

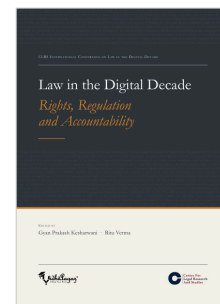
CHAPTER 3

Constitutional Limits on Automated Governance: An Article 21 Perspective on Algorithmic Accountability in India

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CHAPTER 3

Constitutional Limits on Automated Governance: An Article 21 Perspective on Algorithmic Accountability in India

YASHWANT SC*

Artificial Intelligence plays a major role in modern-day, e.g., AI-based automated governance. Using machine learning and natural language processing, this helps in monitoring compliance, predicting risks and enforcing policies across enterprise systems. This study analyses the implications of increasing AI-driven surveillance and governance technologies on the Indian polity in context to Article 21 of the Constitution of India pertaining to right to life and personal liberties. In addition, this paper investigates the literature on protection of constitutional rights under Article 21 by examining case laws and applying, in context of human right violations pertaining from introduction of AI based technologies through constitutional principles on data available until now including privacy, dignity and other constitutionally protected rights. This research examines AI implementation challenges, looking specifically at black-box system implementations inside governmental organizations that have security, defense, protection responsibilities or are mandated to investigate social good (such as housing, employment, civil/affairs) objectives and enforce laws.

*Increased usage of AI-based decision-making systems by governmental bodies or authorities for purposes of predictive policing, public decision-making, and welfare distribution increases the threat of transparency and accountability, which is necessary to uphold constitutional guarantees associated with Article 21 provisions in India. This research also helps to understand the relationship between AI-enabled governance and different interpretations of legal provisions and to recommend incorporating procedural mechanisms aimed at enhancing explainability and oversight required for realising these protections through analysis of relevant judgments issued by the Supreme Court in landmark cases such as *Maneka Gandhi v. Union of India* and *Justice K.S. Puttaswamy v. Union of India* relating to Right to Privacy and Dignity. This research paper provides a broad scope for addressing concerns arising out of emerging technological developments, failure to establish specific processes for ensuring algorithmic transparency and accountability which could potentially lead to unconstitutional governance. It also provides effective suggestions for the creation of a rights-based regulatory framework requiring incorporation of both technical and procedural safeguards into AI systems used in the Indian State.*

1 INTRODUCTION

The adoption of artificial intelligence (AI) together with algorithmic-based decision-making systems has created new legal challenges which now confront the Indian Constitution, which protects essential human rights through its core principles. The Constitution establishes a strong rights protection system, yet its effectiveness needs evaluation because the digital age brings new challenges which require better understanding of artificial intelligence technologies. The “conflict of artificial intelligence with Indian constitutionalism” is a critical issue which requires resolution through establishing boundaries which protect constitutional rights while allowing scientific advancements to proceed. The rapid adoption of AI technology

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across multiple sectors requires assessment of its impact on existing rights and the need for establishing new rights or different legal interpretations.

Article 21 of India's Constitution, which states that no individual shall be deprived of life or personal liberty except in accordance with legal procedures, has seen a significant extension in court interpretation. The Supreme Court originally used an *A.K. Gopalan v. State of Madras* decision to define Article 21 rights because the court believed that legal requirements represented all rights protection.¹ The judicial authority to review cases was restricted because courts handled fundamental rights as separate matters from other judicial proceedings.

The Supreme Court departed from this narrow view in *Maneka Gandhi v. Union of India*, which required that any procedure depriving a person of life or liberty must also be fair, just, and reasonable.² The ruling established substantive due process and formed an essential link between Articles 14, 19, and 21, which together protect individual freedoms.

The Article 21 declaration developed into a legal mechanism which provided essential rights that people need to maintain their dignified existence.³ The Supreme Court expanded its definition of life rights to include essential rights for people who need to survive through work and medical care and educational access and safe housing and unpolluted surroundings. The Supreme Court case *Justice K.S. Puttaswamy v. Union of India*⁴ marked a major breakthrough when it recognized privacy rights as fundamental rights which every person possesses through their existence and personal freedom. The evolution of Article 21 shows its ability to adapt to new challenges especially those connected to digital governance and artificial intelligence.

2 RISE OF ALGORITHMIC GOVERNANCE IN INDIA: IMPLICATIONS FOR ARTICLE 21 AND PRINCIPLES OF NATURAL JUSTICE

The increasing implementation of artificial intelligence (AI) and data-driven technologies in government operations has led to the emergence of algorithmic governance systems throughout India. The government now employs automated systems to manage processes which include welfare distribution systems and digital identity verification and predictive policing and taxation and judicial administration. The technologies deliver operational benefits through higher efficiency and faster performance and unbiased results but they can threaten constitutional rights where they disrupt Article 21 protections and natural justice standards. Article 21 establishes that all life and personal liberty restrictions must comply with fair and just and reasonable procedures according to the *Maneka Gandhi v. Union of India* decision. Automated decision-making systems used in algorithmic governance may not meet this requirement where they function as black box systems which keep their decision-making processes hidden from users. The absence of system transparency creates problems because essential services like welfare assistance and identity identification depend on these systems to determine user eligibility for vital services. The Supreme Court confirmed the Aadhaar system in *K.S. Puttaswamy (Aadhaar) v. Union of India*⁵ while it recognized the system's problems with user exclusion and data security issues. Biometric authentication failures that

¹ *A.K. Gopalan v. State of Madras*, A.I.R. 1950 S.C. 27 (India).

² *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

³ India Const. Art. 21.

⁴ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1 (India).

⁵ *Justice K.S. Puttaswamy v. Union of India*, (2019) 1 SCC 1 (India).

result in welfare benefit denials show how algorithmic techniques can create obstacles to Article 21 rights that protect life and dignity. This suggests that efficiency obtained through technology cannot replace constitutionally protected rights.

The Article 21 fair procedure requirements depend on two natural justice principles which include *audi alteram partem* and *nemo iudex in causa sua*. The Court in *A.K. Kraipak v. Union of India*⁶ established that administrative action must also follow the principles of natural justice, since there are no clear boundaries between administrative and quasi-judicial powers. The principles which should guide algorithmic governance present challenges for their actual enforcement. The automated decision-making processes create a situation where people cannot understand the results or challenge them which violates their right to a hearing. The system of algorithmic bias leads to decisions that create discrimination which results in a loss of both equal rights and fair treatment. The Supreme Court declared in *E.P. Royappa v. State of Tamil Nadu* that arbitrariness violates the principle of equality. AI systems produce unfair results because they mirror or enhance existing societal biases which create an unintended impact on the Article 21 dignity protection.⁷

The establishment of privacy as a fundamental right through Justice K.S. Puttaswamy v. Union of India makes algorithmic governance more difficult to implement. Data collection and processing serve as the core foundation for AI systems because these systems require data to operate while people remain unaware and unprotected. The Court's emphasis on informational self-determination highlights the importance of regulating the state's use of personal data in automated systems.⁸

The current execution of algorithmic governance may lead to major constitutional problems despite its ability to create transformative changes. The three main issues which AI systems present to Article 21 and natural justice principles are their hidden internal workings, their unidentified system biases, and their absence of defined operational safeguards. The development of a constitutional framework which guarantees transparency and accountability alongside the right to explanation in AI-based decision-making needs to happen because it connects technical governance with fundamental rights.

3 CHALLENGES

AI systems require large amounts of data to train and make choices. Data security and privacy are crucial. The protection of sensitive citizen information needs to be maintained because it presents a major security risk. Personal information must be protected from misuse as well as unauthorized access and data breaches. Previous data contains biases that AI systems will use to make decisions. AI decision-making processes need to achieve both equitable outcomes and transparent results. AI creates ethical problems through its responsibility issues and its capacity to develop biased systems which produce unexpected results. The public and government agencies show doubt towards decisions made with AI technology. AI systems gain public trust through effective communication and understandable system operation and open information sharing. The concept of AI as a "black box" needs to be rejected for successful implementation. E-governance needs people to access the internet. AI-powered services face deployment difficulties in regions with limited connectivity. E-governance aims to provide equal access to AI services

⁶ *A.K. Kraipak v. Union of India*, (1969) 2 S.C.C. 262 (India).

⁷ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 S.C.C. 3 (India).

⁸ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 S.C.C. 1 (India).

while reducing the existing digital technology divide. The development of professional skills together with capacity building needs to be established as an essential requirement. The training program for government staff needs to include AI principles together with applications and management training. The process of creating a workforce that can handle AI systems presents multiple difficulties. The operation of data centers and computational resources together with AI infrastructure construction leads to environmental damage. The need for technological progress must reach equal standing with environmental protection efforts. It remains difficult to reduce the carbon footprint produced by AI systems. The combination of AI and traditional governance methods presents substantial operational difficulties. AI technology may not work properly with existing outdated systems. The process of achieving compatibility and handling transitions between systems proves to be a demanding task.

The process of creating legal and regulatory systems for government AI usage presents considerable difficulties. The process requires maintaining an equilibrium between innovative solutions and safety measures. The responsibilities of duty and liability together with intellectual property rights for AI systems must be managed in a proper manner. The implementation of AI technologies to serve extensive user bases incurs high expenses. Governments face two primary challenges which include maintaining cost-effectiveness and adhering to budget limitations. Governments need to evaluate the advantages of artificial intelligence together with its related expenses. The artificial intelligence landscape requires governments to change their operational methods. Governments face difficulties in keeping up with technological progress while using AI to its full potential. E-governance presents problems that involve ethical decision-making. AI systems create ethical challenges which include determining the appropriate decision-making process and assessing their effect on employment and the ethical ramifications of automated task execution. The implementation of AI in e-governance requires establishing a balance between ethical standards and technological progress.

4 TOWARDS A CONSTITUTIONAL GOVERNANCE FRAMEWORK FOR ARTIFICIAL INTELLIGENCE IN INDIA

The fast introduction of artificial intelligence (AI) into government operations requires the establishment of a constitutional governance system which protects essential rights while enabling technological progress. In India, such a framework must be based on Article 21 which demands that any state action affecting life or personal liberty be fair, just, and reasonable as outlined in *Maneka Gandhi v. Union of India*. Government agencies which use algorithmic decision-making systems need to deal with three main challenges which arise because these systems operate with hidden processes and extensive data and work without human oversight. The implementation of AI systems requires a rights-based regulatory structure which ensures their operation according to constitutional principles.

The principle of procedural fairness functions as an essential element which Article 21 establishes to create a constitutional framework that governs artificial intelligence. The established definition of fair procedures requires three elements which include notice and hearing and reasoned decision-making. The algorithmic systems of today function as black boxes because they produce results without revealing their operational mechanisms. This situation prevents people from understanding the reasons behind decisions which might breach their legal rights. The framework requires a “right to explanation” provision which needs to inform people about decision-making processes and their underlying reasons. The requirement

establishes ties to Article 14 non-arbitrariness principles while it also reinforces Article 21 due process rights.

The demand for system fairness creates a direct link to the need for organizations to achieve system transparency together with system accountability. Public authorities that utilize AI technology need to reveal information about both their system design and operational procedures and system objectives. AI implementation in high-risk domains such as welfare distribution and criminal justice and surveillance should require mandatory algorithmic impact evaluations. The assessments will discover potential dangers which include bias and exclusion and rights violations. The *E.P. Royappa v. State of Tamil Nadu* case enables a constitutional analysis of AI systems which operate without transparency and accountability by linking arbitrary decisions to social injustice.

The framework's essential element protects personal information rights which Justice K.S. Puttaswamy v. Union of India recognized as a fundamental human right. AI systems depend on their ability to obtain and process and evaluate extensive personal data, which may be acquired without proper consent or adequate security measures. The constitutional governance framework needs to establish the existence of all Puttaswamy requirements which include legal compliance and essentiality and proportionality standards. The system needs to implement restrictions which include verifying data collection needs and defining specific collection purposes and applying limits on data collection and implementing robust protection systems. People need complete authority over their personal information which includes their rights to access their data and make changes and delete data.

The principles of natural justice require reevaluation within the framework of algorithmic governance. The right to be heard (*audi alteram partem*) mandates that those impacted by automated judgments have the ability to challenge them before an independent body. This system requires the development of public complaint resolution systems which include appellate courts that can investigate algorithmic outcomes. The rule against prejudice (*nemo iudex in causa sua*) requires that AI systems be created and tested to avoid discriminatory results. Organizations need to perform regular algorithmic audits which focus on identifying and eliminating bias that specifically targets vulnerable and marginalized communities.

Constitutional AI governance requires institutional supervision as a further fundamental element. The public sector requires independent regulatory agencies or specialized authorities which need to monitor AI systems. The organizations will develop standards which they will use to conduct audits and check compliance with established standards. Parliamentary monitoring is also necessary to maintain democratic accountability in the implementation of AI technologies. The judicial review process needs to exist as a safeguard against unconstitutional AI applications which enables courts to assess whether algorithmic systems fulfill fairness and rationality and proportionality requirements.

A constitutional framework needs to include both legal protections and ethical principles which safeguard human dignity and personal freedom and promote inclusive practices. According to the Supreme Court, dignity functions as a vital element which protects human existence according to Article 21.⁹ AI systems which create welfare program exclusion and enable invasive surveillance and establish dehumanized decision-making systems violate this social principle. Human judgment needs to stay in control of essential decisions through a human-in-the-loop system which prevents automated systems from operating without human supervision.

⁹ Article 21 of the Constitution of India: Right to Life and Personal Liberty, *Academike* (Mar. 18, 2026), <https://www.lawctopus.com/academike/article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty>.

The existing ideas need legislative action to establish them as a proper regulatory framework through their formal codification. India has made progress in creating data protection laws and policies but it currently lacks a complete legal framework dedicated to artificial intelligence. The law must define government responsibilities to protect individual rights and establish methods for legal enforcement together with effective remedies. The framework should support innovation while protecting constitutional rights during technological development.

Government AI implementation requires a complete constitutional system which protects essential human rights while allowing for technological progress. The digital age requires a framework based on Article 21 which upholds fairness and transparency and privacy protection and accountability standards to maintain the legal order. The Indian government can achieve efficient governance through AI system design by integrating constitutional values which will create a system that protects human rights and operates fairly and compassionately.¹⁰

5 STATUTORY DIMENSIONS OF CONSTITUTIONAL AI GOVERNANCE: THE DPDP ACT AND THE IT ACT

The complete constitutional governance system for artificial intelligence (AI) in India requires establishment of a robust legal framework. The constitutional principles from Article 21 serve as the main normative base for rights protection while the Digital Personal Data Protection Act of 2023 and Information Technology Act of 2000 establish statutory requirements that implement those rights through digital and algorithmic governance systems.

The Digital Personal Data Protection Act, 2023 (DPDP Act) serves as the primary law in India that governs how organizations handle personal information.¹¹ The law provides crucial support for AI governance because it establishes rules that control data processing and restricts information usage to specific purposes while applying the fundamental right to privacy recognized in Justice K.S. Puttaswamy v. Union of India. The DPDP Act mandates that “data fiduciaries” must process data exclusively for verified valid objectives which require obtaining consent from the data principal because AI systems depend on extensive databases that frequently include confidential personal data.¹²

The DPDP Act enhances information privacy protections but faces challenges when applied to AI governance. The Act provides state agencies with comprehensive exemptions that they can use to protect their sovereignty and maintain public order and safeguard national security interests. The broad exemptions create a situation where authorities can bypass necessary security measures that Article 21 mandates especially when they deploy AI technology for monitoring or predictive policing. The Act lacks explicit rules for automated decision-making and does not establish a “right to explanation” which prevents it from achieving fair procedural treatment in algorithmic governance.

The Information Technology Act of 2000 (IT Act), which originated before artificial intelligence became popular, stands as India’s primary digital law framework. The AI systems operated by private companies face indirect effects from Section 43A which demands proper security measures for handling

¹⁰ NITI Aayog, Responsible AI #AIForAll: Approach Document for India, Part 1: Principles for Responsible AI (Feb. 2021) (India), <https://www.niti.gov.in/sites/default/files/2021-02/Responsible-AI-22022021.pdf>.

¹¹ Digital Personal Data Protection Act, No. 22 of 2023, India Code (2023).

¹² Centre for Law & Policy Research, Justice K.S. Puttaswamy v. Union of India (Privacy), Trans Law (Dec. 7, 2021), <https://translaw.clpr.org.in/case-law/justice-k-s-puttaswamy-anr-vs-union-of-india-ors-privacy/>.

sensitive personal data and Section 79 which establishes rules for intermediary accountability.¹³ The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules of 2021 establish due diligence requirements which AI-powered platforms must follow when they conduct content moderation and automated decision-making processes.¹⁴

The IT Act requires constitutional interpretation because Article 21 establishes due process standards as explained in *Maneka Gandhi v. Union of India*. The Act permits executive actions which include content restriction and surveillance operations only when they satisfy the three requirements of justice and rationality and proportionality. The Supreme Court ruling in *Shreya Singhal v. Union of India* declared Section 66A of the IT Act invalid because it contained ambiguities and arbitrary elements which created obstacles to the implementation of digital regulations that needed to comply with constitutional protections.¹⁵

The DPDP Act and the IT Act both contain vital elements yet they fail to provide complete solutions for the unique challenges which AI technologies introduce. The two laws fail to provide complete solutions for problems which include algorithmic bias and transparency deficiencies and automated decision-making and responsibility for AI-related damages. The result is a regulatory gap in which constitutional rights risk remaining theoretical unless courts and lawmakers give them effective enforcement.

The establishment of a constitutional governance framework for AI requires expansion through integration of existing statutes and their additional components. This requires the development of specific regulations which will govern algorithmic accountability while establishing required impact assessments and audit procedures and automatic decision-making rights. The legal system becomes more cohesive when the DPDP Act's data protection standards and the IT Act's digital governance framework are synchronized.

The existing digital technology regulations need more extensive legal frameworks because the current laws do not fully address the constitutional issues created by artificial intelligence. The government must develop stronger regulations that give effect to Article 21 principles, which include justice and openness but also require accountable AI use in government.

6 CONCLUSION

The Article 21 provision exists as a "living" law. The right to privacy and clean environmental rights have both become part of the law, so the Right against Automated Arbitrariness must now be established as a new legal right. Dignity should never be sacrificed because organizations want to operate more efficiently. India must transition from a "Rule by Code" to a "Rule of Law in Code." India should implement its first phase of legislation within the next three years to regulate high-risk areas that encompass finance and healthcare and employment and surveillance and vital infrastructure protection. India should create specific regulations through sector-based rules and IT Act and DPDP Act delegated legislation and AI deployment regulations for major AI organizations instead of establishing one unified AI law. The court

¹³ Information Technology Act, No. 21 of 2000, India Code (2000).

¹⁴ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E) (Feb. 25, 2021) (India).

¹⁵ *Shreya Singhal v. Union of India*, (2015) 5 S.C.C. 1 (India).

system should establish accountability through its decisions, which will create legal precedents for algorithm-based decisions and bias and automated harm.

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