

Indian Journal of Modern Research and Reviews

This Journal is a member of the '*Committee on Publication Ethics*'

Online ISSN:2584-184X

Research Article



Artificial Lies, Constitutional Truths: Deepfakes and the Future of Free Expression

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DOI: <https://doi.org/10.5281/zenodo.19969020>

Abstract

In India, the constitutional discourse surrounding freedom of speech and expression has been significantly disrupted by the rapid advancement of digital technology and artificial intelligence. The right to freedom of speech and expression, guaranteed under Article 19(1) (a) of the Constitution of India, is premised upon the availability of truthful information, informed public participation, and the preservation of democratic dialogue. However, the exponential spread of false, misleading, and manipulated content through online platforms has posed serious challenges to these foundational values.

Among the most concerning manifestations of this technological shift is the rise of deepfakes, artificial intelligence-generated audio, video, or visual content that is deceptively altered to appear genuine. By mimicking voices, faces, and actions with increasing realism, deep fakes possess the capacity to mislead the public, distort public perception, damage reputations, manipulate electoral discourse, and undermine trust in authentic media sources. In this sense, deepfakes do not merely constitute false information; they threaten the broader concept of informational integrity upon which meaningful freedom of expression depends.

This article examines the emerging legal and constitutional dilemma in India, where the protection of free speech as a fundamental right must be balanced against the pressing need to preserve information integrity, public order, and democratic accountability. While free expression remains central to constitutional governance, its misuse through technologically fabricated content raises legitimate concerns regarding deception, privacy violations, defamation, and societal harm.

The paper further analyses how the accelerated growth of artificial intelligence and digital communication technologies has complicated traditional understandings of speech regulation. It argues that deepfakes represent a new frontier of legal concern requiring a nuanced regulatory response that safeguards legitimate expression while preventing malicious manipulation. Ultimately, the study highlights the urgent need for legal reforms, platform accountability, and technological safeguards to ensure that innovation does not erode the constitutional values of truth, dignity, and democratic discourse.

Manuscript Information

- ISSN No: 2584-184X
- Received: 04-04-2026
- Accepted: 28-04-2026
- Published: 30-04-2026
- MRR:4(4); 2026: 285-291
- ©2026, All Rights Reserved
- Plagiarism Checked: Yes
- Peer Review Process: Yes

How to Cite this Article

Chauhan A, Artificial Lies, Constitutional Truths: Deepfakes and the Future of Free Expression. Indian J Mod Res Rev. 2026;4(4):285-291.

Access this Article Online



www.mrrjournal.in

KEYWORDS: Deepfake Technology, Freedom of Speech, Information Integrity, Artificial Intelligence, Digital Disinformation, Constitutional Law Etc.

INTRODUCTION

A new problem is emerging in India's quickly evolving online society, where everything is becoming readily available. The distinction between what is real and what is phoney gets distorted. Imagine seeing a video of a highly esteemed politician; the video appears to be quite genuine and really promising, yet the politician's opinions don't seem to align with his normal beliefs. The video goes viral and spreads like wildfire, sparking riots across India. It is discovered that this video was digitally produced when its veracity is questioned. We refer to these digitally produced videos as "Deepfakes."¹

Deepfakes are designed to make it difficult to distinguish between the real and the fake. These digitally produced videos use fake images and audio to make it appear as though a specific event has actually occurred. They appear very real and have the potential to be quite destructive; they are not only fictional concepts. While speech changes are used to create false audio, false images are typically created by superimposing a person's face onto another person's body, much like a mask. This can be compared to digital puppeteering, in which the person making the deepfakes forces the subject of the video to say or do anything he pleases.² The ease with which someone could produce movies of well-known individuals, particularly a reputable politician, illustrates the threat posed by deepfakes and how they could seriously undermine our nation's democracy.

Given the rise in crimes committed with the aid of deepfakes, India is currently confronted with a significant challenge: maintaining the fundamental right to free speech while protecting the integrity of information. By producing misleading content that directly violates the right to free speech, deepfakes undermine the integrity of information. The search for truth is the primary goal of free expression, and deepfakes, with their deceptive nature, go against this. According to Article 19(1) (a) of the Indian Constitution,³ Every person has the right to freedom of speech and expression; however, this freedom is not unqualified. The Indian Constitution's Article 19(2)⁴ permits the government to restrict this freedom fairly. Developing a legal framework that addresses the risks associated with deepfakes without impeding the right to free speech is crucial. Maintaining the right balance is essential since excessive regulations may prevent people from freely expressing their thoughts.

¹Saumya Deep Singh & Shirsh Pandey, The Evolving Cybercrime Landscape in India: Legal Challenges, Digital Evidence, and New Criminal Laws, *Int'l J. for Multidisciplinary Research*, Vol. 7, No. 2 (2025).

²Sami Alanazi & Seemal Asif, Exploring Deepfake Technology: Creation, Consequences and Countermeasures, 6 *Hum.-Intell. Sys. Integr.* 49 (2024).

³INDIA CONST. art. 19(1)(a).

⁴INDIA CONST. art. 19(2).

DEEPFAKES AND THE FACTORS CONTRIBUTING TO THEIR ESCALATION

The numbers show that this dishonest technology has grown quickly, posing a serious threat to India. "More than 75% of Indians present online and surveyed by cybersecurity company McAfee have seen some form of deep fake content over the last 12 months, while at least 38% of the respondents surveyed have encountered a deep fake scam during this time, the company said in a survey released on Thursday," according to a McAfee report published in *The Economic Times* on April 4, 2024. and "Every fourth Indian encountered political deepfake content that turned out to be fraudulent."⁵ Additionally, according to the McAfee report titled "State of Scamiverse," which was released on January 6, 2025, "59% of people globally know someone who has fallen victim to an online scam, rising to 77% for those aged 18-24," and "Scammers rely on speed; 64% of scams result in financial loss or personal data theft within an hour."⁶

Deepfakes can be classified based on the kind of fraud they have perpetrated. Financial fraud, deceiving others into providing money, and impersonating celebrities for commercial or political reasons are a few typical types. According to a *Times of India* report, deepfake films of two extremely successful businessmen, N.R. Narayan Murthy and Mukesh Ambani, were used in Bengaluru to deceive some people into investing in fraudulent trading platforms, resulting in losses of about Rs 95 lakhs. Financial fraud can occur when deepfakes are used to trick people into making bad financial decisions.⁷ The *Times of India* article about Anil Kapoor, a well-known Indian actor, winning a lawsuit against the unapproved use of his name, image, voice, and other aspects of his persona, serves as an example of celebrity impersonation and highlights the problems with Deepfakes being used to profit from public figures' likenesses. The possible dangers of deepfakes were brought to light by this court case.

⁵ET Bureau, '75% Indians Have Viewed Some Deepfake Content in Last 12 Months, Says McAfee Survey' *The Economic Times* (India, 25 April 2024)

<https://economictimes.indiatimes.com/tech/technology/75-indians-have-viewed-some-deepfake-content-in-last-12-months-says-mcafee-survey/articleshow/109599811.cms>.

⁶McAfee, 'State of the Scamiverse' (McAfee Blog, 6 January 2025)

<https://www.mcafee.com/blogs/internet-security/state-of-the-scamiverse/>

⁷Shilpa Vasudevan, 'Bengaluru Residents Duped of Rs 95 Lakh by Deepfake Videos of Narayana Murthy and Mukesh Ambani' *The Times of India* (India, 5 November 2024) <https://timesofindia.indiatimes.com/tech/tech-news/bengaluru-residents-duped-of-rs-95-lakh-by-deepfake-videos-of-narayana-murthy-and-mukesh-ambani/articleshow/114955868.cms>.

Another article from the Times of India about Anil Kapoor, a well-known Indian actor, winning a case against the unapproved use of his name, image, voice, and other aspects of his persona, exposing the problems of Deepfakes, can serve as an example of celebrity impersonation being employed to take advantage of public individuals' likenesses.⁸ The possible dangers of deepfakes were brought to light by this court case. In Deepfakes, "deep" alludes to the deep learning algorithm at the heart of this kind of technology, while "fake" refers to the content's obvious tone. The reliability of the information we view online is threatened by the ongoing rise in these deepfakes.

The barrier for manipulated media has significantly decreased due to the ease of access to the technologies needed to create Deepfakes, raising the danger of fraud. The core technology of deepfakes is a high degree of artificial intelligence, particularly machine learning, sometimes referred to as deep learning, which creates smooth films that may easily deceive people and disseminate false information. Deepfakes may now be produced "for less than the cost of a latte and in under 10 minutes," according to the McAfee piece.⁹

This demonstrates how quickly and affordably these convincing fabrications can be produced. Anyone with a computer can now produce deepfakes thanks to sophisticated, user-friendly software and artificial intelligence algorithms that require little technical knowledge. Because deepfakes are so simple to generate, there is a lot of misinformation available online that has been utilised to sway public opinion in some situations, such as political misinformation incidents.

People's confidence in digital media is damaged as a result. It is difficult to distinguish between what is edited and what is true because deepfake technology is so widely available and the videos are so realistic and convincing.

Social media sites play a crucial role in the dissemination of deepfakes and related misinformation, increasing their visibility and potential impact. Because social media platforms are made to disseminate information quickly, a single deepfake can become a global phenomenon. The ease with which content can be disseminated without being vetted is a factor in the spread of

false information. Such altered content may inadvertently get viral due to social media algorithms. Sensational or emotionally audacious deepfakes are therefore suggested to users who appreciate and share them, making them accessible to a larger audience and so on. They adopt the stance that they are not accountable for any damages that may arise from their actions. The user's anonymity makes it difficult to identify the perpetrator of damaging Deepfakes, which results in a lack of accountability for their online behaviour and little to no fear of consequences. Although social media companies have taken some action to solve this problem, they have encountered difficulties due to the development of deepfake creation tools.

FREEDOM OF SPEECH IN THE DIGITAL AGE

"All citizens shall have the right to freedom of speech and expression," according to Article 19(1)(a) of the Indian Constitution. People can voice their ideas and opinions without worrying about being silenced thanks to this essay. Despite being a fundamental right, the Supreme Court has stated that this right is not unqualified. This right may be logically restricted in situations about India's security and sovereignty, public order, decency or morality, defamation prevention, or contempt of court. The Indian Supreme Court has expanded the meaning of "speech and expression" to encompass other forms of communication, including writings, banners, films, images, and activities. It is widely acknowledged that the right to receive and provide information is part of the freedom of speech. In a similar vein, the same provision has also unofficially recognised the right to information as a basic right. One of the main challenges facing our nation is how to establish regulations and develop an appropriate framework to address concerns arising from digital content without impeding an individual's right to free speech, since an excessive number of limitations may deter people from openly expressing their opinions.

The essay "Digital 2025: India" by Simon Kemp emphasises the significance of social media in 2025. According to this article, in January 2025, there were 491 million social media user IDs in India, which represents 33.7% of the country's total population. According to the report, "Kepios's analysis shows that social media user identities in India increased by 29 million (+6.3 per cent) between early 2024 and the beginning of 2025." New social media users are also clearly visible.¹⁰ The vast majority of Indians rely on social media for news, according to a June 2024 Times of India story that reads, "When it comes to the device used for news, the majority, i.e. 79% of responders, use mobile phones for news consumption."¹¹

⁸Niharika Nanda & Rahul Varma, 'How This Court Case Resulted in Anil Kapoor Making It to Time's List of Most Influential People in AI' *The Times of India* (India, 8 September 2024)

<https://timesofindia.indiatimes.com/technology/tech-news/how-this-court-case-resulted-in-anil-kapoor-making-it-to-times-list-of-most-influential-people-in-ai/articleshow/113154447.cms>

⁹Noah Giansiracusa, 'Gravitating to Google' in *How Algorithms Create and Prevent Fake News: Exploring the Impacts of Social Media, Deepfakes, GPT-3, and More* 119 (MIT Press 2022).

¹⁰Simon Kemp, 'Digital 2025: India' *Data Reportal* (25 February 2025)

<https://datareportal.com/reports/digital-2025-india>.

¹¹TOI News Desk, 'Over 70% Indians Rely on Online Media for News; Majority on Social Media: Report' *The Times of India* (20 June 2024)

EMERGING TRENDS & CHALLENGES IN DEEP FAKE WORLD

Deepfake technology is changing the digital information environment and has quickly become one of the most disruptive effects of artificial intelligence. Although technology provides advantages in terms of accessibility, education, and entertainment, it also presents significant difficulties due to fraud, identity theft, misinformation, and privacy violations. In order to protect public trust, the rapidly changing deepfake scenario necessitates immediate legal, technological, and ethical answers. The major trends have been discussed hereunder:

- **Developments in Generative Models:** The ongoing development of generative models and machine learning algorithms is one of the new developments in deepfake technology. The quality and realism of really fake content are improving as researchers create more complex algorithms and architectures, making it more challenging to identify and differentiate from actual media. Because malicious actors employ cutting-edge technologies to carry out increasingly convincing deepfake attacks, this poses serious hurdles for detection and response.
- **Multimodal Deepfakes:** The fusion of many modalities, including text, audio, and video, within deepfake technology is another new development. Multimodal deepfakes blur the boundaries between reality and fiction by combining many information sources to produce incredibly realistic and immersive synthetic media. These multimodal deepfakes pose difficult detection and attribution problems because conventional techniques could find it difficult to spot discrepancies across many modalities.
- **Ecosystems for Manipulating Synthetic Media:** Malicious actors are increasingly operating in intricate ecosystems centred on the production, dissemination, and profit-making of synthetic media. These ecosystems comprise a wide variety of actors, such as content producers, distributors, and consumers, who work together to create and distribute extremely inaccurate content for a variety of uses, such as fraud, blackmail, and disinformation. It is difficult for law enforcement and authorities to spot and stop illegal activity in these synthetic ecosystems of media manipulation.
- **Deepfake Accountability and Attribution:** Deepfake Accountability and Attribution continue to be major obstacles in the detection and mitigation of deepfake assaults. As deepfake technology advances, so do methods for hiding the source of synthetic media, making it more challenging to identify the makers or perpetrators of deepfake content. This lack of accountability undermines deterrence and legal retaliation

by making it more difficult to punish offenders and hold them responsible for the harm caused by phoney attacks.

- **Ethical and Social Implications:** Beyond its technical features, deepfake technology has intricate ethical and social ramifications. Fears of losing public faith in institutions, manipulating public opinion, and deepening societal gaps are raised by the rise of synthetic media, which challenges basic ideas of truth, authenticity, and trust in digital media. Addressing these ethical and societal challenges requires interdisciplinary collaboration and holistic approaches that take into account the wider impacts of deeply flawed technologies on democracy, human rights, and social cohesion.
- **Countermeasures and Detection Technologies:** To lessen the dangers presented by deepfake technology, research and development are being done to create sophisticated countermeasures and detection technologies. These initiatives use a range of strategies, such as media authentication systems, forensic analysis methods, and machine learning-based detection algorithms. However, these countermeasures' efficacy hinges on their capacity to keep up with deepfake attacks' increasing sophistication and adjust to new developments in the manipulation of synthetic media.

ROLE OF JUDICIARY IN DEALING WITH THE DEEPFAKE

The judiciary plays a crucial role in addressing harms caused by deepfake technology by protecting privacy, reputation, free speech, and informational integrity through constitutional and statutory interpretation. Courts have increasingly responded to emerging digital harms through injunctions, personality rights, and cyber law principles. Leading judicial decisions dealing with such issues have been discussed hereunder.

The case of *Gaurav Bhatia Vs. Naveen Kumar and Ors*¹², which was heard by Hon. Judge Neena Bansal Krishna at the Delhi High Court on April 16, 2024, brought to light the legal ramifications of deepfake technology with regard to defamation and free speech. Senior Advocate Gaurav Bhatia, the plaintiff, received an interim judgment for the defendants, Naveen Kumar and Ors, to remove specific videos from their social media accounts and cease disseminating misleading information about him. The court's prompt intervention in this case demonstrates how free expression can conflict with an individual's right to dignity and how deepfakes have the potential to seriously harm someone's reputation.

The harm associated with deepfake-type defamation is highlighted by the court's statement that "irreparable loss and injury would be caused to the applicant if deepfake videos are allowed to be in the public domain". Spreading untrue information about someone verbally, in writing, in hard copy, or online is known as defamation. Deepfakes are convincing fake videos that can aid in the dissemination of misleading information. Although they differ from more conventional

<https://timesofindia.indiatimes.com/india/over-70-indians-rely-on-online-media-for-news-majority-on-social-media-report/articleshow/111146576.cms>

¹²[2024] MANU/DE/2837

forms of defamation, they are nonetheless considered a kind of defamation since deepfakes fulfil the essential requirement of disseminating incorrect information.

Furthermore, the legal and ethical analysis of this case indicates that it would be appropriate to look at the court's assessment of the evidence in order to ascertain whether the videos actually met the requirements for "deepfake" and to establish the criteria used to determine "irreparable loss." The case also highlights how important it is to strike a healthy balance between the right to free expression and the right to reputation in this digital age. This case illuminates the evolution of deepfakes and defamation, as well as the court's negotiation of free expression bounds in the emerging digital sphere.

The cases of *Chaitanya Rohilla v. Union of India*¹³ and *Rajat Sharma v. Tamara Doc and Ors*¹⁴ cases, both heard before Delhi's High Court, highlight the government's and judiciary's response to the escalating problems with Deepfake technology. The Electronics Ministry and the High Court ordered Information Technology (MeitY) to establish a committee and carefully review the suggestions made by the petitioners, stressing that a suitable resolution to this problem is imperative. In order to address this issue, the committee was tasked with reviewing the legal and regulatory frameworks that other nations, particularly the European Union, have developed. This demonstrates that the problems generated by deepfakes affect not just India but also other nations, and that it is crucial to learn from international norms in order to develop practical solutions that balance India's fundamental rights. When developing practical solutions, the "tried and tested" theory is crucial.

Additionally, the court emphasised the significance of a multi-stakeholder approach. The MeitY committee asked a wide range of stakeholders to speak, including telecom service providers, deepfake victims, employees of social media platforms, websites that produce and disseminate deepfakes, etc. This demonstrates that the court understands the intricacy of deepfake technology and how crucial it is to work with the pertinent parties, including those who support our fundamental rights and freedom of speech, in order to develop a workable solution. "Everything you are hearing and seeing can be fake," the court said, according to the records.¹⁵

The High Court of Bombay addressed concerns with the use of AI techniques that permit the unapproved conversion of voices, particularly those of celebrities, in the *Arijit Singh Vs. Codible Ventures LLP and Ors*¹⁶ case. The court's decision recognises

that AI technologies infringe personality rights and emphasises the importance of the legal protection to which a person's identity, including their voice, is entitled. To avoid creating problems, the right to free expression should be balanced with personality rights, particularly in the entertainment industry.

Celebrity voices in particular can be easily altered with the help of an AI voice converter tool. Their career may be at stake due to the unapproved use of their voice, which makes it easier to create deepfake audio. In order to provide relief, prevent irreversible harm to the plaintiff, and prevent further violations of their public image and personal identification, the court granted an ad-interim injunction in this case and others of a similar nature. The court's ruling in this case demonstrates how crucial it is to identify appropriate solutions for issues pertaining to free expression. Total limits on situations such as this will discourage people from freely and artistically expressing themselves.

This case brought up issues that needed to be addressed, including the legal limits of AI-generated content, restrictions on free speech, and the impact of deepfake content on a person's intellectual property and personality rights. The court in this case has also examined portions of the Copyright Act, 1971, to gain a better understanding of the legitimacy of personality rights in India and the application of AI technology in the entertainment sector. It sparks endless debates regarding AI technologies, including deepfakes and the urgent need for legal frameworks that particularly handle these issues.

CONCLUSION & SUGGESTIONS

The emergence of deepfake technology has fundamentally altered the relationship between technology, law, and constitutional governance. What initially appeared to be an innovative development in artificial intelligence has rapidly evolved into a potent instrument capable of undermining democratic discourse, violating privacy, damaging reputations, distorting electoral processes, and weakening public confidence in authentic information. In the Indian context, where digital penetration has increased exponentially, and social media has become a principal medium of communication, the threat posed by deepfakes is particularly acute. The constitutional guarantee of freedom of speech and expression under Article 19(1) (a) is premised upon the existence of an informed citizenry and a marketplace of ideas in which truth may emerge through open debate. Deepfakes threaten this constitutional assumption by introducing fabricated realities into public discourse.

The challenge, therefore, is not merely technological but deeply constitutional. India must ensure that the right to free speech is not converted into a shield for deception, fraud, harassment, or malicious misinformation. At the same time, overbroad regulation may produce a chilling effect upon legitimate expression, satire, artistic creativity, political criticism, and technological innovation. The law must therefore maintain a principled balance between liberty and accountability. The judiciary has already demonstrated sensitivity to these competing concerns through decisions involving personality rights, reputational harm, and injunctions against manipulated digital content. However, judicial intervention alone cannot

¹³(W.P.(C) 15596/2023)

¹⁴MANU/DEOR/135845/2024

¹⁵JayantiPahwa, 'Everything You Are Hearing And Seeing Can Be Fake': Delhi HC in Plea Seeking Regulation of AI and Deepfake, *LawBeat* (28 August 2024)

<https://lawbeat.in/news/updates/everything-you-are-hearing-and-seeing-can-be-fake-delhi-hc-plea-seeking-regulation-a>

¹⁶MANU/MH/4749/2024

provide a complete solution. What is required is a comprehensive legislative and regulatory framework supported by institutional capacity, technological safeguards, and public awareness.

Existing Indian laws, such as the Information Technology Act, 2000, the Bharatiya Nyaya Sanhita, 2023, copyright law, privacy jurisprudence under *K.S. Puttaswamy v. Union of India*, and principles of defamation, offer fragmented remedies. These provisions were not specifically designed to confront synthetic media generated through machine learning systems. Consequently, issues such as attribution of liability, intermediary responsibility, cross-border dissemination, consent-based misuse of likeness, and real-time takedown mechanisms remain inadequately addressed. The absence of a dedicated statutory framework creates uncertainty both for victims seeking redress and for platforms attempting compliance.

In light of the foregoing, several reforms are necessary. First, Parliament should enact a dedicated Deepfake Regulation Framework or amend the Information Technology Act to expressly define deepfakes, malicious synthetic media, non-consensual digital impersonation, and deceptive AI-generated political communication. Such legislation must clearly distinguish harmful manipulation from legitimate uses such as parody, cinema, education, research, accessibility tools, and artistic experimentation. Precision in drafting is essential to prevent arbitrary censorship.

Secondly, intermediary platforms and social media companies must be subjected to enhanced due diligence obligations. They should be legally required to deploy reasonable detection tools, provide rapid grievance redressal systems, preserve digital evidence, and remove clearly unlawful deepfake content upon receiving valid notice. Repeat offenders should face account suspension and traceability measures consistent with privacy safeguards. Algorithmic amplification of verified falsehoods should attract regulatory scrutiny.

Thirdly, a statutory right of publicity or personality rights regime should be recognised in India. Unauthorised use of a person's face, voice, likeness, or biometric attributes through artificial intelligence should give rise to civil remedies, including injunctions, damages, account of profits, and public correction notices. This is particularly necessary for victims of sexualised deepfakes, celebrity impersonation scams, and identity fraud.

Fourthly, electoral integrity requires special protection. During election periods, any AI-generated political advertisement, campaign speech, or candidate representation should carry mandatory disclosure labels stating that the content is synthetic or materially altered. The Election Commission of India should be empowered to issue emergency takedown directions for deceptive content capable of influencing voting behaviour or disturbing public order.

Fifthly, India should invest in forensic and institutional capacity. Cybercrime cells, police authorities, prosecutors, and judicial officers require specialised training in metadata analysis, chain of custody, AI detection systems, and evidentiary appreciation of manipulated media. Dedicated

forensic laboratories for synthetic media authentication should be established at the regional levels. Without enforcement capability, even the best legislation will remain ineffective.

Sixthly, public digital literacy must become a central pillar of policy. Citizens should be educated to verify sources, recognise manipulated content, and report suspicious media. Educational institutions, civil society bodies, and government agencies should collaborate in awareness campaigns. A technologically literate public is the strongest defence against mass deception.

Finally, international cooperation is indispensable. Deepfake dissemination frequently transcends territorial borders, making mutual legal assistance treaties, data-sharing protocols, and harmonised standards necessary. India should actively participate in global norm-setting on artificial intelligence governance and synthetic media accountability.

In conclusion, deepfakes represent not merely fake content but a structural threat to truth, autonomy, and democratic legitimacy. India must respond through a calibrated legal framework rooted in constitutional morality, proportionality, and technological realism. The future of free expression depends not only upon protecting speech, but also upon protecting society from sophisticated falsehood masquerading as speech. Only a balanced rights-based approach can preserve liberty while ensuring accountability in the age of artificial intelligence.

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