



**ALGORITHMIC DUE PROCESS: REIMAGINING ARTICLES 14,19,21 IN THE CONTEXT
OF AUTOMATED DECISION MAKING BY STATE AND PRIVATE ACTORS**

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ABSTRACT

When I heard the term ‘due process’ as a law student, I could understand its meaning. But can you and I understand the plight of a common person if we add ‘algorithmic’ before it? Therefore, an explanation. ‘Algorithmic due process’ means the application of basic fairness rules by governments or private entities to decisions made using algorithms. As they remain transparent and accountable. This power of application lies with the people in spite of AI. The rights of individuals cannot be compromised. In a country of approximately 1.4 billion people, each individual has almost access to AI through their phones, tablets, and laptops. Hence, there is no question of life being free from AI even in the smallest tasks. What is AI? ‘Artificial Intelligence’ is the ability of electronic machines to conduct operations like data processing, pattern-recognition, decision-making and problem-solving, which ought to be conducted by humans through the use of their mind. We have witnessed many historical developments since the time of the pandemic, such as the lunar landing of Chandrayaan-3 in 2023, the social security code implemented in 2020 and the advent of AI post-pandemic. But AI was never a threat to the race for whom these developments were taking place. In today’s time and age, it is. Fortunately, the application of fairness rules helps prevent the violation of fundamental rights. This study examines how algorithmic decision-making by both state and private entities impacts Articles 14, 19, and 21 of the Constitution of India. It breaks down the concept of algorithmic due process into simple terms, linking it to constitutional principles like fairness, transparency, and accountability. It also highlights the need for safeguards such as human oversight and the ability to challenge automated decisions, aiming to make this legal topic accessible to everyone, not just legal experts.

Keywords- “Algorithmic due process”, “AI”, “Constitution of India” and “fairness rule.”

1. INTRODUCTION

The rapid rise of Artificial Intelligence has impacted the way decisions are made in society. Heavy reliance of both state and private actors on these algorithms often raises concerns related to bias, opacity, and lack of accountability. Such concerns become more serious when algorithmic systems generate outcomes that harmfully affect the daily lives of individuals, especially their fundamental rights. This creates the need for algorithmic due process, which ensures that automated decisions follow principles of fairness, transparency, and are reviewable by humans if the need arises. In this context, it becomes necessary to imagine the constitutional protections in a new light. Particularly, articles 14, 19, and 21 of the Constitution of India, which guarantee equality, freedom, and life and personal liberty respectively, must be interpreted again to address the challenges posed by algorithmic decision-making in the digital age.

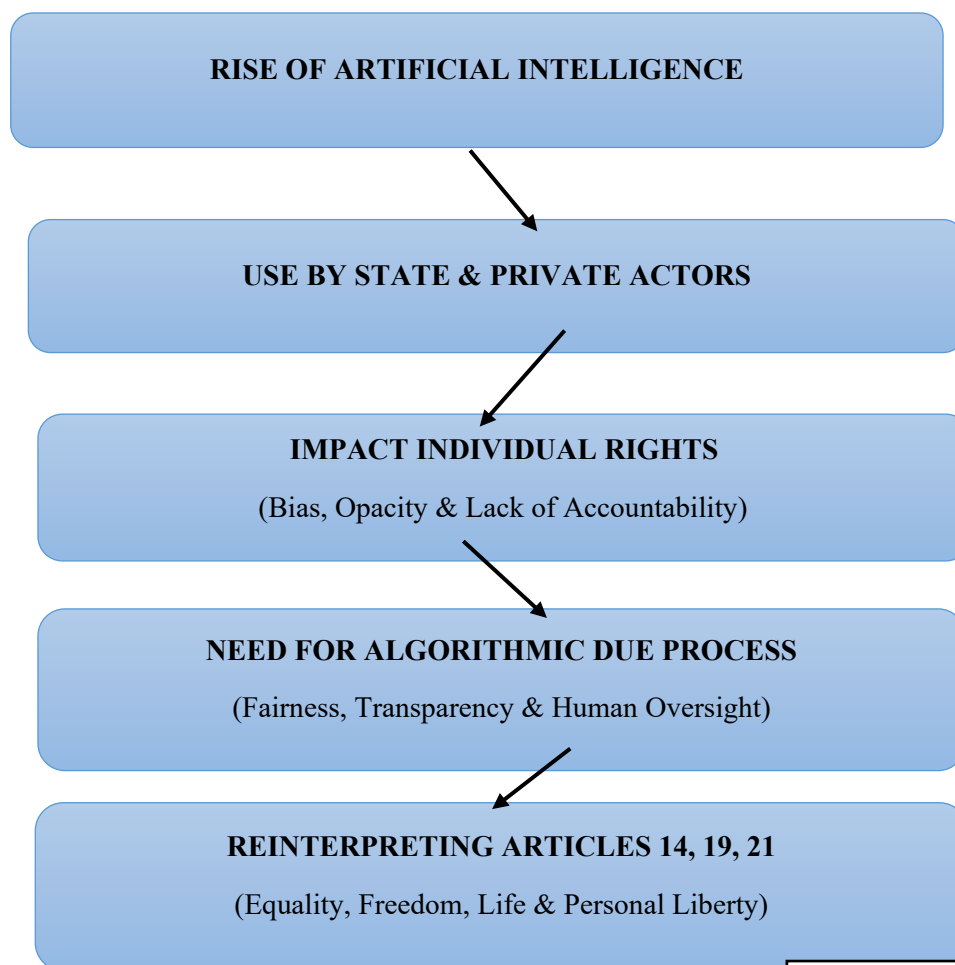


FIGURE 1.1

2. CONSTITUTIONAL FRAMEWORK

The Constitution constitutes various Articles which are divided into different sub-categories of fundamental rights, Directive Principles of State Policy and so on. There are also rules annexed to it by our far-sighted framers of the Constitution. It is a wholly written document which was incorporated by the constituent assembly of India. It took 2 years, 11 months and 18 days to enact it. During our freedom struggle, the leaders of the freedom movement had realized the importance of rights and demanded that the British rulers should respect the rights of the people. There was no disagreement on the inclusion and further protection of these rights in the Constitution of India. Though it was a borrowed concept from the United States of America. It remains true to its essence even in the borrowed country of India. The constitution listed these rights that would be specially protected and called them ‘fundamental rights’. The word ‘fundamental’ suggests that these rights are ‘fundamental or important’ in the existence of human life.

The thread of fundamental rights mentioned in Part III of the Constitution runs from Articles 12-35¹. Basic Fundamental rights for any citizen are categorized into the following six categories.

- Right to Equality..... Article 14

¹ The constitution of India, arts. 12–35.



- Right to Freedom..... Article 19
- Right against Exploitation
- Right to freedom of Religion
- Cultural and Educational Rights
- Right to Life and Personal Liberty..... Article 21

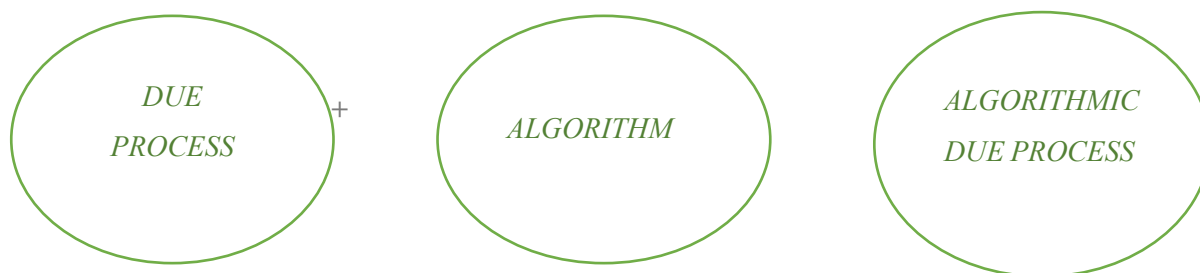
For the limited scope of our paper Arts.14, 19 and 21 will be dealt with.

3. CONCEPTUAL FRAMEWORK

The constitution of India was drafted by human minds who decided on each and every small detail of the final draft. Whereas “Artificial intelligence” is artificial, not real. “Real intelligence” resides in the minds of human brains, not robots that work after a prompt entered by a human being. Hence, it can never replace but only enhance the efficiency of humans. Though there has been an increase in the dependency on algorithmic systems used by both state institutions and private actors. As a result, challenges to constitutional governance arise.

The Constitution of India guarantees fundamental rights in Part III. Articles 14 (equality), 19 (freedoms), and 21 (life and liberty)² are three among the many rights that are fundamental for the existence of individuals who happen to be citizens of India. These pose a question in the automated decision-making algorithms. Algorithms are opaque and data-driven. They risk producing discriminatory outcomes, curtailing freedoms, and undermining dignity and privacy without ensuring adequate procedural safeguards. The algorithmic due process that constitutional protections must evolve to address the risks faced.

What is algorithmic due process in the first place? it is as follows.



² The Constitution of India, arts. 14, 19, 21.

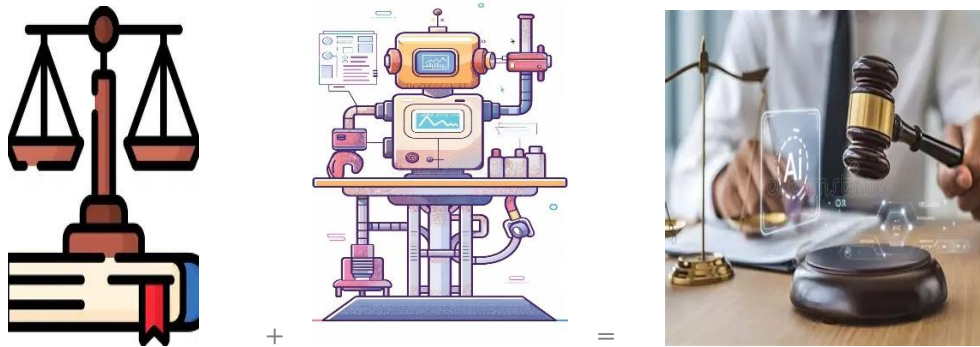


FIGURE 3.1

3.1 MEANING AND ORIGIN

Due Process is the application of basic principles like fairness, transparency, and opacity in every decision made by courts. Algorithmic Due Process is when the algorithm that platforms use, which is artificial intelligence, does the same³. However, in their decisions, there is a chance for humans to review those again. State and private actors have to act according to different capacities with respect to algorithmic justice. For example, RBI guidelines for private companies and IT regulations for platforms. Policy initiatives like the National Strategy also strive for it, but without any legal enforceability.

3.2 DUE PROCESS

The phrase "Due Process of Law" appears in the Fifth and Fourteenth Amendments to the United States Constitution. It requires that the government act fairly and reasonably when depriving an individual of life, liberty, or property.

While borrowing this feature from the American Constitution, the Indian Constitution adopted a different phrase: "Procedure established by law." Though both terms appear similar, they differ in interpretation. This phrase appears in Article 21 of the Constitution of India.⁴

The difference lies in the extent of interpretation. The first one is wider in its significance, while "Procedure established by law" restricts itself to the procedure of law governing life and personal liberty. Hence, the framers of our constitution purposely left it out so that the non-interference of the judiciary in other procedures would prove to be beneficial and less troublesome.

³ Markku Suksi, *Rule of Law and Automated Decision-Making: Exploring Fundamentals of Algorithmic Governance* (Springer, Cham, 2023).

⁴ Frank Pasquale, *Inalienable Due Process in an Age of AI: Limiting the Contractual Creep toward Automated Adjudication in Constitutional Challenges in the Algorithmic Society* (Cambridge University Press, Cambridge, 2021).



3.3 ALGORITHMIC DUE PROCESS

Is ‘algorithmic due process’ also mentioned in the respective constitutions of these two countries?

The answer is in negative. ‘Algorithmic due process’ is not written in the text of either country but is read into the present due process principles like procedural fairness and fundamental rights. Is there any law for algorithmic justice?

4. STATE AND PRIVATE ACTORS

The State has a greater responsibility for algorithmic justice. Moreover, the degree of fairness has to be complete, not superficial, for the state. On the other hand, a partial degree of fairness is expected from private entities. The state derives its power from the Constitution of India. The authority of Fundamental Rights is far greater than any regulatory fairness rules entrusted to private companies. They find their place in the statutes, for example, the NDPS Act 1985⁵, BNS 2023⁶, or BNSS 2023⁷.

In cases of violations of fundamental rights, the state applies stricter penal provisions and safeguards, whereas the opposite is the case for private entities. Citizens can seek justice from the constitutional courts directly under Article 32, also called the heart and soul of the Indian Constitution by Dr B.R. Ambedkar. Writs like habeas corpus, Quo warranto, Certiorari, Prohibition, and Mandamus are issued by the courts as remedies. The right of constitutional remedies is not available in cases of violations by private entities. They have limited remedies and duties toward citizens.

Figure 4.1 highlights the key differences between state and private actors.

BASIS	STATE ACTORS	PRIVATE ACTORS
Binding Law	Fundamental Rights	Regulatory Fairness
Source	Constitution of India	Statutes/contracts

⁵ Narcotic Drugs and Psychotropic Substances Act, 1985 (No. 61 of 1985).

⁶ Bharatiya Nyaya Sanhita, 2023 (No. 45 of 2023).

⁷ Bharatiya Nagarik Suraksha Sanhita, 2023 (No. 46 of 2023).



Accountability	Strict	Conditional
Fairness Standard	Full	Limited
Due Process	Strong safeguards	Contextual safeguards
Challenge	Writ remedy	Limited remedy

FIGURE 4.1

5. APPLICATION OF ARTICLES 14, 19 AND 21

Equality under Article 14 requires mechanisms to prevent bias and arbitrariness in; freedoms under Article 19 demand proportional restrictions when speech or occupation is affected by profiling; and liberty under Article 21 necessitates transparency, human oversight, and a right to explanation in decisions that significantly impact lives.

5.1 EQUALITY AND NON-ARBITRARINESS

Article 14 (Right to equality) is composed of two phrases. “Equality before law”, which means discrimination based on caste, race, and religion, place of birth or sex shall find no place in the eyes of law. It is a negative connotation. “Equal protection of laws” means that everyone, be it a Member of Parliament or a Juice vendor, Male or Female, Dalit or a Brahmin, Hindu or a Muslim, each individual shall receive the same treatment from the law. Like should be treated alike. Although unlike should be treated alike is not correct. The Constitution regards the need to pay special attention to differences among individuals. Equal’s and unequal’s cannot be put in the same box and be pitted against each other. Hence comes the birth of reasonable classification.⁸

5.2 ALGORITHMIC DECISION-MAKING AND ARTICLE 14

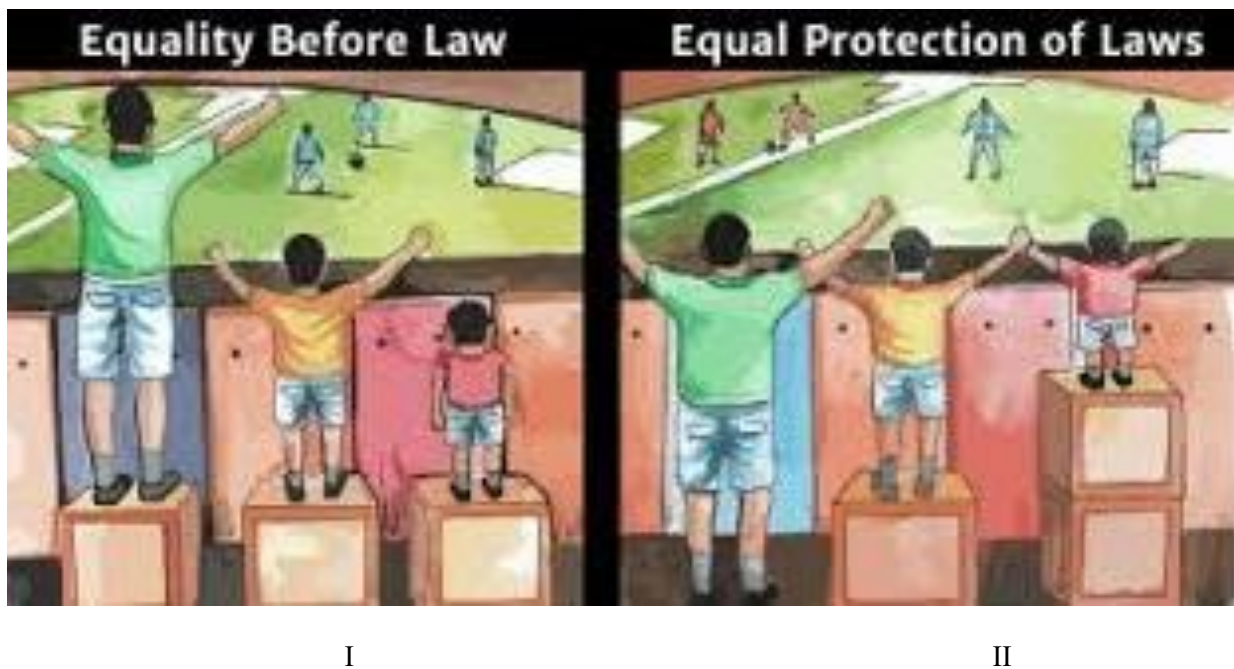
- *Lapse of Welfare*- When an Aadhaar Card Holder is denied beneficiary schemes because of the failure of the biometric system for fingerprint authentication. This is against the spirit of Article 14⁹. To be precise, it is arbitrary. Eligible citizens are treated in a discriminatory manner. Reason being algorithmic error. Courts have pointed out that such automated exclusion amounts to a violation of procedure established by law. Fundamental rights cannot be deferred due to malfunctioning technology.

⁸ S.P. Sathe, “Equality Before Law: The Expanded Doctrine under Article 14”, 43 *Journal of the Indian Law Institute* 67 (2001).

⁹ M.P. Singh, “Classification and Article 14 of the Constitution of India” 24 *Journal of the Indian Law Institute* 145 (1982).



- *Digital Evidence & Automated Systems*-Admission of Electronic records without proper verification by court staff, for example, digital affidavits, etc., and rejection of similar evidence from another party is alarmingly shocking. Accountability is compromised in such a scenario. Unequal standards violate fairness. The Anvar v. PK Basheer case¹⁰ underlined that digital evidence must meet strict reliability standards to ensure equal treatment under the law.
- *Automated Surveillance & Policing*-Facial recognition feature in public places mistakes B for A and A for C. People have wrongfully evaded arrest or surveillance due to this. Algorithmic drawbacks pester a few marginalized communities to undergo harsh vigilance systems, which undermine equality before law and equal protection of law, the twin pillars of Article 14.
 - *AI tools used for recruitment in jobs*-Rejection of qualified people in jobs by AI filters amounts to indirect discrimination, violating the principle of “like should be treated alike”.
 - This Article can be best understood through figure 5.1. In Illustration I, one match is being watched by three spectators. All have the same stool, indicating the same laws' applicability irrespective of their difference in height. Result-short height individuals are at a disadvantage, hence cannot watch the match at eye level. In Illustration II, one person is provided with one stool, another two, while none is provided for the third person. Stools are like benefits that must only be provided for those who are in a disadvantaged position, and to the extent required to achieve a level-playing field.



¹⁰ (2014) 10 SCC 473.



FREEDOM OF SPEECH AND EXPRESSION

FIGURE 5.1

Article 19 (Right to freedom) enables one to be able to speak or express one's opinions in a regulated environment. The ambit is further subdivided into clauses of clause 1. I will be relating sub-clauses (a), (c) and (d). Exceeded Speech regulation by Certain Social media platforms or government website containing cookies block various posts without any regulations restricting them¹¹. If the algorithm does this without any rhyme or reason, exceeding their bar of reasonable restriction under Article 19(2) to Article 19(6)¹², it is seen as a direct violation of the fundamental right of freedom. Disproportionate lowering of some voices while allowing others to speak freely results in unequal treatment, which is not at all a feature of democracy. In the Shreya Singhal case¹³, the Supreme Court struck down Section 66A of the IT Act 2000, warning against restrictions that could be applied through automated systems.

5.3 ALGORITHMIC DECISION-MAKING AND ARTICLE 19

- *Article 19(1)(a) – Freedom of Speech & Expression-* It is one of the most important fundamental rights. If this alone is silenced, then it would be catastrophic. India would be called a monarchy if AI tools tried to suppress it. Voices must be heard in rallies, public debates and also online. Twitter, Instagram and Facebook serve as an interface between citizens of India and the elected politicians, or for anyone in that case. The British Raj has ended, and so did the monarchy with it. It's the 21st Century we are breathing in.
- An example of the restraint of freedom of speech and expression is sedition. Almost 7 out of 10 people are facing charges of sedition. Section 124A mentions the definition as well as the punishment of sedition in the Indian Penal Code (IPC), 1860¹⁴, now incorporated in section 152 of the Bhartiya Nyaya Sanhita. It punishes words, either spoken or written, or by signs, or by visible representation, which bring or attempt to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India. There is a connection between “punishes” and “towards the government by law in India”. A conjunction “act” is missing, which could give it a strict interpretation by calling out any act that is against the government as seditious. The ambit extends to online material too. Punishment is imprisonment for life, or for a term which may extend to three years, to which fine may be added. The year of the introduction of this draconian section :1870, made by the government of not-so-free India, continued in 2026 by the government of free India. There are enough dichotomous words in the previous sentence that convey the level of restriction AI tools apply in the garb of this section.

¹¹ SCC Online Blog, “Freedom of Speech and Expression under Article 19(1)(a)”, available at: <https://www.sconline.com/blog/> (last visited on May 5, 2026).

¹² The Constitution of India, arts. 19(2)-19(6).

¹³ Shreya Singhal v. Union of India, AIR 2015 SC 1523.

¹⁴ The Indian Penal Code, 1860 (Act 45 of 1860).



- *Article 19(1)(c) – Freedom of Association*-Algorithms used by state or private entities often target certain groups for surveillance, which is just arbitrary. For example, an activist group’s meetings are flagged as “potentially unlawful,” which results in discouraging association, especially for minority or dissenting groups.
- *Article 19(1)(d) – Freedom of Movement*-A person is repeatedly stopped at checkpoints because facial recognition confuses their identity with that of a suspect. This violates movement as the person will be barred from free entry and exit from any premises.

5.4 LIFE, LIBERTY AND PRIVACY

Right to life and Personal Liberty encompasses an individual’s right to live peacefully and freely without any kind of illegal constraints put upon his or her liberty. Right to clean and healthy environment, right to marry and right to move freely in and outside the country, having a valid passport, which was established in the Maneka Gandhi case¹⁵. Its ambit is wide and ensures that an individual is also living with dignity.

The right to privacy established in the K.S. Puttaswamy case¹⁶ is also among the many facets of this article. Example: An AI system installed in hospitals and clinics prioritises patients based on corrupt files, delaying treatment for the deserving ones. The right to health is part of the right to life. Such algorithmic decisions can risk the lives of patients.

5.5 ALGORITHMIC DECISION-MAKING AND ARTICLE 21

- Fair procedure: Every algorithm used by the state must follow a procedure that is just, fair and non-arbitrary. Outputs must not be wholly machine-made. The unwarranted arrests and policing are not deemed a fit practice.
- Right to explanation: Individuals possess the right to challenge decisions regarding fundamental rights. (For example, denial of bail or an important piece of evidence.
- Human oversight: There must be human involvement in decisions in at least some capacity.
- Human review- reviewable decisions by humans in case of a discord.
- Right to challenge: People must have the ability to question and appeal algorithmic decisions before an independent body.
- Dignity and privacy: Since Article 21 extends to dignity and privacy, personal data or an individual’s dignity must be protected at all costs.
- State Accountability: The government cannot escape blame by evading responsibility, as the system can. It remains accountable for all decisions. While private entities can still escape this responsibility.¹⁷

¹⁵ Maneka Gandhi v. Union of India, AIR 1978 SC 597.

¹⁶ K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

¹⁷ Elavarasan H, “State Accountability: Navigating Liability in Tort and Contract – An Analysis” 2 *Journal of Law and Legal Research Development* 1 (2025).



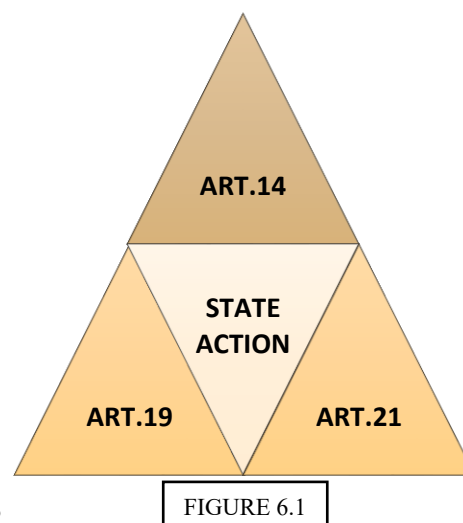
6. DOCTRINE OF THE GOLDEN TRIANGLE

The ‘Golden Triangle’ is a doctrine evolved in *Maneka Gandhi v. Union of India*, 1978¹⁸ by the Supreme Court of India. A person’s passport cannot be impounded by the government without following due process, which must be just, fair and reasonable. Article 21 included a wide meaning of personal liberty for the first time in this case.

It then links article 14 and article 19 to it, which combine to form a golden triangle of fundamental rights. Their relation is displayed in Figure 5 below.

It portrays that Articles 14, 19, and 21 are intertwined with each other. They are not mutually exclusive; rather, they coexist in dependence on each other. It means that a state action has to pass the test of equality, freedom without putting any unreasonable restrictions, and the protection of personal liberty and dignity, to become a law. It can be held ultra vires if it is in violation of the Constitution of India.

In the times of Artificial Intelligence, it becomes all the more important to keep every state action human-centric so as to avoid the use of technology over the essence of fundamental rights. The Golden Triangle ensures that AI developments are in line with constitutional rights and challenge unfair algorithmic decisions, if any¹⁹.



7. JUDICIAL PRECEDENTS

- **Anvar P.V. v. P.K. Basheer (2014)**

The Supreme Court (hereinafter called “SC”) addressed the admissibility of electronic evidence. It held that compliance with evidentiary rules is necessary when algorithmically generated material is used.

¹⁸ AIR 1978 SC 597.

¹⁹ Yuvraj Singh, “Right to life enshrined in Article 21 of the Constitution draws on Magna Carta”, *The Indian Express*, (19 June 2015), available at: <https://indianexpress.com/article/opinion/columns/indias-charterright-to-life-enshrined-in-article-21-of-the-constitution-draws-on-magna-carta/> (last visited on May 6, 2026).



The concept of due process extends to the digital realm as well, requiring an authenticity check of evidence before acceptance in court.

- **Shreya Singhal v. Union of India (2015)**

This case dealt with Section 66A of the Information Technology Act 2000²⁰, which allowed broad restrictions on online speech. The Court struck down the provision, noting that vague and broad algorithmic filtering of speech violated due process safeguards. It stressed that automated restrictions must be within the boundaries of fairness and free expression.

- **K.S. Puttaswamy v. Union of India (2017)**

It challenged the biometric feature of the Aadhaar, which works on a fed algorithmic input. A few Technical errors in the identification system cannot deprive guaranteed benefits to the citizens. The Supreme Court expanded the scope of fundamental rights to include the right to privacy under Article 21, the right to life and personal liberty. It held that the algorithms cannot override due process to deny justice to the dependent population, like the poor, the especially abled and the old, who majorly rely on such welfare scheme benefits.

8. LEGISLATIVE FRAMEWORK

There is no law in India for 'algorithmic justice' in AI. Existing laws address some aspects of algorithmic systems.

The Information Technology Act, 2000, in its limited scope and application, oversees the functioning and legal recognition of digital and automated systems.

Particularly, the Digital Personal Data Protection Act, 2023²¹, which focuses on Article 21 of the Constitution of India. Basically, the processing and collection of personal data. It indirectly relates to algorithmic justice. Key examples are consent-based decisions, judicious data use, and enabling user rights.

India at present uses a fragmented framework by joining several fundamental rights and the provisions of the Data Protection Law 2023, for the state and various private sector regulations for the companies. Policies for Artificial Intelligence are in effect, though they are not binding on private entities. NITI Aayog has developed national strategies for algorithmic systems to deliver justice, encouraging fairness, transparency, and accountability in artificial intelligence while upholding constitutional rights.

There is an urgent need for comprehensive Artificial Intelligence regulation in India. It is expected that the legislature will soon take responsibility for drafting and enacting accountability laws with audit requirements and safeguards against improper surveillance.

9. CONCLUSION

²⁰ Information Technology Act, 2000 (Act 21 of 2000), s. 66A.

²¹ Digital Personal Data Protection Act, 2023 (Act No. 22 of 2023).



This paper has demonstrated that in the digital age, algorithmic systems are increasingly used by both the State and private actors, which makes the guarantees under Article 14, Article 19 and Article 21 of the Indian Constitution essential to ensure due process. Issues such as bias, opacity and lack of accountability highlight the growing need for algorithmic justice not just in letter but also in spirit. Courts have expanded the scope of fundamental rights through landmark judgments. It has also been held that human oversight is a must to address challenges posed by automated decision-making. This study proves that, at present, the legal framework is insufficient. Therefore, it is urgent for India to adopt a single comprehensive law that aims for transparency. The application of the Digital Personal Data Protection Act, 2023, by the state and the application of other non-binding regulations by the private entities are limited in fragments. Moreover, the analysis of international frameworks such as the UNESCO AI Ethics Recommendation 2021 and the United Nations human Rights framework is read into demographic laws in India. Judicial and statutory recognition in line with constitutional protections will be crucial for technological developments.

At last, artificial intelligence must not override individual rights.

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