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CONSTITUTIONAL CHALLENGES OF ARTIFICIAL INTELLIGENCE IN INDIA: BALANCING INNOVATION WITH FUNDAMENTAL RIGHTS

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I. ABSTRACT

Artificial Intelligence (AI) has rapidly transformed governance, public administration, commerce, healthcare, education, finance, and judicial processes, presenting unprecedented opportunities for economic growth and technological advancement. However, the increasing integration of AI into decision-making systems has also generated significant constitutional concerns relating to equality, privacy, freedom of speech and expression, due process, transparency, and accountability. In India, despite the accelerated adoption of AI across both public and private sectors, the absence of a standalone comprehensive legislative framework specifically governing the development and deployment of AI raises important questions regarding the adequacy of existing constitutional, statutory, and regulatory safeguards. This article critically examines the constitutional implications of Artificial Intelligence within the Indian legal framework, with particular emphasis on Articles 14, 19, and 21 of the Constitution of India. Employing a doctrinal and comparative research methodology, the study analyses constitutional jurisprudence, recent legislative and policy developments, and emerging international regulatory models, including the European Union's AI Act, UNESCO's Recommendation on the Ethics of Artificial Intelligence, and the OECD AI Principles. It argues that while existing constitutional principles provide a normative foundation for protecting fundamental rights in the digital age, they require adaptation to address the unique challenges posed by algorithmic decision-making, automated governance, and AI-driven public administration. The article proposes a Constitutional AI Accountability Test (CAAT) that integrates constitutional values with principles of transparency, accountability, explainability, non-discrimination, and judicial oversight. It concludes that India should adopt a rights-based constitutional approach to AI governance that balances technological innovation with the

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effective protection of fundamental rights, thereby ensuring that future AI regulation remains consistent with constitutional democracy and the rule of law.

II. KEYWORDS

Artificial Intelligence; Constitutional Law; Fundamental Rights; Algorithmic Accountability; AI Regulation.

III. INTRODUCTION

The twenty-first century has witnessed an unprecedented convergence of technological innovation and constitutional governance. Among the technologies reshaping contemporary societies, Artificial Intelligence (AI) has emerged as one of the most transformative forces, influencing virtually every sector of governance, commerce, healthcare, education, finance, law enforcement, and judicial administration.² Unlike previous technological developments, AI possesses the capacity to analyse vast quantities of data, recognise complex patterns, predict human behaviour, and make or assist in decisions that were traditionally reserved for human judgment.³ While these capabilities promise greater efficiency, economic growth, and improved public service delivery, they simultaneously raise profound constitutional questions concerning the protection of individual rights, democratic accountability, and the rule of law.

India has rapidly embraced AI as a strategic instrument for achieving digital transformation and sustainable economic development. Government initiatives promoting digital governance, smart cities, healthcare innovation, financial inclusion, and judicial modernisation increasingly rely upon AI-driven technologies to enhance administrative efficiency and public service delivery.⁴ Simultaneously, private entities have integrated AI into banking, insurance, recruitment, education, e-commerce, social media, and consumer services, making algorithmic decision-making an integral component of everyday life. As AI becomes embedded within both public institutions

² Shoshana Zuboff, *The Age of Surveillance Capitalism* (PublicAffairs 2019); Richard Susskind, *Online Courts and the Future of Justice* (Oxford University Press 2019).

³ John McCarthy, 'What is Artificial Intelligence?' (Stanford University, 2007 reprint of 1956 concept paper).

⁴ Government of India, *National Strategy for Artificial Intelligence* (NITI Aayog 2018).

and private enterprises, its influence extends beyond technological innovation to the exercise of legal authority and the enjoyment of constitutionally protected freedoms.

Despite its transformative potential, AI presents significant legal and constitutional challenges that cannot be addressed solely through technological regulation. Algorithmic systems frequently operate as opaque "black boxes", making it difficult for affected individuals to understand, challenge, or seek remedies against automated decisions.⁵ The extensive collection and processing of personal data necessary for AI applications raise serious concerns regarding informational privacy and surveillance.⁶ Moreover, algorithmic bias may perpetuate or amplify existing social inequalities, leading to discriminatory outcomes in employment, policing, credit assessment, healthcare, and access to public services. The proliferation of deepfakes, AI-generated misinformation, and automated content moderation further complicates the constitutional balance between freedom of speech, public order, and democratic discourse.⁷ These developments illustrate that AI regulation is no longer merely a question of technological governance; it is fundamentally a constitutional concern requiring a rights-based legal response.

The Constitution of India provides a robust normative framework founded upon the principles of constitutional supremacy, the rule of law, equality, liberty, dignity, and justice. Judicial interpretation has progressively expanded the scope of fundamental rights, particularly Articles 14, 19, and 21, enabling constitutional protections to evolve alongside changing social and technological realities.⁸ Landmark constitutional jurisprudence has recognised the right to privacy, procedural fairness, freedom of expression, and substantive due process as indispensable elements of constitutional democracy.⁹ Nevertheless, the constitutional implications of AI differ significantly from earlier digital technologies because algorithmic systems increasingly participate in decision-making processes that directly affect legal rights and individual autonomy. This evolution necessitates a re-examination of traditional

⁵ Mireille Hildebrandt, *Smart Technologies and the End(s) of Law* (Edward Elgar 2015).

⁶ *Justice K S Puttaswamy v Union of India* (2017) 10 SCC 1.

⁷ European Parliament Research Service, 'Deepfakes and Disinformation' (2020).

⁸ *Maneka Gandhi v Union of India* (1978) 1 SCC 248.

⁹ *Justice K S Puttaswamy v Union of India* (2017) 10 SCC 1; *Shreya Singhal v Union of India* (2015) 5 SCC 1.

constitutional doctrines within the context of automated governance and machine-assisted decision-making.

Although India has initiated policy discussions on responsible AI and digital governance, it has yet to enact a comprehensive legislative framework specifically regulating Artificial Intelligence. Existing legal mechanisms including constitutional remedies, data protection legislation, information technology laws, and sector-specific regulations provide partial safeguards but do not comprehensively address issues such as algorithmic transparency, explainability, accountability, liability, automated decision-making, or independent regulatory oversight.¹⁰ Consequently, an important constitutional question arises: whether the existing constitutional framework is capable of safeguarding fundamental rights in an era increasingly shaped by intelligent algorithms, or whether new constitutional principles and legislative reforms are required to preserve democratic values while fostering technological innovation.

International developments further demonstrate the growing urgency of constitutional AI governance. The European Union has adopted a comprehensive risk-based regulatory model through the AI Act, while UNESCO, the OECD, and several democratic jurisdictions have articulated principles emphasising transparency, human oversight, accountability, fairness, and respect for human rights in AI development.¹¹ These developments underscore an emerging global consensus that AI regulation must extend beyond technical standards and incorporate constitutional and human rights considerations. Although comparative experiences cannot be transplanted directly into the Indian constitutional framework, they provide valuable insights for designing a regulatory model that is consistent with India's constitutional values and socio-economic realities.

The existing body of academic literature has made valuable contributions by examining AI from technological, ethical, regulatory, and data protection perspectives. However, much of the scholarship either focuses narrowly on privacy

¹⁰ Information Technology Act 2000; Digital Personal Data Protection Act 2023.

¹¹ European Union, *Artificial Intelligence Act* (2024); UNESCO, *Recommendation on the Ethics of AI* (2021); OECD, *AI Principles* (2019).

and data governance or analyses AI through the lens of sector-specific regulation. Comparatively fewer studies undertake a comprehensive constitutional analysis integrating equality, freedom of speech and expression, procedural fairness, privacy, judicial review, and democratic accountability within a single analytical framework. Moreover, limited attention has been devoted to developing a coherent constitutional model capable of guiding future AI regulation in India. This gap becomes increasingly significant as AI systems assume greater responsibility in public administration and private decision-making.

Against this backdrop, the present study critically examines the constitutional challenges posed by Artificial Intelligence within the Indian legal framework. Employing a doctrinal and comparative research methodology, the article analyses constitutional provisions, judicial precedents, legislative developments, governmental policy initiatives, and international regulatory frameworks to evaluate the adequacy of existing constitutional protections. The study argues that while the Indian Constitution possesses sufficient normative flexibility to address many emerging technological challenges, effective AI governance requires a more structured constitutional approach founded upon transparency, accountability, explainability, equality, privacy, and meaningful judicial oversight.

To address this need, the article proposes a Constitutional AI Accountability Test (CAAT) as an original analytical model for evaluating AI governance through constitutional principles. The proposed framework seeks to reconcile technological innovation with the protection of fundamental rights by integrating constitutional values into the design, deployment, regulation, and oversight of AI systems. In doing so, this article aims not only to contribute to the emerging scholarship on constitutional governance in the digital age but also to provide practical recommendations for legislators, policymakers, regulators, and constitutional courts responsible for shaping India's future AI ecosystem.

A. Research Objectives

1. To examine the constitutional challenges posed by Artificial Intelligence in India, particularly in relation to equality, freedom, privacy, dignity, procedural fairness, and democratic accountability.
2. To evaluate whether the existing Indian constitutional framework, especially Articles 14, 19, and 21, is adequate to address rights-related concerns arising from AI-driven decision-making and algorithmic governance.
3. To analyse comparative and international approaches to AI regulation in order to identify principles relevant to India's constitutional and regulatory context.
4. To propose a Constitutional AI Accountability Test (CAAT) and related legislative and institutional reforms for ensuring rights-based AI governance in India.

B. Research Questions

1. Does the existing constitutional framework in India adequately safeguard fundamental rights against risks arising from AI-driven decision-making?
2. How do AI systems affect constitutional guarantees relating to equality, freedom of speech and occupation, privacy, dignity, procedural fairness, and judicial review?
3. What lessons can India draw from comparative and international regulatory models for developing a constitutionally compliant AI governance framework?
4. How can a Constitutional AI Accountability Test assist legislators, regulators, public authorities, and courts in assessing the legality and constitutional validity of AI systems?

C. Research Methodology

This study adopts a doctrinal and comparative legal research methodology. It relies upon the text of the Constitution of India, constitutional jurisprudence of the Supreme Court, statutory materials, governmental policy documents, and international

instruments relating to Artificial Intelligence governance. The research also examines comparative regulatory developments, including the European Union's AI Act, UNESCO's Recommendation on the Ethics of Artificial Intelligence, and the OECD AI Principles. The analysis is primarily qualitative and normative, assessing AI governance through constitutional principles such as equality, liberty, dignity, privacy, proportionality, transparency, accountability, and judicial review. On the basis of this analysis, the study develops the Constitutional AI Accountability Test (CAAT) as a proposed doctrinal model for evaluating AI-assisted decision-making within India's constitutional framework.

IV. ARTIFICIAL INTELLIGENCE: CONCEPT, EVOLUTION AND CONSTITUTIONAL SIGNIFICANCE

Artificial Intelligence (AI) has emerged as one of the most significant technological developments of the twenty-first century, fundamentally transforming the manner in which governments, businesses, and individuals interact with information, make decisions, and deliver services.¹² Unlike conventional software systems that operate solely on predefined instructions, AI enables machines to simulate aspects of human intelligence through learning, reasoning, perception, language processing, and decision-making.¹³ The increasing reliance on AI across public administration and private enterprise has expanded its influence beyond technological innovation into areas that directly affect legal rights, democratic governance, and constitutional accountability.¹⁴

The concept of Artificial Intelligence has evolved considerably since it was first introduced by John McCarthy in 1956 during the Dartmouth Summer Research Project¹⁵, where AI was defined as the science and engineering of creating intelligent machines capable of performing tasks traditionally requiring human intelligence.¹⁶

¹² Stuart Russell and Peter Norvig, *Artificial Intelligence: A Modern Approach* (4th edn, Pearson 2021) 1–5.

¹³ OECD, *OECD Principles on Artificial Intelligence* (OECD 2019).

¹⁴ Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* (Harvard University Press 2015).

¹⁵ John McCarthy et al., *A Proposal for the Dartmouth Summer Research Project on Artificial Intelligence* (1955).

¹⁶ John McCarthy, "What is Artificial Intelligence?" Stanford University (2007).

Since then, rapid advances in computing power, machine learning algorithms, cloud computing, and the availability of large datasets have transformed AI from an experimental academic discipline into a technology that underpins modern governance and economic development. Contemporary AI systems are capable of recognising speech, interpreting images, generating text, predicting behaviour, analysing legal documents, diagnosing diseases, detecting financial fraud, and supporting judicial research with a level of speed and efficiency that was previously unimaginable.¹⁷

Modern AI can broadly be categorised into three forms.¹⁸ Artificial Narrow Intelligence (ANI) is designed to perform specific tasks, such as language translation, facial recognition, recommendation systems, or predictive analytics, and currently represents the dominant form of AI used worldwide.¹⁹ Artificial General Intelligence (AGI)²⁰, which remains largely theoretical, refers to machines capable of performing intellectual tasks across diverse domains with human-like adaptability. Artificial Super Intelligence (ASI), although speculative, describes a hypothetical stage where machine intelligence surpasses human cognitive capabilities. While public discourse often focuses on AGI and ASI, the constitutional challenges confronting India today arise primarily from the widespread deployment of ANI in governmental and commercial decision-making.²¹

The adoption of AI in India has accelerated significantly over the past decade.²² Public authorities increasingly employ AI-driven technologies for governance, public service delivery, healthcare, education, agriculture, taxation, policing, and judicial administration.²³ AI-assisted tools are being explored to improve case management, legal research, and administrative efficiency within the justice delivery system.²⁴

¹⁷ Stuart Russell & Peter Norvig, *Artificial Intelligence: A Modern Approach* (4th ed., Pearson 2021), Chapters 1–2.

¹⁸ Nick Bostrom, *Superintelligence: Paths, Dangers, Strategies* (Oxford University Press 2014).

¹⁹ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

²⁰ NITI Aayog, *Responsible AI for All: Operationalizing Principles for Responsible AI* (2021).

²¹ World Economic Forum, *The Future of Jobs Report 2025*.

²² World Health Organization, *Ethics and Governance of Artificial Intelligence for Health* (2021).

²³ Food and Agriculture Organization of the United Nations (FAO), *Artificial Intelligence for Agriculture* (2020).

²⁴ OECD, *Artificial Intelligence in Society* (2019).

Similarly, private enterprises rely on AI for recruitment, banking, insurance, digital payments, e-commerce, customer service, advertising, and credit assessment. These developments demonstrate that AI is no longer confined to technological innovation; rather, it has become an integral component of economic activity and public governance.

The rapid integration of AI into governance offers substantial societal benefits.²⁵ AI systems can enhance administrative efficiency, reduce human error, improve access to public services, strengthen fraud detection, optimise resource allocation, and facilitate evidence-based policymaking. In healthcare, AI contributes to early disease diagnosis and personalised treatment strategies. Within agriculture, predictive analytics assist farmers in crop management and climate adaptation.²⁶ Financial institutions employ AI to detect fraudulent transactions and improve credit risk assessment, while educational institutions increasingly use adaptive learning platforms to personalise instruction. These applications illustrate AI's potential to promote economic growth, administrative efficiency, and social welfare.

Despite these benefits, the growing dependence on AI presents unprecedented legal and constitutional concerns.²⁷ Unlike traditional administrative decision-making, AI systems frequently operate through complex algorithmic processes that are neither transparent nor easily explainable.²⁸ Individuals affected by automated decisions may be unable to understand how such decisions were reached, identify the data on which they were based, or effectively challenge them before judicial or administrative authorities. This opacity creates significant tension with constitutional principles requiring fairness, reasoned decision-making, and accountability in the exercise of public power.²⁹

²⁵ Cary Coglianese & David Lehr, "Transparency and Algorithmic Governance," 71 *Administrative Law Review* 1 (2019).

²⁶ Shoshana Zuboff, *The Age of Surveillance Capitalism* (PublicAffairs 2019).

²⁷ Digital Personal Data Protection Act, 2023.

²⁸ Information Technology Act, 2000.

²⁹ Solon Barocas & Andrew D. Selbst, "Big Data's Disparate Impact," 104 *California Law Review* 671 (2016).

Another major concern arises from the extensive collection, processing, and analysis of personal data necessary for training and deploying AI systems. Modern AI relies upon enormous quantities of data, often including sensitive personal information relating to individuals' identities, financial activities, health records, online behaviour, biometric characteristics, and communication patterns. The increasing use of facial recognition technologies, predictive analytics, and automated surveillance raises fundamental questions concerning informational privacy, personal autonomy, and limitations on State power.³⁰ As AI systems become increasingly integrated into public administration, concerns regarding mass surveillance and disproportionate interference with individual liberties assume considerable constitutional significance.

Algorithmic bias further illustrates the constitutional implications of AI.³¹ Machine learning systems derive their outputs from historical data which may reflect existing social, economic, or institutional inequalities.³² Consequently, AI systems may unintentionally reproduce or amplify discriminatory practices affecting employment, access to credit, policing, education, healthcare, and public service delivery. Such outcomes raise serious constitutional concerns under the principles of equality, non-arbitrariness, and equal protection of the laws.³³ The challenge is not merely technological; it concerns whether constitutional guarantees remain effective when important decisions affecting legal rights are delegated, wholly or partly, to algorithmic systems.

AI also presents new challenges for democratic governance and freedom of expression. Generative AI technologies have facilitated the rapid creation of synthetic media, including deepfakes, manipulated audio-visual content, and highly persuasive misinformation capable of influencing public opinion and electoral discourse. Automated content moderation systems employed by digital platforms similarly affect the exercise of free speech by determining the visibility, dissemination, or

³⁰ UNESCO, *Guidance for Regulating Digital Platforms* (2023).

³¹ Solon Barocas and Andrew D Selbst, 'Big Data's Disparate Impact' (2016) 104 *California Law Review* 671.

³² European Parliament and Council, *Regulation (EU) 2024/1689 Laying Down Harmonised Rules on Artificial Intelligence (AI Act)*, 13 June 2024.

³³ Constitution of India, Preamble.

removal of online content.³⁴ These developments require constitutional balancing between the protection of freedom of expression, the prevention of misinformation, public order, electoral integrity, and the preservation of democratic institutions.

The constitutional significance of Artificial Intelligence therefore extends beyond questions of technological regulation. AI increasingly exercises functions that resemble public decision-making, influences the enjoyment of fundamental rights, and shapes the relationship between citizens and the State. Consequently, constitutional law must evolve to ensure that technological innovation remains subject to democratic values, the rule of law, and effective judicial oversight. Constitutional governance in the digital age requires that AI systems operate consistently with principles of legality, transparency, proportionality, accountability, equality, and respect for human dignity.

Accordingly, the regulation of Artificial Intelligence cannot be viewed solely as a matter of innovation policy or technological development. It represents an emerging constitutional challenge that requires a carefully balanced legal framework capable of fostering technological progress while safeguarding the fundamental rights guaranteed under the Constitution of India. The subsequent sections of this article examine these constitutional challenges in greater detail, beginning with an analysis of the relationship between AI and the foundational principles of Indian constitutionalism.

A. Constitutional Challenges of Artificial Intelligence in India

Artificial Intelligence has transformed from a technological innovation into an important instrument of governance, public administration, and economic activity.³⁵ Governments and private entities increasingly rely on AI systems to support decision-making in areas such as law enforcement, taxation, healthcare, welfare distribution, education, financial services, recruitment, and judicial administration.³⁶ While these technologies promise efficiency, consistency, and improved public service delivery,

³⁴ NITI Aayog, *Responsible AI for All: Operationalizing Principles for Responsible AI* (2021).

³⁵ NITI Aayog, *National Strategy for Artificial Intelligence: #AIforAll* (2018).

³⁶ Ministry of Electronics and Information Technology, *IndiaAI Mission* (Government of India, 2024).

they also challenge the constitutional principles that regulate the exercise of public power in a democratic society.³⁷

Unlike conventional administrative processes, AI systems frequently rely upon complex algorithms capable of processing vast quantities of data and producing decisions that directly affect individual rights and legal interests.³⁸ Their increasing integration into governance therefore raises questions that extend beyond technology regulation. At its core, the constitutional debate concerns whether the growing reliance on automated decision-making remains consistent with the foundational principles of the Constitution of India, including the rule of law, constitutional supremacy, transparency, accountability, equality, and democratic governance.³⁹

The constitutional challenges arising from AI are examined below.

B. Rule of Law and Algorithmic Governance

The rule of law constitutes one of the foundational principles of the Indian constitutional order.⁴⁰ It requires that every exercise of public power be authorised by law, guided by rational standards, and subject to effective judicial scrutiny.⁴¹ Administrative decisions affecting the rights and liberties of individuals must therefore be lawful, reasoned, and capable of review.⁴²

The increasing use of AI within public administration complicates these constitutional requirements. Automated systems are now employed in functions such as predictive policing, taxation, welfare administration, public health, and judicial case management.⁴³ Although these technologies enhance administrative efficiency, they frequently operate through complex computational processes that are not readily understandable by affected individuals or, in some cases, even by the authorities deploying them.⁴⁴

³⁷ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

³⁸ Frank Pasquale, *The Black Box Society* (Harvard University Press 2015).

³⁹ Constitution of India, Preamble; *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁴⁰ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁴¹ *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1.

⁴² *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁴³ NITI Aayog, *Responsible AI for All* (2021).

⁴⁴ Frank Pasquale, *The Black Box Society* (2015).

Where algorithmic systems influence decisions concerning public benefits, licences, employment, or law enforcement, individuals may be unable to understand the reasons underlying adverse outcomes or effectively challenge them before competent authorities. Such opacity creates a direct tension with the rule of law because constitutional governance requires that public decisions remain transparent, reviewable, and accountable.⁴⁵

Accordingly, algorithmic governance should complement rather than replace human decision-making, particularly where constitutional rights or significant legal interests are involved.⁴⁶

C. Constitutional Supremacy and the Exercise of Public Power

The Constitution of India remains the supreme source of legal authority, and every exercise of governmental power must conform to constitutional limitations.⁴⁷ Technological innovation does not create an exception to this principle. AI systems employed by public authorities must therefore operate within constitutional boundaries irrespective of their technical sophistication or administrative efficiency.

An emerging concern relates to the increasing delegation of governmental functions to automated systems. Although technology may assist administrative decision-making, essential governmental responsibilities cannot be transferred entirely to algorithms without meaningful human oversight.⁴⁸ Decisions affecting individual liberty, legal status, or constitutional rights require the continued application of human judgment, particularly where proportionality, fairness, or competing constitutional interests must be balanced.⁴⁹

Constitutional supremacy therefore requires that AI remain a tool of governance rather than an autonomous substitute for constitutionally accountable public authorities.

⁴⁵ Cary Coglianese & David Lehr, "Transparency and Algorithmic Governance," 71 *Administrative Law Review* 1 (2019).

⁴⁶ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021), Principle of Human Oversight.

⁴⁷ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁴⁸ OECD, *Recommendation of the Council on Artificial Intelligence* (2019).

⁴⁹ *Modern Dental College v. State of Madhya Pradesh*, (2016) 7 SCC 353 (proportionality doctrine).

D. Administrative Fairness and the Principles of Natural Justice

Administrative fairness has long been recognised as an essential component of constitutional governance.⁵⁰ Public authorities are expected to act reasonably, provide adequate reasons for their decisions, and ensure that individuals affected by administrative action have access to fair procedures.⁵¹

AI-driven decision-making presents significant challenges to these requirements. Many machine-learning systems produce outcomes through statistical models that do not readily disclose the reasoning underlying particular decisions.⁵² Consequently, individuals denied welfare benefits, educational opportunities, licences, or public employment through automated systems may find it difficult to understand the basis of those decisions or to exercise their legal right to challenge them.

The absence of explainability not only undermines procedural fairness but also weakens public confidence in governmental institutions.⁵³ Constitutional governance therefore requires that AI-assisted administrative processes remain intelligible, auditable, and subject to meaningful human review.

E. Transparency and Accountability in AI Governance

Transparency and accountability are indispensable features of constitutional democracy.⁵⁴ Public authorities exercising legal power must remain answerable for their decisions and capable of explaining the basis upon which those decisions are made.

Artificial Intelligence complicates traditional models of accountability because automated decision-making often involves multiple participants, including software developers, technology vendors, data providers, and government agencies.⁵⁵ This diffusion of responsibility creates uncertainty regarding legal liability when AI systems produce unlawful, discriminatory, or erroneous outcomes.

⁵⁰ *A.K. Kraipak v. Union of India*, (1969) 2 SCC 262.

⁵¹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁵² Frank Pasquale, *The Black Box Society* (2015).

⁵³ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

⁵⁴ *S.P. Gupta v. Union of India*, 1981 Supp SCC 87.

⁵⁵ OECD AI Principles (2019).

Furthermore, the "black box" nature of many advanced AI models limits institutional transparency by making it difficult to identify how particular conclusions have been reached.⁵⁶ Constitutional governance cannot permit the exercise of public authority through mechanisms that are effectively immune from explanation or scrutiny.⁵⁷

Accordingly, accountability for AI-assisted decisions must continue to rest with the public authority exercising statutory power. The use of AI should not diminish constitutional responsibility or weaken the availability of effective legal remedies.

F. Algorithmic Discrimination and Equality Concerns

Artificial Intelligence systems derive their predictive capabilities from historical data that may contain embedded social, economic, or institutional biases.⁵⁸ Consequently, algorithmic decision-making may unintentionally reproduce patterns of discrimination affecting individuals on grounds such as gender, caste, religion, disability, age, or socio-economic background.⁵⁹

Unlike traditional discrimination, algorithmic bias often arises through apparently neutral computational processes rather than explicit legal classifications. Nevertheless, its consequences may be equally harmful, particularly where automated systems influence recruitment, access to credit, policing, healthcare, education, or welfare distribution.

These developments challenge constitutional commitments to equality, fairness, and non-arbitrariness. They also demonstrate that constitutional scrutiny must increasingly extend beyond legislative action to include digital systems exercising significant influence over public decision-making.

G. AI Surveillance and Democratic Governance

The expansion of AI-powered surveillance technologies presents one of the most significant constitutional challenges confronting modern democracies.⁶⁰ Facial

⁵⁶ Frank Pasquale, *The Black Box Society* (2015).

⁵⁷ Constitution of India, arts. 53 & 154; *A.K. Kraipak v. Union of India*, (1969) 2 SCC 262.

⁵⁸ Solon Barocas & Andrew D. Selbst, "Big Data's Disparate Impact," 104 *California Law Review* 671 (2016).

⁵⁹ Safiya Umoja Noble, *Algorithms of Oppression* (NYU Press 2018).

⁶⁰ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

recognition systems, biometric identification, predictive policing, behavioural analytics, and large-scale data processing significantly enhance the capacity of both public authorities and private entities to monitor individuals.⁶¹

While such technologies may improve public security and administrative efficiency, their deployment without adequate legal safeguards risks normalising pervasive surveillance and undermining personal autonomy. Similarly, advances in generative AI have facilitated the creation of deepfakes, synthetic media, and large-scale misinformation capable of distorting democratic discourse and influencing electoral processes.⁶²

Constitutional governance therefore requires a careful balance between legitimate governmental interests in security and the preservation of civil liberties, electoral integrity, freedom of expression, and public trust. AI technologies should be deployed only within a legal framework that ensures necessity, proportionality, transparency, and independent oversight.

The constitutional challenges discussed above demonstrate that Artificial Intelligence is not merely a technological issue but a constitutional one.⁶³ As AI increasingly influences the exercise of public power and the enjoyment of individual rights, constitutional principles must continue to regulate the development, deployment, and oversight of intelligent systems.⁶⁴ The following section examines these issues through the specific guarantees contained in Part III of the Constitution, analysing how Artificial Intelligence affects the rights to equality, freedom, privacy, dignity, and procedural fairness.

V. ARTIFICIAL INTELLIGENCE AND FUNDAMENTAL RIGHTS: A CONSTITUTIONAL ANALYSIS

The increasing deployment of Artificial Intelligence across governmental and private sectors has fundamentally altered the manner in which constitutional rights are

⁶¹ Internet Freedom Foundation, *Project Panoptic: Facial Recognition in India* (2021).

⁶² UNESCO, *Guidance for Regulating Digital Platforms* (2023).

⁶³ European Parliament and Council, *Regulation (EU) 2024/1689 Laying Down Harmonised Rules on Artificial Intelligence (AI Act)*.

⁶⁴ Constitution of India, arts. 14, 19 & 21.

exercised, regulated, and protected.⁶⁵ Unlike earlier technological developments, AI systems increasingly influence decisions relating to employment, education, policing, healthcare, financial services, taxation, welfare administration, and judicial processes.⁶⁶ Consequently, constitutional rights are no longer affected solely by legislative or executive action; they are increasingly shaped by algorithmic systems operating through automated decision-making.⁶⁷ This transformation requires a re-examination of the relationship between technological innovation and the guarantees contained in Part III of the Constitution of India.

The Constitution is a living instrument intended to respond to evolving social, economic, and technological realities.⁶⁸ Judicial interpretation has consistently expanded the scope of fundamental rights to address emerging forms of State action and contemporary threats to individual liberty.⁶⁹ Artificial Intelligence presents a comparable constitutional challenge because algorithmic systems possess the capacity to influence rights that traditionally depended upon human judgment. Accordingly, the constitutional validity of AI deployment must be assessed through the principles of equality, liberty, dignity, procedural fairness, proportionality, and judicial accountability.⁷⁰

A. Equality before Law and Algorithmic Bias

Article 14 guarantees equality before the law and equal protection of the laws, forming one of the foundational principles of Indian constitutionalism.⁷¹ Judicial interpretation has consistently held that Article 14 prohibits arbitrariness in State action and requires decisions affecting individuals to be fair, reasonable, and based upon intelligible standards.⁷² These principles assume renewed importance in the age of Artificial Intelligence, where algorithmic systems increasingly participate in public decision-making.

⁶⁵ NITI Aayog, *National Strategy for Artificial Intelligence: #AI for All* (June 2018).

⁶⁶ Ministry of Electronics and Information Technology, Government of India, *IndiaAI Mission* (2024).

⁶⁷ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

⁶⁸ Constitution of India; *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁶⁹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁷⁰ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

⁷¹ Constitution of India, art. 14.

⁷² *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

AI systems derive their outputs from historical datasets that may contain pre-existing patterns of discrimination relating to caste, gender, religion, disability, socio-economic status, or geographical location⁷³. Even where developers possess no discriminatory intent, machine learning algorithms may reproduce or amplify historical inequalities through predictive decision-making. Consequently, individuals may experience discriminatory outcomes in recruitment, access to credit, policing, education, healthcare, welfare distribution, or public employment without any transparent explanation.

Such discrimination raises serious constitutional concerns because algorithmic bias often remains invisible to affected individuals. Unlike traditional administrative decisions, discriminatory algorithmic outcomes may arise from statistical correlations embedded within complex computational models rather than explicit governmental classifications. Constitutional equality therefore requires scrutiny not only of legislative provisions but also of technological systems exercising significant influence over legal rights and opportunities. The constitutional guarantee under Article 14 must consequently extend to algorithmic governance by ensuring that automated systems remain transparent, explainable, and capable of independent review.⁷⁴

B. Freedom of Speech and Expression in the Age of Generative AI

Article 19(1)(a) guarantees every citizen the freedom of speech and expression, a right recognised as indispensable to democratic governance and informed public participation.⁷⁵ The emergence of generative AI has significantly expanded opportunities for communication, creativity, education, and access to information. AI-powered language models, translation systems, content generation tools, and digital assistants have democratised the creation and dissemination of knowledge, enabling individuals to communicate more effectively across linguistic and geographical boundaries.

⁷³ Solon Barocas & Andrew D. Selbst, "Big Data's Disparate Impact," 104 *California Law Review* 671 (2016).

⁷⁴ *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722.

⁷⁵ Constitution of India, art. 19(1)(a).

However, these technological advancements simultaneously create substantial constitutional challenges. Generative AI has facilitated the production of deepfakes, synthetic media, manipulated audio-visual content, and highly persuasive misinformation capable of influencing electoral processes, damaging reputations, and undermining public confidence in democratic institutions.⁷⁶ The increasing sophistication of AI-generated content complicates the constitutional balance between protecting free expression and preventing demonstrable harm.

An additional concern arises from AI-assisted content moderation by digital platforms.⁷⁷ Automated systems increasingly determine whether online content should remain accessible, be restricted, or be removed altogether. While such mechanisms may assist in combating unlawful content, hate speech, or misinformation, excessive reliance upon automated moderation risks restricting lawful expression without adequate procedural safeguards. Constitutional protection of free speech therefore requires that AI-assisted moderation remain transparent, proportionate, and subject to meaningful review.

C. Freedom of Occupation and the Future of Work

Article 19(1)(g) guarantees citizens the freedom to practise any profession or to carry on any occupation, trade, or business. Artificial Intelligence is transforming labour markets through automation, predictive analytics, robotics, and intelligent decision-support systems.⁷⁸ These developments generate substantial economic opportunities while simultaneously creating uncertainty regarding employment, professional autonomy, and equitable access to economic participation.

AI increasingly influences recruitment processes, employee performance evaluations, workplace surveillance, and promotion decisions.⁷⁹ Automated hiring systems may unintentionally exclude qualified candidates through algorithmic bias or inaccurate data analysis. Similarly, widespread automation within manufacturing, legal services, customer support, transport, and financial sectors raises concerns regarding

⁷⁶ UNESCO, *Guidance for the Governance of Digital Platforms* (2023).

⁷⁷ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

⁷⁸ International Labour Organization, *Generative AI and Jobs* (2023).

⁷⁹ International Labour Organization, *World Employment and Social Outlook 2025*.

technological displacement of workers and unequal access to emerging employment opportunities.

Although the Constitution does not guarantee employment, constitutional governance requires that technological transformation occur consistently with principles of fairness, equality, and social justice. Public authorities must therefore ensure that AI-driven economic policies promote inclusive development through skill enhancement, digital literacy, workforce transition programmes, and appropriate regulatory safeguards. Constitutional protection of occupational freedom should not merely preserve formal access to employment but also ensure that technological innovation contributes to equitable economic participation.

D. Right to Life, Privacy and Human Dignity

Article 21 has evolved into one of the broadest constitutional guarantees under Indian law, protecting life, personal liberty, dignity, privacy, autonomy, and procedural fairness.⁸⁰ The increasing reliance upon Artificial Intelligence directly affects each of these constitutional interests through extensive data collection, biometric surveillance, predictive analytics, facial recognition technologies, and automated decision-making.⁸¹

Modern AI systems depend upon continuous access to personal information, including financial records, communication data, behavioural patterns, biometric identifiers, health information, and location history. The collection, processing, and analysis of such data create substantial risks relating to informational privacy, unauthorised surveillance, profiling, and loss of individual autonomy.

The operational significance of the Digital Personal Data Protection Act, 2023 has been further strengthened by the Digital Personal Data Protection Rules, 2025, notified through Gazette Notification G.S.R. 846(E) dated 13 November 2025. These Rules translate statutory privacy principles into enforceable compliance mechanisms by regulating consent notices, breach notification, data-principal rights, and institutional enforcement. They are particularly relevant to AI-driven data processing because

⁸⁰ Constitution of India, art. 21.

⁸¹ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

Significant Data Fiduciaries are required to undertake periodic Data Protection Impact Assessments and audits, and to exercise due diligence to ensure that algorithmic software used for processing personal data is not likely to pose risks to the rights of Data Principals.

The establishment of the Data Protection Board of India further provides an institutional mechanism for compliance oversight and enforcement. Accordingly, constitutional privacy under Article 21 cannot be assessed merely at the level of abstract rights; it must also be evaluated by examining whether statutory and subordinate legal safeguards effectively operationalise legality, transparency, accountability, proportionality, and meaningful remedies in AI-enabled data processing.⁸² AI technologies therefore possess the capacity not only to observe human behaviour but also to predict, influence, and potentially manipulate future conduct.

The constitutional protection of privacy extends beyond secrecy; it safeguards individual dignity, decisional autonomy, and freedom from arbitrary State interference. Consequently, AI-enabled surveillance and automated profiling must satisfy constitutional requirements of legality, necessity, proportionality, and procedural safeguards. Human dignity likewise requires that individuals remain more than objects of algorithmic assessment and retain meaningful opportunities to understand, question, and challenge decisions affecting their legal rights.

E. Procedural Fairness, Natural Justice and Automated Decision-Making

The principles of natural justice constitute an essential component of Indian constitutional jurisprudence. Administrative authorities exercising public power are expected to act fairly, provide adequate reasons for their decisions, and afford affected individuals a meaningful opportunity to be heard where circumstances require.⁸³

⁸² Digital Personal Data Protection Act, 2023; Digital Personal Data Protection Rules, 2025, Gazette Notification G.S.R. 846(E), dated 13 November 2025; Ministry of Electronics and Information Technology, Gazette Notification G.S.R. 844(E), dated 13 November 2025, establishing the Data Protection Board of India.

⁸³ Mohinder Singh Gill v. Chief Election Commissioner, (1978) 1 SCC 405.

Artificial Intelligence presents a significant challenge to these principles because machine learning systems frequently produce outcomes without intelligible explanations. Individuals denied welfare benefits, employment opportunities, licences, educational admissions, or other legal entitlements through automated systems may encounter considerable difficulty in understanding the reasoning underlying such decisions. The absence of explainability undermines procedural fairness and limits the effectiveness of judicial review.

Accordingly, constitutional governance requires that AI systems employed in public administration remain explainable, auditable, and subject to effective human oversight.⁸⁴ Automated decision-making should complement rather than replace administrative responsibility, particularly where decisions have significant legal consequences.

F. Constitutional Remedies and Judicial Review of AI Systems

The effectiveness of constitutional rights ultimately depends upon the availability of meaningful remedies. Articles 32 and 226 empower the Supreme Court and High Courts to protect fundamental rights through judicial review.⁸⁵ As AI increasingly influences governmental decision-making, constitutional courts will play a critical role in ensuring that algorithmic systems operate consistently with constitutional principles.

Judicial review of AI systems should extend beyond examining the legality of enabling legislation.⁸⁶ Courts may also be required to assess algorithmic transparency, procedural fairness, proportionality, discriminatory impact, data governance practices, and institutional accountability. In appropriate cases, constitutional courts may require public authorities to disclose the basis of automated decisions, conduct algorithmic audits, or adopt safeguards protecting individual rights.

⁸⁴ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

⁸⁵ Constitution of India, arts. 32 & 226.

⁸⁶ *L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261.

The constitutional evolution of Artificial Intelligence therefore requires courts to balance technological innovation with constitutional supremacy.⁸⁷ Judicial oversight will remain indispensable in ensuring that AI enhances governance without diminishing the guarantees of equality, liberty, dignity, and justice that constitute the foundation of the Indian constitutional order.

VI. COMPARATIVE PERSPECTIVES ON AI REGULATION AND CONSTITUTIONAL GOVERNANCE

Artificial Intelligence has become a global regulatory concern, prompting governments and international organisations to develop legal frameworks that balance technological innovation with the protection of fundamental rights.⁸⁸ Although constitutional traditions differ across jurisdictions, an emerging international consensus recognises that AI regulation must be guided by principles of transparency, accountability, human oversight, fairness, and respect for human rights.⁸⁹ Comparative constitutional analysis is therefore valuable not because foreign regulatory models can be transplanted directly into Indian law, but because they provide insights into the legal safeguards necessary for responsible AI governance within a constitutional democracy.

A. The European Union: A Risk-Based Regulatory Framework

The European Union has adopted one of the world's most comprehensive legal frameworks for Artificial Intelligence through the AI Act.⁹⁰ Rather than regulating all AI systems uniformly, the legislation adopts a risk-based approach by classifying AI applications according to the level of risk they pose to individuals and society.⁹¹ Systems presenting unacceptable risks are prohibited, while high-risk AI systems are

⁸⁷ European Parliament and Council, *Regulation (EU) 2024/1689 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)*, adopted 13 June 2024.

⁸⁸ Regulation (EU) 2024/1689 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act),

⁸⁹ Recommendation of the Council on Artificial Intelligence, OECD/LEGAL/0449 (22 May 2019); UNESCO,

⁹⁰ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024.

⁹¹ EU AI Act, arts. 5–50.

subject to extensive obligations relating to transparency, human oversight, data governance, accuracy, and accountability.⁹²

The European approach reflects a constitutional commitment to the protection of human dignity, privacy, equality, and democratic values.⁹³ The framework seeks to ensure that technological innovation remains subordinate to fundamental rights rather than allowing commercial or administrative efficiency to determine the scope of legal protection.

For India, the principal lesson is not the wholesale adoption of the European model but the importance of regulating AI according to the degree of constitutional risk.⁹⁴ A differentiated regulatory approach would enable innovation in low-risk sectors while imposing stricter safeguards where AI significantly affects individual rights or public decision-making.

B. The United Kingdom: Principles-Based Regulation

The United Kingdom has adopted a more flexible and decentralised approach to AI governance.⁹⁵ Instead of enacting a comprehensive AI statute, it has developed principles-based guidance implemented through existing sectoral regulators. These principles emphasise safety, transparency, fairness, accountability, contestability, and appropriate human oversight.

This regulatory model reflects the view that rapidly evolving technologies require adaptive governance rather than rigid legislative rules. Existing legal institutions are encouraged to apply common principles within their respective regulatory domains while responding to technological developments.

For India, the United Kingdom's experience demonstrates the value of regulatory flexibility. Nevertheless, given India's constitutional commitment to protecting fundamental rights and the increasing use of AI by public authorities, reliance solely

⁹² EU AI Act, arts. 5, 6, 8-15.

⁹³ Charter of Fundamental Rights of the European Union, arts. 1, 7, 8, 20 and 21.

⁹⁴ OECD, *OECD Framework for the Classification of AI Systems* (2022). Large Language Models and Generative AI

⁹⁵ UK Department for Science, Innovation and Technology, *A Pro-Innovation Approach to AI Regulation* (White Paper, March 2023).

upon non-binding regulatory guidance may be insufficient.⁹⁶ A more comprehensive statutory framework supported by constitutional safeguards would provide greater legal certainty and stronger protection against arbitrary decision-making.

C. The United States: Innovation, Markets and Constitutional Limits

The regulatory approach in the United States has generally prioritised technological innovation and economic competitiveness.⁹⁷ AI governance has developed primarily through executive initiatives, sector-specific regulation, judicial oversight, and existing constitutional protections rather than through a single comprehensive federal statute.

This approach has encouraged significant technological advancement while allowing regulatory institutions to respond incrementally to emerging challenges. However, concerns persist regarding algorithmic discrimination, consumer protection, data privacy, and the accountability of large technology companies.⁹⁸

The American experience illustrates both the advantages and limitations of innovation-driven regulation. While regulatory flexibility has facilitated technological leadership, fragmented governance may produce inconsistent standards and uneven protection of individual rights. India should therefore encourage innovation while avoiding excessive regulatory fragmentation that could undermine constitutional accountability.

D. International Human Rights Standards

International organisations have increasingly recognised that Artificial Intelligence must be governed consistently with universally accepted human rights principles.⁹⁹ Instruments developed by UNESCO and the OECD emphasise transparency, fairness, explainability, accountability, human oversight, sustainability, and respect for human dignity throughout the lifecycle of AI systems.¹⁰⁰

⁹⁶ House of Lords Communications and Digital Committee, (2024).

⁹⁷ Executive Order 14110 on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence.

⁹⁸ National Institute of Standards and Technology, AI Risk Management Framework 1.0 (2023).

⁹⁹ UNESCO, Recommendation on the Ethics of Artificial Intelligence (2021).

¹⁰⁰ OECD AI Principles (2019); UNESCO Recommendation (2021).

Although these instruments are not legally binding in the same manner as domestic legislation, they reflect an emerging international consensus that AI governance should remain centred upon human rights rather than technological capability alone. Their principles are particularly relevant to constitutional democracies seeking to reconcile innovation with the protection of civil liberties.

For India, these international standards provide valuable normative guidance when interpreting constitutional guarantees in the context of emerging technologies. They also reinforce the principle that responsible AI governance should remain human-centred and rights-based.

E. Comparative Lessons for India

Comparative analysis demonstrates that no jurisdiction has yet developed a perfect regulatory model for Artificial Intelligence.¹⁰¹ Nevertheless, several common constitutional principles emerge across contemporary approaches. First, AI regulation increasingly focuses upon the degree of risk posed by particular applications rather than attempting to regulate all AI systems identically. Secondly, transparency and explainability are recognised as indispensable safeguards against arbitrary decision-making.¹⁰² Thirdly, meaningful human oversight remains essential where AI affects legal rights or significant public interests. Finally, accountability cannot be displaced merely because a decision is supported or generated by an algorithm.¹⁰³

India's constitutional framework already embodies many of these values through the guarantees of equality, liberty, dignity, procedural fairness, and judicial review.¹⁰⁴ The principal challenge therefore lies not in importing foreign constitutional doctrines but in developing a coherent domestic framework capable of applying existing constitutional principles to emerging forms of AI governance.

Accordingly, India's future AI regulation should adopt a balanced approach that encourages technological innovation while ensuring that automated decision-making

¹⁰¹ OECD, *OECD Artificial Intelligence Outlook 2024*

¹⁰² NIST, *AI Risk Management Framework 1.0* (2023).

¹⁰³ OECD AI Principles (2019).

¹⁰⁴ Constitution of India, arts. 14, 19, 21 and 32.

remains subject to constitutional limitations.¹⁰⁵ Comparative experience demonstrates that effective AI governance is not achieved through technological regulation alone; it requires constitutional safeguards that preserve democratic accountability, protect fundamental rights, and maintain public confidence in the exercise of governmental power.

VII. THE CONSTITUTIONAL AI ACCOUNTABILITY TEST (CAAT): A PROPOSED DOCTRINAL MODEL

The preceding analysis demonstrates that Artificial Intelligence presents constitutional questions which cannot be resolved solely through technological regulation or sector-specific legislation.¹⁰⁶ As AI systems increasingly influence public administration, regulatory decision-making, judicial administration, law enforcement, healthcare, education, financial services, and the delivery of public welfare, constitutional institutions require a structured methodology for evaluating whether the deployment of such systems is compatible with the Constitution of India.¹⁰⁷

Existing constitutional doctrines provide important safeguards relating to equality, liberty, procedural fairness, privacy, and judicial review.¹⁰⁸ However, these doctrines have largely evolved in response to traditional forms of administrative and legislative action. AI-assisted decision-making introduces new constitutional complexities, including algorithmic opacity, autonomous decision-support systems, large-scale data processing, predictive analytics, and algorithmic discrimination, which are not always adequately addressed through existing analytical approaches when considered in isolation.¹⁰⁹

¹⁰⁵ NITI Aayog, *Responsible AI for All: Operationalizing Principles for Responsible AI* (2021).

¹⁰⁶ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

¹⁰⁷ NITI Aayog, *National Strategy for Artificial Intelligence: #AI for All* (2018); Ministry of Electronics and Information Technology, Government of India, *IndiaAI Mission* (2024).

¹⁰⁸ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248; *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

¹⁰⁹ Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* (Harvard University Press 2015).

To address this emerging constitutional challenge, this article proposes the Constitutional AI Accountability Test (CAAT) as a doctrinal model for the constitutional evaluation of AI systems. CAAT does not seek to replace existing constitutional principles or create new constitutional rights. Rather, it offers a structured analytical methodology through which legislators, regulators, public authorities, and constitutional courts may assess whether AI-assisted decision-making remains consistent with the constitutional guarantees of equality, liberty, dignity, accountability, and the rule of law.

The proposed test is founded upon eight cumulative constitutional requirements. Each requirement reflects an established constitutional principle while adapting its application to the distinctive characteristics of Artificial Intelligence. The cumulative application of these requirements seeks to ensure that technological innovation remains subordinate to constitutional governance and democratic accountability.

F. Conceptual Foundation of the Constitutional AI Accountability Test

The development of constitutional doctrine has historically responded to social and technological transformation. Constitutional principles such as proportionality, procedural fairness, legitimate expectation, and manifest arbitrariness have evolved through judicial interpretation to address emerging forms of governmental action while preserving the supremacy of the Constitution.

Artificial Intelligence presents a comparable constitutional moment. Although AI systems differ significantly from conventional administrative mechanisms, they increasingly influence decisions capable of determining legal rights, public benefits, criminal investigations, employment opportunities, educational access, and numerous other matters affecting constitutional interests. The exercise of public power through intelligent systems therefore requires a coherent constitutional methodology capable of evaluating both technological processes and their legal consequences.

CAAT is proposed as such a methodology. Rather than asking whether Artificial Intelligence should be encouraged or restricted, the test asks whether the deployment

of a particular AI system satisfies the minimum constitutional standards expected within a democratic society governed by the rule of law.

Accordingly, whenever an AI system materially influences governmental decision-making or significantly affects the exercise of fundamental rights, the constitutional inquiry should extend beyond technical performance and include the following eight constitutional questions.

G. The Constitutional AI Accountability Test

1. First, is the AI system sufficiently transparent?

The responsible public authority should be capable of identifying the purpose of the AI system, the nature of its deployment, the categories of data utilised, and the circumstances in which automated decision-making occurs. Individuals affected by AI-assisted decisions should receive sufficient information to understand that such technology has materially influenced the administrative process.

2. Secondly, is the AI system reasonably explainable?

Where an AI system contributes to decisions affecting legal rights or significant public interests, affected individuals should receive an explanation capable of facilitating meaningful understanding and effective legal challenge. Explainability strengthens procedural fairness and promotes public confidence in administrative decision-making.

3. Thirdly, is constitutional accountability clearly established?

The use of Artificial Intelligence must not obscure legal responsibility. A clearly identifiable public authority should remain constitutionally accountable for every AI-assisted decision, irrespective of whether private vendors or software developers participated in designing or operating the relevant system.

4. Fourthly, has the system been evaluated for equality and algorithmic fairness?

Constitutional compliance requires reasonable safeguards against algorithmic discrimination. Public authorities should periodically assess whether AI systems

produce disproportionate adverse effects upon individuals or groups protected by constitutional guarantees of equality and non-discrimination.

5. Fifthly, does the system adequately protect privacy and personal autonomy?

AI systems should operate consistently with constitutional principles governing informational privacy, data minimisation, necessity, proportionality, and the protection of human dignity. The collection and processing of personal data should remain strictly connected to legitimate governmental objectives.

6. Sixthly, is meaningful human oversight maintained?

Artificial Intelligence should support rather than replace constitutionally accountable decision-makers where significant legal consequences arise. Human intervention must remain available before, during, or after the decision-making process whenever constitutional rights or important public interests are affected.

7. Seventhly, is effective judicial review preserved?

Individuals adversely affected by AI-assisted governmental action should retain meaningful access to constitutional remedies. Courts must remain capable of examining the legality, fairness, proportionality, and constitutional validity of algorithmically influenced decisions without being prevented from meaningful review by technological complexity.

8. Finally, is the deployment of the AI system constitutionally proportionate?

The use of AI should pursue a legitimate public objective, remain rationally connected to that objective, employ measures that are no more restrictive than reasonably necessary, and maintain an appropriate balance between public interests and the protection of constitutional rights. Technological efficiency cannot, by itself, justify disproportionate interference with fundamental freedoms.

The proposed Constitutional AI Accountability Test is intended to operate cumulatively. A constitutional assessment should therefore consider each component

of the test rather than treating any individual requirement as independently sufficient for constitutional compliance.

H. Constitutional Application of CAAT

The Constitutional AI Accountability Test is designed as a practical doctrinal model capable of informing constitutional decision-making across multiple institutional settings. Legislatures may utilise the test when evaluating the constitutional implications of proposed AI legislation. Executive authorities and regulatory bodies may employ CAAT as part of constitutional impact assessments before procuring or deploying high-risk AI systems within public administration. Independent regulators may rely upon its principles when developing governance standards, compliance mechanisms, and sector-specific guidance for responsible AI deployment.

Equally important, CAAT provides constitutional courts with a structured analytical framework for reviewing AI-assisted governmental action. Rather than replacing established constitutional doctrines, the test integrates existing principles of legality, procedural fairness, equality, privacy, accountability, and proportionality into a coherent methodology tailored to the distinctive constitutional challenges presented by Artificial Intelligence. In doing so, CAAT seeks to strengthen constitutional governance by ensuring that technological innovation remains subject to democratic accountability and the supremacy of the Constitution.

VIII. RECOMMENDATIONS FOR CONSTITUTIONAL AND LEGISLATIVE REFORM

The Constitutional AI Accountability Test (CAAT) provides a structured doctrinal model for evaluating the constitutional compatibility of AI systems. Its practical significance, however, depends upon its integration into legislative, regulatory, and institutional processes. While the Constitution of India already provides a robust normative framework for the protection of fundamental rights, the increasing deployment of Artificial Intelligence within public administration requires complementary legal mechanisms capable of translating constitutional principles into

everyday governance. The following recommendations seek to operationalise CAAT within India's evolving AI governance framework.

A. Enact a Comprehensive Artificial Intelligence Framework Law

India should consider enacting comprehensive legislation governing the development, procurement, deployment, and oversight of Artificial Intelligence, particularly where AI systems materially affect legal rights or governmental decision-making. This recommendation must now be read in light of the India AI Governance Guidelines unveiled by the Ministry of Electronics and Information Technology under the IndiaAI Mission on 5 November 2025. The Guidelines mark an important domestic development because they adopt a sector-agnostic framework for responsible AI governance and are structured around guiding principles such as trust, people-first governance, innovation with safeguards, fairness and equity, accountability, understandability by design, and safety, resilience and sustainability.¹¹⁰

The proposed Constitutional AI Accountability Test builds upon, rather than disregards, this emerging Indian governance framework. Several components of CAAT correspond closely with the Guidelines: transparency and explainability align with understandability by design; equality and algorithmic fairness correspond with fairness and equity; accountability reflects the Guidelines' accountability principle; privacy and dignity are consistent with people-first governance; and proportionality supports the balance between innovation and safeguards. However, CAAT sharpens the constitutional analysis by expressly linking AI governance to legality, fundamental rights, judicial review, human oversight, and enforceable remedies.

Although the India AI Governance Guidelines represent a significant step towards responsible AI adoption, their soft-law character means that they may not, by themselves, provide binding and uniform safeguards where AI systems materially affect constitutional rights. A statutory framework therefore remains necessary for

¹¹⁰ Ministry of Electronics and Information Technology, Government of India, *India AI Governance Guidelines under the IndiaAI Mission* (5 November 2025); Ministry of Electronics and Information Technology, Government of India, Press Release, 'MeitY Unveils India AI Governance Guidelines under IndiaAI Mission to Ensure Safe, Inclusive, and Responsible Adoption of Artificial Intelligence across Sectors' (5 November 2025); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

high-risk AI systems, particularly in areas such as policing, welfare administration, healthcare, taxation, education, criminal justice, and judicial administration. Such legislation should incorporate the principles reflected in CAAT while using the India AI Governance Guidelines as an important domestic policy foundation

The proposed legislation should incorporate the principles reflected in the Constitutional AI Accountability Test, including transparency, explainability, accountability, equality, privacy, meaningful human oversight, judicial review, and proportionality.¹¹¹ Embedding these constitutional safeguards within legislation would promote legal certainty while ensuring that technological innovation remains consistent with democratic governance and the rule of law.

B. Introduce Constitutional Impact Assessments for High-Risk AI Systems

Before deploying AI systems in areas such as policing, welfare administration, healthcare, taxation, education, criminal justice, or judicial administration, public authorities should conduct Constitutional Impact Assessments (CIAs). This proposal complements the India AI Governance Guidelines, which emphasise risk mitigation, voluntary commitments, transparency reporting, and proportionate safeguards for AI systems. A CIA would translate these governance principles into a rights-based assessment by requiring public authorities to examine, before deployment, whether a proposed AI system satisfies transparency, explainability, equality, privacy, accountability, human oversight, judicial review, and proportionality requirements.¹¹² These assessments should evaluate whether the proposed AI system satisfies each component of the Constitutional AI Accountability Test and identify any potential risks to fundamental rights.

Unlike conventional technical audits, Constitutional Impact Assessments should focus upon constitutional compatibility, ensuring that governmental decisions

¹¹¹ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 (Artificial Intelligence Act).

¹¹² Ministry of Electronics and Information Technology, Government of India, *India AI Governance Guidelines under the IndiaAI Mission* (5 November 2025); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021), recommending human rights impact assessments for AI systems.

concerning AI deployment remain subject to constitutional scrutiny before implementation rather than only after litigation arises.

C. Establish an Independent Artificial Intelligence Regulatory Authority

The effective governance of Artificial Intelligence requires specialised institutional oversight. India should therefore consider establishing an independent statutory authority, or a functionally independent AI governance institution, responsible for developing regulatory standards, monitoring compliance, coordinating audits of high-risk AI systems, issuing guidance to public authorities, and promoting responsible AI governance. The India AI Governance Guidelines already indicate a movement towards coordinated, sector-agnostic AI governance. However, where AI systems produce serious consequences for fundamental rights, institutional oversight should not remain limited to voluntary compliance. An independent statutory or quasi-statutory oversight mechanism would strengthen the Guidelines by ensuring enforceability, public accountability, regulatory consistency, and effective remedies.¹¹³

Such an authority should function consistently with constitutional principles and should utilise the Constitutional AI Accountability Test as a guiding evaluative framework when assessing AI systems deployed by public authorities or entities performing public functions.

D. Strengthen Transparency and Public Accountability

Public confidence in AI-assisted governance depends upon institutional transparency.¹¹⁴ Government departments employing AI systems should publish appropriate information regarding the purpose of deployment, categories of decisions affected, applicable safeguards, and available grievance mechanisms, subject to legitimate national security and confidentiality considerations.

¹¹³ Ministry of Electronics and Information Technology, Government of India, *India AI Governance Guidelines under the IndiaAI Mission* (5 November 2025); NITI Aayog, *Responsible AI for All: Operationalizing Principles for Responsible AI* (2021).

¹¹⁴ OECD AI Principles (2019), Principle on Transparency and Responsible Disclosure.

Where AI materially influences administrative decisions, individuals should be informed of its use and should receive sufficient information to understand the basis of the decision and the procedures available for seeking review or redress.

E. Develop Judicial and Administrative Capacity for AI Governance

The constitutional regulation of Artificial Intelligence requires institutions capable of understanding both technological processes and constitutional principles.¹¹⁵ Accordingly, specialised capacity-building programmes should be developed for judges, administrative authorities, regulators, and public officials responsible for procuring or supervising AI systems.

Improved institutional understanding would facilitate more effective constitutional adjudication, enhance regulatory oversight, and reduce the risk that technological complexity undermines meaningful judicial review.¹¹⁶

F. Encourage Responsible Innovation Through Constitutional Governance

Constitutional regulation should not be understood as an obstacle to technological innovation. On the contrary, predictable constitutional standards promote public trust, encourage responsible technological development, and provide greater legal certainty for innovators, investors, and public authorities.

Accordingly, future AI governance in India should seek to balance innovation with constitutional accountability rather than treating these objectives as inherently conflicting. The Constitutional AI Accountability Test offers a principled methodology through which this balance may be achieved.

G. Integrating CAAT into India's Future AI Governance Framework

The recommendations advanced in this section should not be viewed as isolated policy proposals. Rather, they represent practical mechanisms through which the Constitutional AI Accountability Test may be implemented across legislative, executive, regulatory, and judicial institutions.

¹¹⁵ OECD, *OECD Artificial Intelligence Outlook 2024*.

¹¹⁶ *L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261.

By integrating CAAT into future AI legislation, administrative practice, constitutional adjudication, and institutional oversight, India can develop a governance framework that both encourages technological innovation and preserves the constitutional values of equality, liberty, dignity, accountability, transparency, and the rule of law. In doing so, AI governance would remain firmly anchored within the constitutional order, ensuring that technological progress strengthens rather than diminishes democratic governance.

IX. CONCLUSION

The rapid advancement of Artificial Intelligence has fundamentally transformed the relationship between technology, governance, and constitutional law. As AI systems increasingly influence public administration, judicial processes, law enforcement, healthcare, education, financial services, and the delivery of public welfare, constitutional institutions are confronted with challenges that extend beyond the scope of traditional regulatory frameworks. Questions relating to transparency, accountability, equality, privacy, procedural fairness, and democratic oversight demonstrate that AI governance is no longer solely a matter of technological regulation but has become an important constitutional concern.

This article has argued that the constitutional implications of Artificial Intelligence cannot be adequately addressed through fragmented sector-specific regulation or technological standards alone. Although the Constitution of India provides enduring guarantees of equality, liberty, dignity, freedom, and the rule of law, the emergence of AI-assisted decision-making requires a structured constitutional methodology capable of evaluating whether such systems remain compatible with these foundational principles. Comparative constitutional developments further reinforce the need for governance models that integrate technological innovation with constitutional accountability.

Against this background, the principal contribution of this article is the proposal of the Constitutional AI Accountability Test (CAAT) as a doctrinal model for the constitutional evaluation of AI systems. Rather than advocating the creation of new constitutional rights or replacing established constitutional doctrine, CAAT provides

a structured analytical methodology through which legislators, regulators, public authorities, and constitutional courts may assess whether AI-assisted decision-making complies with constitutional guarantees. By integrating the constitutional requirements of transparency, explainability, accountability, equality, privacy, meaningful human oversight, judicial review, and proportionality into a coherent evaluative framework, the proposed test seeks to ensure that technological innovation remains consistent with constitutional supremacy, democratic governance, and the protection of fundamental rights.

The recommendations advanced in this article demonstrate that constitutional governance and technological innovation need not be viewed as competing objectives. On the contrary, embedding constitutional safeguards within AI governance can strengthen public trust, enhance institutional legitimacy, and encourage the responsible development and deployment of Artificial Intelligence. A governance model grounded in constitutional principles provides greater legal certainty while ensuring that innovation develops within the limits imposed by the Constitution.

Artificial Intelligence will continue to evolve in complexity, capability, and societal influence. Consequently, constitutional law must evolve not by abandoning its foundational values but by developing principled methodologies capable of applying those values to emerging technologies. The Constitutional AI Accountability Test is proposed as one such methodology. It is intended to contribute to the continuing constitutional discourse on Artificial Intelligence by offering a structured analytical model that may inform future legislation, regulatory practice, judicial interpretation, and academic scholarship. Ultimately, the enduring challenge is not whether Artificial Intelligence should participate in governance, but whether constitutional governance will continue to shape the future of Artificial Intelligence.

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