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ALGORITHMIC GOVERNANCE AND ARTICLE 14: CAN EQUALITY SURVIVE AUTOMATED DECISION MAKING?

~Shubha Sree H

ABSTRACT

Automated administration through the use of technology and algorithmic governance is increasing in significance and uses algorithms to automate administrative decision-making, replacing discretionary decision-making. The utility of technology to enhance the efficiency of administration raises questions about transparency, accountability, rule of law and equality. By removing discretion in decision-making and utilising a "black-box" model for administering justice, automated decision-making undermines principles of natural justice and due process. This paper explores whether or not the implementation of automated decision-making violates the constitutional guarantee of equality found in Article 14 and also argues to ensure that technological governance remains consistent with democratic values.

Key words: Algorithmic Governance, Principles of natural justice, Rule of Law, black box.

INTRODUCTION

Contemporary India's administrative framework is witnessing a subtle but significant transformation to AI-driven "Smart governance," signalling a significant step towards institutionalising technology-led administrative reforms in India.¹ While the concept of governance involved discretionary powers held by human bureaucracy, the same has started getting entrusted to systems like Automated Decision-Making (ADM), predictive analytics, and algorithmic systems. Ranging from application of biometric facial recognition technology in distribution of welfare services to utilization of automated scoring systems in public

¹ Press Release, Press Information Bureau, Government of India, *Dr. Jitendra Singh proposes curriculum for AI driven 'Smart Governance', Rolls out vision for Indian Institute of Public Administration (IIPA)* (Apr. 15, 2026), <https://share.google/qOdrTVWlWXf5PkGMM>.

resources allocation,² algorithmic governance holds promise of providing efficiency, quickness and an objective framework. It becomes an incredible boon in the form of seamless transition of conventional and fallible human administrative frameworks to systemic and objective automated frameworks.

The growth of artificial intelligence in the society is no longer confined to the executive level; it has wide use in encompassing AI based functions by the Courts of India for instance, use of SUPACE,³ SUVAS,⁴ Adalat AI⁵ in the higher courts. Many of them are creating and utilising AI based applications to perform Legal Research, translate judgments to local languages, manage cases, and enhance administrative efficiency.

However, such a technological promise hides an acute constitutional crisis, which makes the boon turn into a systemic bane. Algorithmic governance framework is based on the understanding that mathematical code is essentially neutral. Yet the fact remains that machine learning models used in such cases are often coded by various human choices, systemic flaws in data and societal inequalities. As the State utilizes such an automated framework to make decisions related to citizens' rights and liberties, there arise urgent questions of natural justice and due process of law.

Consequently, automated decision-making systems could discriminate against certain groups, violate procedural fair play, and create results that are completely arbitrary. Discrimination has significant importance from an Indian constitutional standpoint because it relates directly to Article 14,⁶ which guarantees equality before the law and protection against arbitrariness. This article will critically examine whether the current constitutional framework can address the problems associated with algorithmic governance, as well as develop a technological environment that is consistent with equality and justice.

² Tanusha Tyagi, *AI in welfare systems: Rethinking Facial Recognition in India's welfare delivery*, Observer Research Foundation (May 27, 2026), <https://share.google/7EQyEWZbKyoBjHcHT>.

³ Press Release, Press Information Bureau, Government of India, *Use of AI in Supreme Court Case Management*, <https://share.google/VGZv8lRbXGpxYeDJ7>.

⁴ Press Release, Press Information Bureau, Government of India, *ACTION PLAN FOR SIMPLE, ACCESSIBLE, AFFORDABLE AND SPEEDY JUSTICE* (Aug.10, 2023), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1947490®=48&lang=2>.

⁵ *Adalat AI Codex Group Meeting* (Oct. 16, 2025), Stanford Law School, <https://law.stanford.edu/2025/10/16/adalat-ai-codex-group-meeting-october-16-2025/>.

⁶ INDIA CONST. art.14.

THE SHIFT FROM BUREAUCRATIC DISCRETION TO ALGORITHMIC CONTROL

Governance and Algorithms combine automation tools, big-data analysis, machine learning algorithms and AI systems to help support or inform government agency decisions. In the past, public administration was guided by human discretion, knowledge, and judgment. As more governance processes have become digitised, governments can leverage computer-based technology to process information, predict future events, distribute resources, and perform other kinds of administrative tasks. The principle behind using such technologies is that they will produce better efficiencies, greater consistency and provide more objective decision-making; thus, producing superior outcomes than were possible with traditional human decision makers.

Algorithmic Governance is closely related to the broad change from analog to digital governance and policymaking, therefore creating evidence-based decision-making. Algorithmic systems are being used more frequently by governments around the world for administering social policies, collecting taxes, policing, providing public health services, and distributing resources. Many people assume algorithmic systems will be a scientifically objective alternative for human decision making, because they produce results based on countless mathematical operations and statistical correlations rather than subjective opinions. Unfortunately, however, this assumption has been called into question by several researchers. Research has shown that algorithms do not provide complete impartiality when producing results; they can provide biased outcomes because algorithms are simply an indirect reflection of all of the biases, values, and pre-established beliefs of the people who created them, as well as the data used to create them.⁷

The application of algorithms in the public administration sector in India is on the rise; areas of use include biometric authentication in welfare programs, the use of predictive analytics in the process of providing public services, facial recognition systems, and the like. Moreover, technological advances in the field of judiciary are being observed and include such applications of Artificial Intelligence as SUPACE (Supreme Court Portal for Assistance in

⁷ European Union Agency for Fundamental Rights, *Bias in Algorithms: Artificial Intelligence and Discrimination* 11 (2022), https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-bias-in-algorithms_en.pdf.

Court's Efficiency)⁸ and SUVAS (Supreme Court Vidhik Anuvaad Software),⁹ which support judges with research by helping them to find precedents and translate legal documents into regional languages, as well as automate certain tasks within the judicial system. These AI tools were designed to assist with judicial processes only, not to determine issues before the court on behalf of the judiciary.

The issue of the black box relates to the fact that there is internal complexity within a neural network and that the user and even the developers have no idea of how the outcome was derived based on that internal network.¹⁰ This kind of internal complexity creates problems with contamination of historical data that contains biases developed by society along the lines of caste, class, gender, and religion. Problems can also occur when neutral variables, such as geographic location or postal code, are processed, and these variables reproduce the illegal bias in the outcome generated by the neural network.

Contamination of data creates a feedback loop, and in that way automates the creation of unequal outcomes, as described by Virginia Eubanks.¹¹ When those outcomes are based on arbitrary output probabilities derived from previously unexamined data patterns, they do not comply with state administrative protection, thus they conflict with India's Article 14.

CONSTITUTIONAL EQUALITY IN THE AGE OF ALGORITHMS

Equality before the law and equal protection of laws are guaranteed in Article 14 of the Indian Constitution as one of the basic tenets of the Indian constitutional framework. Article 14 is intended to promote good governance by prohibiting the use of arbitrary action by the government in the exercise of its powers in a fair and reasonable manner. It does permit the use of reasonable classification, provided such classification is based on an intelligible principle and has a relationship to the purpose of the classification.

⁸ Use of AI in Supreme Court Case Management, *supra* note 3.

⁹ ACTION PLAN FOR SIMPLE, ACCESSIBLE, AFFORDABLE AND SPEEDY JUSTICE, *supra* note 4.

¹⁰ Yavar Bathaee, *The Artificial Intelligence Black Box and the failure of Intent and Causation*, 31 *Harv. J.L. & Tech.* 890, 892-893 (2018).

¹¹ Virginia Eubanks, *AUTOMATING INEQUALITY: HOW HIGH-TECH TOOLS PROFILE, POLICE, AND PUNISH THE POOR* 11 (St. Martin's Press 2018).

The scope of article 14 has grown because of the way the courts have interpreted it. In *E.P. Royappa v. Tamil Nadu*,¹² the Court stated, "equality to be mutually exclusive" and that therefore "any arbitrary action by the State would result in a violation of equal treatment". The same principle was reiterated in *Maneka Gandhi v. Union of India*,¹³ where the courts held that any action by the State must be either based on fair, just and reasonable grounds. The principle of natural justice also applies to the procedural aspect of decisions made by the state regarding an individual. Thus, there must be due process followed for decisions made about an individual to ensure fairness and allow for accountability and recourse from an incorrect decision. As such, it is necessary to have procedural rules that are objective and rationally determined to preserve equality and privacy¹⁴ of an individual.

Constitutional principles become even more important when we think about algorithm-based governance. The use of automation in decision-making across a number of sectors impacts citizens' rights and interests. This includes the delivery of benefits provided by the government as well as how citizens interact with the police and the government itself. While algorithmic governance creates consistency in decision-making, understanding the decision-making process is challenging due to the complexity and lack of transparency of algorithms. Consequently, there are transparency/accountability and discrimination concerns around the use of algorithms. As governments continue to use automated decision-making processes, Article 14 of the constitution will play an important role in reducing arbitrary actions taken by government agencies and creating equality among all citizens. The question then becomes whether current jurisprudence governing equality can adequately address this issue.

ALGORITHMIC BIAS AND THE MYTH OF TECHNOLOGICAL NEUTRALITY

The increasing use of algorithm-driven systems in government decision-making assumes that technology is objectively unbiased and, therefore, more objective than human-decision making. This assumption is profoundly mistaken; algorithms do not exist in a vacuum, as they are based ultimately on the judgments of humans about what data should be collected, how to categorise it, and how to create a model of it. Because of this very fact, it is possible to argue that automated systems do not produce unbiased decisions to the extent that they have inherited the social inequalities present in the societies they operate in.

¹² *E.P. Royappa v. Tamil Nadu*, AIR 1974 SC 555.

¹³ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

¹⁴ *Justice K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors.*, (2017) 10 SCC 1.

In addition to the above, many algorithm-driven decision-support systems are based on historical data, which itself reflects existing inequalities and hierarchy in the societies they come from. Thus, algorithmic decisions made from this basis will merely replicate existing discrimination in society while not appearing biased due to the statistical neutrality of the underlying mathematics. When hidden biases are present in the decision-making process, those biases get more difficult to identify and challenge.

Moreover, the rise of “black-box” algorithms is raising constitutional questions regarding democratic accountability; compared to conventional administrative processes, algorithms typically offer little or no information regarding how they reach their results or conclusions. This leaves individuals with no basis on which to contest local authorities’ or governments’ decisions from an appeal standpoint or question their reasoning, which is particularly troublesome with respect to governance-related decisions regarding the allocation/distribution of resources (e.g., welfare, jobs, services).

Consequently, while there is also the potential for flaws in the technology, there is more than just a technological weakness to this issue; there is the potential that algorithmic systems may make arbitrary administrative decision-making appear to be neutral, thus creating a risk of discrimination and/or infringement on citizens’ rights. In this regard, the issue of algorithmic (administrative) governance raises the question as to whether or not the efficiencies that algorithmic systems may provide can justify the sacrifice of fairness and equality for the purpose of providing that efficiency.

TOWARDS CONSTITUTIONALLY COMPLIANT ALGORITHMIC GOVERNANCE: RECOMMENDATIONS

In this context, there is a need to ensure the constitutional authenticity of such technological innovations, given the increasing presence of algorithms in public administration. Although framework for the deployment of artificial intelligence in public decision making framework that currently does not exist, in absence of which accountability and constitutional issues remain shrouded in ambiguity.

Secondly, algorithmic impact assessment is a recommended requirement for government departments prior to deploying automated systems. This would be beneficial to identify the

potential for undesired, discriminatory and/or biased outcomes that may violate constitutional rights. Periodic independent audits should be performed to confirm the system is working properly, is functioning fairly, and is delivering desired outcomes.

Thirdly, transparency is an essential element of algorithmic governance; those impacted by automated decision-making must be made aware of the criteria used to reach those decisions, and must have the ability to appeal decisions that adversely affect them.

In fourth place, human involvement is essential when decisions are made affecting individuals' fundamental rights. While algorithms may greatly assist in improving the decision-making process, only human beings can be the ultimate decision-maker. This will most certainly ensure the efficiency of government administration and ensure it is not at the expense of someone's constitutional rights. These principles will allow India to take advantage of the advances made in technology while maintaining the constitutional principles of Equality and Fairness as defined in Article 14 of its Constitution.

CONCLUSION

While the problems attached to the algorithmic governance framework lie largely in its increasing capacity for administrative efficiency, it also lies in holding transparency, accountability, and equality at risks. Therefore, in answering this technology vs. democracy question, it can be stated, quoting Justice Bhagwati in an iconic description, "that the notion of equality is multilateral and dynamic". Hence, to ensure automated decision making prevalent, one must assure the constitutional safeguards against arbitrariness