
FROM WEDNESBURY TO PROPORTIONALITY: RETHINKING JUDICIAL REVIEW STANDARDS FOR AI- ASSISTED ADMINISTRATIVE ACTION IN INDIA

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ABSTRACT

The use of artificial intelligence in administrative decision-making presents a structural challenge to conventional standards of judicial review in India. The *Wednesbury* standard of unreasonableness, long the cornerstone of administrative law review, is demonstrably inadequate to scrutinise algorithmic action characterised by opacity, complexity, and statistical inference. India's Supreme Court has, through a series of landmark constitutional adjudications—most prominently *Justice K S Puttaswamy v Union of India* (2017) and *Anuradha Bhatia v Union of India* (2021)—accelerated a jurisprudential shift toward structured proportionality analysis. This article examines whether that transition provides a sufficiently robust framework for reviewing AI-assisted state action, or whether the peculiarities of machine learning demand a further doctrinal evolution. Drawing on comparative jurisprudence from the United Kingdom, the European Union, the United States, Germany, and France, the article argues that proportionality, as currently conceived in Indian constitutional law, requires supplementation by an algorithmic accountability doctrine that imposes obligations of explainability, human oversight, and ongoing auditing. The article proposes a five-stage proportionality matrix tailored to AI administrative contexts and calls for legislative intervention to fill the accountability lacunae left by judicial review alone.

Keywords: *Wednesbury* unreasonableness; proportionality; artificial intelligence; administrative law; judicial review; India; algorithmic accountability; due process

I. Introduction

Administrative governance in the twenty-first century is being fundamentally reorganised by artificial intelligence. Across India, government agencies deploy algorithmic systems to determine welfare eligibility, assess tax liability, flag suspected terrorist activity, evaluate visa applications, and adjudicate criminal sentencing recommendations. These systems share a defining characteristic: their decisional logic is either inaccessible to the affected individual, incomprehensible to reviewing courts, or both. The doctrinal apparatus of judicial review, designed in an era of human administrative discretion, confronts an epistemic crisis.

The locus classicus of English and Indian administrative law remains *Associated Provincial Picture Houses Ltd v Wednesbury Corporation*¹, in which Lord Greene MR articulated the principle that a decision may be impugned only if it is 'so unreasonable that no reasonable authority could ever have come to it.' This threshold—colloquially the 'super-Wednesbury' standard—was subsequently refined in the GCHQ case² and re-examined in *Brind*³. The standard sets an intentionally high bar for judicial interference with administrative discretion, premised on institutional competence concerns: courts are ill-equipped to second-guess the merits of complex administrative judgments.

That premise is severely strained where the administrator is an algorithm. Unlike a human official whose reasoning, however flawed, may be reconstructed from a decision record, an artificial neural network produces outputs through billions of weighted calculations that neither its designers nor its operators can fully explain.⁴

India's Supreme Court has not been oblivious to these concerns. A transformative trajectory can be traced through *Maneka Gandhi v Union of India*⁵, through *Om Kumar v Union of India*⁶, and culminating—to date—in the nine-judge bench decision in *Puttaswamy (Privacy)*⁷ and the subsequent *Anuradha Bhatia*⁸ judgment. These decisions collectively

¹Associated Provincial Picture Houses Ltd v Wednesbury Corporation [1948] 1 KB 223 (CA).

²Council of Civil Service Unions v Minister for the Civil Service [1985] AC 374 (HL) (GCHQ case).

³R v Secretary of State for the Home Department, ex parte Brind [1991] 1 AC 696 (HL).

⁴de Smith, Woolf and Jowell, *Judicial Review of Administrative Action* (5th edn, Sweet & Maxwell 1995) 601.

⁵Maneka Gandhi v Union of India (1978) 1 SCC 248 (SC India).

⁶Om Kumar v Union of India (2001) 2 SCC 386 (SC India).

⁷Justice K S Puttaswamy (Retd) v Union of India (2017) 10 SCC 1 (SC India) (Privacy Nine-Judge Bench).

⁸Anuradha Bhatia v Union of India (2021) SCC OnLine SC 329.

establish proportionality—understood as a structured, four-stage inquiry—as a constitutional standard for reviewing state action that infringes fundamental rights.

This article proceeds as follows. Part II traces the doctrinal history of judicial review standards in India, mapping the passage from *Wednesbury* to proportionality. Part III analyses the structural deficiencies of both standards when applied to AI decision-making. Part IV examines comparative approaches from the United Kingdom, European Union, United States, Germany, and France. Part V proposes a reformulated five-stage proportionality matrix for AI administrative action. Part VI concludes with legislative recommendations.

II. Doctrinal History: From *Wednesbury* to Proportionality in Indian Administrative Law

A. The Reception and Entrenchment of *Wednesbury*

Indian administrative law received the *Wednesbury* standard through its common law inheritance from England, but immediately constitutional-ised the inquiry. In *EP Royappa v State of Tamil Nadu*⁹, the Supreme Court articulated equality under Article 14¹⁰ as encompassing not merely formal classification but substantive non-arbitrariness. The decision was pivotal: it widened the aperture of judicial review by grounding it in constitutional text rather than common law discretion alone.

The landmark elaboration arrived in *Maneka Gandhi*, where Bhagwati J established that Article 21¹¹ demands that any procedure depriving a person of life or liberty must be 'right, just and fair' and not 'arbitrary, fanciful, or oppressive.' This formulation introduced an embryonic proportionality sensibility into the constitutional review of administrative action, though the Court did not yet systematise the test.

In *Union of India v G Ganayutham*¹², the Supreme Court explicitly acknowledged proportionality as a distinct standard from *Wednesbury* unreasonableness, observing that the European doctrine—requiring that means be proportionate to ends—had permeated English administrative law through its human rights dimension. The Court declined, however, to fully

⁹*EP Royappa v State of Tamil Nadu* (1974) 4 SCC 3 (SC India).

¹⁰Constitution of India 1950, art 14.

¹¹Constitution of India 1950, art 21.

¹²*Union of India v G Ganayutham* (1997) 7 SCC 463 (SC India).

embrace proportionality as a general standard, limiting its application to cases engaging fundamental rights.

B. Om Kumar and the Dual Standard

The doctrinal bifurcation was crystallised in *Om Kumar v Union of India*, where the Supreme Court formally distinguished primary review (the merits of administrative action, governed by *Wednesbury*) from secondary review (whether fundamental rights have been infringed, governed by proportionality). This dual-track approach acknowledged proportionality's superiority where constitutional rights were engaged, while preserving deference in purely discretionary, non-rights-affecting administrative domains.

The *Om Kumar* framework, though internally coherent, generated doctrinal uncertainty in practice. The boundary between rights-affecting and purely discretionary decisions is often indistinct. More critically, the framework was designed for decisions that are individually authored, temporally discrete, and accompanied by a reasoned record—conditions that AI-automated decisions systematically fail to satisfy.

C. The Proportionality Revolution: Puttaswamy and Anuradha Bhatia

The nine-judge bench decision in *Justice K S Puttaswamy (Retd) v Union of India (Privacy case)* constitutes the most significant development in Indian constitutional jurisprudence since the Basic Structure doctrine. Five separate opinions were delivered, and while they diverged on several issues, a majority endorsed a structured proportionality standard for reviewing state interferences with the right to privacy.

Chandrachud J's leading opinion enunciated the test in its most elaborate form: the state action must (i) be sanctioned by law; (ii) be necessary for a legitimate state aim; (iii) be proportionate in the sense that the extent of the interference must correspond to the need; and (iv) be attended by procedural guarantees against abuse.¹³ Kaul J formulated a parallel four-pronged inquiry—legitimacy, suitability, necessity, and fair balance—closely tracking the German proportionality structure.¹⁴

¹³Ibid, [310]–[325] (Chandrachud J).

¹⁴Puttaswamy (n 8) [524]–[531] (Kaul J) (proportionality as four-pronged structured test).

The *Modern Dental College*¹⁵ decision had earlier accepted the structured proportionality test in the context of professional regulation, and *Anuradha Bhatia* subsequently applied it to assess the proportionality of Aadhaar-linked biometric requirements for welfare access, scrutinising whether the means—mandatory biometric authentication—were proportionate to the stated objective of preventing duplicate beneficiaries.

III. Structural Deficiencies of Existing Standards When Applied to AI-Assisted Administrative Action

A. The Opacity Problem

Machine learning systems, particularly deep neural networks, arrive at outputs through computational processes that cannot be reduced to a humanly comprehensible chain of reasoning. This structural opacity has two dimensions: internal opacity (even the system's designers cannot trace how specific inputs produce specific outputs) and institutional opacity (the algorithm's training data, weighting parameters, and validation metrics are typically proprietary or classified as matters of national security or commercial confidence).

The duty to give reasons—established in Indian law by *S N Mukherjee v Union of India*¹⁶—cannot be satisfied by the production of an algorithmic output score. A welfare applicant denied benefits by an automated system, a taxpayer flagged for evasion by a risk-scoring model, or a suspect identified by facial recognition technology is entitled to know why the decision was reached. The current legal framework does not specify what constitutes adequate reasons where the decision-maker is non-human.

B. The Proportionality Standard's Epistemic Preconditions

Proportionality review, as structured in *Puttaswamy*, demands that a court assess whether the state's chosen means are the least restrictive available to achieve the legitimate aim. This inquiry presupposes that the court can identify: (a) the precise aim the algorithm is designed to achieve; (b) the causal mechanism by which the algorithm achieves it; and (c) alternative means by which the same aim might be achieved with lesser rights restriction. All three preconditions are impaired in algorithmic contexts.

¹⁵*Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353, [56]–[60] (SC India).

¹⁶*S N Mukherjee v Union of India* (1990) 4 SCC 594 (SC India).

First, the aims of AI systems are frequently multi-objective and operationally redefined through iterative training updates, making judicial identification of a singular 'legitimate aim' jurisprudentially artificial. Second, causal attribution in a neural network is contested even within machine learning science; 'explainability' and 'interpretability' are the subject of active research rather than settled technique. Third, the necessity inquiry requires comparative analysis of alternative system designs, a technically specialised exercise far beyond conventional judicial fact-finding.

C. The Accountability Gap in Delegated AI Decision-Making

India's constitutional framework allocates accountability to identifiable human officials. Article 14's requirement that state action be non-arbitrary and Article 21's procedural due process guarantee both presuppose a decision-maker who can be held responsible for the decision. When an agency contracts a private technology company to build and operate a decision-making system—as has occurred in India's NATGRID surveillance infrastructure and several state-level predictive policing deployments—the constitutional chain of accountability is severed. The agency disclaims technical knowledge; the contractor claims that the algorithm's outputs are merely advisory; and no individual within the administrative hierarchy takes authorial responsibility for the decision affecting the citizen.

D. Discrimination and Statistical Harm

Algorithmic systems trained on historical administrative data replicate and, through positive feedback loops, amplify the structural biases embedded in that data. A welfare eligibility algorithm trained on historical disbursement data will systematically disadvantage communities whose claims were historically under-granted. A criminal risk-assessment tool calibrated to prior conviction rates will disadvantage defendants from communities historically over-policed. These are not incidental errors but structural outputs that the *Wednesbury* and proportionality standards, both designed to review individual decisions, are ill-equipped to address at the aggregate, systemic level.

IV. Global Comparative Analysis: Judicial Review of AI Administrative Action

A. United Kingdom: Proportionality, the Human Rights Act, and Bridges

English administrative law underwent its own proportionality revolution through the

Human Rights Act 1998 and the seminal speech of Lord Steyn in *R (Daly) v Secretary of State for the Home Department*¹⁷, which confirmed proportionality's displacement of Wednesbury in cases engaging Convention rights.

The most significant judicial engagement with algorithmic administrative action in England is *R (Bridges) v Chief Constable of South Wales Police*¹⁸, in which the Court of Appeal subjected the police's use of automated facial recognition technology (AFR) to proportionality review under the Human Rights Act. The Court held that the AFR deployment was unlawful on three grounds: there was no sufficiently clear legal basis authorising the use of the technology; the police had failed to comply with their equality duties; and the data protection impact assessment was inadequate.¹⁹

Bridges is instructive for India in three respects. First, the Court treated the absence of a statutory framework as fatal to legality, adopting a strict interpretation of the 'prescribed by law' requirement. Second, the Court undertook a genuinely substantive proportionality analysis of the technology's operation, engaging with technical expert evidence on error rates and misidentification statistics. Third, the Court accepted that equality impact assessment obligations apply to algorithmic systems. None of these analytical moves are yet established in Indian administrative law.

B. European Union: The AI Act and Algorithmic Accountability by Design

The European Union has adopted the world's most comprehensive binding framework for AI governance in the EU AI Act 2024.²⁰ The Act employs a risk-based stratification: prohibited AI (e.g., social scoring by public authorities), high-risk AI (e.g., AI in judicial and administrative decision-making, biometric identification, critical infrastructure), and lower-risk AI subject to transparency obligations. High-risk systems must comply with requirements of risk management, data governance, technical documentation, transparency, human oversight, accuracy, and robustness before deployment.

¹⁷*R (Daly) v Secretary of State for the Home Department* [2001] UKHL 26, [2001] 2 AC 532, [27] (Lord Steyn).

¹⁸*R (Bridges) v Chief Constable of South Wales Police* [2020] EWCA Civ 1058, [2020] 1 WLR 5037.

¹⁹*Ibid*, [196]–[199] (proportionality applied to facial recognition technology).

²⁰Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (EU AI Act), arts 9, 13, 14, 26.

Pre-dating the AI Act, the General Data Protection Regulation (GDPR) Article 22²¹ established that individuals have a right not to be subject to decisions based solely on automated processing that produce legal or similarly significant effects, subject to limited exceptions. Where such processing is authorised, the data subject must be afforded a right to obtain human review, express their point of view, and contest the decision. This provision, though imperfectly implemented, creates a structural analogue to the *audi alteram partem* principle of natural justice.

The EU's regulatory architecture offers India a model of prophylactic, *ex ante* governance that supplements reactive judicial review. By mandating conformity assessments, continuous monitoring, and human oversight mechanisms before deployment, the EU framework addresses the accountability gap that Indian proportionality review confronts only retrospectively.

C. United States: Arbitrary and Capricious Review and the COMPAS Controversy

American administrative law employs 'arbitrary and capricious' review under the Administrative Procedure Act²², elaborated by the Supreme Court in *Motor Vehicle Manufacturers Association v State Farm*²³ to require that agencies examine relevant factors, consider all important aspects of the problem, and offer explanations for their choices. Following *Loper Bright Enterprises v Raimondo*²⁴, courts no longer defer to agency interpretations of statutory ambiguities, intensifying scrutiny of agency technical claims.

The procedural due process framework of *Mathews v Eldridge*²⁵ provides a three-factor balancing test assessing the private interest affected, the risk of erroneous deprivation from existing procedures, the probable value of additional safeguards, and the government's interest. In *Loomis v Wisconsin*²⁶, the Wisconsin Supreme Court addressed whether reliance on the COMPAS recidivism prediction algorithm in sentencing violated due process, ultimately holding—controversially—that because the algorithm was one factor among several and the

²¹Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data (GDPR), art 22.

²²Administrative Procedure Act 1946 (US) (APA), 5 USC § 706(2)(A) (arbitrary and capricious review).

²³*Motor Vehicle Manufacturers Association v State Farm Mutual Automobile Insurance Co* 463 US 29 (1983).

²⁴*Loper Bright Enterprises v Raimondo* 603 US 369 (2024) (overruling *Chevron* deference).

²⁵*Mathews v Eldridge* 424 US 319 (1976) (US Supreme Court procedural due process balancing test).

²⁶*Loomis v Wisconsin* 881 NW 2d 749 (Wis 2016), cert denied 137 S Ct 2290 (2017).

defendant had received a full sentencing hearing, no constitutional violation arose.²⁷

Loomis illustrates the limits of individualistic due process analysis in algorithmic contexts. The proprietary nature of the COMPAS algorithm meant that the defendant could neither access nor challenge its underlying methodology. The court's reliance on the fact that a human judge 'ultimately' made the sentencing decision obscures the empirical reality that algorithmic risk scores exercise substantial anchoring influence over judicial outcomes.

D. Germany: Informational Self-Determination and Constitutional Proportionality

The German Federal Constitutional Court (Bundesverfassungsgericht) has developed the most theoretically sophisticated constitutional framework for algorithmic governance. The 1983 Census Judgment established the right to informational self-determination as a dimension of the general right of personality under Article 2(1) read with Article 1(1) of the Basic Law, directly limiting automated data processing. The Court's 2008 Online Search Judgment²⁸ recognised a distinct fundamental right to the confidentiality and integrity of information technology systems, holding that covert state access to personal computing environments is permissible only under strict proportionality conditions.

Germany's four-stage proportionality test—legitimacy, suitability, necessity (least restrictive means), and proportionality *stricto sensu* (fair balance between the means and its aim)—is structurally identical to the test endorsed by Kaul J in *Puttaswamy*. The German constitutional experience, accumulated over four decades, demonstrates that proportionality is capable of providing meaningful review of complex state action, but only when courts are institutionally supported by specialist expertise and statutory frameworks that define the conditions of lawful algorithmic deployment.

E. France: Conseil d'État and Algorithmic Decision-Making

The French Conseil d'État has addressed algorithmic administrative action through the lens of legality and the duty to give reasons (*obligation de motivation*). In its 2021 decision on algorithmic content moderation by administrative authorities,²⁹ the Conseil d'État held that

²⁷State v Loomis 881 NW 2d 749 (Wis Sup Ct 2016).

²⁸Bundesverfassungsgericht [BVerfG] [Federal Constitutional Court] 27 February 2008, 1 BvR 370/07 (Online Search Judgment) (Germany).

²⁹Conseil d'Etat, 21 April 2021, No 393099 (Algorithmic Decision-Making in French Administrative Law) (France).

where an algorithm makes or materially determines an administrative decision, the obligation to state reasons must extend to the principal criteria used by the algorithm, their relative weighting, and their application to the specific case. The decision represents a significant step toward algorithmic explicability as a general administrative law requirement.

France's approach offers a model for India's duty-to-give-reasons jurisprudence. Rather than requiring full mathematical transparency—an impossible demand—the Conseil d'État requires disclosure of the principal decisional criteria and their weighting. This operationalises explainability at a legally tractable level of abstraction while preserving algorithmic efficiency.

V. Toward an Algorithmic Proportionality Matrix: A Reformulated Framework for Indian Administrative Law

A. The Inadequacy of Unmodified Proportionality

The four-stage proportionality test as currently formulated in Indian constitutional law—legality, legitimate aim, necessity, and fair balance—is a necessary but insufficient standard for reviewing AI-assisted administrative action. Its inadequacy is structural: the test was designed to evaluate discrete acts of human administrative will, not continuous outputs of statistical inference engines operating on population-level data.

Two supplementary doctrinal requirements are necessary. First, an explainability obligation must be imposed as a precondition of legality: where an administrative decision is made or materially influenced by an algorithmic system, the decision-maker must be capable of articulating the principal criteria, their relative weights, and their application to the affected individual in terms comprehensible to a reasonably educated person. Second, a human oversight requirement must be embedded in the necessity analysis: an algorithmic decision that is not subject to genuine (not merely nominal) human review before taking effect cannot be shown to satisfy the procedural minimum of the right to be heard.

B. The Five-Stage Algorithmic Proportionality Matrix

This article proposes that courts reviewing AI-assisted administrative action in India apply the following five-stage inquiry:

Stage 1: Legality and Algorithmic Transparency: Is the AI system's deployment authorised

by a clear statutory or regulatory provision? Does that authorisation specifically contemplate automated decision-making? Has the system's operational logic, training data, and validation metrics been disclosed to the affected individual to the maximum extent compatible with legitimate public interests?

Stage 2: Legitimate and Constitutionally Permissible Aim: Is the identified aim of the system legitimate in the constitutional sense? Is it sufficiently specific to constitute a justiciable objective against which the proportionality of the algorithm's operation can be assessed? Where an algorithm pursues multiple objectives, are all of them legitimate, and has the weighting among them been disclosed and justified?

Stage 3: Suitability (Rational Nexus between Means and Aim): Is there empirical evidence that the AI system achieves the stated aim? What is the system's validated accuracy, precision, and recall? What are its known error rates, and are these distributed equally across affected groups? Courts should be empowered to appoint technical assessors to evaluate this evidence.

Stage 4: Necessity (Least Restrictive Means) and Non-Discrimination: Has the deploying agency demonstrated that no less rights-restrictive means of achieving the aim was reasonably available? Has the agency conducted a bias and discrimination impact assessment to identify whether the system produces disparate adverse effects on groups protected under Article 14 and Article 15? The necessity analysis must incorporate this aggregate equality dimension.

Stage 5: Fair Balance, Human Oversight, and Meaningful Remedy: Does the system provide a mechanism for genuine human review of algorithmically generated decisions before they take final effect? Is the affected individual furnished with an adequate statement of reasons? Is an effective remedy available? The fair balance stage must assess these procedural guarantees as constitutive of proportionality rather than merely ancillary.

C. Institutional Competence and the Role of Technical Assessors

The five-stage matrix imposes information demands on reviewing courts that exceed conventional judicial capacity. This is not an argument against rigorous review; it is an argument for institutional adaptation. Comparative experience supports the appointment of court-affiliated technical assessors or amici with machine learning expertise in algorithmic

review proceedings. The Supreme Court of India has demonstrated institutional creativity in appointing expert committees in environmental and constitutional litigation; there is no principled obstacle to extending this practice to AI governance disputes.

Furthermore, the proportionality framework demands a shift from ex post judicial review to ex ante regulatory engagement. The OECD Principles on Artificial Intelligence³⁰ recommend that AI actors implement risk management and ongoing monitoring throughout the system lifecycle. India's Digital Personal Data Protection Act 2023³¹ creates a Data Protection Board but does not establish AI-specific obligations of pre-deployment assessment, human oversight, or algorithmic auditability. Legislation filling these gaps is a prerequisite for proportionality review to function effectively.

VI. Table of Landmark Judgments: Proportionality and AI-Adjacent Administrative Law

The following table consolidates the principal decisions informing this article's analysis, organised by jurisdiction and doctrinal significance.

Jurisdiction	Case / Instrument	Doctrinal Significance
India	Puttaswamy (Privacy) (2017)	Privacy as fundamental right; structured proportionality adopted
India	Anuradha Bhatia (2021)	Proportionality applied to biometric welfare authentication
India	Maneka Gandhi (1978)	Article 21 procedure must be just, fair, and reasonable
India	Om Kumar (2001)	Dual-track: Wednesbury vs proportionality for rights cases
India	Modern Dental College (2016)	Proportionality accepted in professional regulation
India	EP Royappa (1974)	Article 14 as substantive non-arbitrariness
India	S N Mukherjee (1990)	Duty to give reasons in administrative adjudication

³⁰Voluntary guidelines for the responsible development and management of advanced AI systems, OECD Recommendation on AI (OECD/LEGAL/0449, 2019), Principle 1.3.

³¹Digital Personal Data Protection Act 2023 (India) (Act No 22 of 2023).

Jurisdiction	Case / Instrument	Doctrinal Significance
India	Shreya Singhal (2015)	Proportionality in speech restriction under Art 19(1)(a)
India	Puttaswamy (Aadhaar) (2019)	Proportionality of biometric identification infrastructure
UK	Wednesbury (1948)	Classic unreasonableness standard; baseline of review
UK	Daly (2001)	Proportionality displaces Wednesbury in HRA rights cases
UK	Bridges (2020)	AFR technology subjected to proportionality; legality, equality
EU	GDPR Art 22	Right not to be subject to solely automated decisions
EU	EU AI Act 2024	Risk-based AI regulation; human oversight for high-risk AI
US	Mathews v Eldridge (1976)	Procedural due process balancing test for benefit denials
US	Loomis (2016)	Algorithmic sentencing tool; due process limits contested
US	State Farm (1983)	Arbitrary and capricious review; consideration of all factors
Germany	Online Search (2008)	Right to IT system integrity; strict proportionality for state access
France	Conseil d'Etat (2021)	Algorithmic decisions: reasons must include principal criteria

VII. Legislative and Institutional Recommendations

Judicial review, however refined, cannot substitute for primary legislative governance of AI administrative action. This article advances four recommendations.

First, Parliament should enact an Algorithmic Accountability in Public Administration Act establishing mandatory pre-deployment conformity assessments for AI systems used in administrative decision-making affecting fundamental rights, modelled on the EU AI Act's high-risk category obligations. The Act should require agencies to conduct and publish bias impact assessments, maintain accessible registers of deployed AI systems, and provide affected

individuals with a right to human review of algorithmically generated decisions.

Second, the Digital Personal Data Protection Act 2023 should be amended to incorporate a right analogous to GDPR Article 22—a right not to be subject to a legally significant decision made solely by automated processing, without access to a human review mechanism. The Data Protection Board should be given express jurisdiction to investigate and remedy violations of this right.

Third, the Supreme Court of India should promulgate procedural rules for the appointment of court-affiliated technical assessors in algorithmic review proceedings, following the model of the court's existing practice in complex environmental and competition matters. These assessors should be required to file publicly accessible reports establishing the technical record on which proportionality review is conducted.

Fourth, the Information Technology Act 2000³² and its subordinate rules should be amended to extend the transparency and accountability requirements of the Intermediary Guidelines Rules 2021³³ to government agencies deploying AI for surveillance, policing, and social administration, creating parity between the obligations imposed on private platforms and those governing state actors.

VIII. Conclusion

The transition from *Wednesbury* unreasonableness to structured proportionality in Indian administrative law represents a genuine and significant jurisprudential achievement. The Supreme Court's decisions in *Puttaswamy*, *Anuradha Bhatia*, *Modern Dental College*, and *Om Kumar* have established that state interference with fundamental rights must be necessary, suitable, and proportionate in the sense of maintaining a fair balance between means and ends. This is a more exacting and constitutionally principled standard than *Wednesbury*'s mere irrationality threshold.

But proportionality as currently formulated is not adequate to the challenge of AI-assisted administrative action. Its adequacy depends on three preconditions—identifiable decision-makers, accessible reasoning, and judicially manageable facts—that algorithmic

³²Information Technology Act 2000 (India) (Act No 21 of 2000), s 69A.

³³Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 (India), Rule 4(2).

governance systematically undermines. Courts confronted with a request to review a welfare denial generated by a risk-scoring algorithm or a criminal suspect identified by facial recognition technology cannot apply Puttaswamy's four-stage test without addressing prior questions of explainability, bias, and accountability that the existing doctrine does not answer.

This article has argued for a five-stage algorithmic proportionality matrix that incorporates transparency and explainability at the legality stage, requires bias impact assessment at the necessity stage, and treats human oversight and meaningful remedy as constitutive elements of the fair balance inquiry. This reformulation does not abandon proportionality; it completes it for the digital administrative state.

The comparative experience of the United Kingdom, European Union, United States, Germany, and France converges on a shared recognition: algorithmic governance demands both judicially enforced rights standards and legislative regulatory frameworks. India's constitutional courts have the doctrinal foundations. What is required now is the institutional adaptation and legislative will to build the governance architecture that proportionality review requires to function effectively in the age of artificial intelligence.