

The Duality of AI Advancement: Balancing Progress and Privacy Rights

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ABSTRACT

Artificial intelligence is when a machine has an equivalent degree of cognition as a person. These artificially intelligent devices can react to and evaluate their surroundings, just like any other human, and take appropriate action. It gathers data surrounding it and can make judgments per that data. Even though an artificial intelligence system appears to be beneficial at first glance, it poses a threat to an individual's right to privacy.

Big Data Analytics and the Internet of Things are propelled by AI. Despite offering certain benefits to consumers, their primary duties at the moment are to collect personal data, develop in-depth behavioural profiles, and promote their agendas and products. The principal casualties of AI's capacity to affect political and economic decisions are confidentiality, security, and agency.

The research attempts to analyse the invasion of privacy by artificial intelligence and its negative implications in this context. Even the government has incorporated AI techniques under the pretexts of the greater good, which calls into question their actions. On a national as well as an international level, scarcely any regulation governs these issues. The article focuses on India and the fact that there is now no regulation to safeguard an individual's privacy. It is past due for India to pass comprehensive privacy laws in light of the Supreme Court of India's ruling that the right to privacy is a fundamental, but non-absolute, right under Article 21 of the Indian Constitution.

INTRODUCTION

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The way we live has been drastically altered by the technological revolution, particularly the use of artificial intelligence, in ways that were previously unimaginable or unperceivable. Due to advancements in data collecting and aggregation, analytics, and computing power, intelligent machines now allow for high-level cognitive functions including thinking, perceiving, learning, problem-solving, and decision-making. These technological advancements have permeated every aspect of our lives and have become ubiquitous. We are living through the fourth revolution, which has given rise to the “tech community”. The following Data analytics, Artificial Intelligence (“AI”), cognitive technologies, and the Internet of Things are just a few examples of the technologies that have come together throughout the Industrial Revolution.

There is an urgent need for the Indian Government to adopt a strategy for the development of AI since the artificial intelligence revolution is developing quickly in India and has the potential to revolutionize the economy. It has been observed by Brian Householder that, *“Recording everything is starting to take form. Automation, artificial intelligence, the Internet of Things, deep learning, and other contemporary technologies can instantly gather and analyse enormous volumes and kinds of data, giving us access to previously unthinkable volumes and kinds of knowledge. Our task is to shift from each phase to the next, changing how we believe train, and engage with data to create worth & through the discoveries made possible by sophisticated technology”*.¹⁹⁴

In addition to ushering in a new era in computing, advances in AI also pose unprecedented threats to societal ideals and constitutional rights. The Internet of Things and social media algorithms both pose severe privacy concerns. The considerably larger risk that AI poses to democracy is overlooked. As it reaches every aspect of our lives, artificial intelligence is going to have an influence that outweighs even the growth of the internet. Many AI applications that are currently popular are Natural language processing, speech recognition, and self-driving cars. Other examples, such as content analysis, medical robots, and autonomous warriors, are less well-known but are being used more often. These technologies have the ability to extract insights, from data. The goal of AI is to reduce information uncover meaning and take actions

¹⁹⁴ *The Fourth Industrial Revolution is here—are you ready?*, DELOITTE, https://www2.deloitte.com/content/dam/insights/us/articles/4364_Industry4-0_Are-you-ready/4364_Industry4-0_Are-you-ready_Report.pdf (last visited April 21, 2025).

ideally surpassing the accuracy and outcomes that humans can achieve on their own. Machine intelligence is a tool for problem solving. Has the potential to generate new challenges.

The digital era has disrupted standing societal structures and customs that have evolved over thousands of years. Principles like independence, democracy, and privacy protection are given top priority in these systems. Based on these foundations, liberal democracy emerged as a dominant system in human history throughout the first half of the century. People became aware of developments that may lead to human prosperity around the end of the 20th century.

Through the ability to simulate human cognitive processes and make decisions on their own through data analysis, machine learning has advanced over the past few decades. The Internet of Things (IoT) and Big Data Analysis are two domains where this technology has found use. It is involved in data collecting, behaviour analysis, profiling, and customised advertising. Concerns about personal agency, security precautions, and privacy protection surface even as AI increases efficiency and customisation possibilities.

THE PREMISE OF PRIVACY

The idea of privacy has been discussed throughout history, going all the way back to. Instances when invasion of privacy was denounced and considered a breach are highlighted in a number of texts, including the Bible and the Code of Hammurabi. Privacy was valued in ancient societies such as Hebrew society, Greece, and China.

Because it depends on so many variables, including context, environment, and social conventions, defining “privacy” may be difficult. In certain nations, protecting information is sometimes referred to as both privacy and data protection.

The idea of privacy stems from the distinction, between what's considered “private” and what is deemed “public” which helps establish boundaries between oneself and the outside world. Justice Louis Brandeis initially defined privacy as an individual’s right to be left alone ensuring protection against disclosure of facts, ideas, emotions and more. In his book titled “Privacy and Freedom” Alan Westin emphasized that people have the freedom to choose how much of themselves their opinions and their actions they wish to disclose to others. Privacy

encompasses aspects such as the right to solitude limited constraints on ones behaviour confidentiality control over information, individuality and intimacy. According to Ruth Gavisons definition, secrecy, anonymity and solitude are the three components of privacy. Violations of an individual's right to privacy can occur either voluntarily or involuntarily based on their actions.

THE IMPACT OF AI AND DIGITAL GOVERNANCE ON PRIVACY

Despite having an established data protection law in place India has witnessed a rise in criminal activities and vulnerabilities in data security with the introduction of AI and digital governance practices. As AI dominates cyberspace without data protection regulations being implemented simultaneously with leadership initiatives taken by governments or organizations alike; cyber fraud incidents as well, as unauthorized sharing of private information are increasing.

When you search for products, consumer goods or resources online you often experience a flood of calls and messages inundating your email and mobile device. whenever a user shares confidential data on Twitter, Facebook, WhatsApp to communicate etc. AI is able to quickly recognise all the data, and advertisers process it in a different way. This is an assault on both private and digital privacy. Digital oversight and machine learning are related to information technological law, as evidenced by the way they interact. Hence, a single component of digital administration may be argued to be computational intelligence. India is making effort to create regulations at the perfect time to enable the positive activation of its computer vision technology. Currently, it is quite tough to determine whether the fundamental components of a regulatory system designed to bring the best out of internet to manage the equitable utilisation of intelligent machines will be. In the fields of wellness, food production, interaction, also education, artificial intelligence will without a doubt improve efficiency of operation and lessen suffering among people by decreasing the weight of human labour. However, the country additionally faces numerous obstacles in terms of online government and cybersecurity. The connection between artificial intelligence as well as data information and its role in internet democracy is thus clear.¹⁹⁵

THEORETICAL IMPLICATIONS OF AI FOR THE JUSTICE SYSTEM

¹⁹⁵ NITI AYO, GOV'T OF IND., TOWARDS RESPONSIBLE AI FOR ALL (2021), <https://niti.gov.in/sites/default/files/2021-02/Responsible-AI-22022021.pdf>.

AI refers to the capabilities of digital computers or robots to carry out activities normally done by intelligent humans. Artificial intelligence has a significant impact on many facets of our lives. AI is being used in many businesses, including those in the transportation, healthcare, education, and entertainment sectors. With the application of machine learning algorithms, medical care and research are experiencing a radical revolution. These technologies are being employed in order to speed up the detection of skin cancer and find high-impact compounds for therapeutic development. According to a new McKinsey analysis, automation might soon replace 45% of all labour functions.¹⁹⁶

The advancement of AI technology offers opportunities for solicitors to increase productivity, save expenses, and concentrate on more strategic tasks. Automating routine tasks such as data analysis, document and contract examination, and legal research is possible using AI. Over time, this could increase the productivity and profitability of legal companies. But AI is still unable to perform more complex tasks including deal structure, negotiation, lobbying, and court representation. As a result, employing AI can help law firms bill for less hours worked. It could be difficult for smaller organisations to keep up with the cost of technology and remain cost-effective, while larger corporations might have the means to use AI systems.

The Supreme Court has been sorting through material since 2021 and sending it to justices for decisions using AI-controlled devices.

It has little effect over decisions; it simply observes them. A further instrument used by the Supreme Court of India is SUVAS (also known as Supreme Court Vidhik Navaid Programme), which reads paperwork from Language into local languages and vice versa.

AI has many potential benefits for society, including improvements in healthcare, education, transportation, and entertainment. However, there are challenges and risks associated with AI, such as ethical dilemmas, privacy violations, bias, discrimination, and security risks.

A global coalition of data scientists and AI experts has developed a framework to ensure the development of AI products in response to these risks and obstacles. The World Ethical Data

¹⁹⁶ Micheal Chui, James Manyika, and Mehdi Miremadi, *Where machines could replace humans-and where they can't (yet)*, MCKINSEY & CO. (Jul. 8, 2016), <https://www.mckinsey.com/capabilities/mckinsey-digital/our-insights/where-machines-could-replace-humans-and-where-they-cant-yet>.

Foundation (“WEDF”) is proud to have 25,000 members, including staff members from IT giants like Samsung, Google, and Meta.

But as AI is used more and more, the need for laws governing its use, eliminating biases or ingrained prejudices, and successfully addressing ethical issues related to its application is growing.

Countries like the UK, USA and EU have already put forth papers, guidelines and policies that specifically focus on assessing the impact of algorithms and eliminating biases. Recently amended by the European Parliament, the proposed Artificial Intelligence Act aims to restrict the use of AI technology in surveillance. However there are exceptions for law enforcement with court approval. For disclosing AI generated content produced by AI systems, like ChatGPT.

THE INDIAN CONTEXT

In India there are currently no regulations, in place to govern intelligence. The Ministry of Electronics and Information Technology (“MEITY”) serves as the agency for AI related initiatives and has established committees to develop a policy framework, for AI.

The NITI Ayog has identified seven ethical artificial intelligence tenets security and privacy, openness, responsibility, fairness, inclusion, and equality of opportunity, reliability and safety, and the safeguarding and maintenance of healthy values that people hold dear. A constitutional obligation requires the Supreme Court and higher courts to uphold basic rights, particularly the right to privacy. The Information Technology Act and its governing regulations serve as India's principal data protection laws. In addition, MEITY has presented the Digital Personal Data Protection Bill, which is yet to be officially enacted. If this measure is passed into law, people will be able to find out what information about them has been gathered by both private and public organizations, as well as how that information has been processed and stored.

CHALLENGES

Confidentiality and data privacy:

Large volumes of data are often used by AI systems to learn and predict the future. Sensitive information like financial or personal data may be present in such data. Organizations may have trouble adhering to data protection rules if AI algorithms that need this kind of data to learn are used.

Bias in AI systems:

Inherent prejudice in AI systems during education may show up in the results. AI outputs may merely replicate present societal and historical inequalities based on race, caste, gender, and ideology, leading to results that do not accurately reflect competence.

Licensing and questions regarding accountability:

AI systems may not be held to the same ethical standards and professional norms of conduct as qualified attorneys because they are not required to get a license in order to practice law.

Even while judges still have the last say in all cases, using AI in the judiciary is an issue. Due to automated bias, it is common to grow unduly dependent on technology-based advice.

AI: NOT A REPLACEMENT FOR LAWYERS

Several different organisations; such as lawyers, have performed extensive research on AI. A lot has been researched concerning the likelihood of artificial intelligence replacing human solicitors. Although AI may be useful in particular tasks such as checking documents or doing legal researches, it cannot understand things and make intelligent comments without humans. Actually, AI would enhance legal practitioners' capabilities by enabling them to concentrate on difficult jobs, thereby providing them with data informed knowledge for better choices making.

The intelligent technology is not meant to substitute lawyers. Despite the fact that AI can be used to analyse data, predict results, and structure law, a lawyer's role is essential for making sound judgments in accordance with the court's expectations. Contextuality and sophistication of AI cannot match those of a human lawyer, mainly because laws are dynamic.

For decades, "artificial intelligence," commonly abbreviated as "AI", has been a popular term used in various industries. While artificial intelligence can assist with legal work and increase

productivity within the sector, it is not capable of replacing the independent mind and reasoning which a genuine lawyer brings along the table.

However, it's important to recall that AI doesn't intend to take place of the lawyers. Yes, technology might be useful in some instances and bring up some insights but when it comes to complex understanding and decisions, the legal profession cannot be automated. Instead, AI can help make legal practitioners more effective through faster operations and valuable data processing.

CONCLUSION

While it's evident that AI has the potential to drastically alter India's judicial system, it's important to consider the ethical and practical implications of this. The integration of AI into the legal system may have the benefit of expediting and enhancing the efficiency with which legal disputes are resolved. It runs the risk, though, of exacerbating the system's ingrained prejudices and impairing judicial discretion.

AI is driving a trend towards legal automation in India. Judges and solicitors are developing new uses for AI as technology develops, which has increased the effectiveness and accuracy of the judicial system. Naturally, there have been difficulties in incorporating AI into the legal system. The primary barrier is the conflict between upholding the law and employing AI to increase access to justice.

Although AI is going to have an influence on every area of life for individuals in the future, it also raises certain worries about the security of information. However, there has been a tonne of investigation being done utilising AI to entirely safeguard your confidential, private, and crucial data.