but lack enforceable legal authority.

NITI Aayog's *National Strategy for Artificial Intelligence* articulates India's vision for leveraging AI in sectors such as healthcare, agriculture, education, and smart infrastructure.¹³ The strategy emphasises inclusive growth, ethical considerations, and public-private collaboration. However, it remains advisory in nature and does not create enforceable rights or obligations.

Similarly, NITI Aayog's *Responsible AI Framework* identifies principles such as fairness, transparency, accountability, and safety. While these principles provide valuable normative guidance, their voluntary character limits their effectiveness in preventing rights violations or ensuring accountability.

Parliamentary oversight has also highlighted concerns regarding emerging technologies. The Parliamentary Standing Committee on Information Technology has drawn attention to issues of unchecked surveillance, misuse of personal data, and inadequate safeguards for citizens' rights in the digital ecosystem.¹⁴ The Committee has emphasised the need for stronger legislative intervention to regulate digital technologies.

The Law Commission of India, in its Report No. 276, underscored the necessity of legal reforms to address challenges arising from technological advancement.¹⁵ The report reflects an

¹³ NITI Aayog, National Strategy for Artificial Intelligence (2018).

¹⁴ Parliamentary Standing Committee on Information Technology, Report on Citizen's Data Security and Privacy (2021).

¹⁵ Law Commission of India, Report No. 276 on Legal Framework: Artificial Intelligence and Emerging Technologies(2018).

institutional recognition that existing legal frameworks are ill-equipped to deal with emerging technologies such as Artificial Intelligence.

Gaps and Deficiencies in the Existing Regulatory Regime

The current approach to Artificial Intelligence regulation in India is marked by several significant deficiencies.

First, there is no dedicated legislation governing the use of AI by State authorities. Existing statutes address only peripheral issues and fail to engage with core concerns such as algorithmic decision-making, bias, and accountability.

Second, transparency requirements are largely absent. Individuals affected by AI-driven decisions often lack access to information regarding the data, logic, or criteria used by automated systems. This opacity undermines the ability to seek legal remedies or challenge State action.

Third, accountability mechanisms remain weak. The diffusion of responsibility among multiple actors involved in AI deployment creates regulatory gaps that make it difficult to assign liability for algorithmic harm.

Fourth, grievance redressal mechanisms are not tailored to the complexities of AI-based decision-making. Traditional administrative remedies are often ill-suited to address the technical and evidentiary challenges posed by algorithmic systems.

These deficiencies highlight the urgent need for a coherent and comprehensive regulatory response.

Towards a Rights-Based Regulatory Framework for Artificial Intelligence

A rights-based regulatory framework for Artificial Intelligence must be grounded in constitutional values and designed to protect fundamental rights while enabling innovation.

First, the law must require **meaningful human oversight** over AI systems used in governance. Automated tools should support, rather than replace, human decision-making, particularly in matters affecting fundamental rights.

Second, **transparency and explainability** should be recognised as legal entitlements. Individuals must have the right to receive intelligible explanations for decisions that affect them and access relevant information necessary to challenge such decisions.

Third, clear **accountability and liability standards** must be established. Public authorities deploying AI systems should bear primary responsibility for ensuring constitutional compliance, irrespective of private vendors or developers involved.

Fourth, an independent **regulatory authority** should be constituted to oversee the development and deployment of AI systems, conduct audits, and enforce compliance with legal and ethical standards.

Finally, effective **grievance redressal mechanisms** must be created to provide timely and accessible remedies to individuals affected by algorithmic harm.

A regulatory framework incorporating these elements would enable India to harness the benefits of Artificial Intelligence while safeguarding constitutional democracy.

Conclusion

Artificial Intelligence has the potential to significantly enhance governance and public administration in India. At the same time, its unregulated deployment poses serious risks to fundamental rights, democratic accountability, and the rule of law.

This paper has demonstrated that existing constitutional principles, statutory provisions, and policy initiatives are insufficient to address the unique challenges posed by AI-based governance. The absence of a comprehensive legal framework creates a real risk of arbitrariness, discrimination, and erosion of due process.

India must therefore adopt a rights-based regulatory approach that places constitutional values at the centre of Artificial Intelligence governance. By embedding transparency, accountability, and human oversight into AI systems, India can ensure that technological progress strengthens rather than undermines democratic institutions and fundamental rights.