
IMPACT OF AI (ARTIFICIAL INTELLIGENCE) ON FUNDAMENTAL RIGHTS

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ABSTRACT

The rapid advancement of Artificial Intelligence (AI) technology is transforming several aspects of modern society, from industry to healthcare, education, and governance. While AI has the potential to drive remarkable innovation and efficiency, it also raises critical questions about the protection and enhancement of fundamental rights. This research examines the intersection of AI technologies and fundamental rights, focusing on privacy, freedom of expression, equality, and the right to fair treatment. Through an analysis of policy developments, and legal frameworks, the study investigate both the opportunities AI offers for strengthening human rights and the risks it poses if left unchecked. Specific attention is given to the ethical concerns surrounding AI's use in surveillance, data collection, automated decision-making, and bias amplification. This paper argues that to utilize AI's benefits responsibly, regulatory and policy measures must prioritize the safeguarding of fundamental rights, advocating for a human-centric approach to AI development. The findings emphasise the need for collaborative governance involving tech developers, policymakers, and civil society to ensure that technological progress coincide with core human rights principles.

KEYWORDS: AI, Fundamental Rights, right to privacy, right to security, Constitution of India.

INTRODUCTION

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AI is rapidly becoming an integral part of our lives. It refers to the building of algorithms in such a way that they are able to give an output similar to a human being. The use of Ai has increased with the launch of 1st Ai software which is ChatGPT which grabbed the attention of all across the world. Since then, many software's came into existence and we are day by day becoming more dependent on this software.

In India the technological advancements are growing at a high pace and more people are getting advanced. It is beneficial along with it a lot of research is also required as it is both a boon and a bane.

AI also poses a threat to our rights such as right to privacy and security.

Although, the very evident fact which cannot be denied is that AI is now getting used in many sectors such as automation, electronics, etc. Not only this, recently in the hon'ble Supreme Court of India an AI lawyer has been incorporated which shows that India is using this technology in the best possible way.

Fundamental Rights are the rights which are very important for the existence of an individual without which an individual cannot live. They are important for the development and well being of an individual. These rights are enshrined under Chapter 3 of the Constitution of India. In India, even the State has an obligation that it cannot violate the fundamental rights of an individual. The Supreme Court of India in the case of *Keshvananda Bharti v. State of Kerala*² has recognised Fundamental Rights as a part of basic structure of the Constitution of India.

The Increasing use of AI seems to be both beneficial and a threat to Fundamental Rights. As on one hand it is facilitating our rights such as right to speech and expression, right to equality, right to information and many more; but on the other hand, it is also violating our rights such as right to privacy, right to security.

² *Keshavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

The main problem associated with the use of AI is that it does not protect our data and there is always a chance that our sensitive information can be leaked. And even instances shows that Ai has been used to harass people, for discrimination and many more. Further, in this paper we will discuss various aspects of impact of AI on Fundamental Rights.

AI'S ROLE IN PROTECTING FUNDAMENTAL RIGHTS SUPERVISING AND ENFORCING VARIOUS RIGHTS

Fundamental rights such as the right to life, liberty, education, freedom of expression, and protection against discrimination are cherished in numerous international conventions and national constitutions. AI can play a Important role in not only protecting these rights but also enabling passage to them in more inclusive and coherent ways. However, as with any powerful tool, AI presents challenges that must be appraised to prevent the abuse of power and ensure these technologies calibrate with the principles of justice, fairness, and human dignity. This article explores the twofold roles of AI: its efficiency to protect and facilitate fundamental rights, and the challenges it constitutes in doing so.

One of the most propitious applications of AI in the domain of human rights is its capacity to monitor and execute rights across the globe. The abrupt scale of data generated daily through social media, satellite imagery, and even news articles present convenience for AI to determine patterns of human rights violations that might otherwise go overlooked.

AI systems, particularly those utilizing machine learning and natural language processing, can inspect through enormous datasets to single out specimen of discrimination, violence, and other human rights abuses. For instance, AI-powered image recognition tools can be used to monitor conflict zones by re-examine satellite images to detect military activity or human rights abuses such as the supplant of populations or the destruction of captious infrastructure. These systems can alert human rights organizations and governments about capable violations, allowing them to acknowledge in a timely manner.

The United Nations and other global human rights organizations are progressively utilizing AI to detect potential atrocities, such as genocide or mass displacement. AI tools have the quiescent to collect and process evidence in real-time, contributing vital data for human rights investigations and holding violators accountable. In regions with onerous regimes where reporting is limited, AI can play an analytical and a very critical role in exposing rights violations, assuring that these issues are not hidden from international inspection.

ACCESSIBILITY AND INCLUSION FOR DISABLED PERSONS

AI has cathartic potential for people with disabilities, contributing tools that can enhance independence and improve their quality of life. The right to equality and non-discrimination is fundamental to human rights, and AI can help overpass many barriers that disabled persons face, specifically in terms of physical accessibility, communication, and education.

For example, AI-powered devices such as voice assistants (e.g., Amazon Alexa, Google Assistant) help individuals with physical disabilities control their environment whether by rearrange the lighting, temperature, or operating appliances without necessity to have a physical interaction with them. Likewise, AI-driven technologies like speech to text software accredit individuals with hearing impairments to participate more fully in society, by translating spoken words into text for real-time communication.

AI can also mend reachable in education. Adaptive learning technologies powered by AI can customize the learning experience for students with disabilities, offering tailored educational content that fits their individual needs. This confirm that disabled individuals are not left behind in terms of education, thus promoting their right to education. AI-powered mobility tools, such as autonomous vehicles, also hold the potential to furnish greater freedom and autonomy to disabled individuals, ensuring they are not restricted by their physical limitations in terms of travel and participation in society.

Freedom of Expression and Information Access

AI can play a crucial role in protecting the right to freedom of expression, particularly in countries with authoritarian regimes or where censorship prevail. In these environments, AI technologies can make contributions to people with the tools to bypass restrictions, access information, and express their opinions freely.

AI-powered encryption methods, for instance, allow individuals in oppressive states to communicate securely and privately without fear of government surveillance. In regions where free speech is restrained, AI technologies that facilitate secure, encrypted communication provide citizens the ability to exchange ideas and organize without fear of being tracked or monitored by authorities. Furthermore, AI can also assist in verifying news and information, helping to combat misinformation, thus promoting the right to access truthful and accurate information.

In addition to combating misinformation, AI tools can amplify media freedom by helping journalists gather and analyse data more carefully. AI driven content recognition systems enable journalists to process vast amounts of public data, making it much easier to uncover the hidden stories and promote transparency. By empowering independent media and offering secure communication tools, AI strengthens the fabric of democratic societies and ensures that the right to information remains secure and protected.

AI IN FACILITATING FUNDAMENTAL RIGHTS HEALTHCARE AND THE RIGHT TO LIFE

Healthcare is a critical domain in which AI is already making significant strides in protecting and facilitating fundamental rights. The right to life and access to healthcare is fundamental, and AI technologies are improving healthcare outcomes, expanding access to services, and enhancing the quality of care available to individuals across the globe.

In resource-limited settings, AI-powered diagnostic tools can help identify medical conditions more accurately and quickly, even in the absence of highly trained healthcare professionals. These tools can be used to detect diseases like tuberculosis, malaria, and even cancer, and offer early intervention that can save lives. AI-based telemedicine platforms also help people in remote or

underserved areas receive medical consultations without needing to travel long distances, ensuring they can access healthcare services and exercise their right to health.

AI is also advancing medical research by enabling the analysis of large datasets, which can lead to the discovery of new treatments and medicines. AI algorithms can process complex biological data to help scientists understand diseases and develop novel solutions, directly impacting the right to life and health. Furthermore, AI technologies can assist in improving the efficiency and effectiveness of public health responses, such as identifying and responding to disease outbreaks more rapidly.

LEGAL RIGHTS AND ACCESS TO JUSTICE

AI has the ability to equalize access to justice by making legal systems more accessible and efficient. The right to a fair trial and access to legal representation is a fundamental human right, and AI can aid individuals especially those in marginalized communities who face barriers to accessing legal services.

AI powered legal tools, such as chatbots and document review systems, can help out the individuals in navigating the legal system by providing basic legal advice, helping them understand their rights, and guiding them through legal procedures. This can help individuals in lower income brackets or rural areas who might otherwise struggle to afford legal representation.

Furthermore, AI can be used to magnify fairness in the legal system by identifying and addressing biases in legal decision-making processes. For example, AI algorithms could be used to analyse past court decisions and provide judges with data on sentencing patterns, potentially reducing biases related to race, gender, or socioeconomic status. AI's ability to process large amounts of data can help in ensuring that legal decisions are made based on impartial criteria, thus supporting equality and justice for all.

COMBATTING DISCRIMINATION AND PROMOTING EQUALITY

One of the keenest ways AI can facilitate fundamental rights is by helping combat discrimination and promote equality. Discrimination based on race, gender, disability, and other factors violates human rights, and AI systems can be utilized to detect and reduce such biases, particularly in sectors such as hiring, law enforcement, and education.

AI based hiring tools can help reduce biases in recruitment by appraising candidates based solely on their qualifications, without being influenced by factors such as gender, race, or socio-economic background. In law enforcement, AI systems designed to analyse police data can identify racial profiling patterns and suggest interventions that promote fairness in policing practices. By improving the transparency and accountability of systems that may otherwise perpetuate discrimination, AI plays a role in ensuring the right to equality is respected.

AI VIOLATING FUNDAMENTAL RIGHTS

Fundamental rights are the inalienable rights which every person possess irrespective of their Standard, class, creed, religion, community.

Fundamental rights incorporate many rights such as the right to life, right to privacy, right to equality, right to religion, etc.

However, with the increasing use of AI we can observe the clear violation of many of these rights. AI possess a threat to these very Fundamental Rights.

There is a constant approach taking place for increasing and incorporating this technology in every possible way but we have forgot to look upon its implications.

AI violates many key rights such as right to privacy and data protection, right to speech and expression, right to equality and other rights as well.

AI VIOLATING RIGHT TO PRIVACY

Right to privacy is one of the most crucial as well as affected Fundamental right.

It is recognized as a fundamental human right by Article 12 of the Universal Declaration of Human Rights, Article 17 of the International Covenant on Civil and Political Rights, and various other international and regional human rights treaties.³

Article 21 of the Indian Constitution guarantees the right to life, including the right to privacy⁴. Privacy is a vital human right that allows people to live in dignity and safety.

But with the increasing usage of ai this fundamental right is getting affected a lot. As, with the use of Ai fake videos are being Made of people doing various sexual acts. Also, Ai is used as a medium to commit frauds such as imitating the voice of another person to such a extent that for a person it becomes nearly impossible to differentiate whether it is actually that person or not. Not only this Ai is being used as a medium to promote pornographic content as well.

In the age of cloud computing, our data in ChatGPT reside on distant servers of the companies whose services we use, our privacy becomes only as strong as these companies' internal electronic security systems.

Also, there is always a risk of privacy breach as the ai tools such as ChatGPT uses our data and share it with its companies and therefore, there is always a chance that our data can be misused.

In short, we can say that with the continuous and dependency on Ai there is always a risk of infringement of our privacy.

Recently, The Competition Commission of India (Commission) imposed a penalty of Rs. 213.14 crore on Meta for abusing its dominant position. the CCI issued following directions one of which is that WhatsApp will not share user data collected on its platform with other Meta Companies or

³ <https://www.lawctopus.com/academike/the-impact-of-ai-on-human-rights/amp/>

⁴ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

Meta Company Products for advertising purposes, for a period of 5 (five) years from the date of receipt of this order.⁵

AI USED AS A TOOL OF DISCRIMINATION

The Article 2 of the Universal Declaration of Human Rights and Article 2 of the International Covenant on Civil and Political Rights both provide that individuals are entitled to all rights and freedoms without discrimination. But when it comes in reference to AI, it has been observed that this tool promotes discrimination though many feels that it can be used to eliminate discrimination.

One of the examples is, back in 2015, Google Photos, which is considered advanced identification software, misidentified a photograph of two Black people as one of gorillas. And many more instances are there to show the discrimination down by AI.

AI VIOLATING RIGHT TO WORK

This is considered as a very key use of AI. There is no doubt that AI software's have a lot of potential but there are certain tasks that only a human can do.

Recently, Google CEO Sundar Pichai revealed that over 25 per cent of Google's new code was generated by artificial intelligence (AI).⁶ This is a threat to software developers as their job is now getting taken over by AI.

⁵ https://www.thehindu-com.cdn.ampproject.org/v/s/www.thehindu.com/sci-tech/technology/cci-fines-whatsapp-meta-2021-privacy-policy/article68883219.ece/amp/?amp_gsa=1&_js_v=a9&usqp=mq331AQIUAKwASCAAgM%3D#amp_tf=From%20%251%24s&aoh=17320717472204&referrer=https%3A%2F%2Fwww.google.com&share=https%3A%2F%2F

⁶ <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.indiatoday.in/amp/technology/features/story/sundar-pichai-says-ai-writes-25-per-cent-of-google-software-engineers-now-have-a-different->

Also, we saw in past years that number of recessions took place in big companies such as X, Google. So, it's very clear and evident that AI is taking over many jobs especially of persons associated with the technological field.

AI INFRINGING RIGHT TO SPEECH AND EXPRESSION

In November 2021. The Indian government was accused of using spyware to target prominent opposition political figures, journalists, activists, and others.

The AI bots are capable of impersonating a person and thus they send a message to other on behalf of someone, which is a clear violation of freedom of speech. Not only this these bots and algorithms are such that they if favouring someone suppresses all the opposing voices which is also a violation of this very Fundamental right.

In various recent global elections, it has been claimed that political parties used AI to develop and spread misleading information about their political opponents, jeopardy democratic principles and violating the concept of free elections.

AI INFLUENCING PUBLIC OPINION AND MASS MOVEMENTS

According to a Carnegie Endowment for International Peace research, it was found that at least 75 of the world's 176 countries actively uses AI for security purposes such as border management. AI algorithms promote a similar type of data and do not show opposing content which impacts a

human being and he start believing in that and this changes the perspective of that person. And this happened with all therefore influencing the public opinion.

And there are various instances where Ai was the reason of mass movements as by promoting discrimination, if there is turbulence in some part by showing it and narrating it in a particular way which favours the interest of some. Also, with the use of Ai differences among various communities have increased. Thus, it could be clearly stated that AI influence's public opinion and mass movements.

SOLUTIONS TO INFRINGEMENT OF FUNDAMENTAL RIGHTS BY AI

The violation of Fundamental Rights (FRs) by AI occurs when AI technologies and their uses possibly breach the constitutional or legal rights of people, frequently concerning matters such as privacy, discrimination, freedom of speech, and fairness. Dealing with these violations necessitates a varied strategy that includes legal, regulatory, ethical, and technological answers. Below are several crucial methods to avoid or lessen AI's violation of Basic Rights:

RECOGNIZING THE THREATS TO FUNDAMENTAL RIGHTS POSED BY AI

The fundamental rights of individuals, as protected by international human rights instruments such as the Universal Declaration of Human Rights (UDHR), face risks from various AI technologies. The primary issues include:

Right to Privacy

AI systems, especially those that depend on large datasets, typically involve gathering and analysing extensive amounts of personal data. This information may be collected with or without the individual's consent, raising concerns about violations of privacy. Significant issues arise from unauthorized data mining, surveillance, and the potential for breaches of data protection laws, particularly when AI technologies are deployed in public settings or by governmental entities.

Right to Non-Discrimination

AI algorithms, particularly those employed in hiring, lending, policing, and the criminal justice system, can unwittingly propagate bias. If these algorithms are developed using biased data sets, they may replicate existing societal disparities, resulting in discrimination based on race, gender, socioeconomic status, or other attributes. This can worsen historical injustices and institutionalize bias within automated decision-making systems.

Freedom of Expression

AI increasingly influences online content moderation, with algorithms deciding which expressions are acceptable. However, these systems may be excessively strict, censoring genuine discussions or promoting limited perspectives. The lack of clarity regarding the reasoning behind AI-enforced censorship can undermine freedom of speech, especially when automated moderation leads to the removal of authentic political, social, or cultural content.

Right to a Fair Trial

AI technologies are being incorporated into the criminal justice system through tools such as predictive policing algorithms and risk assessment models for sentencing. Although these tools aim to enhance fairness and efficiency, they have the potential to introduce or worsen bias. If AI systems are developed using historical arrest and conviction data, they could reinforce racial or socioeconomic disparities, resulting in unequal treatment within the justice system.

Autonomy and Human Dignity

As AI gains the capability to make decisions that have traditionally been reserved for humans, there is increasing concern about the diminishing of personal autonomy. Individuals may feel less empowered when AI systems, whether in employment decisions, medical assessments, or legal rulings, make choices that impact their lives without human involvement or oversight.

LEGAL APPROACHES TO PROTECT FUNDAMENTAL RIGHTS

The evolution of AI requires legal structures that prioritize the safeguarding of fundamental rights. Robust legal measures should aim to regulate the use of AI technologies, ensure transparency, and shield individuals from discriminatory effects.

Regulations on Data Protection and Privacy

A pressing solution to the violation of privacy by AI involves enhancing data protection legislation. The European Union's General Data Protection Regulation (GDPR) has set a benchmark worldwide by imposing strict guidelines on the collection, storage, and processing of data, while also granting individuals increased control over their personal data.

Countries should adopt similar privacy regulations at the national level, incorporating provisions that guarantee data minimization. Collecting only the necessary data for a defined purpose, implementing clear consent processes, and ensuring the right to delete data are crucial. Furthermore, AI systems must offer transparent explanations regarding the data they gather, how it is utilized, and who is permitted to access it.

There is an urgent need to refresh current privacy regulations to confront the distinct challenges that AI presents, including the application of algorithms in facial recognition and biometric data. Rigorous regulations should be established to limit the use of such AI technologies unless particular conditions, like obtaining informed consent, are fulfilled.

To reduce the potential for discrimination perpetuated by AI, it is critical to establish and enforce anti-discrimination legislation tailored to algorithmic decision-making. Governments ought to mandate routine audits of AI systems in order to detect and address operational biases. To make sure the models aren't unintentionally disadvantageous to particular demographic groups, this may entail testing AI systems on a variety of datasets.

The right to an explanation for anyone impacted by automated choices could potentially be established by regulations. People should have the right to know why an AI system made a choice that affects them badly, such rejecting a loan or a job application, and to challenge that decision if

it was unfair. This would necessitate that businesses offer comprehensive, intelligible reports on the functioning of their algorithms.

Transparency and Accountability Laws

Laws pertaining to accountability and transparency should require that AI systems be auditable and explicable in accordance with data protection and anti-discrimination guidelines. Businesses that use AI systems ought to be compelled to reveal the details of its operation, such as the data they use for training and the results they generate.

Laws pertaining to AI transparency should require frequent audits by impartial third parties to determine whether AI systems are fulfilling performance, ethical, and legal requirements. Companies should be penalized and forced to make amends if it is discovered that AI systems are infringing on people's rights.

Access to Legal Recourse and the Right to Redress

Effective remedies ought to be available to people in the event that AI systems infringe against their fundamental rights. This entails establishing legal procedures that allow persons who have been adversely affected by AI to pursue justice.

People should be able to contest AI decisions that discriminate against them in court or through an alternative dispute resolution procedure. To ensure that impacted parties have an easy and convenient means to seek redress, this may entail creating new regulatory agencies or courts that are focused on evaluating disputes pertaining to AI.

TECHNOLOGICAL APPROACHES TO HUMAN RIGHTS PROTECTION

In order to guarantee that AI systems uphold fundamental rights, technological solutions are just as important as legal frameworks. These remedies can lessen problems including prejudice, a lack of openness, and invasions of privacy.

AI Bias Mitigation Methods

One of the most urgent issues in AI ethics is algorithmic prejudice, which can be lessened by AI engineers in a number of ways. Techniques for mitigating bias can include:

Fairness Constraints: To make sure algorithms don't discriminate against particular groups on the basis of gender, colour, or other protected traits, they can be trained with fairness constraints.

Data Diversification: To ensure that AI systems learn from a wide range of viewpoints and experiences, they must be trained on representative and diverse datasets, which lowers the possibility of bias.

Bias Audits: To identify and correct any new biases, AI systems should be subjected to routine audits by impartial specialists. Audits can reveal inadvertent discriminatory results and provide developers a chance to modify their models.

To guarantee that AI systems advance equality and non-discrimination, fairness measurements and bias detection techniques must be incorporated into their development.

Technologies that protect privacy.

In order to safeguard privacy, AI systems need to include privacy-preserving technologies that enable data processing without compromising personal privacy. Some of these technologies include:

Federated Learning enables AI models to be trained on decentralized devices like smartphones, eliminating the necessity to centralize sensitive data. This decreases the chances of data breaches and guarantees that users' personal information stays on their devices.

Differential Privacy is a method that prevents the identification of individual data in aggregated data sets. It adds "noise" to datasets to safeguard personal privacy without compromising meaningful analysis.

By integrating privacy-preserving technologies in the creation of AI, businesses can guarantee

that personal data is not misused or disclosed in a manner that infringes on individuals' privacy rights.

Artificial Intelligence That Can Provide Explanations (XAI)

Ensuring transparency and accountability in AI systems is crucial through the implementation of Explainable AI (XAI). XAI involves AI models created to be interpretable, offering understandable explanations to humans for their decisions. XAI has the ability to tackle issues related to the lack of transparency in decision-making procedures and enable people to comprehend and question results generated by AI.

In critical industries like healthcare or criminal justice, where AI can have a big impact on people's lives, it is crucial for individuals to be able to request an explanation for decisions made. XAI can enhance confidence in AI systems and provide individuals with the necessary information to challenge unjust or detrimental judgments.

RESTATE THE TEXT UTILIZING THE SAME INPUT LANGUAGE AND MAINTAINING AN EQUIVALENT NUMBER OF WORDS: PROMOTING A CULTURE OF ACCOUNTABILITY IN THE DEVELOPMENT OF ETHICAL ARTIFICIAL INTELLIGENCE.

In order to guarantee that AI is created in a manner that upholds human rights, there needs to be a broad dedication to ethical AI. Developers and companies should adopt social responsibility and ethical principles in their work. The car was found abandoned in a parking lot, with no sign of the driver anywhere. Designing AI with a focus on humans. AI should be created taking into consideration human dignity and basic rights. The Ethics Guidelines for Trustworthy AI, set up by the European Commission, can assist developers in ensuring their systems prioritize fairness, accountability, and transparency. Design of AI centred around humans involves making user well-being a priority and ensuring that AI advancements improve, not limit, individual freedoms.

AI development companies need to establish ethics committees that play a role in all aspects of AI creation and implementation. These committees ought to evaluate possible threats to human rights and supervise to guarantee ethical development and use of AI systems.

CONCLUSION

AI is an amazing technology with a lot of potential but with its increasing and continuous use the tension of its impact on Fundamental Rights is also increasing. AI is seen with a view to improve society but it possesses a threat to our rights such as economic rights, discrimination, right to privacy, right to speech and expression and others.

To overcome these obstacles strong policies and strict laws are required. A legal framework on Artificial Intelligence is the need of the hour. Along with it awareness among the public is also required, not only about how to use it but its effect on our daily lives and on our rights. The countries should prohibit use of such AI tools and algorithms which the fundamental laws such as Constitution and laws which protects basic human rights.

AI has the potential to bring changes in society but it has difficulties also. So, there is a need to strike balance with the use of AI and human involvement. There should be human monitoring on AI tools.

The Courts should also try to create balance between AI and Protecting the Fundamental rights through its judgements. It is very pecessary for legal fraternity to participate in policy discussions and in making them regarding use of AI tools. This includes establishing there scope, boundaries assuring the protection of personal data.

Thus, the very requirement is that we should not only focus on incorporating AI in various sectors but also on the other factors associated with it which will help us to use AI in the best possible way along with protecting our Fundamental Rights.

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