RESEARCH PAPER

Algorithmic Governance and the Rule of Law in India: Regulating Artificial Intelligence Beyond Automation

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Abstract
Artificial Intelligence (AI) is no longer confined to private technological innovation; it has increasingly entered the domain of governance, administration, policing, welfare distribution, and judicial decision-making in India. From predictive policing software and facial recognition systems to automated welfare eligibility tools and AI-assisted judicial research, algorithmic systems are reshaping how the State exercises power. This paper examines the emerging phenomenon of algorithmic governance in India and critically analyses its compatibility with constitutional values, administrative law principles, and the rule of law. It argues that existing Indian legal frameworks are ill-equipped to address the opacity, discretion, and accountability deficits inherent in AI-driven governance. The paper proposes a rights-centric regulatory framework rooted in constitutional morality, transparency, and human oversight. The study adopts a doctrinal and analytical methodology and draws from comparative jurisdictions to suggest reforms tailored to the Indian constitutional context.

Keywords: *Artificial Intelligence, Algorithmic Governance, Rule of Law, Indian Constitution, Administrative Law*
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1. Introduction

The twenty-first century governance is mediated more and more by algorithms. Artificial intelligence (AI) systems are proving to be increasingly influential, augmentative, or even dictate decisions in areas previously dominated by human officials such as providing bail, administering welfare benefits, identifying criminal suspects, determining risk or even enforcing regulatory compliance. This change is a radical change in the character of the state power whereby governance is no longer carried out by human discretion but by automated and data-driven decision making processes. The State in India has been fast and broad in its adoption of AI, but has not been regulated. Efforts by governments like facial recognition policing, AI-powered traffic monitoring platforms, predictive crime-fighting analytics, or tax enforcement algorithmic tools, or automated welfare disbursement are indications of a definitive shift towards what can be termed as algorithmic governance.[1] They are frequently presented as efficiency-improving measures to administrative stagnation and corruption and resource limitation in a high-population and resource-strained democracy. They have however been mostly implemented by executive action, policy documents and pilot projects as opposed to being implemented by comprehensive legislative frameworks. Even though AI is fast, scalable, consistent, and objective, the application of the technology by the State posits legal, constitutional, and jurisprudential issues. The systems in algorithms are often black box, proprietary and hard to describe even to designers. Such lack of transparency contravenes the main tenets of the rule of law, including the principles of transparency, rational decision-making, and accountability. The key question then emerges, is it possible to adhere to the principles of natural justice, to the right of being heard and the right to be given a reason why an adverse decision was made, with an algorithmic decision-making that is so often referred to as a black box? The penetration of AI in the sphere of governance also puts substantial burdens on the conventional principles of

[1] Nat'l Strategy for Artificial Intelligence, NITI Aayog, Gov't of India (2018); Responsible AI for All, NITI Aayog, Gov't of India (2021); *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1 (India); Graham Greenleaf, *Global Data Privacy Laws 2023: Despite COVID Delays, 145 Laws Show GDPR Dominance*, 177 Privacy Laws & Bus. Int'l Rep. 1 (2023); Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* 3–18 (Harvard Univ. Press 2015).

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administrative law.[2] Automated decisions make existing ideas of discretion, delegation, and judicial review more complex. As an algorithm decides who is eligible to receive welfare or reasons that a certain person could be a criminal, it would be hard to know who is to blame, whether it is a programmer, the authority that implemented this program, the source of data, or the State itself. There is a danger that such diffusion of responsibility will result in areas of governance where the rulemaking process is substantially inaccessible to any significant legal scrutiny, and that the constitutional commitment to remedies to arbitrary state action has been eroded.

Besides, the direct and distant consequences of algorithmic governance on the basic rights provided by the Indian Constitution are direct and far-reaching. The extensive data gathering and profiling are common in AI systems and this poses a great apprehension on the aspect of privacy and informational autonomy, especially in the post Puttaswamy age where privacy has since been identified as a basic right. Discriminatory results can be caused by bias in training data or in the design of a model, which would be a contravention of the right to equality in Article 14. Automated criminal justice and welfare systems can undermine procedural fairness and due process in a disproportionate manner, disadvantaging marginalised and vulnerable groups. In addition to the individual rights, there are also structural challenges of democratic accountability to algorithmic governance. Algo mediated decisions can pose the threat of transferring authority to technologically responsible institutions to technical systems and independent actors who build and operate them.[3] This brings issues of transparency of governance, the involvement of the people in making decisions and the decline of deliberative democratic processes. Without clear legal principles, AI-based governance can be given more precedence to efficiency than legitimacy, discretion of managers as opposed to constitutional virtue. It is against this background that this paper aims at discussing the rise of algorithmic governance in India as it applies to the rule of law. It claims that although AI can be used as an effective instrument of enhancing governance, it should be entrenched in a strong legal and constitutional framework. The main argument of this paper is that, unregulated, algorithmic governance will threaten to turn the discretionary state power into non-challengeable technological authority. Instead of removing arbitrariness, ill-monitored AI systems can hide it behind the pretense of technical neutrality and objectivity. The current paper argues that to regulate AIs, it is essential to go beyond the restricted approach of focusing on automation and efficiency to a normative approach that is based on constitutional values. This framework should have the aspect of transparency, explainability, accountability, proportionality and effective remedies. By placing AI governance in the context of constitutionalism and administrative law in India, this paper seeks to add to a budding debate about how democratic countries could use technological innovation without compromising the rule of law.

2. Understanding Algorithmic Governance

Algorithmic governance refers to the growing reliance on computational systems to support, inform, or replace decision-making processes that were traditionally exercised by human authorities. Unlike conventional administrative tools, which operate through clearly defined rules and hierarchical discretion, contemporary algorithmic systems—particularly those based on machine learning—derive their outputs from statistical correlations and pattern recognition across vast datasets. These systems often adapt and evolve over time, making their internal reasoning processes opaque not only to affected individuals but, in many cases, even to their designers.

At its core, algorithmic governance represents a qualitative shift in how state power is exercised. Decision-making authority is no longer solely vested in identifiable public officials but is increasingly mediated by technical systems that function as intermediaries between the State and the citizen. This transition from rule-based administration to data-driven governance alters the traditional architecture of accountability, discretion, and justification that underpins administrative law and the rule of law more broadly.[4] In the Indian context, algorithmic governance has taken diverse and rapidly expanding forms. Law enforcement agencies have begun deploying predictive policing and facial recognition technologies to identify crime hotspots, monitor public spaces, and flag potential suspects.[5] Welfare administration increasingly relies on automated eligibility determination systems for schemes such as the Public Distribution System, where algorithmic errors can result in exclusion from essential

[2] *Kranti Assocs. (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 S.C.C. 496 (India); *S.N. Mukherjee v. Union of India*, (1990) 4 S.C.C. 594 (India); Cary Coglianese & David Lehr, *Regulating by Robot: Administrative Decision-Making in the Machine-Learning Era*, 105 Geo. L.J. 1147, 1154–60 (2017); Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* 21–43 (Harv. Univ. Press 2015).

[3] Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* 8–12, 140–44 (Harvard Univ. Press 2015); Cary Coglianese & David Lehr, *Regulating by Robot: Administrative Decision-Making in the Machine-Learning Era*, 105 Geo. L.J. 1147, 1151–55 (2017); Shoshana Zuboff, *The Age of Surveillance Capitalism* 94–110 (PublicAffairs 2019); *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1 (India).

[4] Cary Coglianese & David Lehr, *Regulating by Robot: Administrative Decision Making in the Machine-Learning Era*, 105 Geo. L.J. 1147, 1151–55 (2017)

[5] Andrew Guthrie Ferguson, *The Rise of Big Data Policing: Surveillance, Race, and the Future of Law Enforcement*, 10–18 (N.Y.U. Press 2017).

benefits.[6] Courts and legal institutions, while not formally delegating adjudicatory power to machines, increasingly depend on AI-powered legal research and case management tools, thereby indirectly shaping judicial reasoning and prioritisation. Tax authorities and regulatory bodies similarly employ data analytics and automated compliance systems to detect anomalies and enforce obligations.[7]

These developments collectively indicate a structural transformation in governance, where data and algorithms increasingly shape administrative outcomes.[8] While such systems are often justified on grounds of efficiency, consistency, and scalability—particularly in a populous and administratively complex country like India—they also introduce new forms of risk. Automated systems can amplify existing inequalities, obscure the basis of state decisions, and reduce opportunities for meaningful human oversight. Crucially, algorithms are not neutral or value-free instruments. They reflect the assumptions, priorities, and constraints embedded in their design, the quality and representativeness of the data on which they are trained, and the institutional contexts in which they are deployed.[9] Biases in historical data may be reproduced or intensified through algorithmic decision-making, leading to discriminatory outcomes that disproportionately affect marginalised communities. When such systems influence or determine state action, questions of fairness, transparency, and accountability become central rather than peripheral.

The use of algorithmic systems by the State therefore raises fundamental concerns for the rule of law. Opacity in decision-making challenges the requirement of reasoned orders and undermines the ability of individuals to contest adverse decisions. The diffusion of responsibility across designers, data providers, and deploying authorities complicates traditional mechanisms of legal accountability. Without clear standards governing their use, algorithmic systems risk transforming administrative discretion into a form of technical authority that is difficult to scrutinise or challenge.[10] Understanding algorithmic governance thus requires moving beyond a purely technological or efficiency-based analysis. It demands a legal and constitutional inquiry into how algorithmic systems interact with established principles of administrative law, fundamental rights, and democratic governance.[11] Within the Indian constitutional framework, this necessitates examining whether algorithmic governance can be reconciled with values such as equality, due process, transparency, and human dignity, or whether it calls for a rethinking of existing legal doctrines to respond to new forms of state power.[12]

3. Algorithms and the Constitutional Aspect of Indian Governance

The growing use of algorithm-based systems by the State requires a close constitutional analysis. The Indian constitutional law especially Articles 14, and 21 offer a sound ground upon which the objective of automated decision-making is considered to be in accordance with the rule of law.[13] Although algorithmic governance is technologically new, it still has to be made to meet the long-established constitutional principles of equality, fairness, accountability, and human dignity.[14]

3.1 Article 14 and Algorithmic Equality

Both the equality before the law and the equality of the laws are provided in Article 14 of the Indian Constitution. The Supreme Court has construed this provision in a broad manner to outlaw not only overt discrimination but arbitrariness, as well as irrational state action.[15] However, algorithmic systems often work by classifying people into profiles or risk groups through correlations made between large sets of people. This kind of classification based on prejudiced data, inaccurate proxies, or unquestioned assumptions is capable of leading to indirect and systematic discrimination.[16] The Supreme Court has always believed in the fact that arbitrariness is the total opposite of equality. In E.P. Royappa v. The Court in State of Tamil Nadu has made the observation which is now a famous one that equality and arbitrariness are sworn enemies and as such, non-arbitrariness was constitutionalized as a fundamental element of Article 14. This doctrine is another doctrine that was reinforced in Maneka Gandhi v. Union of India, in which the Court declared that any action by the state in relation to rights

[6] Reetika Khera, *Dissent on Aadhaar: Big Data Meets Big Brother* 45–60 (Orient BlackSwan 2019).

[7] David Freeman Engstrom et al., *Government by Algorithm: Artificial Intelligence in Federal Administrative Agencies*, 130 Yale L.J. 1695, 1718–26 (2021).

[8] Karen Yeung, *Algorithmic Regulation: A Critical Interrogation*, 12 Regul. & Governance 505, 505–10 (2018).

[9] Solon Barocas & Andrew D. Selbst, *Big Data's Disparate Impact*, 104 Calif. L. Rev. 671, 674–80 (2016).

[10] Danielle Keats Citron, *Technological Due Process*, 85 Wash. U. L. Rev. 1249, 1254–61 (2008).

[11] David Freeman Engstrom et al., *Government by Algorithm: Artificial Intelligence in Federal Administrative Agencies*, 130 Yale L.J. 1695, 1706–15 (2021).

[12] Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248, 279–281 (India)

[13] E.P. Royappa v. State of Tamil Nadu, (1974) 4 S.C.C. 3, 38–40 (India)

[14] Danielle Keats Citron & Frank Pasquale, *The Scored Society: Due Process for Automated Predictions*, 89 Wash. L. Rev. 1, 7–15 (2014).

[15] *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 S.C.C. 3, 38–40; *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248, 281–84; *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 S.C.C. 722, 741–42.

[16] Virginia Eubanks, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor* 33–56 (St. Martin's Press 2018).

has to be reasonable, fair and not arbitrary.[17] The challenge that comes with algorithmic decision-making in this jurisprudence is that it is opaque. In cases where the logic of classification is not disclosed or comprehensible, the affected persons cannot determine whether they were treated in the same manner or they are discriminated. In Ajay Hasia, Court ruled that arbitrariness can come in not only via discriminatory intent, but also via unreasonable procedures.[18] Just as in West Bengal v. State, the Court warned of unfounded classification discretion. Used on algorithmic governance, these principles imply that automated systems that categorize individuals based on transparent, intelligible, and review-free criteria may violate Article 14. In the event that the results of algorithms cannot be meaningfully disputed, they have the risk of being constitutionally arbitrary--despite the apparent technological objectivity.[19]

3.2 Article 21: Due Process, Procedural Fairness and Human Dignity

Article 21 ensures that no individual is to be bounced off life or his/her liberties without due process as laid out in the law. Since Maneka Gandhi v. Union of India this process has been judicially construed to imply that it is a just fair and reasonable process. The Court has always maintained that procedural fairness, reasonableness of decisions, and remedies are the key elements of individual freedom. Article 21 is directly involved in the use of AI systems in predictive policing, surveillance, bail risk assessment, and welfare administration. These areas may impact greatly on liberty, reputation, and dignity through automated decisions. In A.K. Kraipak v. The Supreme Court, Union of India, has highlighted that even administrative decisions should also be in line with the concept of natural justice in cases in which rights are involved. Likewise, in Mohinder Singh Gill v. The Court found that state action should be justified by reasons which are transparent and subject to review. All these requirements have been complicated by algorithmic decision-making. AI systems do not often explain anything in a way that is understandable by the affected people. This compromises the audi alteram partem principle of the right to be heard because a person might not be in a position to comprehend, challenge or counter the fundamental foundation of unfavorable decisions. The Court emphasized that although there may be exceptions to natural justice, they should be interpreted in a narrow way. In addition, Article 21 has been construed to include human dignity as a value of the constitution. This dignity-based perception of constitutional liberty is challenged by the algorithmic governance where individuals are reduced to data points or risk scores and not seen as individuals within a context or as people, but rather as numbers.[20]

3.3 Data protection, Surveillance and Right to Privacy

The constitutional aspects of algorithmic governance are clearest in the area of privacy. In a unanimous decision of nine judges, Union of India, privacy was acknowledged by Supreme Court as a fundamental right to Article 14, 19 and 21. The Court presented three-fold test of any privacy infringement which is legality, necessity and proportionality and procedural safeguards against abuse. The State frequently relies on massive data collection, such as biometric, demographic, and behavioural data as one of the foundations of AI systems. The threat of profiling, creep of functions, and bulk surveillance is augmented by the use of facial recognition technologies, predictive analytics and surveillance tools. The Court in Puttaswamy (Aadhaar) cautioned of the perils of a surveillance state and highlighted that it was necessary to ensure that there were stringent protective measures where technology allowed pervasive surveillance. These concerns are further aggravated by the fact that there is no comprehensive and properly enforceable data protection regime in India. Although the Digital Personal Data Protection Act, 2023 is a legislative achievement, its consent-based model and generous provisions on state action beg the question of whether it provides sufficient protection in the dangerous AI implementation. Telephone tapping case, the Supreme Court emphasized that surveillance should be supported by procedural protection and independent control which is also true to algorithmic surveillance.[21] The absence of defined boundaries to data gathering, purposive restriction and accountability of algorithms can turn AI-based governance into an ordinariate of invasive surveillance and a threat to informational self-determination.[22] Constitutionally speaking, unregulated algorithmic rule can, therefore, not only be a violation of personal privacy but also the structural obligation of small and responsible state power. Article 14 and 21, together with the right to privacy offer a very strong constitutional prism through which algorithmic governance has to be evaluated. The Indian constitutional jurisprudence has never supported arbitrariness, unpredictability, and unreasoned action by the state. The existence of algorithmic systems performing work based on the lack of transparency, explainability, and accountability might be beyond this constitutional framework. Control of AI in India is not only a technological government policy question, but a constitutional requirement based on equality, due process, dignity and the rule of law.

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[17] Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248, 281–284 (India).

[18] Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 S.C.C. 722, 741–742 (India).

[19] Danielle Keats Citron & Frank Pasquale, *The Scored Society: Due Process for Automated Predictions*, 89 Wash. L. Rev. 1, 7–15 (2014).

[20] Frank Pasquale, *A Rule of Persons, Not Machines: The Limits of Legal Automation*, 87 Geo. Wash. L. Rev. 1, 6–14 (2019).

[21] People's Union for Civil Liberties (PUCL) v. Union of India, (1997) 1 S.C.C. 301, 317–320 (India).

[22] *Ibid*

4. Administrative Law and Algorithmic Decision-Making

The administrative law in India has strong premises based on the foundational principles of legality, reasoned decision-making, procedural fairness, and accountability of the institution. These principles guarantee that the power of the population is not used beyond the law and that it can be subject of judicial control.[23] The growing use of artificial intelligence in administrative decision-making, however, presents unprecedented challenges to these doctrines that questions whether the current frameworks can be effective in controlling the algorithmic governance.[24]

The central idea in administrative justice at the core is the fact that government bodies are supposed to operate based on the law and be capable of giving reasons to their decisions.[25] Past administrative rulings such as over licensing, welfare entitlements and regulatory adjudication are usually followed by records, files and reasons which can be reviewed via judicial procedures.[26]

To determine the legality, rationality and proportionality of such decisions, the courts evaluate the decision making process, discretion exercised as well as the relevance of considerations made. This model is disturbed by algorithmic decision-making, which puts a barrier between the result and the decision-maker and uses opaque computational systems in its middle.[27]

The Supreme Court has always underlined that the requirement to provide reasons is one of the foundations of administrative law. The Court ruled that transparency, fairness, and accountability cannot be achieved without reasoned decisions and that lack of reasons is tantamount to denying justice. Earlier acknowledged that there are several reasons why reasons recording is advisable: it allows judicial inquiry, and enforces discipline in decision-making, as well as giving a sense of satisfaction that an aggrieved party that its case has been taken into consideration. In the case when complex and proprietary algorithms create administrative outcomes that are meaningless to explain, the constitutional promise of reasoned decision-making is in danger of being spurious. The extent of judicial review is also made difficult by algorithmic opacities.

The Apex Court defined the scope of judicial review in the case of administrative proceedings which comprised of illegality, irrationality, and procedural impropriety.[28] These premises assume that there are discernible grounds and a decision process which can be traced. Courts may struggle to enforce conventional standards of review where an AI system generates some result based on statistical interrelations as opposed to a result generated through explicit reasoning.[29] This increases the chances of establishing areas of administrative activity that are in theory open to law but in practice above any effective judicial review. The other issue that is of great concern is associated with the non-delegation doctrine. Indian constitutional law does not allow a delegation of any basic legislative or discretionary power unless explicitly stipulated by statute, but does permit the delegation of ancillary and procedural functions.[30] In re Delhi Laws Act and subsequently in Ajoy Kumar Banerjee v. Union of India, the Supreme Court emphasized on the fact that delegation is allowed but the legislature should retain the authority to make important policy decisions.[31] The growing use of AI systems raises the boundary between the assistance of the administration and the actual discretion transfer to the machines. Risk, prioritisation or eligibility which are established by algorithms in the absence of significant human involvement, places the State at a risk of ceding its fundamental decision-making capabilities to technological mechanisms that are not envisioned in the current laws. This issue is especially urgent in situations when AI systems are proposed by either the executive power or policy rules and not by law.

In Barium Chemicals Ltd v. The Court, Company Law Board, found that even subjective fulfillment of administrative authorities can be questioned in court. When the satisfaction is substituted by the algorithms production, the question to be asked is whose satisfaction is it the authority or that of the machine. Devoid of clear legislative frameworks clarifying the boundaries, limits and responsibility of algorithmic tools, the practices can be an unconstitutional relinquishment of statutory duty.[32] Additionally, the administrative law has also adopted proportionality and fairness especially when matters touching on essential rights are involved. In Om Kumar v. The Supreme Court, in Union of India, identified proportionality as one of the major standards of review in a case in which the administrative action involved constitutional rights. Systems based on algorithms, however, can be scaled, and the same models used in different situations. This

[23] Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225, 316–318 (India)

[24] David Freeman Engstrom et al., *Government by Algorithm: Artificial Intelligence in Federal Administrative Agencies*, 130 Yale L.J. 1695, 1700–10, 1735–40 (2021).

[25] S.N. Mukherjee v. Union of India, (1990) 4 S.C.C. 594, 612–613 (India).

[26] Kranti Assocs. (P) Ltd. v. Masood Ahmed Khan, (2010) 9 S.C.C. 496, 510–511 (India).

[27] Joshua A. Kroll et al., *Accountable Algorithms*, 165 U. Pa. L. Rev. 633, 637–45 (2017).

[28] Council of Civil Service Unions v. Minister for the Civil Service (GCHQ Case), [1985] A.C. 374, 410 (H.L.) (U.K.).

[29] David Freeman Engstrom et al., *Government by Algorithm: Artificial Intelligence in Federal Administrative Agencies*, 130 Yale L.J. 1695, 1708–15, 1745–49 (2021).

[30] In re Delhi Laws Act, A.I.R. 1951 S.C. 332, 343–345 (India).

[31] Ajoy Kumar Banerjee v. Union of India, (1984) 3 S.C.C. 127, 145–147 (India).

[32] Hamdard Dawakhana v. Union of India, A.I.R. 1960 S.C. 554, 561–563 (India).

brings up questions of whether automated decisions are sufficient to consider individual circumstances as a condition of fair administrative action. Collectively, such trends imply that the system of algorithmic decision-making reveals structural gaps in the Indian administrative law. As much as AI can increase efficiency and consistency, its blind implementation poses a threat to most fundamental principles of the value of reason in decision-making, responsibility, and judicial oversight. The problem of all these issues is that it would not be possible to resolve the problem but rather reformulate the old doctrines and reconsider the administrative law to make sure that technological management could not lose its connection with the constitutional principles and the rule of law.

5. Comparative Visions on Algorithmic Governance

Algorithms and governance experience show that technological self-regulation is unsafe and executive discretion is ineffective to leave algorithmic governance to self-regulation, as well as unchecked executive discretion. Various jurisdictions have started to realise that artificial intelligence especially when used by the State must be supported by strong legal provisions based on constitutional principles like accountability, transparency and the protection of fundamental rights. The best-established illustration of rights-based regulatory reaction to algorithmic governance is the European Union. The Artificial Intelligence Act of the European Union is a breakthrough in the regulation of AI. Instead of applying a blanket approach to all AI systems, the Act uses a risk-based approach to regulation and classifies AI applications by the extent to which they cause harm to fundamental rights and public interests.[33] The AI in law enforcement, border management, welfare, and access to vital services are of high-risk category and have to comply with high ex ante requirements.[34] These are compulsory risk evaluation, disclosure and reporting, human control systems, data management regulations, and after deployment audits. Some forms of AI, with an unacceptable level of risk, including social scoring by government bodies, are simply banned. The fact that the EU approach fully acknowledges that algorithmic systems have the potential to endanger the rule of law, uncontrolled, is what is especially important. The AI Act intends to make sure that the automated governance is subject to legal review and democratic oversight by introducing the principles of explainability, traceability, and accountability into binding laws.[35] Notably, these demands are imposed not just on individual developers but also are applicable to governmental powers using AI, which supports the state responsibility. This rights-based approach is further reinforced by judicial interventions in the European jurisdictions. Courts in the Netherlands have struck down welfare fraud detection algorithms on the basis that they contravened the principles of transparency, proportionality and human rights. The District Court of The Hague, in SyRI (System Risk Indication), affirmed that the lack of transparency in the operation of the algorithm and the lack of substantive protection of the right to privacy under the European Convention on Human Rights were violated by the fact that the algorithm operates opacely. The ruling indicates that the judiciary acknowledges the fact that the concept of algorithmic opacity does not align with the principles of democratic governance and legal responsibility.[36] Other jurisdictions can be seen to have similar trends. Administrative courts in France have demanded that the logic by which algorithm decision-making is made should be disclosed by the administrative authorities in a specific situation. Although regulation in the United States is still decentralised and mostly sectoral, courts and policymakers have been paying more attention to algorithmic accountability, which is especially relevant to criminal justice and administrative decision-making.

The Blueprint for an AI Bill of Rights is one of the many executive initiatives that show an increasing awareness that AI systems are supposed to be limited by the principles of due process, non-discrimination, and transparency, even without broad federal legislation. The response of the algorithmic governance in India is completely opposite to these developments. Although AI is rapidly being introduced into the sphere of the work of state administrations, so far, India is mostly dependent on the policy documents, ethical principles, and recommendations provided by the executive organizations. Such tools as the National Strategy on Artificial Intelligence and the Responsible AI for All framework present valuable normative principles without a binding force and enforcing norms. No general law exists to regulate AI utilization by the State, and there exist no articulate statutory duties of the transparency, explainability, or responsibility of algorithms. This regulatory void exposes the Indian citizens to increased vulnerability of unaccountable algorithmic power. Without enforced legal protection, AI systems can be used as a fact-of-the-land decision-maker, with no significant oversight, scrutiny, and

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[33] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), 2024 O.J. (L 1689) arts. 5–7, 9–15.

[34] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), 2024 O.J. (L 1689) annex III, arts. 6, 8–15

[35] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), 2024 O.J. (L 1689) arts. 9–15, 22, 26.

[36] Rb. Den Haag (District Court of The Hague), ECLI:NL:RBDHA:2020:1878 (SyRI Case), 6.49–6.65 (Neth. Feb. 5, 2020).

redress.[37] As history shows, constitutional democracies cannot use either ethics or policy to control algorithmic governance. Legal frameworks should be binding and judicial review, as a measure to facilitate AI improvements to governance and not weaken the rule of law, are necessary. The comparative approach therefore brings about an important lesson to India, that proper governing of algorithms should shift beyond idealistic principles and adopt legally binding ideals that are based on constitutional values. The issue of whether to regulate AI or not is not just a challenge to India, but how to achieve this without sacrificing its democratic accountability, fundamental rights, and the rule of law, as AI systems continue to influence state decision-making.[38]

6. Towards Rights - Centric AI Governance Framework

Following the thesis of this paper, the artificial intelligence regulation of the administrative sector has to go beyond the perception of AI as a technologically neutral tool and acknowledge it as a constitutional issue. In cases where algorithmic systems shape or dictate the decision of states on areas that concern liberty, dignity, equality and access to the pubic goods, they come into direct contact with the rule of law and the Constitution-based framework of fundamental rights. A rights oriented approach to AI governance would thus entail the incorporation of constitutional values in the design, use and supervision of algorithmic systems by the State. That kind of framework should be based on the understanding that efficiency, automation, and innovation cannot be sought at the expense of the legality, accountability and democratic legitimacy. Based on Indian constitutional jurisprudence and the parallels in the regulation developments, the subsequent aspects can be recognized as critical elements of a rights-focused AI regulation model.

1. Explainability and Transparency - The rule of law is based on the requirement of transparency. Those who are influenced by the AI-based decisions should be in a position to discover the foundation within which the decision is taken. This involves not only revealing the fact of the existence of algorithmic systems but also making significant and understandable explanations of how the inputs are handled and how the results are produced. Explainability would be of paramount importance in empowering the affected persons to exercise their right to be heard, appeal against unfavorable decisions, and pursue good remedies.[39] In the absence of transparency, the algorithmic decision-making will become cloudy power without constitutional review.

2. Human Supervision and Retention of Discretion - The AI systems ought to be used as decision-support systems and not independent decision-making in issues touching on core rights and civil liberties. Human control should not be lost at strategic points of decision making, especially in areas like policing, surveillance, welfare administration and execution of regulations. It is crucial that human authorities are not constrained in making final decisions and are authorized to challenge, disregard or leave algorithmic results when it is warranted and fair by proportionality and the individual circumstances. This is necessary to eliminate the tendency of Statutory abdication and to maintain the human aspect of the constitutional rule.

3. Involuntary Comparable Algorithms Audits and Impact Assessments - An independent algorithmic audit and impact assessment should be institutionalised by a rights-focused framework especially of high-risk AI systems used by the State. Equality and due process are some of the constitutional norms that should be assessed by such audits in terms of bias, accuracy, proportionality, and compliance. The impact assessment is to be performed before deployment, as well as on a regular basis afterwards, so that the systems should not generate the discriminating or unfair effects over time. This should be delegated to independent oversight bodies instead of the deploying authorities themselves to make it credible and acceptable by the people.

4. Effective Legal Accountability and Remedies - Effective governance needs to have a good attribution of responsibility of damage caused by AI decisions. A rights-based approach should also explain how the State cannot avoid constitutional liability by making technological systems account for decisions. By using AI, the authorities in the general public should be legally responsible irrespective of the results, such as mistakes, prejudice, and infringement of rights. People should be provided with relevant solutions, such as an opportunity to appeal to the courts and tribunals against algorithmic decisions. This involves updating the current administrative law and administrative liability principles so that algorithmic governance can be subject to the law. Most importantly, the application of AI to core state operations is to be based upon clear legislative directive and not executive policy or administrative expediency. The legislatures have to specify the scope, purposes and limits of algorithmic governance, such as rights protection, norms of control, and accountability mechanisms.

The legislative discourse and the democratic discussion is necessary to both justify AI application by the State and to make sure that the technocratic preference is not reflected in the technological governance but the common constitutional values. Rights based AI governance does not oppose technological innovation, but instead attempts to enhance innovation with constitutionalism. The State can use the benefits of the

[37] Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* 3–20 (Harvard Univ. Press 2015).

[38] David Freeman Engstrom et al., *Government by Algorithm: Artificial Intelligence in Federal Administrative Agencies*, 130 Yale L.J. 1695, 1700–10, 1735–42 (2021).

[39] Joshua A. Kroll et al., *Accountable Algorithms*, 165 U. Pa. L. Rev. 633, 637–45, 660–66 (2017).

algorithmic tools to protect the rule of law by including transparency, accountability, and human dignity in the governance of AI. In the case of India, where the constitutional tradition is well-established, and fundamental rights have been broader in their jurisdiction, it is not only to reign AI, but also to do so to enhancing democracy and not weakening it. The need to regulate the artificial intelligence beyond automation is thus not merely a policy necessity but a constitutional requirement.

7. Conclusion

The potential of artificial intelligence to increase the efficiency, consistency and accessibility of the governance of the people cannot be ignored. When used in a responsible manner, algorithmic systems can enable the improved decision-making process, decrease the administrative load, and enhance the access to the public services. Nevertheless, the uncritical or uncontrolled implementation of AI by the State has no less important threats as well. Without established legal limitations, algorithmic governance runs the risk of hiding accountability, deepening institutional biases, and weakening the postulates of the rule of law. In the Indian constitutional system, governance does not simply become an efficiency project, but a project of normativity, based on the principle of equality and dignity, fairness, and democratic responsibility. The constitutional values play a key role in being the strong fortress to the unreasoned and arbitrary power of the state. When left to run without transparency, explicability and regulation, algorithmic systems have a perilous tendency to become opaque technological power - immune to substantive challenge and criticism. This kind of change would essentially be antagonistic to the constitutional obligation of India, to a limited government and fair government.

The main issue is not to oppose the technological development, and to idealise human decision-making as a thing that cannot be wrong. Instead, it is to make sure that technology innovation should be subservient to the constitutional morality and human dignity. AI should be used as a support to governance, not as a replacement of human judgment or responsibility to democracy. The law should demand outcomes based on reason, procedural fairness and working remedies where algorithmic tools are used in making decisions that touch on rights, liberties and access to justice. In this paper, it has been argued that a rights approach to law is the only way through which algorithmic law can be regulated in India. This framework can no longer be soft-law based in ethics and policy advice but has to set enforceable standards based on a constitutional doctrine. A lack of transparency, human control, algorithmic responsibilities, and legislative approvals are not a luxury but are essentials in a constitution. History has proven that democracies can and should exercise control over AI through the law and avoid suppressing creativity. In the end, algorithmic governance will be legitimized by the fact that it will enhance the trust of the people in the state institutions instead of diminishing it. With an appropriate regulation, AI may be the tool of justice that improves the administration without violating rights. Otherwise, it may easily turn into an instrument of illegitimate power. The future of the algorithmic governance in India should not be thus defined by technological determinism, but by constitutional choice one that has the rule of the law, human dignity, and democratic accountability in the centre of the digital state.

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