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# **LIABILITY IN THE ERA OF ALGORITHMS: LEGAL CHALLENGES & OPPORTUNITIES IN AI-DRIVEN DECISION MAKING**

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## **Introduction**

Algorithmic decision-making has quietly migrated from laboratories into the machinery of governance, markets, and everyday life. Creditworthiness is scored, welfare eligibility is filtered, job applications are shortlisted, and crime risks are predicted not by human deliberation but by systems trained on data and probabilities.<sup>1</sup> These systems promise efficiency, neutrality, and scale. What they rarely promise is accountability.

This piece draws on OECD policy papers, European Union AI regulatory proposals,<sup>2</sup> constitutional jurisprudence under Articles 14 and 21 of the Indian Constitution,<sup>3</sup> and academic commentary from platforms such as the *Harvard Law Review* and Stanford HAI.<sup>4</sup>

When an algorithm causes harm, the injury feels familiar but the defendant does not. The legal system, historically built around human intention and fault, now confronts decision-making without consciousness, discretion without deliberation, and power without a face. The result is not merely a regulatory gap but a conceptual crisis in liability law.<sup>5</sup>

## **The Myth of Algorithmic Objectivity**

AI-driven decision-making is often defended as being less biased than humans. This claim rests on a seductive but flawed premise: that data-driven systems are neutral because they rely on numbers rather than judgment. In reality, algorithms inherit the values, exclusions, and distortions embedded in their data and design.<sup>6</sup>

Bias in algorithmic systems is rarely explicit. It emerges through proxy variables, skewed datasets, and optimisation goals that privilege efficiency over fairness.<sup>7</sup> Yet when such systems deny a loan, flag an individual as high-risk, or exclude a family from welfare benefits, the harm is concrete and immediate.

The legal question is not whether algorithms have errors. They do. The harder question is who bears responsibility when they do.<sup>8</sup>

### **Diffused Responsibility and the Disappearing Defendant**

Traditional liability frameworks assume a relatively linear chain of responsibility: an identifiable actor commits an act that foreseeably causes harm. AI disrupts this structure by fragmenting agency across multiple actors<sup>9</sup>:

- Developers who design the model architecture
- Entities that train the system on particular datasets
- Vendors who commercialise the technology
- Organisations or state authorities that deploy it
- Human operators who rely on algorithmic outputs

When harm occurs, responsibility is diluted across this network. Each actor can plausibly argue that they neither controlled the final outcome nor intended the harm. The developer blames deployment context, the deployer blames the tool, and the tool, of course, says nothing.<sup>10</sup>

This diffusion is not accidental. It is a structural feature of algorithmic systems, and it creates a convenient vacuum where accountability should exist.

### **Negligence Law Meets Probabilistic Harm**

Negligence law relies on concepts such as reasonable care, foreseeability, and causation. These concepts become unstable when applied to AI-driven systems.<sup>11</sup> Algorithms operate on probabilities, not certainties. A model may be statistically accurate at scale while producing unjust outcomes in individual cases. The law, however, adjudicates individual harm, not aggregate performance. A person denied parole or welfare cannot be meaningfully consoled by the fact that the system is “accurate on average.”

Causation presents a further problem. How does one prove that a specific algorithmic decision caused harm when outcomes are the product of complex, non-linear interactions between data, model parameters, and environmental factors? Courts are poorly equipped to interrogate black-box systems, especially when even their creators cannot fully explain individual outputs.<sup>12</sup>

The result is a doctrinal mismatch: real harm without a clear legal pathway for redress.<sup>13</sup>

### **The Indian Context: Constitutional Guarantees in an Automated State**

In India, algorithmic governance is expanding faster than its regulatory architecture. Automated systems increasingly influence welfare distribution, biometric authentication, surveillance, and administrative decision-making. These developments sit uneasily with constitutional guarantees of fairness, non-arbitrariness, and due process under Article 14 and Article 21.<sup>14</sup>

A denial of welfare benefits due to algorithmic error is not merely an administrative inconvenience. It implicates dignity, livelihood, and survival.<sup>15</sup> Yet affected individuals often face opaque systems with no explanation, no hearing, and no clear authority to challenge.<sup>16</sup>

This creates a constitutional paradox: state power exercised through systems that are formally neutral but substantively unaccountable. When discretion is embedded in code rather than in a human decision-maker, traditional safeguards of administrative law struggle to operate.

The right to be heard loses meaning when there is no visible decision-maker to hear you.<sup>17</sup>

### **Product Liability Is Not a Perfect Answer**

One proposed solution is to treat AI systems as products and impose strict product liability.<sup>18</sup> While attractive, this approach has limits. Unlike traditional products, AI systems are dynamic. They learn, update, and adapt over time. Harm may emerge not from a defect at the point of manufacture but from the interaction between system and environment.

Moreover, many high-impact AI systems are deployed by the state. Framing them purely as commercial products risks obscuring questions of public law, constitutional accountability, and democratic oversight.<sup>19</sup>

Product liability may form part of the solution, but it cannot carry the full weight of algorithmic governance.

## Toward Risk-Based and Institutional Liability

A more promising approach lies in shifting from fault-based liability to **risk-based liability**, particularly for high-impact AI systems. This does not require proving intention or negligence in the traditional sense. Instead, it focuses on risk creation and control.<sup>20</sup>

Under this model:

- Entities that deploy high-risk AI systems bear primary responsibility for harm, regardless of fault.
- Liability attaches to institutional actors best placed to manage and mitigate risk.
- Compliance obligations such as impact assessments, bias audits, and documentation become legal duties rather than voluntary ethics measures.<sup>21</sup>

This approach borrows from environmental law and hazardous activity jurisprudence, where the law recognises that certain activities are inherently risky and demands heightened responsibility.<sup>22</sup>

In the AI context, it acknowledges a simple truth: those who benefit from algorithmic efficiency must also bear the cost of algorithmic failure.

### Transparency as a Legal Obligation, Not a Moral Plea

Much of the discourse around AI governance emphasises “explainability.”<sup>23</sup> While important, explainability is often framed as a technical aspiration rather than a legal requirement.<sup>24</sup>

A more realistic standard is **auditability**. Even if an algorithm cannot fully explain itself in human terms, it must be possible to reconstruct decisions after the fact. This includes maintaining logs, documentation, and version histories that allow courts and regulators to assess how and why a decision was made.<sup>25</sup>

Without such obligations, liability regimes remain toothless. Accountability cannot operate in the dark.<sup>26</sup>

## Opportunity Hidden in Disruption

Algorithmic decision-making exposes the limitations of liability law, but it also creates an opportunity to rethink responsibility in complex systems. The goal is not to halt technological adoption but to ensure that power exercised through code remains subject to legal control.<sup>27</sup>

AI challenges the law to move beyond moral blame toward structural accountability. It demands a shift from asking “who intended the harm?” to “who created the risk and who must answer for it?”<sup>28</sup>

That shift is uncomfortable, but it is necessary.

## Conclusion: Accountability Must Follow the Algorithm

As algorithms increasingly shape access to rights, resources, and opportunities, liability cannot remain trapped in human-centric assumptions. If the law fails to adapt, algorithmic governance risks becoming a domain of power without responsibility.<sup>29</sup>

Efficiency is not a constitutional value. Accountability is. When decisions are delegated to machines, the duty to answer for their consequences must remain firmly human. Otherwise, the age of algorithms may quietly erode the very idea of legal responsibility itself.<sup>30</sup>

## References

### Cases

- Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (India).

### Journal Articles

- Danielle Keats Citron, *Technological Due Process*, 85 Wash. U. L. Rev. 1249 (2008).
- Cary Coglianese & David Lehr, *Regulating by Robot: Administrative Decision Making in the Machine-Learning Era*, 105 Geo. L.J. 1147 (2017).
- The Challenges of Regulating Artificial Intelligence, 133 Harv. L. Rev. 1705 (2020).

### Other Authorities

- European Commission, Proposal for a Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), COM (2021) 206 final (Apr. 21, 2021).
- European Commission, *Shaping Europe’s Digital Future: Artificial Intelligence*,

<https://digital-strategy.ec.europa.eu/en/policies/artificial-intelligence> (last visited Dec. 23, 2025).

- Stan. Univ. Hum.-Centered AI Inst., *Policy and Governance of AI*, <https://hai.stanford.edu/research/governance-ai> (last visited Dec. 23, 2025).

<sup>1</sup>Cary Coglianese & David Lehr, *Regulating by Robot: Administrative Decision Making in the Machine-Learning Era*, 105 Geo. L.J. 1147, 1149–1152 (2017).

<sup>2</sup>European Commission, *Shaping Europe's Digital Future: Artificial Intelligence*, <https://digital-strategy.ec.europa.eu/en/policies/artificial-intelligence> (last visited Dec. 23, 2025).

<sup>3</sup>Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (India).

<sup>4</sup>Stan. Univ. Hum.-Centered AI Inst., *Policy and Governance of AI*, <https://hai.stanford.edu/research/governance-ai> (last visited Dec. 23, 2025).

<sup>5</sup>The Challenges of Regulating Artificial Intelligence, 133 Harv. L. Rev. 1705, 1711–1715 (2020).

<sup>7</sup>Danielle Keats Citron, *Technological Due Process*, 85 Wash. U. L. Rev. 1249, 1255–1260 (2008).

<sup>10</sup>Coglianese & Lehr, *supra* note 1, at 1162–1165.

<sup>12</sup>Citron, *supra* note 2, at 1270–1275.

<sup>18</sup>European Commission, Proposal for a Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), COM (2021) 206 final (Apr. 21, 2021).

<sup>22</sup>The Challenges of Regulating Artificial Intelligence, *supra* note 3, at 1718.