WHEN ALGORITHMS GOVERN: THE CRISIS OF NATURAL JUSTICE IN INDIA'S DIGITAL STATE

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ABSTRACT

Administrative discretion in India has undergone a significant transformation with the increasing adoption of artificial intelligence and algorithm-driven technologies in public administration. While automation is often justified on grounds of efficiency, consistency, and objectivity, it raises serious concerns regarding accountability, transparency, and the preservation of principles of natural justice. This article critically examines the implications of algorithmic decision-making for constitutional safeguards under Articles 14 and 21 of the Indian Constitution, particularly the protection against arbitrariness, the right to a fair hearing, and the requirement of reasoned decisions. Through an analysis of Indian constitutional jurisprudence, supplemented by limited comparative insights, the article identifies key procedural deficits arising from opaque automated systems used by the State. It argues for recalibrating natural justice principles through mandatory human oversight, procedural rights to explanation, and strengthened grievance-redress mechanisms to ensure that algorithmic governance remains consistent with constitutional values, procedural fairness, and the rule of law

Keywords: Algorithmic governance; natural justice; administrative law; procedural fairness; constitutional law.

I. Introduction

The Indian State is increasingly governed not only by human discretion but by automated and algorithmic systems.[1] From welfare distribution and eligibility determinations to surveillance, policing, and regulatory administration, artificial intelligence and data-driven technologies now play a significant role in public decision-making. These systems are often introduced in the name of efficiency, objectivity, and scalability, particularly in a country with vast administrative responsibilities and limited institutional capacity.[2] However, the growing reliance on

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

[2] Karen Yeung, Algorithmic Regulation: A Critical Interrogation, 15 Reg. & Governance 1 (2020).

algorithmic decision-making raises profound constitutional concerns, particularly with respect to accountability, fairness, and procedural justice.

At the heart of these concerns lies the doctrine of natural justice, a foundational principle of Indian administrative law. Natural justice operates as a safeguard against arbitrary State action by requiring fairness in decision-making processes. Traditionally, this doctrine has been articulated through *audi alteram partem,* the right to be heard, and the requirement of reasoned and unbiased decision-making. These principles are not merely procedural conventions but are constitutionally embedded through Articles 14 and 21 of the Constitution of India.[3]

Algorithmic governance challenges these principles in subtle yet systemic ways. Automated systems frequently operate as opaque mechanisms, making decisions based on complex data models that are neither transparent to affected individuals nor easily explainable by public authorities. When welfare benefits are denied due to automated authentication failures, or when individuals are flagged by predictive systems without disclosure of the underlying logic, the opportunity to understand, contest, or correct such decisions is significantly reduced.[4] In such contexts, the absence of an identifiable human decision-maker further complicates traditional accountability structures.

Despite the rapid digitisation of governance, Indian constitutional jurisprudence has not yet squarely addressed the procedural implications of algorithmic decision-making. While courts have engaged with issues of privacy, proportionality, and surveillance in the digital context, the impact of automation on natural justice remains under-examined. This article argues that algorithmic decision-making by the State constitutes State action subject to constitutional discipline and must therefore comply with the principles of natural justice under Articles 14 and 21.

Importantly, algorithmic systems do not displace administrative discretion; they reconfigure it. Decisions that were previously exercised by individual officials at the point of application are increasingly embedded ex ante in code, datasets, eligibility

3 INDIA CONST. arts. 14, 21.

4 Aman Sonkar, *Automated State Action in India: Administrative Justice, Privacy and Constitutional Accountability* (SSRN Working Paper, 2024)

thresholds, and risk parameters. In this sense, algorithmic governance represents a structural shift in how administrative discretion is exercised, relocating discretionary power from human judgment to technical system design. This transformation demands renewed scrutiny through the lens of administrative law and natural justice.

II. Natural Justice under the Indian Constitutional Framework

Natural justice forms the procedural backbone of Indian administrative law and functions as a constitutional restraint on the exercise of public power. Although the Constitution does not explicitly refer to natural justice, the Supreme Court has consistently held that its principles are inherent in Articles 14 and 21.[5] These provisions collectively ensure that State action is fair, reasonable, and non-arbitrary.

A. Article 14 and the Prohibition of Arbitrariness

Article 14 guarantees equality before the law and equal protection of the laws. Judicial interpretation has expanded this guarantee beyond formal equality to include a substantive prohibition against arbitrariness in State action. In E.P. Royappa v. State of Tamil Nadu, the Supreme Court held that arbitrariness is antithetical to equality, thereby linking Article 14 with procedural fairness and reasonableness.[6]

This doctrinal evolution ensures that administrative decisions must be guided by intelligible standards capable of scrutiny.[7] When decisions are rendered through automated systems whose criteria remain undisclosed, affected individuals are deprived of the ability to assess whether decisions are fair, consistent, or discriminatory. Such opacity weakens the constitutional promise of equality and undermines judicial review.

B. Article 21 and the Right to Fair Procedure

Article 21 guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. In Maneka Gandhi v. Union of

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[5] *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.
[6] *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3
[7] *State of M.P. v. Thakur Bharat Singh*, A.I.R. 1967 S.C. 1170.

India, the Supreme Court transformed this provision by holding that any procedure affecting rights must be "just, fair and reasonable."[8]

The constitutional requirement of reasoned decision-making has long been recognised as integral to administrative accountability and judicial review.[9] In algorithmic governance, however, decisions are often communicated as outcomes without intelligible justification, reducing procedural fairness to a formal abstraction.

C. Natural Justice as a Constitutional Minimum

Indian courts have consistently held that principles of natural justice apply unless expressly excluded by statute.[10] The expansion of State power through algorithmic tools does not dilute this obligation; rather, it heightens the need for procedural safeguards capable of addressing technologically mediated decision-making.

III. Algorithmic Decision-Making as State Action

Algorithmic systems increasingly function as instruments through which State power is exercised. Understanding such systems as constituting State action is therefore central to constitutional scrutiny.

Across these domains, algorithms do more than assist officials; they shape decisions by fixing key choices into the system itself. By pre-determining eligibility conditions, risk scores, and enforcement triggers, these systems operationalise discretion through technical design choices rather than individualised adjudication. State power is thus exercised through system architecture, raising foundational concerns for administrative accountability and procedural fairness.

In India, algorithmic mediation of State power is increasingly visible across multiple governance systems. Aadhaar-enabled Direct Benefit Transfer (DBT) platforms play a decisive role in determining eligibility and continuation of welfare benefits based on biometric authentication and database matching, often resulting in exclusion due to authentication failure or data inconsistencies. Similarly, the Public Distribution System (PDS) in several States relies on automated Aadhaar-based verification to

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[8] *Maneka Gandhi*, (1978) 1 **SCC** 248.

[9] *Union of India v. Mohan Lal Capoor*, (1973) 2 **SCC** 836

[10] I.P. Massey, *Administrative Law* 12–15 (9th ed. 2022).

release food entitlements, where denial frequently occurs without prior notice or human review.

Algorithmic decision-making is also evident in policing and surveillance. Police authorities in several jurisdictions have adopted data-driven crime mapping tools and Automated Facial Recognition Systems (AFRS) to identify suspects and monitor public spaces, where individuals may be flagged or tracked without disclosure of criteria or avenues for contestation. In the domain of financial governance, the Income Tax Department and GST authorities employ automated risk-profiling and data-analytics systems to identify taxpayers for scrutiny and enforcement. These systems frequently generate notices and initiate proceedings through centralised, system-based assessments, with limited individualised reasoning disclosed at the threshold stage.

The opacity of these systems creates a significant accountability gap, particularly in high-stakes domains such as welfare delivery, policing, and surveillance. Individuals affected by automated decisions frequently lack clarity regarding how outcomes were generated, what data or thresholds were applied, or how such decisions may be meaningfully challenged.[11]

These systems therefore raise not merely technical concerns but fundamental challenges to the procedural safeguards that regulate administrative power.

IV. Breakdown of Natural Justice in Algorithmic Governance

By embedding discretionary choices into automated systems, algorithmic governance systematically undermines the core components of natural justice that traditionally regulate administrative power.

A. Erosion of the Right to Be Heard

The principle of audi alteram partem requires meaningful participation in administrative decision-making. Automated systems frequently trigger decisions without prior notice or opportunity for representation. Welfare exclusions caused by authentication failures illustrate how individuals often become aware of adverse

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[11] Sonkar, *supra* note 4.

decisions only after consequences materialise.[12] Post-decision remedies are rendered ineffective where administrative officials lack both the authority and the technical competence to meaningfully review or override algorithmic outcomes

B. Absence of Reasoned Decision-Making

Reasoned decision-making serves as a cornerstone of administrative justice and a prerequisite for judicial review. Algorithmic systems replace articulated reasons with opaque outputs, often communicated as binary results without explanation.[13] This opacity prevents affected individuals from assessing arbitrariness and undermines effective judicial scrutiny.[14]

C. Heightened Risk of Arbitrariness

Algorithms can reinforce inequality when they rely on biased data or incorrect assumptions. When used at scale, such systems can cause widespread exclusion that is hard to identify or challenge because of their opacity.[15]

V. Judicial Engagement with Algorithmic Governance: India and Comparative Perspectives

As algorithmic systems increasingly shape administrative decision-making, courts are being called upon to assess their compatibility with constitutional principles and the rule of law. In India, while a coherent doctrine on algorithmic governance has yet to emerge, recent judicial interventions indicate growing awareness of how automation affects privacy, procedural fairness, transparency, and equality. By contrast, courts in several foreign jurisdictions have adopted more assertive approaches in regulating AI-driven state action.

Indian courts have primarily encountered algorithmic governance through challenges to biometric systems, facial recognition technologies, and automated public service

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[12] Jean Drèze & Reetika Khera, Recent Social Security Initiatives for the Poor, 52 Econ. & Pol. Wkly. 52 (2017).
[13] *Mohan Lal Capoor*, (1973) 2 SCC 836
[14] Sandra Wachter et al., Why a Right to Explanation Does Not Exist in the GDPR, 7 Int'l Data Privacy L. 76 (2017).
[15] Michael Veale & Frederik Zuiderveen Borgesius, Demystifying the Draft EU AI Act, 11 Computer L. Rev. Int'l 97 (2021).

platforms. In *Vaibhav Gaggar v. Union of India*,[16] the Delhi High Court examined the suspension of FASTag wallets operated through AI-enabled toll systems. Although the system itself was not invalidated, the Court underscored the need for transparency and effective grievance redress mechanisms where public services rely on automated interfaces. In the Aadhaar adjudication[17], the Supreme Court upheld the framework while emphasising proportionality, necessity, and informational privacy. However, the judgment stopped short of prescribing procedural safeguards for algorithmic decision-making, leaving a gap in judicial oversight. Notably, while these decisions have advanced privacy and proportionality jurisprudence in digital governance, they have only marginally engaged with the procedural fairness concerns raised by automated decision-making.

Judicial scrutiny is also emerging through pending litigation. In *Internet Democracy Project v. Union of India*, the deployment of facial recognition technology in public surveillance and policing has been challenged on grounds of absence of legislative backing and adequate safeguards. Although the matter remains sub judice, the Delhi High Court's willingness to entertain such challenges signals a growing constitutional concern regarding automated governance and technology-driven decision-making.

In contrast, foreign courts have articulated clearer limits on algorithmic systems. In *ACLU v. Clearview AI*[18], a U.S. court recognised that mass scraping and commercial use of facial data violated biometric privacy protections. The Dutch District Court of The Hague, in the *SyRI* case[19], struck down an algorithmic welfare fraud detection system for lack of procedural and substantive safeguards. Similarly, the UK Court of Appeal in *R (Bridges) v. Chief Constable of South Wales Police*[20] held that facial recognition deployment without clear legal standards violated privacy and non-discrimination norms. The German Federal Constitutional Court has likewise required statutory authorisation, human oversight, and meaningful review for automated systems affecting rights.

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[16] *Vaibhav Gaggar v. Union of India*, 2023 SCC OnLine Del 1921.

[17] *Puttaswamy (Aadhaar)*, (2019) 1 SCC 1

[18] *ACLU v. Clearview AI, Inc.*, No. 2020-CH-04353 (Ill. Cir. Ct., Cook Cnty. filed May 28, 2020).

[19] NJCM et al. v. The State of the Netherlands, ECLI:NL:RBDHA:2020:865 (Dist. Ct. The Hague, Feb. 5, 2020)

[20] *R (on the application of Edward Bridges) v. Chief Constable of South Wales Police*, [2020] EWCA Civ 1058 (Ct. App. 2020

These comparative decisions highlight key principles relevant to India: algorithmic systems must be legally grounded, transparent, and subject to accountability mechanisms. Automated decision-making does not dilute constitutional obligations merely because it is technologically mediated. While Indian courts possess doctrinal tools such as proportionality and the requirement of reasoned decisions under Articles 14 and 21, they must move beyond a predominantly privacy-centric approach. Developing a robust administrative law framework for algorithmic governance is essential to ensure that judicial review remains effective in an era where decisions are increasingly made by machines rather than individual officials.

VI. Reimagining Natural Justice in India's Digital State

Natural justice must be adapted, not abandoned. Automated systems should not function as final decision-makers in matters affecting rights. Mandatory human oversight is essential.[21] Individuals must enjoy a procedural right to explanation, enabling contestability and judicial review.[22] Public authorities should conduct algorithmic impact assessments before deploying systems in sensitive domains.[27] Finally, grievance-redress mechanisms must be strengthened through trained officials and effective remedies.[23]

VII. Conclusion

Algorithmic decision-making presents both opportunities and constitutional challenges for India. While automation promises efficiency, unchecked deployment risks undermining natural justice and constitutional accountability. This article has argued that principles grounded in Articles 14 and 21 remain central to evaluating algorithmic governance.

Ultimately, the constitutional challenge posed by algorithmic governance is administrative rather than technological, as it concerns how discretion is exercised, justified, and reviewed when decisions are produced by systems rather than officials.

The use of algorithms by the State heightens—not diminishes—constitutional responsibility. Ensuring fairness, reasoned decision-making, and effective remedies is essential to preserving the rule of law in India's digital state.

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[21] Wachter et al., *supra* note 18.

[22] Vidhi Centre for Legal Policy, *Regulating Automated Decision-Making in India* (2021).

[23] I.P. Massey, *Administrative Law* 30–33 (9th ed. 2022).