

Algorithmic Bias and the Indian Constitution: Examining AI through Equality, Non-Discrimination, and Due Process

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Abstract

In India, artificial intelligence is gradually being incorporated in governance, finance, education, employment, policing, the delivery of welfare, health systems, and online platforms. With access to opportunities and state benefits mediated by algorithmic systems, the legal question has ceased to be whether AI can impact rights, but how Indian constitutional law ought to address algorithmic harms. The current paper is a systematic literature review (SLR)-style article that explores the notion of algorithmic bias in terms of the Indian Constitution, specifically Article 14, 15, and 21, which combine to establish equality, non-discrimination, dignity, privacy, and procedural fairness. The article has synthesized the constitutional doctrine, materials on Indian policy regarding responsible AI, developments in digital governance, and comparative ethics to state that the issue of algorithmic bias is not a technical flaw but a constitutional issue. Social hierarchies can be reproduced using biased datasets, opaque models, proxy discrimination, and automated decision systems, which will seem unbiased. Algorithms can enhance exclusion in especially extreme manners in India, where historically, inequality is organized based on caste, gender, religion, disability, language, region, and access to technology. The review establishes that Indian constitutional principles have already offered a normative base in governing high-risk AI, and the current governance is still in pieces and mostly policy-oriented. Constitutional approach would entail substantive equality, anti-stereotyping examination, explainable within a proportional influence, data administration protection, human management, and remedies easily available. This paper concludes that India ought to transition to a rights-based AI governance framework where algorithmic accountability is seen as a continuation of constitutionalism as opposed to a sector-specific compliance challenge.

Keywords: Algorithmic bias, Indian Constitution, Article 14, Article 15, Article 21, due process, AI governance.

1. Introduction

In India, artificial intelligence has shifted to institutional decision making as opposed to experimentation. Automated tools are becoming important to public and private actors in the verification of identities, assessment of risks, prioritization of services, recommendation, surveillance, fraud detection and mass classification[1]. Meanwhile, the growth of the digital in India has been phenomenally fast. Authoritative sources of government and policy tell us that India is one of the most digitalized large economies of the world, and the IndiaAI Mission and other related policy efforts are intended to achieve the scale of AI infrastructure, datasets, innovation, and safe and trusted AI systems. This growth brings colossal developmental possibilities to AI, yet there is also a constitutional issue: as automated systems affect rights, entitlements, mobility, opportunity, or reputation, the damages done by them might involve fundamental constitutional guarantees[2]. The Indian Constitution is particularly topical as the bias of algorithms is disguised as neutrality in most cases. The systems might not explicitly categorize people by caste, religion, sex, disability or any other protected features but still result in unequal results with the help of proxies, biased data, unequal access, or design assumptions. Article 14 has ensured equality before the law and equality of protection of the law; Article 15 and 16 has banned discrimination in certain areas; Article 21 has become an enriched guarantee of life, liberty, dignity, privacy and fair process. The constitutional jurisprudence of the Supreme Court has increasingly moved to a less formal classification test to broader interests in arbitrariness, substantive equality, anti-stereotyping, indirect discrimination, dignity and procedural fairness[3]. The Constitution is especially well-suited to making judgment of algorithmic systems that seem mathematically objective yet structural inequality.

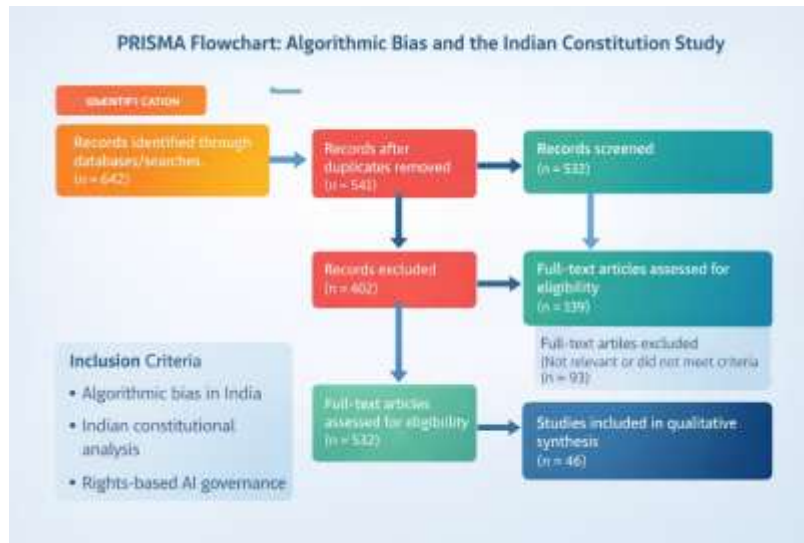
This paper suggests that the problem of algorithmic bias in India needs to be examined not just as a technological or ethical problem but also as a constitutional one. An engine which systematically downranks vernacular speakers, a hiring model which discourages women who have gone on caregiving leave, a welfare verification model which flags false alarms on marginalized populations, a facial recognition system which performs poorly on non-white people and people with low demographic characteristics are not merely examples of bad AI. They represent types of potentially unconstitutional government or market organization. The responsible AI reports of the Indian state itself acknowledge fairness, accountability, transparency, safety, and constitutional values as the key to AI governance, and the international standards according to UNESCO and OECD also emphasize the importance of human rights, non-discrimination, transparency, and remedy. However, there is yet no unified and comprehensive AI law in India. This poses a disjunction between the constitutional aspiration and operational safeguards. It is on this backdrop that the current SLR-style paper synthesizes legal doctrine, policy materials, and the literature on algorithmic bias with the aim of providing answers to three questions: first, how can

algorithmic bias be conceptualized Indian constitutional law; second, what constitutional principles would be most applicable in the assessment of AI systems; and third, what regulatory architecture would be better aimed at aligning AI deployment with equality, non-discrimination, and The paper continues by describing and explaining the methodology of the review, the constitutional and governance framework, a thematic synthesis of the key issues, and a normative roadmap of the reform.

2. Methodology: An SLR Framework

In this paper, a systematic literature review format is adopted, which is essential in doctrinal-legal and interdisciplinary research on AI. The period of review is literature and policy material of around 2015-2025, which includes the acceleration of machine learning implementation in India, the constitutionalization of the privacy and dignity jurisprudence, the rise of responsible AI discourse, and the recent institution of the IndiaAI Mission[4]. The materials that would be considered as full-formal SLR in this area would be legal databases, constitutional case law, peer-reviewed journal articles, policy reports, parliamentary and regulatory materials, and official government publications. Search terms would be a combination of algorithms bias, AI discrimination, automated decision-making, constitutional law, Article 14, Article 15, Article 21, India, due process, fairness, and responsible AI. The review focuses on the materials addressing the rights-affecting AI use in welfare, policing, employment, finance, education, health, and digital platforms. Inclusion logic is not quantitative but is thematic. The materials referenced are those that shed light on one or more of the following dimensions: constitutional equality; direct or indirect discrimination; dignity and privacy; procedural fairness; explainability; accountability; data governance; and redress to algorithmic harms[5]. Materials that would normally be excluded are those that are purely technical optimization papers and not normative, commentary that cannot be found with any legal or policy basis, and duplicated materials. Since the sphere is still developing, as well as the governance of AI in India is not a single act yet, the review also refers to official policy documents, advisory documents, and comparative normative instruments[6]. This is methodologically right in novice regulatory areas where hard law is not fulfilled but institutional guidance is manifest in executive and policy reports. The specific role of constitutional adjudication should also be considered in a doctrinal SLR in this area. Articles 14, 15 and 21 in India are not stand alone guarantees. Post-Maneka Gandhi, Article 21 is understood along with the fairness and reasonableness. Privacy and dignity are a part of constitutional liberty, post-Puttaswamy. Jurisprudence of equality has also shifted to the substantive equality and anti-stereotyping, with decisions like that of Anuj Garg and subsequent rulings that acknowledged indirect discrimination and structural disadvantage. As such, this review interprets AI bias not only as a data issue but as a constitutional process issue: who gets classified, how, how obscurely, with what protections, and with what redress[7].

Figure 1.



3. Conceptualizing Algorithmic Bias in the Indian Setting

Algorithmic bias is systematic and unjustified distortions in the design, training, deployment or the results of automated systems. Biases can be caused by unrepresentative data sets, past discriminatory data, bad labeling methods, the model goals that favor efficiency over fairness, bad proxies, or feedback mechanisms that compound existing inequities. Social heterogeneity and stratified exclusion in India increases the severity of these threats. A model that is trained on English-dominant data can be detrimental to vernacular users. The digital exhaust-based credit-scoring system can punish poorer citizens who have a less dense formal data profile. A recruitment instrument with a history of successful hires biased towards the past can encode caste, class, gender, or urban privilege indirectly. The use of facial recognition or biometric verification system can also have unequal effects based on demographic make up and the context in which it is utilized. The international and Indian responsible AI resources clearly acknowledge the possibility of biased or discriminatory outputs throughout the AI lifecycle and that fairness should be actively reduced, but not passively neutral[8]. The constitutional urgency of this issue is that algorithmic systems tend to be discussed as objective specifically due to the fact that they are based on computation. This presentation may cloud the reality that AI is putting social histories into mathematical decision rules. Apparently neutral variables can be used as proxies of shielded attributes in a society with deeply rooted hierarchies. The postal code may be used as a proxy of caste or class segregation; educational pedigree may be used as a proxy of urban privileges; work continuity may be used as a proxy of gendered caregiving workload; digital behaviors may be used as a proxy of literacy and income[9]. Indian constitutional law is becoming more aware of indirect discrimination and substantive inequality, i.e., that discriminatory effect issues take place

even in the absence of discriminatory intent. This is the most important doctrinal insight in the evaluation of AI by the Constitution. The discourse of Indian policy is remarkable in that it connects AI governance with the constitutional morality. The responsible AI framework introduced by NITI Aayog expressly prioritizes constitutional values in the centre of AI ethics and further research aims to implement enforcement and use-case governance. Later IndiaAI resources in the Safe and Trusted AI pillar continue to highlight the focus on accountability, fairness, indigenous governance structures, and protecting the interests of the people[10]. These developments are significant since they demonstrate that the constitutional framing is not isolated academic criticism but is also in line with the language of government that has emerged by the state itself. The weakness though is that most of this is soft-law, advisory, consultative, or programmatic as opposed to being directly enforceable in all sectors.

4. Equality under Article 14: From Formal Neutrality to Substantive Review

The most straightforward constitutional entry point to attacking algorithmic bias is Article 14. Conventionally linked with sensible classification and anti-arbitrariness, Article 14 has evolved into an effective check on irrational, arbitrary or unfair state action. Article 14 must not be confined to a question in the AI context of whether a system overtly categorizes individuals by a prohibited classification. Rather, it ought to question whether an automated system introduces unwarranted differences, is based on untransparent and unassailable standards, or entrenches arbitrary differences at scale. When a government agency is reallocating benefits, detecting fraud, targeting inspections or suspects using algorithmic scoring, then the assumptions, training data, and error rates and human supervision of the model are all subject to constitutional scrutiny[11]. The rights-based interpretation of Article 14 is particularly crucial due to the fact that the algorithm systems are able to recreate unequal treatment in indirect ways. The more recent equality jurisprudence by the Supreme Court has identified the substantive equality and indirect discrimination, and it is therefore evident that formally neutral criteria can be used to entrench disadvantage in the face of underlying unequal conditions. In the case of AI governance, it would imply that biased systems cannot be justified by decision-makers simply because the model does not see caste, gender or religion directly. In the event that outputs are correlated with and strengthen structural exclusion, they should be subject to constitutional scrutiny. Substantive equality involves scrutiny of impact rather than the intent of design.

This has tangible implications. Equality impact assessments before AI deployment should be implemented by the government in procurement[12]. The difference in the error rates across the relevant demographic groups should be tested by the public bodies, and the caste-sensitive or regional proxies where direct identity data cannot be obtained or collected according to the law should be used. Auditability and

contestability should be in place in high-risk systems. In cases where fundamental rights are involved vendors should not be permitted to mask state action by claims of proprietary secrecy. That is, Article 14 ought to become an algorithmic non-arbitrariness doctrine: no publicly available AI system should have a material impact on rights without being shown to be rational, fair, and reviewable. That stance is both in line with the constitutional principle and the responsible AI direction of India.

5. Non-Discrimination with Articles 15 and 16: Indirect Bias, Stereotyping, and Social Structure

Articles 15 and 16 further enhance the equality analysis by preempting discrimination and social hierarchy. Although Article 15 forbids discrimination on certain grounds, and Article 16 deals with equality of opportunity in the field of public employment, their essence is more comprehensive than actual exclusion. Indian constitutional law is becoming less and less accepting of stereotypical and paternalistic arguments, exemplified in *Anuj Garg*, and the new jurisprudence has further elucidated the role of indirect discrimination and anti-stereotyping as an aspect of equality analysis. This is very applicable to AI as algorithmic systems tend to replicate the past stereotypes into the predictive patterns. To illustrate, a model based on historical hiring data may perpetuate historical biases against women, Dalits, religious minorities, and persons with disabilities or candidates of non-elite institutions, by merely automating historical bias[13].

In India, it is not only the general demographic unfairness but constitutionally specific social stratification. Access to education, documentation, mobility and to digital participation can be influenced by caste, religion, gender, disability, sexuality, region, and language. Proxies can replicate such results even in cases where models do not directly take these labels. An effective constitutional non-discrimination system must thus consider the issue of proxy discrimination as an issue of concern. This is particularly pressing in the area of public jobs, platform jobs, education admissions support systems, and credit or insurance rating. The constitutional injury comes into play when individuals are encumbered by systems that pass social disadvantage on but conceal it in the technical abstraction. Banning all automated decision-making is not the appropriate constitutional reaction[14]. To demand socially informed design. The developers and deployers are expected to check whether the seemingly neutral variables are systematically disadvantageous of vulnerable populations. The need and proportionality of such variables should be explained by the authorities. In situations of high stakes, the affected persons must also have the right to an explanation in easy terms and avenue to human reconsideration. This must contain fairness testing, validation against harms of the protected groups and independent audits in the employment-related public systems. Articles 15 and 16 can be interpreted in this manner as imposing active anti-subordination in algorithmic governance instead of formal non-use of labels that are prohibited.

6. Article 21, due Process, Dignity and Privacy

Article 21 is essential to any constitutional description of AI. There should be fair, just and reasonable procedure to deprive of liberty since Maneka Gandhi. Privacy is a basic right associated with dignity, autonomy and informational self-determination that has existed since Puttaswamy. The combination of these things implies that AI systems with significant interests cannot work as black boxes that are immune to criticism. Article 21 needs to be more than administrative convenience where the state depends on automated systems to assist in surveillance, identity authentication, welfare exclusion, predictive risk scoring, or profiling. It necessitates procedural protections in line with the severity of influence.

The focus is on privacy since AI relies on data-intensive processing. Digital Personal Data Protection Act, 2023 acknowledges the necessity to protect personal data as well as the necessity to process data in accordance with the lawful purposes. However, data protection, as necessary, is not adequate. A system may be in conformity to structures of consent or notice and yet produce discriminatory or opaque results. Article 21 thus goes further to cover more than informational privacy to decisional dignity. People must not be simplified into unreadable risk categories or deprived of having real agency in making decisions that impact their lives. Whether the data was legally gathered is not the only constitutional issue, but whether the ensuing automated decision-making process considers persons as rights-bearing subjects. The due process of the AI scenario must contain at least five components: a notification of using automated tools; an explanation of the level of seriousness of the decision made; a chance to dispute the results; a review of the competent authority; maintaining the records in the institution to be audited and judged appropriately. These demands increase in risky situations like welfare, policing, immigration-like control functions, healthcare triage, educational access and employment screening. The human-rights-based approach is endorsed by both UNESCO AI ethics recommendation and OECD guidance which highlight fairness, transparency, accountability, and remedy. The responsible AI policy documents issued by India tend towards the same direction.

7. India's Emerging Governance Architecture: Progress and Gaps

India does not have to begin at ground zero. The text of the constitution, the judicial jurisprudence of the Supreme Court, the DPDP Act, the responsible AI papers of NITI Aayog, the institutional build-out of the IndiaAI Mission, and the institutional build-out of the IndiaAI Mission are creating an emergent yet patchwork governance architecture. In March 2024, it was approved with the IndiaAI Mission specifically containing a Safe and Trusted AI pillar. The further signs of the shift towards responsible and inclusive AI governance are the public consultation material and governance guideline initiatives in 2025. The 2024

advisory by MeitY on generative AI was also an indicator of concern with harm prevention and platform responsibility. They are important developments as they reflect active state awareness of AI risk. The weakness lies in the fact that this architecture is still spread out in policy, mission documents, sectoral initiatives, and soft-law tools. No one binding statute has yet been adopted to create a risk-based AI framework, required audit regulations, sector-specific constitutional protections, or a standard remedy framework to algorithmic harms. The outcome is disproportional responsibility. Influential parties can use AI in a manner that impacts rights even before legal norms have solidified. In a nation where structural inequality is profound and digital public infrastructure is growing, that laggardness is constitutionally important. Technological scaling cannot be allowed to continue to be ahead of procedural justice in a constitutional democracy. A constitutional policy would not necessitate India to mechanically imitate foreign models. Instead, it ought to make an Indian blueprint out of home constitutional undertakings. Such a model would treat low risk uses and high-risk uses differently, place special burdens on the decision systems within the public sector and other quasi-publics, impose special burdens on independent audits where rights are material, and make sure that the trade secrets cannot defeat constitutional review. Constitutionalism states that the greater the consequence of the automated decision, the greater the requirement of explainability, oversight, and remedy.

8. Synthesis and Normative Framework

The policy and literature synthesis underlies five main propositions. First, the problem of algorithmic bias is a constitutional matter since AI can facilitate the right of access to rights, opportunities, and state services. Second, Article 14 allows reconsideration of arbitrariness, obscurity and unreasonable disparate impact. Third, Articles 15 and 16 endorse the examination of proxy discrimination, structural disadvantage, and stereotype reproduction. Fourth, Article 21 demands procedural fairness, privacy, dignity and human contestability of high impact automated decisions. Fifth, the current direction of governance in India is not final yet favorable and needs a closer tie in the relationship between constitutional principle and working AI regulation.

Based on this synthesis, a constitutionally aligned Indian AI framework should include: mandatory algorithmic impact assessments for public and high-risk private systems; fairness testing for direct, indirect, and proxy discrimination; documentation of training data provenance and model limitations; graded explainability obligations; rights to notice, contestation, and human review; independent audit mechanisms; procurement rules embedding constitutional safeguards; and a remedy structure combining administrative review, sectoral oversight, and judicial challenge. Particular focus is to be put on the areas where the state power and vulnerable populations interact, such as welfare, policing, education, labour platforms,

healthcare, and service delivery based on identity. Other first-order design issues in India should also be linguistic diversity, caste-based exclusion, and digital inequality. A lot of fairness discourse in the world is constructed on racial and gender themes using Western data sets; India requires its own anti-bias language that is sensitive to caste, place, multilinguality, access to disability, and asymmetric infrastructures. It is there that constitutional morality proves useful in practice: it provides the Indian AI governance with a local normative base without compromising on the standards of universal rights.

9. Conclusion

Algorithms bias in India cannot be perceived as small-scale engineering issue. It is a constitutional dilemma that is a result of the increasing power of data-driven systems over life opportunities, liberty rights, and social identity. An advanced normative framework to address this issue already exists in the Indian Constitution. Article 14 concerns arbitrariness and unequal treatment; Articles 15-16 enlighten the issues of discrimination, social hierarchy and anti-subordination; Article 21 links the notions of dignity, privacy, autonomy and fair procedure. When combined, these clauses assist in a strong constitutional theory of algorithmic accountability. The focal point of this review is that algorithmic systems take over the society that the data used to compose them is based on. In a society that is highly unequal, the neutral looking models can encode unequal worlds. The constitutional law must thus transcend intent and transcend technical abstraction. It should analyse impact, structure, contestability, and power. This is especially significant in the situation when the state operates AI or uses the service of the private AI systems to perform the state functions. In this kind of environment, the issue of the lack of transparency is not just an inconvenience; it is the matter of due process. Inequality of error rates is not a simple performance variation, but it can constitute constitutional harm. Unprotected data extraction is not a simple friction of innovation, it is a question of dignity and privacy. The current policy direction of India is cognizant of such issues. The NITI Aayog, the IndiaAI Mission Safe and Trusted pillar, responsible AI documents, the governance consultation initiatives and other advisories all lead to fairness, accountability and trustworthy AI. Nevertheless, constitutional democracies need more than an idealistic desire. They have to have structures that can be enforced. Constitutionalizing of operational protections should then be the next step of Indian AI governance: compulsory impact assessments, fairness audits, robust public procurement principles, explainability requirements corresponding to risk, and readily available redress to harmed individuals. A rights-based regulatory framework would not delay innovation needlessly, quite on the contrary, it would rationalize innovation by streamlining AI usage along with the public trust and constitutional morality. The constitutional tradition in India has a tendency to reframe timeless principles into novel forms of power. Equality, non-discrimination, and due process have only to be reasserted in the latest domain, called

algorithmic governance. Whether AI should be regulated or not, is no longer a constitutional question. The question is whether India will constitutionalize AI in a way that it deserves.

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