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AI Regulation in India: Through the Lens of Constitutional Ethics

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ABSTRACT

As emanating technologies increase swiftly in number, posing the need for a regulatory framework to tackle the needs of the century, Artificial Intelligence (AI) has become a massive concern to a democratic state like India, which upholds high spirits of constitutionalism and legal ethics. Pressing issues like mass surveillance, data breaches, algorithm bias, and exploitation raise ethical concerns in safeguarding constitutional rights. These issues are often recognized as the 'crisis of humanity.' Evidently we are witnessing AI advancing at a fleeting pace, at the same time, constitutional interpretations progress close at hand. Furthermore, to a greater extent, trouble pertaining with regards to right to life is expected to rise. The European Union has enforced an extensive enactment by introducing the EU AI Regulation, leading to a more stringent application, whereas India has not yet come forward with a statute that governs AI except from having regulatory criterion for the AI use across different categories issuing by the Ministry of Electronics and Information Technology. The comprehended disembowel over the erosion of core human values and dehumanizing of society posed many moral challenges associated with AI and the viability of introducing a vigorous International Regulatory Framework to reign over its use.

This paper explores the interception between AI and Constitutional Ethics, highlighting how AI should align with privacy, fundamental rights, individual autonomy, due process, etc. It is, indeed, necessary to take out the shadows of science and navigate mechanisms to fix accountability of any actions, no matter whether they are intended or unintended. The paper also underscores the need for policymakers to analyze and ensure the framing of rules and policies that uphold human dignity, accountability, transparency, and, primarily, a regulation that orients AI with Constitutional perspectives.

Keywords: AI, Constitutional Ethics, AI Regulation, Indian perspective, Privacy, Data Protection.

I. INTRODUCTION

The term Artificial Intelligence is often referred as the ability of a computer program to perform

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the tasks that are usually associated with human intelligence.² It possesses comprehensive set of abilities like reading, improvising, problem-solving, language, processing, reasoning, etc. It is indeed a transformative technology of this century which attests to humankind's unrelenting pursuit to understand, control and remake the world in the image of its changing aspirations, an endeavour not without its challenges.³ Most of the time, it has to do with a positive thing even though the information given is too vague or ambiguous or difficult to deal with. However, while facing the question, whether AI can do anything to benefit a human, is debatable.⁴ To set an instance, suppose how driving a car during rainy season in a slippery road, framing legal argument of a case, playing games like chess, prescribing medicine for a medical issue require some skill. In these situations, an AI-generated content cannot be helpful or reliable most of the times.

From this, it is clear that the definition of AI is a strange one. That is why there is no universally accepted definition exists for AI.⁵ The reason being, what we consider, require some kind of human intelligence at some point in time and if we believe that performing certain things do not require human expertise, then a computer program performing that particular task is no longer a part of AI, rather being just another computer program. Nevertheless, the scope of AI is wide. Students, professionals, academicians, laymen the use of AI in the daily lives is deeply integrated. As AI has rapidly emerged as one of the biggest transformative, influential technologies in the current era, it poses notable challenges when comes constitutional ethics and governance.⁶ But is disheartening to see that there is no concrete legislation a country like India has to govern on this.

II. AI IN EVERYDAY LIFE

There are plenty of examples of AI in our daily idea, most of them even we are not aware of. It ranges from Iphone users seek help from siri to make calls or setting reminders or search on web, Amazon or Flipkart giving product suggestions based on the browsing history, Instagram shows up adds based on preferences, facial recognition to unlock phone, navigation apps

² Claramunt, J. C. (2024). Human rights, vulnerability and artificial intelligence: an analysis in constitutional perspective. *Deusto Journal of Human Rights*, (14), 33-50.

³ Luo, K., Huang, Q., Jiang, C., & Feng, Y. (2025). Automating Legal Concept Interpretation with LLMs: Retrieval, Generation, and Evaluation. *arXiv preprint arXiv:2501.01743*.

⁴ Rarhoui, K. (2024). DIGITAL PUBLIC LAW AND FUNDAMENTAL RIGHTS: RETHINKING CONSTITUTIONAL LAW IN THE ERA OF AI AND DIGITAL TRANSFORMATION. *Economic and Social Development: Book of Proceedings*, 220-229.

⁵ De Gregorio, G. (2021). Constitutional Law in the Information Society: Protecting Fundamental Rights and Democracy in the Age of Artificial Intelligence.

⁶ Etzioni, A., & Etzioni, O. (2017). Incorporating ethics into artificial intelligence. *The Journal of Ethics*, 21, 403-418.

detecting real-time traffic, google translating languages are nothing but purely AI. The prospective range of AI applications currently are one of the cause why companies invest a huge amount in it recent years. Apple has acquired Deepmind, Apple developed siri, Facebook launched special web search which exclusively focused on AI, IBM investing in cognitive computer system are the examples to it. This vast expansion of AI based systems in reaching all corners around the universe.⁷⁸

Even when we are going ahead with the technologies, certain tasks remain a challenge to them while they are effortlessly carried out by humans, no matter how much data and computational ability machine possesses. This highlights the very nature of human intelligence and technological expertise.⁹ To put it in a very simple manner, humans can recognize an elephant with much easiness in a photograph. Because they have encountered with several instances of elephants or any other creatures in their lives, that subsequently forming a clear understanding of a elephant's figure even if they haven't seen that particular elephant in the picture in real or if it is in an unusual position.¹⁰ At the same time, machines require human to provide exclusive details to understand such distinctions. Even though significant efforts have been made to train AI in image recognition and some other perception related tasks, there are still on-going efforts found necessary to enhance the accuracy and reliability.¹¹

III. THE NEED FOR AI REGULATION INDIA: A CONSTITUTIONAL PERSPECTIVE

Whenever the topic under discussion revolves around the rapid growth of AI in human lives across various sectors such as learning, decision making process, data analysis etc, it brings high concerns over constitutional ethics in a country like India having strong democratic values.¹² The intersection between AI and Constitutional principles mandates a comprehensive legislative framework to put forth ethical dilemmas like privacy, human rights, data breach, fundamental rights, individual autonomy and due process. The more AI extends it's influence beyond it's technological capabilities, and enters into the scope of human rights, governance and natural justice.¹³ So it can be said that, the acceleration of AI progress day by day presents

⁷ Bostrom, N., & Yudkowsky, E. (2018). The ethics of artificial intelligence. In *Artificial intelligence safety and security* (pp. 57-69). Chapman and Hall/CRC.

⁸ Huang, C., Zhang, Z., Mao, B., & Yao, X. (2022). An overview of artificial intelligence ethics. *IEEE Transactions on Artificial Intelligence*, 4(4), 799-819.

⁹ Shaw, J. (2019). Artificial intelligence and ethics. *Harvard magazine*, 30, 1-11.

¹⁰ Carrillo, M. R. (2020). Artificial intelligence: From ethics to law. *Telecommunications policy*, 44(6), 101937.

¹¹ Dignum, V. (2018). Ethics in artificial intelligence: introduction to the special issue. *Ethics and Information Technology*, 20(1), 1-3.

¹² Nemitz, P. (2018). Constitutional democracy and technology in the age of artificial intelligence. *Philosophical Transactions of the Royal Society A: Mathematical, Physical and Engineering Sciences*, 376(2133), 20180089.

¹³ Lipchanskaya, M. A., & Otsavnova, E. A. (2020, May). Artificial intelligence as an object of constitutional relations. In *2nd International Scientific and Practical Conference "Modern Management Trends and the Digital*

a dual-edged sword. On one side- it offers huge potential progress, at the same it paves a way to threats to civil liberties. Countries globally are debating on the ethical and legal framework required to be establish to govern over AI ensuring that its deployment does not indeed infringe the fundamental freedoms.¹⁴

Article 21 of the Indian Constitution guarantees Right to Privacy which comes under the umbrella right ie, Right to life and Personal Liberty. There are huge number of instances in the cyber world where the right has been infringed. When it comes to AI also, a threat to privacy is one of the major concerns associated with mass surveillance. AI is powered with surveillance tools such as predictive analysis and facial recognition feature, it poses a direct threat to Right to Privacy.¹⁵ The unchecked expansion of these technologies raises fears of excessive state control, tracking without warranties, breach of data etc. Unlike European Union which enforced a legislation India is lacking on come up with a stringent enforcement of AI regulating statute. Mass surveillance powered by AI has been implemented by governments and private entities additionally complicating the legal disclosure pertaining to data privacy. These technologies have gained traction in law enforcement agencies with an object to detention and prevention of crime¹⁶. Yet, these advancement often led to exclusive data collection practices without explicit user consent. As previously mentioned, in India, since we do not have a particular legislation governing over this, therefore, data protection in our country is largely governed by the existing legislation; Information Technology Act, 2000.

In a landmark case, Justice K. S Puttaswamy (Retd.) and Anr. V. Union of India a nine bench of the Supreme Court of India delivered a judgment emphasizing Right to Privacy is recognized as fundamental right under Article 21 of the Constitution. Although the judgment was a corner stone to privacy matters, it has left a room for permissible restrictions to matters pertained to national security. This often put-forth a question that what extent the AI powered surveillance can be deployed.¹⁷ Owing to this, AI surveillance system such as Automated Facial Recognition Systems (AFRS) have been critically viewed for their potential to infringe on individual liberties. The fast pace of AI's development is matched by the developing understanding of

Economy: from Regional Development to Global Economic Growth”(MTDE 2020) (pp. 182-187). Atlantis Press.

¹⁴ Gallistl, V., Bandy, M. U. L., Berridge, C., Grigorovich, A., Jarke, J., Mannheim, I., ... & Peine, A. (2024). Addressing the Black Box of AI—A Model and Research Agenda on the Co-Constitution of Aging and Artificial Intelligence. *The Gerontologist*, gnae039.

¹⁵ Biju, P. R., & Gayathri, O. (2024). The Indian approach to Artificial Intelligence: an analysis of policy discussions, constitutional values, and regulation. *AI & SOCIETY*, 39(5), 2321-2335.

¹⁶ De Gregorio, G. (2021). Constitutional Law in the Information Society: Protecting Fundamental Rights and Democracy in the Age of Artificial Intelligence.

¹⁷ Kan, C. H. (2024). Artificial intelligence (ai) in the age of democracy and human rights: normative challenges and regulatory perspectives. *International Journal of Eurasian Education and Culture*, 9(25), 145-166.

constitutional rights. The doctrine of living constitutionalism, emphasized in the said case, points out that constitutional provisions need to be dynamic enough to keep up with technological developments. Since AI becomes more braided with basic rights like privacy (Article 21), freedom of speech (Article 19), and equality (Article 14), Indian legal system needs to develop to meet the challenges of AI.

For example, AI-based mass surveillance enterprise, facial recognition, and predictive policing pose serious privacy and civil liberties problems. Lacking a clear legal protections, there are chances that AI surveillance might evade personal autonomy, contravening the right to privacy enshrined in the Puttaswamy judgment. The Digital India Act, which is to supplant the Information Technology Act, 2000, has to include certain protections against unwarranted surveillance, abuse of AI, and unregulated data gathering.¹⁸

Along with mass surveillance, another key issue based on AI use is Algorithm Bias and Discrimination. AI systems are created and trained with extensive datasets that may be resulted in inherent societal biases.¹⁹ This bias intentionally or unintentionally can be manifested in many areas such as hiring, judicial decision leading to discrimination and inequality.²⁰ Article 14 and 15 of the Constitution deals with equality and fairness but AI based systems are totally the vanishing points of these concepts. The absence of a regulatory vision makes it extremely difficult to ensure the accountability and there will be no discrimination based on AI systems. The Algorithm Bias is found as a fundamental issue when it comes to AI development as well which is arising because of the already biased training data, biased model design, lack of knowledge.²¹ All these biases that are present in the historic databases, replicate and lead to titled outcomes in various domains. For an instance, in hiring someone in any sector, AI based CV screening tools have exhibited gender and racial based biases, lead to favour specific demographics over others. Such biases are directly a contradict to the very principle of constitutional promise of equality before law and equal protection of law enshrined under Article 14 of the Constitution.

Furthermore, Algorithm Bias has momentous aftermath in criminal justice systems, where AI tools are extensively being used for predictive policing and risk assessment. Studies based on

¹⁸ Stasavage, D. (2023). Artificial Intelligence and the Past, Present, and Future of Democracy. *Political Theory of the Digital Age: Where Artificial Intelligence Might Take Us*, 47.

¹⁹ Shankar, R., & Ahmad, T. (2021). Social Media, Artificial Intelligence and Role of Tech Firms in the Age of Disinformation: Impact on Democracy and Regulatory Challenges in India. *Turkish Online Journal of Qualitative Inquiry*, 12(6).

²⁰ Gireesan, K., & Chathukulam, J. (2024). *Democracy, Leadership and Governance—Application of Artificial Intelligence: A Machine-Generated Overview*. Springer Nature.

²¹ Viswanath, L. (2025). Digital Constitutionalism: Navigating Governance in The Technological Era. *Journal of Law and Legal Research Development*, 15-20.

the same have shown that AI driven predictive policing disproportionately targets marginalized communities, reinforcing systemic discrimination. These kinds of practices raise concerns about due process of law and fairness which are enshrined under Article 19 as well as 21 of the Constitution of India.²²

Now, coming more into Right to Life in Article 21 and AI in autonomous systems, AI's influence not just reached till data processing, but it reached beyond that and entered into critical domains such as healthcare and autonomous weaponry. The consumption of AI in lethal economic weapons raises serious concerns over accountability and human oversight on it. Likewise, AI driven health care decisions, if ambiguous, can lead to very serious issues which may be difficult to cure though with proper medical assistance.²³ The Right to Life prevailed in Article 21 directly puts barriers in AI running systems and applications and therefore, requires stringent mechanisms to prevent AI induced harms and ensures that technology should be for the betterment of human lives, rather not to endanger them. Recently, when particularly health care sector is taken into consideration, AI generated diagnosis tools and treatment recommendation systems are gaining prominence. While AI has the potential to improve the health care accuracy and fairness, it also brings a lot of risk elements of misdiagnosis and ambiguous treatment plans.²⁴ So, making a regulatory scrutiny over these AI running healthcare decisions is mandatory as a small biased decision cost a life that cannot be replaced.

IV. ENSURING ACCOUNTABILITY AND AI GOVERNANCE

The unfolding of AI-based autonomous weapons is an even more serious issue compared to the other. The arrival of Lethal Autonomous Weapon Systems (LAWS) has generated universal discussions regarding their legal nature and ethical implications. These weapons are deployed without sudden human control, and this brings out concerns regarding accountability in the occurrence of unintended damage. Nations such as India, which adhere to international humanitarian law, need to weigh in on strict regulations to ban or heavily regulate such AI-based warfare systems.

Though countries like the European Union have already introduced elaborate AI regulations, India still doesn't have an integrated legal framework. The Ministry of Electronics and

²² Patil, D. A. (2019). Democracy in the age of Robocracy: Exploring scenarios for future democratic participation in the era of Digital India. *Democracy*.

²³ Chatterjee, S. (2020). AI strategy of India: policy framework, adoption challenges and actions for government. *Transforming Government: People, Process and Policy*, 14(5), 757-775.

²⁴ Marda, V. (2018). Artificial intelligence policy in India: a framework for engaging the limits of data-driven decision-making. *Philosophical Transactions of the Royal Society A: Mathematical, Physical and Engineering Sciences*, 376(2133), 20180087.

Information Technology has already released sectoral guidelines but those are disparate in nature. As long as there is no centralized AI regulation policy, issues of dehumanization and decay of human values don't find redress. An organized policy will have to be devised in order to harmonize AI with the principles of the constitution and provide protection for human rights. The European Union's AI Act divides AI applications based on risk levels (there are three) — prohibited, high-risk, limited risk, and minimal risk. This guarantees that high-risk AI applications are stringently governed before deployment. India does not have a similar division system. India rather uses ethical directions for AI, published by institutions like NITI Aayog, which foster responsible AI but are not legally enforceable.²⁵

India's AI regulatory framework is not yet grown properly by bringing a stronger statute rather than guidelines through different Acts and therefore, more inclusive approach is required. Although the Ministry of Electronics and Information Technology (MeitY) has been dynamic in passing advisories and regulatory guidelines, there is no specific AI law exists that exclusively governs AI applications. An actual, strong AI legal framework rich with with constitutional principles is essential to create clear instructions on governance to make sure ethical use and accountability.

It is identified that, one of the important toil in AI governance is the absence of transparency in AI decision-making. AI systems, importantly those using deep learning criteria, tend to act as "black boxes," with the capability to track how they reach to a conclusion being extremely demanding. Such transparency related problems bring up issues pertaining to fairness, bias, and prospective violation of necessary rights.²⁶ Regulations requiring lucidity in AI activities have to be implemented to make sure that decisions made using AI are due process compliant and do not compromise the grass root ideas of justice.²⁷

The Digital Personal Data Protection (DPDP) Act, 2023, has the aim of governing personal data processing with a vigorous focus on privacy²⁸. As AI systems tend to be based on huge volumes of personal data for the purposes of training and running, compliance to the DPDP Act is imperative in order to eliminate risks causing by unauthorized access, misuse, and breach of data. Without having a standalone AI-focused regulatory model, though, there is a chance of

²⁵ Karthikeyan, C. (2025). AI (Artificial Intelligence) Integration for Integrity Ethics and Privacy in AI-Driven Organizations: Ethics and Privacy Concerns in AI-Driven Organizations. In *Navigating Organizational Behavior in the Digital Age With AI* (pp. 51-76). IGI Global Scientific Publishing.

²⁶ Bhalla, N., Brooks, L., & Leach, T. (2024). Ensuring a 'Responsible' AI future in India: RRI as an approach for identifying the ethical challenges from an Indian perspective. *AI and Ethics*, 4(4), 1409-1422.

²⁷ Rani, M. (2024). Impacts and ethics of using Artificial Intelligence (AI) by the Indian Police. *Public Administration and Policy*, 27(2), 182-192.

²⁸ Gupta, A. (2023). Navigating the Frontier: AI, Data Privacy and India's Digital Personal Data Protection Act. *Jus Corpus LJ*, 4, 178.

uncontrolled AI improvement and implementation.²⁹

The combination of AI and constitutional ethics needs legislative preference. The empowering prospective of AI has to be balanced by a accountable form of governance that keeps its wrong intended usage at bay. The universal embrace of AI in different sectors of society such as students, professionals, scholars, and commoners requires an enforceable system of regulation for maintaining its morally sound deployment³⁰. India needs to create a statute incorporating AI regulations alongside with constitutional standards. So that the technology does not become a devil for the true essence of democracy, but a driving force for advancement. This difficulty acquires significant relevance in constitutional torts, as government sectors pivot on AI-based decisions. If in all, an AI system employed in public administration results in wrongful deprivation of rights or services, who should be held liable—the state, the developer of the software, or the department executing the AI? India's legal regulatory framework requires to solve these complexities by incorporating fixed liability provisions for AI-based endangers. Having enforced strong legal steps and a feeling of ethics, AI can be brought under human rights and can be made a accountable and equitable future for the world.

V. BALANCING INNOVATION AND ETHICAL CONSIDERATIONS

India's technique for governing AI requires to put a delicate balance between accelerating innovation and the need to keep all ethical standards. When modern technology firms continue to innovate and improve the capabilities of AI, the absence of a robust regulatory framework is causing stress and serious attention about unnatural injuries to society. Although AI owns the word to stimulate economic development and advance efficiency in all the sectors, not having any controlled technological progress has the high probability to cause ethical repercussions such as infringement of privacy, biased decision-making, and undermining liability. The lack of specific AI legislation compels the use of current laws, including the Copyright Act, 1957, and the Patents Act, 1970, all which were not having an object to cover the complexities of AI-generated content, intellectual property rights,³¹ or accountability related concerns. This patchwork technique makes regulatory loopholes where AI systems are not at all in a position of overall control and oversight, which may lead to infringement of human rights and legal complexities in attributing liability for AI-generated outcomes³². An essential element of

²⁹ Sundara, K., & Narendran, N. (2023). The Digital Personal Data Protection Act, 2023: analysing India's dynamic approach to data protection. *Computer Law Review International*, 24(5), 129-141.

³⁰ Paul, M. V. (2023). Technical, Legal and Ethical Opportunities and Challenges of Governing Artificial Intelligence in India. *Issue 1 Indian JL & Legal Rsch.*, 5, 1.

³¹ Seshadri, N. (2021). The Dilemma of Artificial Intelligence Generated Works and Indian Copyright Law. *Indian JL & Legal Rsch.*, 3, 1.

³² Gaon, A. H. (2019). Artificially Intelligent Copyright: Rethinking Copyright Boundaries.

responsible regulation of AI is to achieve transparency and maintainability in AI systems, particularly in high-risk possessing decision-making.

Most AI algorithms are "black boxes," which in the end make it not at all possible to find out how are they arriving at their conclusions. This transparency is a main harm in areas such as criminal justice, finance, and healthcare, where AI-based decisions can have completely life endangering implications. In order to avoid arbitrary or discriminatory outcomes, AI systems have to be developed to present transparent, understandable logical reasoning behind their decisions. Also, timely moral AI audits are mandatory to identify and counteract bias, discrimination, and unethical use. AI systems are likely to be learned from past databases, which themselves can be threat to societal bias, resulting in discriminatory results when applied to scenarios like recruitment, policing, and credit scoring as discussed before. In the absence of strict supervision, AI is likely to result in systemic bias, which negates constitutional safeguards such as Equality before law and equal protection of law under Article 14. No less critical is to create apparatus for legal answerability for AI-induced prone. As opposed to human decision-makers, AI does not actually have a legal person hood, and thus, it is very problematic to answer who should be held liable when AI systems do threat.

Accountability on the developer, operator, or user is still a grey area in our Indian law.³³ In public administration and justice, AI-based decisions may most likely to be resulted in constitutional violations, particularly when employed for law enforcement, surveillance, or delivery of public services kind of activities. To meet these difficult tasks, regulatory frameworks necessarily need to make sure that AI systems are kept under a proper human oversight, so that there is no autonomous decision-making in essential domains. An effectively defined legal framework that underlines lucidity, accountability, and fairness is needed to be promoted ethical AI advancement while protecting constitutional values and established principles.³⁴

VI. CONCLUSION

Artificial Intelligence has been a part of our current society, affecting governance, industry, and our day to day life. While AI keeps uneven prospects for economic and sustainable growth, productivity, and novel innovative world, it also poses momentous ethical and legal questions and challenges. Absence of a specific AI regulatory authorities in India has resulted in an ad

³³ Sil, R., Alpana, & Roy, A. (2023). A review on applications of artificial intelligence over Indian legal system. *IETE Journal of Research*, 69(9), 6029-6038.

³⁴ Merawat, H. (2023). Legal Implications and Regulatory Measures for AI Integration in the Indian Legal System. *Jus Corpus LJ*, 4, 288.

hoc use of existing rules and regulations, which are not capable of dealing with the complexities of AI. Pressing concerns like algorithmic bias, data privacy, mass surveillance, and gaps in accountability focus attention on the critical necessity of having a fully made AI law that is adapted to constitutional values,³⁵ particularly those concerning foundational rights, due process, and human dignity. Not having the presence of strong regulations, AI-aided decision-making are possible to serve to widen social disparities, trespass on privacy, and undermine accountability in governance. An operative regulatory system needs to give transparency, ethical control, and legal responsibility top priority so that AI can be advantageous to society without undermining constitutional values.

AI systems have to be made decipherable, subjected to stringent audits to eliminate biases, and kept under a complete human control in high stakes applications. The Ministry of Electronics and Information Technology (MeitY) has come up with steps towards regulating AI, but still, more legislative action is needed to make sure clarity, enforceability, and accountability in AI regulation. As AI develops further everyday, constitutional interpretations need to evolve in response, making it to the point that legal safeguards are still applicable amidst the pace of technological change.³⁶ At last, AI regulation should not have an object to suppress innovation but instead craft a balanced system in which the technology is connected responsibly, endorsing human rights, justice, and after all, the well-being of society at a large in the age of AI.

³⁵ Bodo, B., Helberger, N., Irion, K., Zuiderveen Borgesius, F., Moller, J., van de Velde, B., ... & de Vreese, C. (2017). Tackling the algorithmic control crisis-the technical, legal, and ethical challenges of research into algorithmic agents. *Yale JL & Tech.*, 19, 133.

³⁶ Lobel, O. (2023). The law of AI for good. *Fla. L. Rev.*, 75, 1073.