ALGORITHMIC DECISION-MAKING IN INDIAN ADMINISTRATION: FROM FORMAL AUTHORITY TO SUBSTANTIVE CONTROL AND ACCOUNTABILITY

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ABSTRACT

Artificial intelligence and algorithmic systems have migrated from the periphery of Indian public administration into its operational core, determining who receives a ration card, how a tax return is assessed, and whom a policing algorithm flags for surveillance. This paper argues that this shift has produced a structural mismatch between Indian administrative law doctrine, which is built on the premise of an accountable human decision-maker exercising *formal authority*, and the operational reality of *substantive control* now exercised by opaque, often unaccountable algorithmic systems. Using Aadhaar-linked welfare delivery, the Faceless Assessment Scheme under the Income Tax Act, and facial-recognition-based protest surveillance in Delhi as case studies, the paper demonstrates how algorithmic mediation strains foundational doctrines the duty to give reasons, the principles of natural justice, and the rule against fettering of discretion and produces outcomes that are difficult to challenge precisely because their underlying logic is neither disclosed nor easily traceable to an identifiable human decision-maker. The paper evaluates whether India's principal data-protection statute, the Digital Personal Data Protection Act, 2023 and the Digital Personal Data Protection Rules, 2025, meaningfully close this gap, and finds that it does not: Indian law confers no right against solely automated decisions and no right to an explanation, unlike the European Union's General Data Protection Regulation. Drawing on the Supreme Court's 2026 Draft Regulations for Use of Artificial Intelligence in Courts as an emerging, if narrow, domestic model of "human primacy," and on Canada's federal Directive on Automated Decision-Making as a comparative template, the paper proposes a framework of substantive algorithmic accountability for Indian public administration built on four pillars: mandatory algorithmic impact assessments, a statutory duty of explainability, guaranteed human review in high-stakes decisions, and an independent audit mechanism.

Keywords: algorithmic governance, administrative law, artificial intelligence, DPDP Act 2023, Aadhaar, faceless assessment, facial recognition, accountability.

I. Introduction

Indian public administration has, over the last decade, undergone a quiet but consequential transformation. Welfare eligibility that was once verified by a ration-shop dealer or a block development officer is now verified by a biometric-matching algorithm housed in the Central Identities Data Repository. Tax assessments that were once conducted at a desk are today generated through the Faceless Assessment Scheme, in which a taxpayer may never learn the identity of the human or algorithmic official who reviewed their return. Crowds at public protests are today scanned by facial-recognition vans and AI-enabled smart glasses whose statistical thresholds, not a magistrate's warrant, determine whose biometric data is captured and retained.[1] Each of these examples reflects the same underlying phenomenon: the displacement of discretion exercised by an accountable human official, what this paper calls *formal authority*, by the *substantive control* of an algorithmic system whose reasoning process is neither disclosed to the affected citizen nor easily reconstructed after the fact.

This displacement matters because Indian administrative law was built around a particular model of the decision-maker: a statutorily empowered official who is expected to apply their mind to the facts of a case, give reasons for an adverse decision, and remain answerable through judicial review, an internal appeal, or political accountability for that decision. Doctrines such as the duty to give reasons, the principles of natural justice, and the rule against the non-fettering of discretion all presuppose someone who decided, and who can explain why. When a statistical model performs the substantive work of decision-making, whether a biometric matching algorithm, a risk-scoring tool, or a facial-recognition system, that "someone" becomes difficult to locate, the official who signs the final order may have had no meaningful opportunity to review, let alone override, the system's output. The result is what this paper terms a *formal authority/substantive control* gap: administrative law continues to hold a human official formally responsible for a decision that, in substance, was made elsewhere.

This paper makes three contributions. First, it develops a conceptual vocabulary formal authority versus substantive control to describe this gap with greater precision than the loose language of "AI in government" typically allows. Second, it grounds this conceptual claim in three contemporary Indian case studies spanning welfare, taxation, and policing, each supported by documented litigation, government data, or peer-reviewed empirical research.

[1]See infra Part III.C.

Third, it evaluates India's existing and emerging legal responses to the DPDP Act and Rules. The Supreme Court's 2026 Draft AI Regulations for Courts are assessed against a comparative benchmark (the European Union's GDPR and Canada's federal Directive on Automated Decision-Making) and propose a four-part framework for closing the accountability gap in public administration, specifically as distinct from the private sector or the judiciary.

The paper proceeds as follows. Part II develops the conceptual framework distinguishing formal authority from substantive control and situates it within existing administrative law doctrine. Part III surveys the current landscape of algorithmic decision-making across three sectors of Indian administration. Part IV analyses the constitutional and statutory challenges posed by this landscape. Part V offers a brief comparative analysis. Part VI proposes a reform framework, and Part VII concludes.

II. Conceptual Framework: Formal Authority and Substantive Control

A. The classical model of administrative discretion

Indian administrative law inherited, largely from English common law, a model in which a statute confers discretion on a named authority, a Collector, an Assessing Officer, or a licensing board, who is expected to exercise independent judgment within the four corners of the enabling statute. Two doctrines operationalise this expectation. The first is the rule against the fettering of discretion: an authority vested with discretion may adopt general policies to guide its decisions, but may not treat those policies as binding rules that eliminate the exercise of judgment in an individual case. The second is the duty to act fairly, which in its modern Indian formulation typically requires that an adversely affected party be given notice, an opportunity to be heard, and increasingly a reasoned order explaining why the discretion was exercised as it was, so that the affected party can meaningfully exercise a right of appeal or seek judicial review.

Both doctrines assume that discretion is exercised by a cognitive agent capable of "applying its mind", a standard that Indian courts routinely invoke to distinguish a genuine exercise of discretion from a mechanical or rubber-stamp decision. It is this assumption that algorithmic decision-making unsettles.

B. Defining formal authority and substantive control

For this paper, **formal authority** refers to the locus of decision-making power as allocated by statute or delegated instrument, the official or body legally designated as the decision-maker and bearing legal and political accountability for the decision. **Substantive control** refers to the locus of decision-making power as it actually operates the process, human or algorithmic, that materially determines the outcome, regardless of whose name appears on the final order.

In the classical model, formal authority and substantive control are unified in the same official. In an algorithmically mediated administrative process, they can diverge sharply. A National Faceless Assessment Centre official formally issues a Faceless Assessment order, but where an automated risk-flagging system determines which returns are selected for scrutiny and what variation is proposed, substantive control over the outcome has already shifted before any human officer engages with the file. A ration card cancellation is, in effect, the decision of a Public Distribution System dealer or the state food and civil supplies department. Still, where a biometric authentication failure automatically triggers the cancellation or suspension of benefits, substantive control rests with a probabilistic pattern-matching algorithm inside the Central Identities Data Repository, not with any human official who considered the applicant's individual circumstances.[2]

This distinction has doctrinal bite. Where substantive control has migrated to an algorithm, the classical remedies calibrated to formal authority, an appeal to the named officer's superior, a request for reasons from the named decision-maker, and a natural-justice challenge premised on that officer's failure to consider a specific submission, become structurally mismatched to the actual cause of the grievance. The citizen is invited to seek redress from a person who did not, in any meaningful sense, decide.

C. The "black box" problem and the displacement of moral agency

A second dimension of the problem, distinct from but related to the formal/substantive divergence, is opacity. Many algorithmic systems used in Indian administration, biometric matching engines, risk-scoring models, and facial-recognition classifiers are proprietary, undocumented to the public, or too complex for their outputs to be reconstructed after the fact, even by the officials who nominally rely on them. This is sometimes called the "black box" problem: a decision is produced, but the chain of reasoning that produced it cannot be inspected, challenged, or falsified in the way a written order citing specific facts and provisions

[2]See infra Part III.A.

can be. Where such systems drive high-stakes administrative outcomes, they do more than complicate individual redress — they displace the possibility of moral and legal agency being exercised by any accountable party at the point of decision.

III. The Current Landscape of Algorithmic Decision-Making in India

A. Case Study 1 — Aadhaar-linked welfare delivery

The clearest illustration of the formal authority/substantive control gap and its human cost is the Aadhaar-linked delivery of welfare entitlements under the Public Distribution System (PDS). Aadhaar-Based Biometric Authentication (ABBA) was intended to eliminate "ghost" beneficiaries by requiring a fingerprint or iris match at the point of sale before subsidised food grain could be released. In practice, biometric authentication failure rates — driven by manual labourers' worn fingerprints, connectivity gaps in rural areas, and elderly users' degraded biometric markers — have resulted in genuine beneficiaries being denied entitlements they are legally owed.[3]

The human consequences have been documented in litigation before the Supreme Court. In proceedings arising from a petition filed by Koili Devi, the Supreme Court treated as "serious" the allegation that approximately three crore ration cards nationally were cancelled solely because they could not be biometrically linked to Aadhaar; Ms Devi's petition specifically concerned the death of her eleven-year-old daughter, Santoshi Kumari, who reportedly died of starvation in Simdega district, Jharkhand, in 2017 after the family's ration card was deactivated for non-linkage.[4] Independent empirical research corroborates the scale of the problem beyond this single case. A household survey led by economist Jean Drèze and co-authors, covering roughly 1,000 households across 32 villages in Jharkhand, estimated exclusion errors of up to 20 per cent in areas where biometric authentication was mandatory for every PDS transaction.[5] A subsequent J-PAL-affiliated analysis found that approximately 88 per cent of roughly 1.44

[3]*Aadhaar Failures: A Tragedy of Errors*, Econ. & Pol. Wkly. Engage (Apr. 5, 2019), https://www.epw.in/engage/article/aadhaar-failures-food-services-welfare (last visited Sept. 20, 2026).
[4]Koili Devi & Ors. v. Union of India & Ors., W.P. (Civil) No. 61 of 2018 (S.C. India) (pending); *see also Aadhaar as a Hurdle: Authentication Failures and Welfare Delivery*, ShankarIAS Parliament, https://www.shankariasparliament.com/current-affairs/judiciary/aadhaar-as-a-hurdle-authentication-failures-and-welfare-delivery (last visited Sept. 20, 2026); *Fixing Aadhaar Bugs: Putting a Finger on the Biometric Problem*, Bus. Standard (Jan. 16, 2018), https://www.business-standard.com/amp/article/economy-policy/fixing-bugs-of-aadhaar-putting-a-finger-on-the-biometric-problem-118011501030_1.html.
[5]Jean Drèze et al., household survey of Aadhaar-linked exclusion errors in Jharkhand, *cited in Aadhaar that Doesn't Exclude*, Ideas for India, https://www.ideasforindia.in/topics/poverty-inequality/aadhaar-that-doesn-t-exclude (last visited Sept. 20, 2026).

lakh ration cards cancelled in Jharkhand belonged to genuine beneficiaries rather than fictitious "ghost" entries, the opposite of what the biometric system was designed to achieve.[6]

What makes this case study analytically significant, beyond its human toll, is the structure of accountability it discloses. No PDS dealer or district food-supply officer "decided" to cancel Santoshi Kumari's family's ration card in the sense contemplated by classical administrative law. The decision was substantively made by a biometric matching algorithm's failure to produce a positive authentication score, automatically triggering a cancellation that no human official reviewed for individualised circumstances before it took effect. Formal authority for PDS administration remained with state food-and-civil-supplies departments; substantive control over who actually received grain had migrated to the authentication system itself.

B. Case Study 2 — The Faceless Assessment Scheme

The second case study illustrates how the formal/substantive gap plays out in a sector with a much richer body of litigation: income tax administration. The Faceless Assessment Scheme, introduced in 2019 and given statutory backing through Section 144B of the Income Tax Act, 1961, was designed to eliminate direct human interface between taxpayers and assessing officers, routing assessments through a National Faceless Assessment Centre and randomised, jurisdiction-agnostic allocation of cases, ostensibly to reduce corruption and harassment.[7]

High Courts have repeatedly had to police the boundary between "faceless" and "voiceless." In *M/s DJ Surfactants v. National e-Assessment Centre*, the Delhi High Court granted an interim stay on an assessment order after finding a prima facie violation of the principles of natural justice: the taxpayer had sought and been denied a personal hearing, and the department proceeded to pass a final order without considering the taxpayer's response to a show-cause notice.[8] In *Bharat Aluminium Company Ltd. v. Union of India*, the Delhi High Court went further, holding that the word "may" in Section 144B(7)(viii) which on its face appeared to make a personal hearing discretionary must be read as mandatory once an assessee requests one, and suggested that the assessing officer's identity could be protected through a blurred

[6]*Human Cost of India Stack: Deaths, Denials, Exclusion*, India Stack (Jan. 8, 2026), https://indiastack.in/exclusion/ (citing J-PAL-affiliated study of Jharkhand ration-card cancellations (2020)).
[7]The Income-tax Act, No. 43 of 1961, § 144B, India Code (1961); *Faceless Assessments Under Income Tax Law Facing a New Challenge*, Khaitan & Co. (Mondaq), https://khaitanco.com/thought-leaderships/Faceless-Assessments-Under-Income-Tax-Law-Facing-A-New-Challenge (last visited Sept. 20, 2026).
[8]M/s DJ Surfactants v. Nat'l e-Assessment Ctr., Income Tax Dep't, W.P.(C) No. 4814/2021 (Del. H.C.); see Khaitan & Co., supra note 7.

video screen while still affording a genuine hearing.[9] In a related matter, the same High Court quashed an assessment order passed without a prior show-cause notice or draft assessment order, holding that the availability of a statutory appellate remedy does not oust a writ court's jurisdiction where natural justice has been violated.[10] The Supreme Court, for its part, has upheld the constitutional validity of the Faceless Assessment Scheme, treating it as a legitimate reform aimed at transparency, while leaving open individual procedural challenges.[11]

This body of litigation is instructive precisely because it shows courts intervening successfully but only reactively, one writ petition at a time, and only where a taxpayer had the resources and legal sophistication to litigate. The scheme's own architecture, random allocation, functional separation between the officer who issues a show-cause notice and the officer who finalises an order, and algorithmic risk-flagging that determines which returns are selected for scrutiny in the first place, means that no single human official exercises the kind of continuous, individualised judgment that natural-justice doctrine was designed to police. Courts have effectively had to reconstruct, case by case, a floor of procedural fairness that the scheme's design did not build in from the outset.

C. Case Study 3 — Facial recognition and protest surveillance

The third case study concerns the Delhi Police's use of facial recognition technology (FRT). It illustrates the accountability gap in its starkest form, as no comprehensive statutory framework governs biometric surveillance in India. During sit-in protests organised by student and youth groups at Jantar Mantar beginning in June 2026, the Delhi Police reportedly deployed a real-time facial-recognition surveillance vehicle known as "Ikshana," AI-enabled smart glasses supplied by AjnaLens, and fingerprint-matching through the National Crime Records Bureau's "Abhigyan" application, cross-referenced against the National Automated Fingerprint

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[9]Bharat Aluminium Co. v. Union of India, (Del. H.C.) (2022), *discussed in Delhi High Court: Faceless Assessment Scheme Does Not Mean No Personal Hearing*, SCC Online Blog (Jan. 17, 2022), https://www.scconline.com/blog/post/2022/01/17/faceless-assessment-scheme-does-not-mean-no-personal-hearing/; *see also* Piramal Enters. Ltd. v. Additional/Joint/Deputy Asst. Comm'r of Income Tax, 2021 SCC OnLine Bom 1534.

[10]Jindal Realty Ltd. v. Union of India (Del. H.C. Apr. 27, 2022), *discussed in If Principles of Natural Justice Are Violated, Writ Remedy Is Available Despite Statutory Appeal: Delhi High Court*, LiveLaw (Apr. 27, 2022), https://www.livelaw.in/amp/news-updates/delhi-high-court-section-147-of-the-income-tax-act-assessment-order-197682.

[11]Deputy Comm'r of Income Tax v. [Assessee], (2022) 137 Taxmann.com 90 (S.C.); Union of India v. Kamlesh Kumar Thakkar, S.L.P. (C) No. 13062/2022, *discussed in Faceless Assessment[:] Income Tax Act Impact [on] Principles [of] Natural Justice*, TaxGuru, https://taxguru.in/income-tax/faceless-assessment-income-tax-act-impact-principles-natural-justice.html (last visited Sept. 20, 2026).

Identification System (NAFIS).[12] A writ petition filed before the Supreme Court alleged that thousands of protesters, journalists, and ordinary citizens were subjected to continuous biometric surveillance without any Privacy Impact Assessment ever having been conducted, and that an 80 per cent facial-similarity score was treated as an identification match despite no public validation of that threshold's reliability.[13] The Delhi Police, in an affidavit before the Supreme Court, maintained that the technology was configured to flag only individuals whose photographs already existed in police records such as history-sheeters or absconders and did not indiscriminately profile the entire crowd; petitioners' counsel disputed this, arguing that a facial-recognition system must necessarily capture every face in its field of view before it can determine which of those faces match an existing record.[14] A related Right to Information request found no tenders, procurement approvals, accountability guidelines, or grievance-redressal mechanisms on public record for the deployment of AI-enabled surveillance glasses used during Republic Day security operations earlier in 2026.[15]

This case study differs from the first two in an important respect: it is not merely that substantive control has migrated to an algorithm within an existing statutory scheme, but that no statute authorises the underlying activity at all. Facial-recognition technology in Indian policing operates, as one recent commentary observes, in "a complete legal vacuum", a patchwork of executive orders, police standing instructions, and procurement decisions, with no dedicated legislation comparable to what exists for wiretapping or physical search and seizure.[16] Where the first two case studies show administrative law doctrines straining to cope with algorithmic mediation of an existing accountable process, this case study shows the absence of any accountable process for the algorithm to mediate in the first place.

[12] *PIL in Supreme Court Challenges Delhi Police's Facial Recognition Surveillance at Jantar Mantar Protest*, LawBeat (July 28, 2026), https://lawbeat.in/amp/top-stories/pil-in-supreme-court-challenges-delhi-polices-facial-recognition-surveillance-at-jantar-mantar-protest-1616723; *The State of Surveillance*, India Legal (Aug. 15, 2026), https://indialegallive.com/cover-story-articles/il-feature-news/surveillance-jantar-mantar-protests-delhi-police-wearable-recording-devices/.

[13] A.A. Rahim, M.P. v. Union of India, Diary No. 45049/2026 (S.C. India) (filed July 2026); *Supreme Court Agrees to Hear PIL Challenging Delhi Police's Facial Recognition Surveillance at Jantar Mantar Protest*, LawBeat (Aug. 13, 2026), https://lawbeat.in/top-stories/supreme-court-agrees-to-hear-pil-challenging-delhi-polices-facial-recognition-surveillance-at-jantar-mantar-protest-1621910.

[14] *Delhi Police Tells SC Its Facial Recognition Targets Only People with Criminal Records. But Is Everyone Scanned First?*, MediaNama (Aug. 19, 2026), https://www.medianama.com/2026/08/223-delhi-police-facial-recognition-criminal-records/.

[15] *Id.* (discussing RTI application filed Feb. 2026 concerning AI facial-recognition glasses used during Republic Day security operations).

[16] *Challenge to Facial Recognition at Protests to Be Examined by Supreme Court of India*, Biometric Update (Aug. 14, 2026), https://www.biometricupdate.com/202608/challenge-to-facial-recognition-at-protests-to-be-examined-by-supreme-court-of-india.

IV. Constitutional and Legal Challenges

A. Article 14 — arbitrariness and unreasoned outcomes

Article 14 of the Constitution has long been interpreted to prohibit arbitrary state action, including administrative decisions that are unreasoned, inconsistent, or the product of a lack of application of mind. Algorithmic decision-making complicates this inquiry in two ways. First, where an algorithm's internal logic is proprietary or technically inscrutable even to the department deploying it, a court reviewing the decision has no meaningful way to assess whether the "mind" that produced the outcome was applied to the relevant facts, as opposed to a pattern extracted from historical data that may itself encode bias. Second, and more subtly, an algorithm that behaves consistently applying the same statistical rule to every case can appear to satisfy the traditional non-arbitrariness standard (treating like cases alike) while still producing a systematically unjust outcome for a subset of the population whose biometric or behavioural profile deviates from the data on which the system was calibrated, as the disproportionate biometric-authentication failures among elderly and manual-labouring Aadhaar holders illustrate.

B. Article 21 — livelihood, dignity, and life

The documented starvation deaths linked to Aadhaar authentication failures raise Article 21 concerns of the most serious kind. The right to life under Article 21 has been read expansively by the Supreme Court to include the right to livelihood and to a life with dignity; where an automated welfare-eligibility system produces exclusion errors at the scale the Drèze survey documented, the resulting harm is not an abstract administrative inconvenience but a direct threat to survival. The constitutional difficulty is that Article 21 jurisprudence, like Article 14, was developed to police decisions by identifiable state actors, and courts have not yet developed a settled doctrine for attributing responsibility where the proximate cause of exclusion is an algorithm's authentication failure rather than any individual official's act or omission.

C. Natural justice and the duty to give reasons

As the Faceless Assessment litigation demonstrates, Indian courts have been willing to insist that algorithmic mediation of a decision-making process does not dilute the underlying duty to give an affected party notice, an opportunity to be heard, and a reasoned order. What the litigation also demonstrates, however, is that this insistence has so far operated only at the margins of the scheme, correcting individual procedural failures rather than addressing the deeper question of whether risk-flagging and case-selection algorithms upstream of the assessment process are themselves compatible with natural justice, given that a taxpayer is never told why their return was selected for scrutiny in the first place.

D. The Digital Personal Data Protection Act, 2023 and Rules, 2025 — a limited response

India's principal data-protection statute might be expected to fill this gap, but it does not. Unlike the European Union's General Data Protection Regulation, which grants data subjects a qualified right not to be subject to a decision based solely on automated processing that produces legal or similarly significant effects, the DPDP Act contains no equivalent right against automated decision-making.[17] The rights the Act does confer access to a summary of one's personal data and its processing, correction, erasure, grievance redressal, and the right to nominate another person to exercise these rights on one's behalf do not extend to any right to an explanation of the logic underlying an automated decision; nor does Indian law recognise a right to object to processing or a right to data portability, both of which exist under the GDPR.[18]

The DPDP Rules, 2025, notified by the Ministry of Electronics and Information Technology on Nov. 13, 2025, do introduce an "algorithmic accountability" obligation. Still, it is narrowly targeted: Significant Data Fiduciaries (a category of entities designated by the Central Government based on the volume and sensitivity of data they process) must verify that the algorithmic software they use for processing personal data, including recommendation systems and automated decision-making tools, does not pose a risk to data principals' rights, and must conduct annual Data Protection Impact Assessments and independent audits.[19] This obligation, however, is a compliance duty owed by regulated private and quasi-private entities to a data-protection regulator; it has no direct analogue requiring a government department itself to conduct an impact assessment before deploying an algorithm that determines welfare

[17]Council Regulation 2016/679, art. 22, 2016 O.J. (L 119) 1 (EU) (General Data Protection Regulation); see India's DPDP Act: What It Says (and Doesn't Say) About AI, Multigrid (Aug. 11, 2026), https://multigrid.ai/learn/india-dpdp-act-ai-provisions.
[18]The Digital Personal Data Protection Act, No. 22 of 2023, §§ 11–15, India Code (2023); Multigrid, supra note 17.
[19]Digital Personal Data Protection Rules, 2025, Gazette of India, pt. II, § 3(i) (Nov. 13, 2025); *DPDP Rules 2025 Explained for Data Fiduciaries*, Progressive.in (2026), https://www.progressive.in/blog/dpdp-rules-2025-explained/; *An Overview of India's DPDP Rules 2025: Key Highlights*, Ampcus Cyber (Jan. 6, 2025), https://www.ampcuscyber.com/blogs/dpdp-rules/.

eligibility, tax scrutiny, or protest surveillance, unless that department happens to be separately designated as a Significant Data Fiduciary. The DPDP framework, in short, was built to govern how personal data is handled, not to govern the administrative-law question of how automated systems that use that data may lawfully make decisions about citizens.

V. Comparative Insights

A brief comparative survey helps identify what a more adequate Indian framework might contain and shows that India is not alone in confronting this problem.

The European Union addresses automated decision-making directly through Article 22 of the GDPR, which gives individuals a qualified right not to be subject to a decision based solely on automated processing (including profiling) that produces legal effects or similarly significantly affects them, subject to exceptions such as explicit consent or a contract, and in any event requiring the data controller to implement suitable safeguards including the right to obtain human intervention and to contest the decision. The EU has since supplemented this with the AI Act, which classifies AI systems by risk and imposes graduated obligations, including for systems used in essential public services and law enforcement. However, a detailed treatment of the AI Act is beyond the scope of this paper.

Canada offers perhaps the most transplantable comparator for Indian public administration, specifically, because its Directive on Automated Decision-Making applies directly to federal government bodies rather than to the private sector. First issued in 2019 and updated in 2023, the Directive requires any federal institution using an automated system to recommend or make an administrative decision about a client to complete and publicly release an Algorithmic Impact Assessment before the system goes into production, using a structured questionnaire that generates a risk score determining the level of additional safeguards required.[20] The Directive further requires that affected individuals be given prominent, plain-language notice that a decision was made wholly or partly by an automated system, and critically, a meaningful explanation, after the fact, of how and why the decision was reached; it also requires quality-assurance testing for unintended bias and, for government-procured systems, a right for the

[20]Treasury Bd. of Can. Sec'y, *Directive on Automated Decision-Making* (issued 2019, updated Apr. 25, 2023), https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=32592; *Government of Canada's Directive on Automated Decision-Making: Implications for Service Providers*, Osler (2023), https://www.osler.com/en/insights/updates/government-of-canada-s-directive-on-automated-decision-making-implications-for-service-providers/.

department to audit the underlying software.[21] This model offers a template precisely calibrated to the gap this paper identifies: it attaches accountability obligations to the *administrative decision*, not merely to the *personal data* used to reach it.

India's own emerging framework — the Supreme Court's 2026 Draft AI Regulations for Courts — is worth noting as a domestic precedent, even though it addresses judicial rather than administrative decision-making. Released on June 3, 2026, by the Supreme Court's Artificial Intelligence Committee, chaired by Justice P.S. Narasimha, the Draft Regulations rest on five stated principles: human primacy, transparency, accountability, data protection, and judicial independence.[22] Their central substantive rule is that AI may be used only in an assistive capacity for research, drafting, transcription, translation, and case management and is expressly prohibited from determining case outcomes, generating risk scores for bail or recidivism, or profiling parties and witnesses; every approved AI system must additionally be logged in a public AI Register documenting its purpose and version history, and a proposed Centre of Research and Excellence on Artificial Intelligence (CoRE-AI) would test and evaluate systems before deployment.[23] Commentary on the draft has, however, flagged a significant weakness relevant to this paper's argument: an aggrieved litigant must apply to the very court where the alleged violation occurred, creating an institutional conflict of interest, and the framework offers no remedy for a litigant unaware that a prohibited AI system was used in their case at all precisely the "black box" problem this paper identifies as endemic to algorithmic administration more broadly.[24]

The comparative lesson is twofold. First, an adequate framework must attach obligations to the administrative decision itself, impact assessment before deployment, notice and explanation after the fact, rather than treating data protection and administrative accountability as separable

[21]Osler, supra note 20; Directive on Automated Decision-Making, supra note 20, cl. 6.2; *How Artificial Intelligence Will Change Administrative Law in Canada*, DLA Piper (May 24, 2023), https://www.dlapiper.com/en-ca/insights/publications/2023/05/how-artificial-intelligence-will-change-administrative-law-in-canada.
[22]Artificial Intelligence Comm., Sup. Ct. of India, *Draft Regulations for Use of Artificial Intelligence in Courts, 2026* (June 3, 2026); *Explained: The Supreme Court of India's Draft Regulations for Use of Artificial Intelligence in Courts, 2026*, The Leaflet (June 24, 2026), https://theleaflet.in/law-and-technology/explained-the-supreme-court-of-indias-draft-regulations-for-use-of-artificial-intelligence-in-courts-2026.
[23]*Order in the Digital Court*, Sup. Ct. Observer (July 15, 2026), https://www.scobserver.in/journal/order-in-the-digital-court-artificial-intelligence-regulations-supreme-court/; *India Drafts Courtroom AI Rules, Prioritises Human Judges*, Law.asia (2026), https://law.asia/ai-regulations-in-indian-courts/.
[24]*Critical Analysis of India's Draft Regulations for Use of Artificial Intelligence in Courts, 2026*, Mondaq (June 11, 2026), https://www.mondaq.com/india/new-technology/1800404/critical-analysis-of-indias-draft-regulations-for-use-of-artificial-intelligence-in-courts-2026.

concerns, as the DPDP framework currently does. Second, even the most carefully designed framework (the Supreme Court's own draft) can fail if its enforcement mechanism depends on the affected person's prior awareness of algorithmic involvement, a structural weakness Indian reform must design around rather than replicate.

VI. Towards Substantive Accountability — Recommendations

Building on the conceptual framework in Part II and the comparative lessons in Part V, this paper proposes four reforms specifically tailored to Indian public administration.

1. Mandatory Algorithmic Impact Assessments for high-stakes administrative systems. Drawing on the Canadian model, any Union or state government department deploying an automated or algorithmically assisted system to determine welfare eligibility, tax liability, or law-enforcement action should be statutorily required to complete a structured, published impact assessment before deployment, graded by risk level, with correspondingly greater safeguards, including mandatory human review for higher-risk systems. This obligation should apply to the government body itself, closing the gap left by the DPDP Rules' narrower focus on Significant Data Fiduciaries.

2. A statutory duty of explainability. A citizen adversely affected by an automated or algorithmically assisted administrative decision denial of a ration card, an adverse tax variation, or inclusion in a facial-recognition watchlist should have an enforceable right to a plain-language explanation of the basis for that decision, modelled on the Canadian Directive's requirement of "meaningful" post-decision explanation and informed by the DPDP Rules' existing (if narrower) transparency provisions.

3. Guaranteed human review in high-stakes decisions. Consistent with the "human primacy" principle articulated in the Supreme Court's 2026 Draft AI Regulations for Courts, legislation governing administrative use of AI should guarantee an affected citizen the right to request meaningful human review of a high-stakes automated decision, with the reviewing official empowered and required to depart from the algorithm's output where individual circumstances warrant it. This directly addresses the fettering-of-discretion concern identified in Part II.

4. An independent audit and grievance mechanism designed around the awareness problem. Learning from the criticism levelled at the Supreme Court's draft court-AI regulations, any administrative accountability mechanism must not depend on the affected citizen already knowing that an algorithm was involved in their case. This paper proposes a standing, independent audit body analogous to the Apex Body proposed for court AI with the power to proactively review deployed administrative algorithms, publish audit findings, and refer systemic failures (such as the scale of biometric exclusion documented in Jharkhand) for policy correction, rather than relying exclusively on individual litigation of the kind seen in the Faceless Assessment cases.

VII. Conclusion

The migration of substantive decision-making power from accountable human officials to algorithmic systems is not a distant or speculative concern for Indian administrative law; it is already determining, in documented and sometimes fatal ways, who eats, who is taxed accurately, and who is treated as a suspect at a public protest. Indian administrative law's doctrinal toolkit, Article 14, Article 21, natural justice, the rule against fettering of discretion, remains well-suited to the harms algorithmic administration produces, but poorly suited to locating who, or what, should answer for them, because that toolkit was built for a decision-maker who could be named, questioned, and held to account. The DPDP Act and Rules, while a meaningful advance for data protection generally, were not designed to answer that question and do not do so. The Supreme Court's 2026 Draft AI Regulations for Courts show that Indian institutions are capable of designing a "human primacy" framework when the stakes are high enough. Still, that framework, even within its own narrow judicial domain, has been criticised for the very awareness gap this paper identifies as central to the problem. Closing the formal authority/substantive control gap in Indian public administration will require legislation that follows the Canadian model in attaching accountability directly to the administrative decision through impact assessment, explainability, guaranteed human review, and independent audit rather than continuing to route citizens toward remedies calibrated to a human decision-maker who, in substance, no longer decides.

Appendix — OSCOLA-Style Citations (for reference / alternate-outlet use)

1. See Part III.C.

2. See Part III.A.

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5. Jean Drèze and others, household survey cited in 'Aadhaar that Doesn't Exclude' *Ideas for India* <https://www.ideasforindia.in/topics/poverty-inequality/aadhaar-that-doesn-t-exclude> accessed 20 September 2026.

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7. Income-tax Act 1961, s 144B (India); 'Faceless Assessments Under Income Tax Law Facing a New Challenge' *Khaitan & Co* (Mondaq) <https://khaitanco.com/thought-leaderships/Faceless-Assessments-Under-Income-Tax-Law-Facing-A-New-Challenge> accessed 20 September 2026.

8. *M/s DJ Surfactants v National e-Assessment Centre, Income Tax Department* WP(C) 4814/2021 (Delhi High Court).

9. *Bharat Aluminium Co Ltd v Union of India* (Delhi High Court, 2022); *Piramal Enterprises Ltd v Additional/Joint/Deputy Asst Commr of Income Tax* 2021 SCC OnLine Bom 1534.

10. *Jindal Realty Ltd v Union of India* (Delhi High Court, 27 April 2022).

11. *Deputy Commissioner of Income Tax v [Assessee]* (2022) 137 Taxmann.com 90 (SC); *Union of India v Kamlesh Kumar Thakkar* SLP(C) 13062/2022.

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13. *A.A. Rahim MP v Union of India* Diary No 45049/2026 (Supreme Court of India, filed July 2026); 'Supreme Court Agrees to Hear PIL Challenging Delhi Police's Facial Recognition Surveillance at Jantar Mantar Protest' *LawBeat* (13 August 2026).

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15. ibid.

16. 'Challenge to Facial Recognition at Protests to Be Examined by Supreme Court of India' *Biometric Update* (14 August 2026) <https://www.biometricupdate.com/202608/challenge-to-facial-recognition-at-protests-to-be-examined-by-supreme-court-of-india> accessed 20 September 2026.

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Author's note: This paper draws heavily on very recent (2025–2026) developments, several of which are documented only in contemporaneous news and legal commentary sources rather than reported law-report citations, because the underlying events (the Draft AI Regulations, the Jantar Mantar FRT litigation, the DPDP Rules) are too recent to appear in standard reporters. Both pending Supreme Court matters cited above (Koili Devi and A.A. Rahim, M.P.) are cited by their docket numbers (W.P. (Civil) No. 61 of 2018 and Diary No. 45049/2026, respectively); as these matters progress, update the citations with the final W.P./Diary/S.L.P. registration numbers and any reported disposition from the Supreme Court website or SCC Online before final submission. IJLLR requires Bluebook 19th or 20th edition — use the Word footnotes in the body of this manuscript, not the OSCOLA appendix, for the actual submission.