



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2025

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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WELFARE BY ALGORITHM

~Manvi

When I started law school I expected statutes, old cases and a lot of Latin. I did not expect one of the most interesting problems in public law to involve a risk score. But governments now use software to decide who gets a benefits check, who gets investigated and who gets quietly cut off. Courts are only starting to say what the law makes of that.

I'm a first-year, so I'm not claiming to have solved this. I have read the main decisions closely, and the picture they give is more uneven than the headlines suggest.

THE BASIC PROBLEM

On paper, a human usually makes the final call. A caseworker reviews the flagged file, or an official signs off on the cancellation. Real practice can look different. In Telangana, officials must consult the Samagra Vedika system before approving a welfare application, and in practice they defer to the machine. A human who always agrees with the software is a rubber stamp, and the law has to decide whether that counts as human decision-making.

SYRI: THE CASE EVERYONE STARTS WITH

The Dutch SyRI judgment (The Hague District Court, February 2020, ECLI:NL:RBDHA:2020:1878) is where most reading lists begin. SyRI pulled personal data from many government sources to flag people for possible fraud. The court held that the legislation did not strike a fair balance between fraud detection and the right to privacy.¹

The reasoning matters more than the headline. The court accepted that fighting fraud was a legitimate aim, because it contributes to economic wellbeing. The problem was how the state went about it. The state never revealed how SyRI worked, so nobody could check whether it discriminated, and the court worried it might be biased against people in poorer neighbourhoods. The Dutch government then chose not to appeal, which made the judgment final.²

¹ See *Nederlands Juristen Comité voor de Mensenrechten v. State of the Netherlands*, ECLI:NL:RBDHA:2020:1878 (Dist. Ct. The Hague Feb. 5, 2020) (Neth.).

² *Id.*; see also Frederik Zuiderveen Borgesius, *Discrimination, Artificial Intelligence, and Algorithmic Decision-Making*, COUNCIL EUR., at 10–12 (2018).

A cautious reading is necessary, though. Commentators who studied the ruling closely say that its immediate effects are limited, and that a court might approve a similar system if the government were more transparent. As a student I find that sobering. SyRI is a ruling about legislative quality, not a ban on algorithmic welfare.³

SENTENCING SOFTWARE AND THE LIMITS OF WARNINGS

Loomis v. Wisconsin, 881 N.W.2d 749, isn't a welfare case. It concerned a risk-assessment tool in sentencing, but American child-welfare lawyers cite it because there is so little on point. An American Bar Association piece notes that no child welfare-specific law tells attorneys and courts how to treat these predictions.⁴

The same piece raises an uncomfortable point. The *Loomis* court was careful and attached warnings about the tool's limits, yet researchers at the Max Planck Institute found that such warnings had no effect on people's decisions or the accuracy of their predictions. That finding stayed with me. If a cautionary note doesn't change behaviour, a legal safeguard that depends on one is weak.⁵

EUROPE'S DATA PROTECTION ROUTE: SCHUFA AND DUN & BRADSTREET

The sharper legal tool turns out to be data protection law. In *SCHUFA* (Case C-634/21, 7 December 2023), the Court of Justice of the European Union dealt with a German credit agency's scores. The agency argued that it only produced a number and that the bank made the actual decision. The Court rejected that argument. An automated score counts as an automated decision under Article 22(1) GDPR where a third party draws strongly on it.⁶

The Court also saw the loophole risk. A narrow reading would have left a gap in protection by treating the score as merely preparatory⁷.

Dun & Bradstreet Austria (Case C-203/22, 27 February 2025) took the next step. The Court held that people are entitled to enough information to challenge an automated decision, and handing over the algorithm itself, or a step-by-step description of it, would not be enough. The Court also had to balance that right against the company's trade secrets. A key distinction is that the law asks for explanations a person can use, not technical disclosure.⁸

Neither case involves welfare. Both matter because campaigners are now borrowing the *SCHUFA* reasoning for benefits systems.

THE FRENCH CASE STILL WAITING

³ . See *Nederlands Juristen Comité voor de Mensenrechten*, ECLI:NL:RBDHA:2020:1878

⁴ *State v. Loomis*, 881 N.W.2d 749, 753–67 (Wis. 2016).

⁵ See generally Julia Dressel & Hany Farid, *The Accuracy, Fairness, and Limits of Predicting Recidivism*, 4 SCI. ADVANCES, no. 1, 2018, at 1–5.

⁶ Case C-634/21, *OQ v. Land Hessen & SCHUFA Holding AG*, ECLI:EU:C:2023:957 (Dec. 7, 2023).

⁷ *Id*

⁸ Case C-203/22, *Dun & Bradstreet Austria GmbH v. Verein für Konsumenteninformation*, ECLI:EU:C:2025:119 (Feb. 27, 2025)

The French family allowance fund (CNAF) assigns each claimant a risk score between zero and one, and the higher the score, the more likely a check becomes. In October 2024, fifteen organisations challenged this before the Conseil d'État. The coalition has since grown to 25 and is asking for the algorithm to be banned. By their account, the system analyses the data of more than 32 million people every month and produces over 13 million scores.⁹

France : l'algorithme de la Caisse nationale des allocations familiales cible les plus précaires
+2

The legal argument is SCHUFA applied to welfare. If the score decides who gets checked, is it a "decision" or just a preparatory step? If it is a decision, it falls under Article 22 GDPR and its safeguards. A second argument concerns discrimination. According to the claimants, the score rises with low income, unemployment, or receiving the RSA or AAH benefits.

The facts have moved since filing. CNAF published the source code of its current algorithm on 15 January 2026. The coalition says that a 2025 internal study its authors obtained acknowledged discriminatory effects. I'm reporting that as the coalition's claim, not as a finding. CNAF defends the economic variables, saying they seem unavoidable because so many benefits depend on resources. It also points out that 166,000 checks in 2024 came from the tool, under 1% of all checks.¹⁰

CNAF's discriminatory scoring algorithm: 10 new organisations join the case before the Conseil d'État in France +2

Transparency has a history here too. Earlier, France's access-to-documents commission advised that the variables and their weights could be withheld, because disclosing them would reveal the criteria used to target checks. When I searched, I found no decision from the Conseil d'État. The coalition wants a referral to the CJEU, so the final answer may come from Luxembourg.

DENMARK AND SWEDEN: FINDINGS, NOT JUDGMENTS

Two other European systems have drawn scrutiny from Amnesty International and investigative journalists rather than from courts. These are findings and allegations, not legal holdings.

Denmark's benefits authority uses up to 60 algorithmic models to flag people for fraud investigation. Amnesty says one tool, "Really Single", uses "unusual" or "atypical" living arrangements as a parameter. The authority denies that its models amount to social scoring or break Danish or EU law, and says caseworkers always review flagged cases. In Sweden, an investigation found that the agency's system disproportionately flagged women, people with foreign backgrounds, low earners and people without university degrees.

⁹ See Commission Nationale de l'Informatique et des Libertés (CNIL), La Caisse nationale des allocations familiales (CNAF) et l'algorithme de ciblage des contrôles (discussing CNAF's automated targeting system).

¹⁰ See Caisse nationale des allocations familiales, Algorithme de ciblage des contrôles (Jan. 15, 2026)

AI is not a magic bullet, and one of the most digitised regions in Europe shows why: Denmark automated its welfare fraud checks with dozens of algorithms, and Amnesty International warns the system risks discriminating against the very people it was meant to protect +3

INDIA: EXCLUSION WITHOUT A JUDGMENT ON THE ALGORITHM

India's version of the problem is the one closest to my own constitutional law course. Between 2014 and 2019, Telangana cancelled over 1.86 million food security cards and rejected 142,086 fresh applications without issuing any notice. Investigators linked thousands of these cancellations to faulty data and algorithmic errors in Samagra Vedika.¹¹

One case shows the human cost. A widow in Hyderabad was refused a card because the system confused her late husband, a rickshaw puller, with a car owner of a similar name.

The legal hook is Article 21. The Supreme Court recognised the right to food as part of the right to life in *PUCL v Union of India* (2001), and the National Food Security Act 2013 guarantees subsidised grain to roughly two-thirds of the population. The Court's response so far has been procedural. In 2022, in a petition by activist S.Q. Masood, it directed the state to verify all the cancelled ration cards in the field and asked the Chief Secretary to explain what steps preceded the cancellations. The challenge rested on the lack of notice or an opportunity to be heard.¹²

Algorithmic Welfare Exclusion and the Right to Food in India: Lessons from Samagra Vedika +2

In my reading, Indian courts have so far used old tools, natural justice and Article 21, and have not ruled on algorithms as a category. That is only my impression from the sources I could find, and a better-read lawyer might correct it. Even so, it shows that claimants need no new law to demand a hearing before cancellation. The older principles already apply.

THE LATEST CASE STUDY: ROBODEBT

Australia's Robodebt scheme is the most recent development I could verify, and arguably the most instructive. The central legal point wasn't exotic. Centrelink had calculated debts by averaging annual income instead of using actual fortnightly earnings, which made the debts unlawful. The software scaled up an error that was already a legal error.¹³

The litigation ran in two stages. The first class action settled in 2021. In the appeal, the court set aside that settlement so the applicants could bring a further claim for misfeasance in public office, using fresh evidence from the Royal Commission. The Royal Commission began in August 2022, and its report contains a sealed section recommending referrals for civil action or criminal prosecution.¹⁴

¹¹ . See generally Amnesty International, *Automated Injustice: How Automated Systems Are Denying Access to Welfare in India* (2020).

¹² *People's Union for Civil Liberties (PUCL) v. Union of India*, (2001) 5 SCC 357 (India); National Food Security Act, 2013, No. 20 of 2013, INDIA CODE (2013).

¹³ See *Commonwealth v. Prygodicz* (No. 2) [2021] FCA 945 (Austl.); Royal Commission into the Robodebt Scheme, *Report of the Royal Commission into the Robodebt Scheme* (2023).

On 23 June 2026, Justice Jonathan Beach of the Federal Court approved an additional settlement of \$548.5 million, including \$475 million in compensation for about 125,000 registered claimants. That is the largest class action settlement in Australian history. Final individual payments are expected to run through to 2028.¹⁵

Robodebt victims share in millions as Australia's largest-ever class action settlement approved +2

For a first-year, what stands out is the theory of liability. Compensation came through misfeasance, a tort aimed at officials who knew a scheme was unlawful and pressed ahead. It targets the people behind the machine, not the machine.¹⁶

A RELATED ENFORCEMENT SIGNAL

One more item from this month isn't a welfare case. The Dutch data protection authority fined Uber almost €825 million for breaching the GDPR's prohibition on fully automated decision-making. It is a regulator's decision, not a court judgment. Even so, it shows that Article 22 has teeth. The CNAF coalition will no doubt point to it.¹⁷

WHAT I TAKE FROM ALL THIS

The cases don't line up neatly. Still, a few patterns repeat.

First, secrecy loses cases. SyRI turned on the state's refusal to explain itself, and the CJEU's *Dun & Bradstreet* ruling pushes in the same direction. A system that no one can explain is hard to defend in court.¹⁸

Second, the "human in the loop" label doesn't settle anything. SCHUFA looked past the formal decision-maker, and the Telangana accounts show officials deferring to the software. Courts seem ready to ask who actually decided.¹⁹

Third, the burden usually lands on the person least equipped to carry it. In Telangana, once someone is excluded, the onus is on them to prove they were entitled to the benefit, and even then officials often favoured the algorithm. A procedural right is only useful if people know about it and can afford to use it.

Fourth, the legal basis varies. Privacy carried SyRI. Data protection and discrimination law drive the CNAF challenge. Constitutional rights and natural justice carry the Indian cases,

¹⁴ See *Prygodicz v. Commonwealth* [2021] FCA 945 (Austl.); Royal Commission into the Robodebt Scheme, *supra*

¹⁵ See *Prygodicz v. Commonwealth*, VID 622 of 2020 (Fed. Ct. Austl. June 23, 2026)

¹⁶ See Royal Commission into the Robodebt Scheme, *supra* note 3

¹⁷ See Commission Nationale de l'Informatique et des Libertés (CNIL), *Délibération de la formation restreinte n° SAN-2026-XXX* (2026).

¹⁸ See *Nederlands Juristen Comité voor de Mensenrechten*, ECLI:NL:RBDHA:2020:1878; *Dun & Bradstreet Austria GmbH*, ECLI:EU:C:2025:119

¹⁹ See *OQ v. Land Hessen & SCHUFA Holding AG*, ECLI:EU:C:2023:957; Amnesty International, *supra* note 4.

and public-law wrongdoing carried Robodebt. No single doctrine covers the field, which makes it hard to study and, I suspect, hard to practise.

I still don't know where the line falls between a legitimate fraud-detection tool and an unlawful one. SyRI implies the answer depends on safeguards, not on the technology. The French decision, when it comes, may be the first to tell us whether a risk score that shapes who gets checked is itself a decision the law must control.