International Journal of Innovative Inventions in Social Science and Humanities

ISSN(print): 3050-6921, ISSN(online): 3050-693X

Volume 03 Issue 11 November 2026

DOI: 10.58806/ijiissh.2026.v3i11n08

Page No: 1560-1588

Closing Ghana's AI Accountability Gap: Constitutionalism, Public Law and Institutional Responsibility in the Age of Intelligent Systems

Dr Godwin Gaduga

Lecturer at Accra Institute of Technology Adjunct Lecturer at Blue Crest University College.

ABSTRACT

Ghana has chosen to govern with artificial intelligence. The President launched a National Artificial Intelligence Strategy in April 2026; ministries, departments, and agencies have been directed to integrate AI into their operations, and the Ghana Revenue Authority is already reported to be using AI in revenue administration. This article asks whether Ghana's constitutional and administrative law can keep public power lawful, reasoned, attributable, and remediable once algorithmic systems begin to shape the State's decisions about its people. It answers that the position is more secure than the familiar description of a 'regulatory vacuum' implies, although the existing law contains structural silences that become more dangerous as adoption accelerates. Reading articles 1, 2, 12, 17, 18, 23, 33, 125, and 296 of the 1992 Constitution together with the Data Protection Act, 2012 (Act 843), the Right to Information Act, 2019 (Act 989), the Electronic Transactions Act, 2008 (Act 772), the Cybersecurity Act, 2020 (Act 1038), the Public Procurement Act, 2003 (Act 663), and the Evidence Act, 1975 (NRCD 323), in light of leading Ghanaian authorities and comparative material from the European Union, the United Kingdom, Canada, South Africa, Kenya, Australia, and the United States, the article develops a doctrine of constitutional answerability. The doctrine holds that the Constitution makes discretion non-transferable, that the duty of candor in article 296 operates as a requirement of explicability, that institutional responsibility attaches when a system is acquired and designed, as well as when it is used, and that no technology may narrow the remedial route guaranteed by article 33. From that doctrine, the article derives an eight-part framework for institutional AI accountability and a sequenced program of administrative and legislative reform, built as far as possible on institutions and powers that Ghana already possesses.

KEYWORDS: Ghana, constitutional law, administrative justice, article 23, article 296, artificial intelligence, automated decision-making, public procurement, answerability, remedies.

ARTICLE DETAILS

Published On:
16 November 2026

Available on:
https://ijiissh.com/

I. INTRODUCTION: THE QUESTION BEHIND THE MACHINE

On 24 April 2026, the President of the Republic launched Ghana's National Artificial Intelligence Strategy in Accra. He presented the Strategy as a declaration that Ghana would design, govern and deploy artificial intelligence instead of remaining a passive consumer of technologies made elsewhere. He observed that institutions such as the Ghana Revenue Authority were already using AI to improve efficiency and strengthen domestic revenue mobilization.[1] Some months earlier, the responsible Minister reported a presidential directive requiring every ministry, department, and agency to integrate artificial intelligence into its operations by 2026.[2] These are statements of present public policy, and their consequence is that systems which classify, rank, flag, predict and recommend will increasingly stand between the citizen and the official who exercises power over her. The constitutional question that follows is far older than any technology: whether power exercised in the name of the people of Ghana can still be traced to a

[1]Ministry of Communication, Digital Technology and Innovations, 'Ghana Launches National AI Strategy to Drive Digital Transformation and Economic Growth' (24 April 2026) https://moc.gov.gh/2026/04/24/ghana-launches-national-ai-strategy-to-drive-digital-transformation-and-economic-growth/.

[2] Ministry of Communication, Digital Technology and Innovations, address of the Minister to the African Education Trust Fund Conference, Accra (November 2025) https://moc.gov.gh/?p=8393.

lawful source, justified by reasons that the affected person can understand, attributed to an identifiable office, and corrected when it goes wrong.

The research question can therefore be stated with some precision. Does the existing constitutional and administrative law of Ghana adequately preserve legality, human judgment, institutional responsibility and effective remedies as artificial intelligence comes to influence public decision-making, and, to the extent that it does not, what is the narrowest set of doctrinal and legislative interventions that would close the gap without obstructing legitimate innovation? The inquiry is deliberately confined to public decision-making. Private uses of AI raise serious questions of consumer protection, labour and competition law, and article 12(1) of the Constitution, which requires the fundamental rights to be respected and upheld 'where applicable to them, by all natural and legal persons in Ghana', ensuring that private power is not wholly beyond constitutional reach.[3] Private uses nonetheless engage different considerations, and they are addressed here only where they bear on the exercise of public power, as where a private vendor builds the system on which a public body relies or a private operator holds personal data on terms that a public regulator is bound to supervise.

The thesis can be stated at the outset. Ghana does not face a constitutional vacuum. Article 23 obliges every administrative body and administrative official to act fairly and reasonably and to comply with the requirements imposed on them by law. Article 296 requires discretionary power to be exercised fairly and candidly and forbids its exercise in a manner that is arbitrary, capricious or biased. Article 33 guarantees access to the High Court for the enforcement of fundamental rights, and the Supreme Court has recently held that the unauthorized use of a person's national identity data engages the constitutional protection of privacy.[4] The gap that Ghana faces is narrower and more specific. It consists in a mismatch between the points at which algorithmic power operates and the points at which the law presently looks. The law looks at the final decision, at the individual official and at the moment of grievance, whereas algorithmic power operates earlier and more diffusely, in the design of a model, the terms of a procurement contract, the selection of training data, the calibration of a threshold and the institutional habit of deferring to a score. This article argues that the Constitution, properly read, already reaches those earlier points, and that the task of reform is to make that reach explicit, administrable and enforceable.

The contribution claimed is jurisprudential. The article does not rehearse the well-documented catalogue of risks associated with machine learning, nor does it restate international ethical principles in Ghanaian vocabulary. It develops a doctrine of constitutional answerability built from the text of the 1992 Constitution and from the way in which Ghanaian courts have read it. The doctrine consists of four propositions. The first is that discretion vested by law in a person or authority is non-transferable, so that an algorithmic system may inform the exercise of public power but may never hold it. The second is that the duty of candour in article 296(a), read with the requirements of fairness and reasonableness in article 23, operates as a requirement of explicability, because an authority that cannot explain how a decision was reached cannot show that it acted candidly in reaching it. The third is that institutional responsibility attaches when a system is acquired and designed, so that procurement is itself a constitutionally significant act. The fourth is that no technology may narrow the remedial route that article 33 guarantees. Because article 296 sets out the conditions of lawful discretion in the constitutional text itself, it gives Ghana a resource for governing public AI that legal systems which rely on the common law grounds of judicial review alone do not possess in the same entrenched form.

The doctrine also draws on an older Ghanaian understanding of delegated speech and retained authority. In Akan political practice, the chief ordinarily speaks in public through the *okyeame*, the royal spokesman, whose eloquence may shape, soften and even improve the words he relays. Yet no one has ever supposed that the *okyeame* holds the stool. The words he speaks are the chief's words, the chief answers for them, and a chief who allowed his spokesman to decide in his place would have abandoned the very office that gives the spokesman his voice.[5] An algorithmic system that recommends, ranks, or drafts in the service of a public authority stands in a structurally similar position. It may speak, and may speak well, but the power remains with the office in which the law has vested it, as does the duty to answer for what is said in its name. The following Parts show that the Constitution gives this understanding the force of law.

Three methodological commitments govern the analysis. The first is the distinction between binding and persuasive authority. The 1992 Constitution, Acts of Parliament and the decisions of the Supreme Court bind; under article 129(3) the Supreme Court may depart from its own previous decisions when it appears right to do so, and all other courts are bound by its decisions on questions

[3] Constitution of the Republic of Ghana 1992, art 12(1).

[4] ibid arts 23, 33 and 296; *Gorni v Vodafone Ghana Ltd* (2026) JELR 114865 (SC), Civil Appeal No J4/40/2025, 25 February 2026.

[5] Kwesi Yankah, *Speaking for the Chief: Okyeame and the Politics of Akan Royal Oratory* (Indiana University Press 1995). On the communitarian conception of responsibility within which such offices operate, see Kwame Gyekye, *Tradition and Modernity: Philosophical Reflections on the African Experience* (Oxford University Press 1997); Kwasi Wiredu, *Cultural Universals and Particulars: An African Perspective* (Indiana University Press 1996).

of law, while article 136(5) binds the Court of Appeal to its own decisions and the courts below it to follow them.[6] Foreign judgments, foreign legislation and international instruments are persuasive only. They are used here as evidence of how comparable legal orders have confronted comparable problems, and never as statements of Ghanaian law. Their use is nonetheless consistent with article 40(c), which commits the Government to promote respect for international law and treaty obligations, and with section 10(4) of the Interpretation Act, 2009 (Act 792), which directs the courts to construe the Constitution and other laws in a manner that promotes the rule of law and the values of good governance and that advances human rights and fundamental freedoms.[7] The second commitment is the distinction between existing obligation and proposed reform. Where the article contends that an obligation already exists, it identifies the textual and judicial source, and where it proposes an obligation that does not yet exist, it says so. The third commitment is the distinction between fact and hypothetical illustration. Each scenario used to test the law is expressly labelled as hypothetical, and none should be read as an allegation that any Ghanaian institution has acted unlawfully. A premise of the whole argument is that the adoption of AI by a public body is not in itself a violation of any constitutional right. It becomes constitutionally problematic only when it is adopted in a manner that disables the conditions of lawful decision-making.

The article proceeds in ten further Parts. Part II defines the accountability gap and distinguishes it from more general anxieties about artificial intelligence. Part III examines the constitutional provisions on which the inquiry depends, explaining both the relevance and the limits of each. Part IV examines the principal statutes, institutions and policy instruments. Part V tests the resulting framework against seven pressure points, namely opacity, automated decisions, discrimination, defective procurement, diminished human oversight, fragmented responsibility, and remedies. Part VI develops the doctrine of constitutional answerability, and Part VII translates it into an eight-part institutional framework. Part VIII assesses institutional readiness, Part IX meets the strongest counterarguments, Part X evaluates the legislative options, and Part XI concludes.

II. DEFINING THE PROBLEM WITH PRECISION

A. What the accountability gap is

In public law scholarship, accountability describes a relationship in which an actor is obliged to explain and justify its conduct to a forum that can ask questions, pass judgment, and impose consequences.[8] Each element of that relationship comes under strain when algorithmic systems participate in decisions. The obligation to explain presupposes that the actor knows why a decision was made, which may not be true where the decisive input is the output of a model whose internal reasoning the official cannot inspect. The forum's capacity to question presupposes access to the relevant information, which may be withheld on grounds of commercial confidentiality or may simply never have been recorded. The imposition of consequences presupposes that the wrong can be attributed to someone, and attribution becomes elusive when a decision is the joint product of a vendor who built a model, a ministry that procured it, a data unit that configured it, a supervisor who set its threshold, and a junior officer who accepted its recommendation. Political theorists have long described this as the problem of many hands: where many people contribute to an outcome, it can become impossible to identify any one of them as responsible for it, even though the outcome is plainly the product of human choices.[9]

As the term is used in this article, the accountability gap is the space between the exercise of public power and the legal capacity to identify, justify, contest and remedy it. It has three dimensions. The epistemic dimension concerns what can be known about how a decision was reached. The attributive dimension concerns who can be held responsible for it. The remedial dimension concerns whether the affected person can obtain an effective correction. A legal framework closes the gap to the extent that it keeps all three dimensions open, and it fails, whatever its statements of principle, to the extent that any one of them is allowed to close. Lon Fuller identified the failure of congruence between declared rules and their actual administration as one way a legal order breaks down, and that analysis is apposite here, because the characteristic danger of algorithmic administration is precisely that the declared law and the operative logic of the system can drift apart without anyone noticing, or being able to prove, that they have done so.[10]

B. What the accountability gap is not

Precision also requires a negative definition. The gap does not consist in the fact that public bodies use computers or statistical tools. Ghanaian public administration has relied on databases, electronic payment systems and rule-based software for many years, and the Electronic Transactions Act, 2008 was enacted to give legal recognition to electronic records and to promote electronic

[6] Constitution of the Republic of Ghana 1992, arts 129(3) and 136(5).
[7] ibid art 40(c); Interpretation Act 2009 (Act 792), s 10(4).
[8] Mark Bovens, 'Analysing and Assessing Accountability: A Conceptual Framework' (2007) 13 European Law Journal 447.
[9] Dennis F Thompson, 'Moral Responsibility of Public Officials: The Problem of Many Hands' (1980) 74 American Political Science Review 905.
[10] Lon L Fuller, *The Morality of Law* (rev edn, Yale University Press 1969) 38 to 39 and 81 to 91.

government services.[11] Nor does the gap rest on the assumption that algorithmic decisions are necessarily worse than human ones. Human officials are subject to fatigue, inconsistency, prejudice and, on occasion, corruption, as article 35(8) of the Constitution recognises in requiring the State to take steps to eradicate corrupt practices and the abuse of power.[12] A carefully designed system can reduce arbitrariness by treating like cases alike. An analysis that assumed the superiority of unaided human judgment would misdescribe both the technology and the Ghanaian administrative state. The concern lies elsewhere. Certain features of contemporary AI systems, in particular their opacity, their dependence on historical data, their scale and their tendency to induce deference in those who use them, can disable the legal mechanisms through which the arbitrariness of officials has traditionally been checked, while producing new forms of error that those mechanisms were never designed to detect.

C. Four hypothetical illustrations

Four hypothetical scenarios, none of which describes the conduct of any actual institution, are used throughout the article to test the law. In the first, a revenue authority deploys a risk-scoring model that ranks taxpayers for audit; officers are instructed to prioritize the highest scores, and a small business owner selected for an intrusive audit asks why she was chosen. In the second, a ministry administering a cash-transfer programme uses a targeting model to determine eligibility, and a household that falls just below the threshold is excluded without being told that a model was involved. In the third, an examining body uses anomaly-detection software to identify suspected collusion in scripts and cancels the results of the candidates whom the software flags. In the fourth, a public hospital procures a diagnostic triage tool from a foreign vendor whose contract forbids disclosure of the model's design and limits the hospital's right to audit it. Each scenario is plausible in a State committed to integrating AI across government, and each engages a distinct combination of constitutional provisions and statutory regimes: the Revenue Administration Act, 2016 (Act 915) in the first, the data protection and social protection framework in the second, the West African Examinations Council Act, 2006 (Act 719) in the third, and the procurement and data protection regimes in the fourth.[13] The third scenario has particular resonance, because the Supreme Court's leading decision on administrative justice arose from the cancellation of examination results without a hearing.[14]

III. THE CONSTITUTIONAL ARCHITECTURE

A. Article 1: sovereignty, supremacy and the source of public power

Article 1(1) provides that the sovereignty of Ghana resides in the people of Ghana, in whose name and for whose welfare the powers of government are to be exercised 'in the manner and within the limits laid down in this Constitution'. Article 1(2) declares the Constitution to be the supreme law of Ghana and provides that any other law found to be inconsistent with any of its provisions shall, to the extent of the inconsistency, be void.[15] Article 35(1) restates the principle in the language of democratic legitimacy, declaring that Ghana shall be a democratic State dedicated to the realization of freedom and justice, in which sovereignty resides in the people of Ghana 'from whom Government derives all its powers and authority through this Constitution'.[16] The relevance of these provisions to algorithmic governance is foundational, not operational. They establish that every exercise of governmental power must be traceable to the people through the Constitution, and the words 'in the manner and within the limits laid down' make the manner in which power is exercised, and not merely its existence, a matter of constitutional concern. An algorithmic system has no constitutional standing of its own. It cannot be a source of authority. It can only be an instrument through which authority conferred on a person or body is exercised, and it inherits every limit that attaches to that authority.

The limitation of article 1 must be stated with equal clarity. Article 1(2) operates on laws and is not a freestanding mechanism for reviewing individual administrative acts. Its practical force is felt through article 2, which supplies the enforcement jurisdiction, and through the specific provisions that give content to the manner and limits of power. Article 1 is the premise of the argument developed in this article, not its operative rule.

B. Article 2: the enforcement jurisdiction and its boundaries

Article 2(1) entitles a person who alleges that an enactment, anything contained in or done under the authority of an enactment, or any act or omission of any person is inconsistent with or in contravention of a provision of the Constitution, to bring an action in the Supreme Court for a declaration to that effect. Article 2(2) empowers the Court to make such orders and give such directions as

---

[11] Electronic Transactions Act 2008 (Act 772), s 1.
[12] Constitution of the Republic of Ghana 1992, art 35(8).
[13] Revenue Administration Act 2016 (Act 915); West African Examinations Council Act 2006 (Act 719); Public Procurement Act 2003 (Act 663); Data Protection Act 2012 (Act 843).
[14] *Awuni v West African Examinations Council* [2003-2004] 1 SCGLR 471.
[15] Constitution of the Republic of Ghana 1992, art 1(1) and (2).
[16] ibid art 35(1).

it considers appropriate for giving effect to its declaration, and article 130(1) confers on the Supreme Court exclusive original jurisdiction in all matters relating to the enforcement or interpretation of the Constitution, subject to the jurisdiction of the High Court under article 33 in the enforcement of fundamental human rights and freedoms.[17] The Supreme Court has long treated this jurisdiction as a guarantee that the Constitution is justiciable and that public power, including the power of the highest organs of state, is subject to it.[18] For AI governance, the consequence is that a statute, regulation or official act authorizing or structuring the use of an algorithmic system in public decision-making may be challenged directly in the Supreme Court as inconsistent with the Constitution. A legislative scheme that authorised solely automated decisions affecting fundamental rights without any route to human review, or a regulation that required officials to follow algorithmic outputs mechanically, would be a natural candidate for such a challenge.

The limits of the jurisdiction are nonetheless material. Article 2 is directed at constitutional inconsistency and at questions that genuinely require the interpretation or enforcement of the Constitution; it is not a general forum for reviewing individual administrative decisions. Where the gravamen of a complaint is that a particular decision infringed the complainant's fundamental rights, the natural forum is the High Court under article 33, exercised through the procedure for the enforcement of fundamental human rights in Order 67 of the High Court (Civil Procedure) Rules, 2004 (CI 47), and where the complaint is that an adjudicating authority acted without jurisdiction or in breach of natural justice, the supervisory jurisdiction of the High Court under article 141 and the judicial review procedure in Order 55 of the same Rules are engaged.[19] The distinction matters because many algorithmic harms will first appear as individual grievances, such as a cancelled result or a refused benefit, and only on investigation as systemic defects. An effective framework must therefore allow individual complaints to reveal systemic problems, a point to which Part VII returns.

C. Article 17: equality and the problem of proxy discrimination

Article 17(1) provides that all persons shall be equal before the law, and article 17(2) that a person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status. Article 17(3) defines 'discriminate' as giving different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, gender, occupation, religion or creed, whereby persons of one description are subjected to disabilities or restrictions to which persons of another description are not made subject, or are granted privileges or advantages which are not granted to persons of another description.[20] Article 17(4) preserves the power of Parliament to enact laws that are reasonably necessary to provide for the implementation of policies and programmes aimed at redressing social, economic or educational imbalance. The equality guarantee is reinforced by article 15(1), which declares the dignity of all persons inviolable, and by Ghana's obligations under article 26 of the International Covenant on Civil and Political Rights and articles 2 and 3 of the African Charter on Human and Peoples' Rights, both of which Ghana has ratified.[21]

The relevance of article 17 to algorithmic decision-making is obvious, but its application is difficult. Machine learning systems trained on historical data may reproduce patterns of past disadvantage, and they may do so without processing a protected characteristic directly, by relying instead on variables that correlate with it, such as a residential address, the school a person attended, or a pattern of mobile money transactions. In the second hypothetical scenario, a targeting model that relies heavily on household location may systematically disadvantage residents of particular regions in a manner that correlates with ethnic origin or place of origin, although no one intended that result or even noticed it. The textual question is whether such treatment is 'attributable only or mainly' to a protected description. The phrase admits of two readings. On a narrow reading, the protected description must be the operative reason for the treatment, which would exclude most proxy effects. On a broader reading, the words 'or mainly' direct attention to the causal structure of the outcome, so that differential treatment shown on the evidence to track a protected description predominantly falls within the prohibition even if the description was never consciously considered by anyone.

The author is not aware of any Ghanaian decision that has settled whether article 17 extends to what other legal systems call indirect discrimination or disparate impact. It is submitted that the broader reading is to be preferred, for three reasons. The first is purposive. Article 17 protects persons from disabilities imposed by reason of their descriptions, and a disability is no less imposed by reason

[17] ibid arts 2(1), 2(2) and 130(1).

[18] *Tuffuor v Attorney-General* [1980] GLR 637; *New Patriotic Party v Attorney-General* [1993-94] 2 GLR 35.

[19] Constitution of the Republic of Ghana 1992, arts 33 and 141; High Court (Civil Procedure) Rules 2004 (CI 47), Orders 55 and 67.

[20] Constitution of the Republic of Ghana 1992, art 17(1) to (4). The descriptions listed in art 17(3) do not coincide exactly with the grounds listed in art 17(2).

[21] ibid art 15(1); International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 26; African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58, arts 2 and 3.

of a description because it is mediated through a statistical correlation. The second rests on section 10(4) of the Interpretation Act, which requires the courts to prefer the construction that advances human rights and avoids recourse to niceties of form and language that defeat the purpose and spirit of the Constitution.[22] The third is textual: the inclusion of 'place of origin' and 'occupation' among the protected descriptions in article 17(3) shows that the framers were alert to forms of disadvantage that operate through social position without explicit animus, which is how proxy discrimination operates. Even on the broader reading, however, the evidentiary burden on a claimant is formidable. Under section 14 of the Evidence Act, a party bears the burden of persuasion as to each fact essential to the claim he asserts, unless and until that burden is shifted, and showing that a model's outputs track a protected description requires data and expertise that a claimant will rarely possess.[23] That evidentiary asymmetry, and not any deficiency in the text of article 17, is the real weakness of the equality guarantee in the algorithmic context, and it is one reason why the framework proposed in Part VII places the burden of prospective equality assessment on the deploying institution.

D. Article 18(2): privacy, data and the significance of Gorni

Article 18(2) provides that no person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others.[24] On its face, the provision protects specified objects, not personal information as such, and a court could have held that it does not reach the processing of personal data at all. The Supreme Court did not take that course. In *Gorni v Vodafone Ghana Ltd*, decided on 25 February 2026, the appellant's Ghana Card details had been used without his consent to register a mobile number and an associated mobile money account, which were later delinked without his authority. A majority of four to one allowed his appeal and declared that the mobile network operator and the National Communications Authority, the first and third respondents, had breached his right to privacy under article 18.[25] The dissent took the view that the appellant had not proved an interference with the privacy of his property within the meaning of the text. The decision has to be read against the statutory architecture of national identity in Ghana, under which the National Identification Authority Act, 2006 (Act 707) and the National Identity Register Act, 2008 (Act 750) establish a single register whose data is designed to be relied upon across public and private institutions, and the Electronic Communications Act, 2008 (Act 775) and the National Communications Authority Act, 2008 (Act 769) regulate the operators who link that data to communications services.[26]

The significance of *Gorni* for algorithmic governance is considerable. Most public AI systems are trained on, and operate upon, personal data, and many depend on linking datasets held by different institutions, with the national identity number serving as the key that makes such linkage possible. If personal identity data attracts the protection of article 18(2), then the aggregation and analysis of such data by public bodies is capable of amounting to an interference that must be in accordance with law and necessary in a free and democratic society for one of the purposes the article lists. The words 'in accordance with law' carry particular weight. In the comparable context of article 8 of the European Convention on Human Rights, the Court of Appeal of England and Wales held in *R (Bridges) v Chief Constable of South Wales Police* that police use of live automated facial recognition was not in accordance with the law, because the governing framework left too much discretion to individual officers as to who could be placed on a watchlist and where the technology could be deployed.[27] The Hague District Court reached a structurally similar conclusion about a welfare fraud risk-profiling system, holding that the legislation authorizing it did not satisfy article 8(2) because the system was insufficiently transparent and verifiable.[28] The High Court of Kenya, construing the right to privacy in article 31 of the Constitution of Kenya, 2010, held in *Nubian Rights Forum v Attorney-General* that the State could not proceed with the processing of data under its national integrated identity system without an appropriate and comprehensive regulatory framework, and later quashed the roll-out of the associated identity cards for want of a prior data protection impact assessment.[29] These decisions are persuasive only, but they indicate how the words 'in accordance with law' in article 18(2) may be expected to operate: as a

[22] Act 792 (n 8) s 10(4).
[23] Evidence Act 1975 (NRCD 323), s 14.
[24] Constitution of the Republic of Ghana 1992, art 18(2).
[25] *Gorni* (n 5). The majority comprised Amadu, Mensa-Bonsu, Kulendi and Darko Asare JJSC; Dzamefe JSC dissented.
[26] National Identification Authority Act 2006 (Act 707); National Identity Register Act 2008 (Act 750); Electronic Communications Act 2008 (Act 775); National Communications Authority Act 2008 (Act 769).
[27] *R (Bridges) v Chief Constable of South Wales Police* [2020] EWCA Civ 1058, [2020] 1 WLR 5037 [91], [124], [130].
[28] *Nederlands Juristen Comité voor de Mensenrechten v State of the Netherlands* (SyRI) ECLI:NL:RBDHA:2020:1878 (Hague District Court, 5 February 2020) para 6.91.
[29] *Nubian Rights Forum v Attorney-General* (Consolidated Petitions Nos 56, 58 and 59 of 2019) [2020] eKLR (High Court of Kenya); *Republic v Joe Mucheru, Cabinet Secretary, Ministry of Information Communication and Technology; ex parte Katiba Institute* [2021] eKLR (High Court of Kenya).

requirement that the legal basis for algorithmic processing be published, sufficiently precise and accompanied by safeguards against arbitrariness.

Two limits must be acknowledged. First, *Gorni* concerned the misuse of identity data in a registration exercise, not algorithmic decision-making, and its reasoning cannot be extended without care. Secondly, the division within the Court shows that the reach of article 18(2) remains contested. A framework for public AI that depended entirely on the continued expansion of article 18(2) would rest on uncertain foundations. For that reason, the doctrine developed in Part VI rests primarily on articles 23 and 296, whose application to administrative decision-making is textually secure, and treats article 18(2) as a reinforcing provision. Article 33(5), which provides that the rights specifically mentioned in Chapter 5 shall not be regarded as excluding others not specifically mentioned 'which are considered to be inherent in a democracy and intended to secure the freedom and dignity of man', would in any event offer a textual basis for protecting informational integrity should the language of article 18(2) prove too narrow in a future case.[30]

E. Article 23: administrative justice as a fundamental right

Article 23 provides that administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law, and that persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or other tribunal.[31] It is the central provision for present purposes, and its location in Chapter 5 is itself significant: by placing administrative justice among the fundamental human rights, the framers made fair administration an entitlement that the citizen may enforce, and not a standard of good conduct that the administration may observe at its discretion. In *Awuni v West African Examinations Council*, proceedings brought in the High Court for the enforcement of fundamental rights, the Supreme Court held that the Council, as an administrative body, was bound by article 23, and that the cancellation of the candidates' results and the imposition of a three-year ban without affording them a hearing contravened the article.[32] Akuffo JSC, as she then was, described the content of the duty to act fairly and reasonably as including, at the very least, probity, transparency, objectivity, the opportunity to be heard, legal competence and the absence of bias, caprice or ill-will. The Supreme Court has recently reaffirmed that formulation.[33]

The breadth of that formulation is of direct importance. Transparency and objectivity cannot be demonstrated in respect of a decision whose determinative input is unknown to the decision-maker. If the third hypothetical scenario were litigated, the examining body would face the questions the Court asked in *Awuni*: whether the affected candidates were heard, whether the basis of the finding against them was disclosed, and whether the decision-maker had any means of testing the evidence on which it acted. The use of software to generate the suspicion would not dilute those obligations. It would intensify them, because a candidate cannot meaningfully answer an allegation whose basis is a statistical inference she has never seen, and a hearing at which the person affected does not know the case against her is a hearing in name only. Where the body concerned is an adjudicating authority determining the existence or extent of a civil right or obligation, article 19(13) adds the further requirement that the case be given a fair hearing within a reasonable time before an authority that is independent and impartial.[34]

The relationship between articles 23 and 296 has been treated in different ways, and the analysis must take account of the difference. In *Asare v Attorney-General*, which concerned the admissions regime for the Ghana School of Law, Gbadegbe JSC, as he then was, delivering the leading judgment, stated that the constitutional provision in article 23 regarding the exercise of discretionary power is regulated by article 296, so that a consideration of article 23 implies a consideration of the standards in article 296. The Court held that the General Legal Council had acted in breach of article 23, read with article 296, in its treatment of persons who satisfied the requirements of the governing legislative instrument.[35] *Awuni*, by contrast, gave article 23 a content of its own. For present purposes, the difference is less consequential than it might appear. On either approach, an arbitrary administrative decision that lacks candour or fails to comply with the requirements of law is unconstitutional, and the argument developed in Part VI draws on both provisions without depending on a resolution of their precise relationship.

Two further decisions show how article 23 operates in practice. In *Nduom v Bank of Ghana*, the Supreme Court held that the provision for arbitration in the Banks and Specialized Deposit-Taking Institutions Act, 2016 (Act 930), as a means of redress against the revocation of a licence, did not oust the jurisdiction of the High Court under article 33 to entertain an application alleging the

[30] Constitution of the Republic of Ghana 1992, art 33(5).
[31] ibid art 23.
[32] *Awuni* (n 15).
[33] ibid, per Akuffo JSC, as quoted and applied in *Republic v High Court (Commercial Division), Ex parte Kevin Ekow Taylor* (Supreme Court, Civil Motion No J5/80/2025, 22 July 2025) [32], per Amadu JSC.
[34] Constitution of the Republic of Ghana 1992, art 19(13).
[35] *Asare v Attorney-General* [2017] GHASC 25, Writ No J1/1/2016, 22 June 2017, per Gbadegbe JSC.

contravention of fundamental rights.[36] In *Attorney-General and General Legal Council v Ganaku*, by contrast, the Court of Appeal allowed an appeal against a High Court decision that the General Legal Council had breached article 23 by requiring candidates to accept the published results of its entrance examination as final, one ground of appeal being that the trial judge had misapplied the principles in *Awuni*.[37] *Ganaku* shows that article 23 does not condemn every rule that limits review; fairness is assessed in context, and a court will not lightly convert a reasonable administrative choice into a constitutional wrong. *Nduom* has an important corollary in the algorithmic context. A statute or contract that channelled complaints about automated decisions exclusively into an internal review mechanism, or into a vendor's own complaints process, could not exclude the constitutional route to the High Court where a fundamental right, including the right to administrative justice, is engaged.

F. Article 296: the Constitutionalisation of discretion

Article 296 provides that where in the Constitution or in any other law discretionary power is vested in any person or authority, that discretionary power shall be deemed to imply a duty to be fair and candid; that its exercise shall not be arbitrary, capricious or biased either by resentment, prejudice or personal dislike and shall be in accordance with due process of law; and that where the person or authority is not a judge or other judicial officer, there shall be published by constitutional instrument or statutory instrument regulations that are not inconsistent with the Constitution or that other law to govern the exercise of the discretionary power.[38] The provision gives constitutional expression to a principle that the common law reached gradually and never entrenched, namely that discretion confers no zone of unaccountable will. Its lineage is visible in the decision of the House of Lords in *Padfield*, which insisted that a statutory discretion must be exercised to promote the policy and objects of the Act that confers it and not to frustrate them,[39] but its constitutional form gives it a status in Ghana that those decisions could not confer in a system of parliamentary sovereignty.

Three features of article 296 make it especially important for AI governance. The first is the phrase 'vested in any person or authority'. Discretion is vested in someone: the text presupposes an identifiable holder, and that presupposition is the textual root of the non-transferability principle developed in Part VI. The second is the duty of candour in paragraph (a). Candour is a demanding concept. It implies a positive disposition to disclose the true basis of a decision, which is more than the absence of deception, and the framers' choice of that word in preference to a bare prohibition of bad faith is significant. The third is the requirement in paragraph (c) that regulations governing the exercise of discretion be published by constitutional or statutory instrument, a requirement whose force is magnified by article 11(7), under which any order, rule or regulation made under a power conferred by the Constitution or any other law must be laid before Parliament and published in the *Gazette* on the day it is laid, and comes into force only at the expiration of twenty-one sitting days unless Parliament annuls it within that period by the votes of not less than two-thirds of all its members.[40] Read together, articles 296(c) and 11(7) express a constitutional preference for discretion that is structured by published rules subject to parliamentary scrutiny, and unpublished algorithmic rules can quietly defeat that preference.

Paragraph (c) must be approached with caution, because the Supreme Court has confined its effect. In *Ransford France v Electoral Commission*, the plaintiff contended that the Electoral Commission was required to make regulations by constitutional instrument to govern its discretion to create new constituencies. Date-Bah JSC, delivering the leading judgment, held that the obligation to make regulations should be limited to discretions exercised in quasi-judicial situations, that the Commission's discretion was not of that character, and that, although the standard embodied in article 296(c) may offer a desirable benchmark for good practice, non-compliance with it should not be treated as resulting in invalidity.[41] In *Afoko v Attorney-General*, the Court applied that reasoning to hold that article 296(c) did not apply to the Attorney-General's power to enter a nolle prosequi, which the majority characterized as an executive and not a quasi-judicial act; it nonetheless examined, and rejected on the facts, the plaintiff's contention that the requirements of fairness and non-arbitrariness in article 296(a) and (b) had been breached.[42]

Two conclusions follow. First, article 296(c) cannot presently be used to invalidate algorithmic decisions on the ground that no regulations governing them have been published. Secondly, *Ransford France* and *Afoko* confine the regulation-making obligation, but they leave article 296(a) and (b) fully operative, and *Afoko* itself shows the Court applying those paragraphs to an executive

[36] *Nduom v Bank of Ghana* (2023) JELR 111222 (SC), Civil Appeal No J4/07/2023, 19 July 2023, per Pwamang JSC.

[37] *Attorney-General and General Legal Council v Ganaku* [2023] GHACA 37, Suit No H1/114/2022, 16 February 2023, per Adjei-Frimpong JA.

[38] Constitution of the Republic of Ghana 1992, art 296(a) to (c).

[39] *Padfield v Minister of Agriculture, Fisheries and Food* [1968] AC 997 (HL).

[40] Constitution of the Republic of Ghana 1992, art 11(7).

[41] *Ransford France v Electoral Commission and Attorney-General*, Writ No J1/19/2012, Supreme Court, 19 October 2012, per Date-Bah JSC.

[42] *Afoko v Attorney-General*, Writ No J1/8/2019, Supreme Court, 19 June 2019, per Marful-Sau JSC. Pwamang JSC concurred in the result on different grounds, taking the view that the power was subject to art 296(c).

discretion. The limitation to quasi-judicial discretion is less restrictive in the algorithmic context than it may appear, because several of the decisions most likely to be automated, such as findings of examination malpractice, eligibility determinations and the imposition of administrative sanctions, involve the determination of an individual's rights based on facts found about her, and therefore lie close to the quasi-judicial end of the spectrum. Part X argues that article 296(c), as a benchmark of good practice, supplies a constitutional template for Ghana's legislative response.

G. Article 125: judicial power and the integrity of adjudication

Article 125(1) provides that justice emanates from the people and shall be administered in the name of the Republic by the Judiciary, which shall be independent and subject only to the Constitution. Article 125(3) vests the judicial power of Ghana in the Judiciary and provides that neither the President nor Parliament nor any organ or agency of the President or Parliament shall have or be given final judicial power.[43] Article 125 is relevant to AI governance in two ways. The first concerns the Judiciary's own use of AI for transcription, research, case management, or drafting. Article 125 does not prohibit such tools, but it makes the act of adjudication non-delegable. A judgment must be the product of the judicial mind of the court that delivers it, and a court that adopted an algorithmic assessment of credibility, risk or liability without independent evaluation would be surrendering a function the Constitution reserves to it. The Supreme Court of Wisconsin, in permitting the use of a proprietary risk assessment tool at sentencing in *State v. Loomis*, did so only on the footing that the score could not be determinative and had to be accompanied by written cautions about its limitations, which shows that even a court sympathetic to such tools regards the retention of independent judicial judgment as the condition of their lawful use.[44]

The second and more important relevance concerns the courts as the ultimate guarantors of administrative accountability. Every other accountability mechanism discussed in this article depends, in the last resort, on the capacity of the courts to review administrative action, and that capacity presupposes access to the material on which a decision was based. If algorithmic decision-making leaves no record from which a court can reconstruct the basis of a decision, the judicial power is not formally displaced, but it is practically disabled. It is submitted that the vesting of judicial power in the courts therefore implies a correlative obligation on the administration to preserve the conditions under which that power can be exercised. The implication is not stated in the text, and it is advanced here as an argument, not as settled law; it follows, however, from the structure of articles 23, 33, 125 and 141 read together, for a supervisory jurisdiction that cannot see what it supervises is a jurisdiction in form alone.

H. Supporting provisions

Several further provisions complete the constitutional architecture. Article 21(1)(f) guarantees the right to information, subject to such qualifications and laws as are necessary in a democratic society, and is implemented by the Right to Information Act, 2019.[45] Article 33(1) entitles a person who alleges that a provision of the Constitution on the fundamental human rights and freedoms has been, is being or is likely to be contravened in relation to him to apply to the High Court for redress, without prejudice to any other action that is lawfully available, and article 33(2) empowers the High Court to issue such directions, orders or writs, including writs or orders like habeas corpus, certiorari, mandamus, prohibition and quo warranto, as it may consider appropriate for the purpose of enforcing or securing the enforcement of those rights.[46] The words 'or is likely to be contravened' are of particular value in the algorithmic context, because they permit a person to seek redress before an anticipated harm materializes, as where a system's defect is known before it has been applied to the claimant.

Article 218 charges the Commission on Human Rights and Administrative Justice with investigating complaints of violations of fundamental rights, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of official duties, and article 218(d) empowers it to take appropriate action to call for the remedying, correction and reversal of such instances, including by bringing proceedings to restrain the enforcement of legislation or regulation that is unreasonable or otherwise ultra vires. Article 225 secures the Commission's independence from direction or control, and article 229 entitles the Commissioner to bring an action before any court in Ghana and to seek any remedy that may be available from that court.[47] Article 187(2) subjects the public accounts of Ghana and of all public offices to audit by the Auditor-General, which brings the expenditure on public AI systems within an established constitutional mechanism of scrutiny.[48] Finally, the Directive Principles of State Policy in Chapter 6 have legal force. Article 34(1) requires them to guide Parliament, the President, the Judiciary, the Cabinet and other bodies and persons in applying or interpreting the Constitution or any other law and in taking and implementing policy decisions; article 37(1)

[43] Constitution of the Republic of Ghana 1992, art 125(1) and (3).
[44] *State v Loomis* 881 NW 2d 749 (Wis 2016).
[45] Constitution of the Republic of Ghana 1992, art 21(1)(f); Right to Information Act 2019 (Act 989), long title.
[46] Constitution of the Republic of Ghana 1992, art 33(1) and (2).
[47] ibid arts 218(a) and (d), 225 and 229; Commission on Human Rights and Administrative Justice Act 1993 (Act 456).
[48] Constitution of the Republic of Ghana 1992, art 187(2); Audit Service Act 2000 (Act 584).

requires the State to endeavour to secure and protect a social order founded on the ideals and principles of freedom, equality, justice, probity and accountability, and the Supreme Court held in *Ghana Lotto Operators Association v National Lottery Authority* that the Directive Principles are presumptively justiciable.[49] Accountability is therefore a value that the Constitution itself names, and this article applies it.

IV. THE STATUTORY, INSTITUTIONAL AND POLICY LAYER

A. The Data Protection Act, 2012 (Act 843)

The Data Protection Act, 2012 is the statute that speaks most directly to algorithmic decision-making. It establishes the Data Protection Commission, applies to data controllers established in Ghana who process data in Ghana and to the processing of data originating in Ghana, and requires those who process personal data to observe eight principles: accountability, lawfulness of processing, specification of purpose, compatibility of further processing with the purpose of collection, quality of information, openness, data security safeguards and data subject participation.[50] Public bodies are bound by these principles when they act as data controllers, and every public AI system that processes personal data is therefore subject to them. Two of the principles bear particularly on machine learning. The principle of purpose specification, and the related requirement that further processing be compatible with the purpose of collection, constrains the familiar temptation to repurpose data collected for one administrative function as training data for an unrelated predictive model. The principle of quality of information requires the controller to ensure that personal data is complete, accurate and up to date, which, in the algorithmic setting, is a precondition of the reliability of every decision the system informs. The Act also places processing of special personal data, including data relating to race, ethnic origin, religious belief, political opinion and health, under stricter conditions, which is directly relevant where a model may infer such characteristics from apparently innocuous inputs.[51]

The most significant provision for present purposes is section 41, headed 'Rights in relation to automated decision-making '. Section 41(1) entitles an individual, at any time and by notice in writing, to require a data controller to ensure that no decision taken by or on its behalf which significantly affects that individual is based solely on the processing by automatic means of personal data of which the individual is the data subject. Under section 41(2), even in the absence of such a notice, where a decision that significantly affects an individual is based solely on that processing, the controller must notify the individual as soon as reasonably practicable that the decision was taken on that basis, and the individual may, by notice in writing, require the controller to reconsider the decision within twenty-one days of the notification. Section 41(3) requires the controller to inform the individual in writing, within twenty-one days of receiving the notice, of the steps it intends to take to comply. Section 41(4) provides that the section does not apply to a decision made in the course of considering whether to enter into a contract with the data subject, with a view to entering into such a contract, or in the course of performing it; to a decision made for a purpose authorised or required by or under an enactment; or in other circumstances prescribed by the Minister. Section 41(5) empowers the Commission, on a complaint, to order a controller to comply.[52]

Section 41 is a real and enforceable protection, and its existence refutes the claim that Ghanaian law is silent on automated decisions. Its reach in the public sector is, however, much narrower than its heading suggests, for five reasons. The first, and the most important, is the exclusion in section 41(4) of decisions made for a purpose authorised or required by or under an enactment. Public bodies act under statutory authority, and a great many of the decisions considered in this article, such as tax audits, benefit eligibility determinations and the regulation of examinations, will be made for purposes authorised or required by an enactment. Unless that exclusion is read narrowly, section 41 will not apply to much of public sector automated decision-making at all, and the statute's most pointed protection will be weakest exactly where the power of the State is greatest. The words of the exclusion are general, and the author is not aware of any decision that has considered their scope. It is submitted that section 10(4) of the Interpretation Act, which directs the courts to prefer constructions that advance human rights and avoid technicalities that defeat the purpose of the law, supports a reading under which the exclusion applies only where the enactment itself authorizes or requires the decision to be taken by automated means, and not wherever the underlying function happens to be statutory.[53] On the wider reading, the exclusion would swallow the rule; on the narrower reading, it preserves a coherent role for legislative choice while keeping the protection meaningful.

---

[49] Constitution of the Republic of Ghana 1992, arts 34(1) and 37(1); *Ghana Lotto Operators Association v National Lottery Authority* [2007-2008] SCGLR 1088.

[50] Data Protection Act 2012 (Act 843), ss 1, 17 and 45.

[51] ibid s 37.

[52] ibid s 41(1) to (6). The structure of the section follows that of the Data Protection Act 1998 (UK), s 12.

[53] Act 792 (n 8) s 10(4).

The second limitation is that section 41 applies only to decisions based solely on automatic processing. Most public deployments will involve a human who formally takes the decision, often by approving a recommendation, and a decision that is nominally human falls outside the section even where the human contribution is perfunctory. Comparative experience shows how much turns on this threshold. In *OQ v Land Hessen*, the Court of Justice of the European Union held that the automated establishment of a credit score by a credit information agency was itself a decision for article 22 of the General Data Protection Regulation where a third party to which the score was transmitted drew strongly on it in deciding whether to enter into, perform or terminate a contract.[54] The Court adopted that reading precisely to prevent the protection from being circumvented by the interposition of a nominal human step. No Ghanaian court has yet considered whether section 41 admits of a comparable purposive reading, although the interpretive principle relied on above in relation to section 41(4) would support one.

The third limitation is that section 41 is largely reactive. Although subsection (2) imposes a duty to notify, the scheme depends on the affected individual knowing her rights, serving written notice and pursuing reconsideration, and protections that must be invoked will often go unused where access to legal advice is uneven. The fourth is that the section confers a right to reconsideration but not, in terms, a right to an explanation of the logic involved. The contrast with article 15(1)(h) of the General Data Protection Regulation, which entitles the data subject to meaningful information about the logic involved in automated decision-making, and which the Court of Justice in *CK v Dun & Bradstreet Austria* read as requiring an explanation of the procedure and principles actually applied, is instructive.[55] The fifth is that the Act imposes no prospective obligation to assess the risks of an automated system before it is deployed: it regulates the decision after the event, not the system before it begins to operate, and, because it protects data subjects in respect of their personal data, it does not reach systemic harms that attach to no identifiable individual.

These limitations are open to legislative correction. The Ministry of Communication, Digital Technology and Innovations consulted in October 2025 on a draft Data Protection Bill intended to replace Act 843, and the Data Protection Commission has announced a more rigorous enforcement programme covering both public and private institutions.[56] Until that Bill is enacted, however, Act 843 remains the operative statute, and this article treats it as such.

B. The Right to Information Act, 2019 (Act 989)

The Right to Information Act, 2019 gives effect to the constitutional right in article 21(1)(f). Section 1(1) provides that a person has the right to information, subject to the provisions of the Act, and the Act imposes on government and public institutions duties to make information available, including duties to compile and publish information about their functions without a specific request.[57] The Act is relevant to AI governance in two ways. It provides a route through which citizens, journalists and civil society organizations may seek information about the systems that public institutions use, including procurement documents, policies and evaluations; and its proactive disclosure duties supply a statutory foundation on which a public register of algorithmic systems could be built without any new primary legislation.

Its limits are equally clear. The Act governs access to information that exists. It does not require an institution to generate information it has not recorded, such as an explanation of a model's logic or an assessment of its error rates. It also contains a range of exemptions, beginning with information for the President and Vice-President in section 5 and Cabinet information in section 6, and extending to categories that include law enforcement, security and economic matters.[58] Where a vendor asserts that the design of a system is commercially sensitive, the relationship between those exemptions and the public interest in disclosure will be contested. The Act is therefore a necessary but insufficient instrument of algorithmic transparency. It can open doors, but it cannot ensure that there is anything behind them.

C. The Electronic Transactions Act, 2008 (Act 772) and the Evidence Act, 1975 (NRCD 323)

The Electronic Transactions Act, 2008 is sometimes cited as part of Ghana's AI governance framework, a claim that requires careful qualification. The Act's objects include removing barriers to electronic communications and transactions, promoting legal certainty

---

[54] Case C-634/21 *OQ v Land Hessen (SCHUFA Holding)* EU:C:2023:957.

[55] Regulation (EU) 2016/679 (General Data Protection Regulation) [2016] OJ L119/1, art 15(1)(h); Case C-203/22 *CK v Dun & Bradstreet Austria GmbH* (CJEU, 27 February 2025).

[56] Digital Policy Alert, 'Ministry of Communication, Digital Technology and Innovations Closes Consultation on Data Protection Act, 2025' (31 October 2025) https://digitalpolicyalert.org/event/34534-ministry-of-communication-digital-technology-and-innovations-closes-consultation-on-data-protection-act-2025-including-data-protection-regulation; Ghana News Agency, 'DPC Strengthens Enforcement after Registering 2,575 Data Controllers' (13 October 2026) https://gna.org.gh/2026/10/dpc-strengthens-enforcement-after-registering-2575-data-controllers/.

[57] Right to Information Act 2019 (Act 989), ss 1 to 3.

[58] ibid ss 5 and 6 and the exemptions that follow.

and confidence in them, and promoting electronic government services.[59] It provides for the admissibility and evidential weight of electronic records, for automated transactions, for the attribution of electronic records to their originators and, in a group of provisions on electronic government services, for the acceptance of electronic filing and the issue of documents by public agencies in electronic form.[60]

The Act is relevant in two respects. The first is evidential. Algorithmic decisions generate electronic records, such as logs, scores and outputs, and the admissibility and weight of those records in litigation will be governed by section 7 of the Act together with the Evidence Act, 1975. The ability of a claimant to challenge an algorithmic decision, and of an institution to defend it, therefore depends in part on whether such records exist and can be authenticated. There is a further evidential point of real importance. Section 37 of the Evidence Act raises a presumption that an official duty has been regularly performed.[61] That presumption reflects a sensible institutional trust in the ordinary conduct of public business, but it was framed for a world in which official acts were performed by officials. It is submitted that a court should be slow to extend it to the output of an algorithmic system whose operation the deploying institution cannot explain, because the factual premise of the presumption, namely that there is an official whose regular conduct may be presumed, is precisely what is in question. Where an institution relies on such an output, the presumption should yield readily to evidence that the institution cannot account for how the output was produced.

The second respect concerns attribution. The provisions on automated transactions and attribution establish, in the commercial context, that the operation of an automated system may be attributed to the person on whose behalf it operates. That principle is useful by analogy in public law, because it supports the conclusion that a system's output is in law the act of the institution that deployed it, and not an act without an author. The limits of the Act must nonetheless be stated plainly. It was designed to give legal recognition to the electronic form of transactions and records. It does not regulate the substance of algorithmic judgment; it imposes no standards of fairness, accuracy or explicability on automated systems, and its provisions on automated transactions are directed at the formation of contracts, not at administrative decision-making. To treat Act 772 as a framework for public AI would be to mistake a statute about form for a statute about power.

D. The Cybersecurity Act, 2020 (Act 1038)

The Cybersecurity Act, 2020 establishes the Cyber Security Authority and charges it with regulating cybersecurity activities, preventing, managing, and responding to cybersecurity threats and incidents, regulating owners of critical information infrastructure, and establishing codes of practice and standards for cybersecurity and monitoring compliance with them by the public and private owners of such infrastructure.[62] Among the Authority's functions is the identification and designation of critical information infrastructure.[63] The Act is relevant to AI governance because the integrity of a system is a precondition of the lawfulness of the decisions it supports. A model whose training data has been poisoned, whose outputs can be manipulated by adversarial inputs, or whose decision logs can be altered produces decisions that cannot be trusted or reliably reviewed. Where a public AI system forms part of designated critical information infrastructure, the Authority's standards and compliance mechanisms will apply to it.

The limitation of the Act is one of orientation. It is concerned with security, that is, with protecting systems from compromise, and not with fairness, legality or explicability. A system may be entirely secure and yet discriminatory, opaque or unlawfully deployed. Act 1038 secures the infrastructure of algorithmic governance; it does not govern the exercise of power through that infrastructure.

E. The Public Procurement Act, 2003 (Act 663), as amended, and article 181(5)

The Public Procurement Act, 2003, as amended by the Public Procurement (Amendment) Act, 2016 (Act 914), governs the acquisition of goods, works and services by public entities, establishes the Public Procurement Authority and sets out the principles and procedures of public procurement.[64] Its significance for AI governance is easily underestimated. Most public AI systems will not be built by the institutions that use them; they will be procured, often from foreign vendors and often as licensed software or services. The procurement contract is therefore the instrument that determines whether an institution will be able to understand, audit, correct, and explain the system it deploys. A contract that gives the vendor exclusive control over the model, forbids disclosure of its design, denies the institution access to training data or leaves it unable to change providers can disable accountability before the system processes a single case.

---

[59] Act 772 (n 12) s 1(1)(a) to (c).
[60] ibid ss 7, 17, 21 and 25 to 27.
[61] NRCD 323 (n 24) s 37.
[62] Cybersecurity Act 2020 (Act 1038), ss 2 to 4.
[63] ibid s 4(h).
[64] Public Procurement Act 2003 (Act 663), as amended by the Public Procurement (Amendment) Act 2016 (Act 914). Section 1 of Act 914 amended s 2 of Act 663 by inserting 'environmentally and socially sustainable' after 'non-discriminatory'.

The 2016 amendment is instructive. By adding environmental and social sustainability to the objects of the Act, Parliament confirmed that procurement may legitimately serve public values beyond value for money. The Act does not, however, contain any provision specific to the procurement of algorithmic systems. It does not require procuring entities to secure audit rights, access to documentation, explanations of system logic or evidence of bias testing, and it does not require any assessment of the constitutional implications of a system before it is acquired. *Bridges* shows why this matters. The Divisional Court had recorded that, if the police did not know the contents of the dataset used to train the facial recognition software they had licensed, it would be difficult for them to confirm whether the technology was biased.[65] The Court of Appeal held that the public sector equality duty had not been discharged, emphasizing that the duty is continuing and non-delegable and that, where relevant information is not available, the authority may be obliged to acquire it.[66] South African experience points the same way from a different direction. In *AllPay Consolidated Investment Holdings v Chief Executive Officer, South African Social Security Agency*, the Constitutional Court set aside the award of a national contract for the biometric payment of social grants because of irregularities in the procurement process, measured against the constitutional requirement in section 217 of the South African Constitution that procurement be fair, equitable, transparent, competitive and cost-effective, and it later fashioned a remedy that preserved the payment of grants while the defect was cured.[67] The lesson for Ghana is that the conditions of accountability are fixed at the point of acquisition. An institution that buys a system it is contractually prevented from understanding has, in substance, purchased its own inability to comply with the law.

One further constitutional provision bears directly on the acquisition of AI from foreign vendors. Article 181(5) applies the requirement of parliamentary approval for loans, with the necessary modifications, to any international business or economic transaction to which the Government is a party.[68] In *Attorney-General v Faroe Atlantic Co Ltd*, the Supreme Court treated an agreement concluded without such approval as unenforceable, and in *Republic v High Court (Commercial Division), Ex parte Attorney-General (Balkan Energy),* it clarified the scope of the provision by reference to the foreign character and significance of the transaction.[69] It is not suggested that every software licence is an international business transaction within article 181(5). But large-scale, government-wide agreements with foreign AI providers, particularly those involving the transfer or hosting of national datasets abroad, may well fall within it, and where they do, the article supplies a ready-made constitutional moment at which Parliament can scrutinize the terms on which the State acquires systems that will exercise influence over its citizens.

F. Records, audit and internal accountability

Three further statutes, rarely discussed in this context, supply important pieces of the accountability architecture. The Public Records and Archives Administration Act, 1997 (Act 535) establishes the legal regime for the creation, management and preservation of public records, and decision logs, model documentation and the records of procurement and configuration generated by public AI systems are public records within its scope.[70] The Audit Service Act, 2000 (Act 584), giving effect to article 187, equips the Auditor-General to examine public expenditure, including the value obtained from the acquisition of algorithmic systems. The Whistleblower Act, 2006 (Act 720) protects persons who disclose impropriety in public institutions, which matters because the officials best placed to recognise that a system is malfunctioning or being used unlawfully are often those who operate it.[71] None of these statutes was written with artificial intelligence in mind, and none is sufficient on its own. Together, however, they show that the institutional materials for record-keeping, audit and internal challenge already exist in Ghanaian law and need to be connected rather than invented.

G. Oversight institutions

Ghana has several institutions whose mandates are relevant to algorithmic governance. The Data Protection Commission enforces Act 843; the Cyber Security Authority regulates cybersecurity; the Commission on Human Rights and Administrative Justice investigates complaints of injustice, abuse of power and unfair treatment by public officers;[72] the Right to Information Commission

---

[65] *Bridges* (n 28) [52], [171].
[66] ibid [175].
[67] *AllPay Consolidated Investment Holdings (Pty) Ltd v Chief Executive Officer, South African Social Security Agency* [2013] ZACC 42, 2014 (1) SA 604 (CC); *AllPay Consolidated Investment Holdings (Pty) Ltd v Chief Executive Officer, South African Social Security Agency (No 2)* [2014] ZACC 12, 2014 (4) SA 179 (CC); Constitution of the Republic of South Africa 1996, s 217(1).
[68] Constitution of the Republic of Ghana 1992, art 181(5).
[69] *Attorney-General v Faroe Atlantic Co Ltd* [2005-2006] SCGLR 271; *Republic v High Court (Commercial Division), Accra, Ex parte Attorney-General (Balkan Energy Ghana Ltd, Interested Party)* [2011] 2 SCGLR 1183.
[70] Public Records and Archives Administration Act 1997 (Act 535).
[71] Audit Service Act 2000 (Act 584); Whistleblower Act 2006 (Act 720).
[72] Constitution of the Republic of Ghana 1992, art 218; Act 456 (n 48).

oversees the right to information regime; the Public Procurement Authority regulates public procurement; and the Auditor-General audits public expenditure. The courts, ultimately, review the legality of administrative action. What is missing is coordination. No institution is charged with maintaining an overview of the algorithmic systems used across government, setting cross-cutting standards for their assessment, or ensuring that a complaint which arises within one institution's jurisdiction is communicated to another whose mandate it also engages. The risk lies in the fragmentation of oversight, which mirrors and compounds the fragmentation of responsibility that algorithmic systems themselves produce.

H. The National Artificial Intelligence Strategy and the pending Bills

The National Artificial Intelligence Strategy was approved by Cabinet in February 2026 and launched in April 2026.[73] The Minister responsible has publicly described the Strategy as embedding fairness, transparency and accountability in the deployment of AI, and has been reported as stating that a dedicated Responsible AI Office would oversee its implementation.[74]

Two points of legal characterisation follow. First, the Strategy is an instrument of executive policy and not a source of legal obligation. It cannot confer powers on public bodies that the law does not confer, and it cannot relieve them of obligations that the Constitution imposes. Its statements of principle are nonetheless relevant in assessing what fairness and reasonableness require of an institution that has publicly committed itself to them, particularly in the light of article 34(1), which requires the Directive Principles to guide the organs of State in taking and implementing policy decisions, and they supply a policy foundation for the reforms proposed below. Secondly, the Emerging Technologies Bill, 2025, on which the Ministry consulted in October 2025 and which proposes the establishment of an Emerging Technologies Agency with responsibilities that include artificial intelligence, had not been enacted at the date of writing.[75] Ghana's AI governance framework must therefore be assessed on the basis of existing law, with the pending Bills treated as opportunities for reform and not as part of the legal order. The regional and international context points in the same direction. The African Union's Continental Artificial Intelligence Strategy of July 2024, the African Commission on Human and Peoples' Rights' Resolution 473 of 2021 on human and peoples' rights and artificial intelligence, and the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, opened for signature in September 2024, converge on the proposition that public authorities using AI must remain subject to transparency, oversight and effective remedy.[76] None of these instruments binds Ghana as law of the land, but each confirms that the framework proposed in this article reflects a widely shared standard.

V. TESTING THE FRAMEWORK: SEVEN PRESSURE POINTS

The constitutional, statutory and institutional framework may now be tested against the seven problems identified in the research question. For each, the analysis asks what existing law already requires, where its reach stops, and what comparative experience suggests about the consequences of leaving that limit in place.

A. Algorithmic opacity

Opacity has at least three sources: the technical complexity of certain models, whose internal reasoning resists human interpretation; the commercial secrecy asserted by vendors; and the institutional failure to record or communicate the basis of decisions. Existing Ghanaian law addresses the third source most directly. The duty to act fairly under article 23, as given in *Awuni*, includes transparency and the opportunity to be heard, and a decision-maker who cannot disclose the basis of an adverse decision cannot afford a meaningful hearing.[77] The duty of candour in article 296(a) points in the same direction, and the Right to Information Act provides a route to information that exists. Section 41 of Act 843 adds notification and reconsideration, but only for solely automated decisions that escape the exclusions in section 41(4).

---

[73] 'Ghana's National AI Strategy Secures Cabinet Approval: Sam George' *Citi Newsroom* (26 February 2026); Ministry of Communication, Digital Technology and Innovations (n 2).

[74] 'Ghana's National AI Strategy Secures Cabinet Approval' (n 74); 'Ghana to Launch National AI Strategy on April 24 as Mahama Sets Continental Vision' *News Ghana* (2026) https://www.newsghana.com.gh/ghana-to-launch-national-ai-strategy-on-april-24-as-mahama-sets-continental-vision/.

[75] Digital Policy Alert, 'Emerging Technologies Bill, 2025' https://digitalpolicyalert.org/change/16653-emerging-technologies-bill-2025; 'Gov't to Lay Emerging Technologies Bill before Parliament in 2026' *Citi Newsroom* (November 2025) https://citinewsroom.com/2025/11/govt-to-lay-emerging-technologies-bill-before-parliament-in-2026/.

[76] African Union, *Continental Artificial Intelligence Strategy* (July 2024); African Commission on Human and Peoples' Rights, Resolution on the Need to Undertake a Study on Human and Peoples' Rights and Artificial Intelligence (AI), Robotics and Other New and Emerging Technologies in Africa, ACHPR/Res 473 (EXT.OS/XXXI) 2021; Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (opened for signature 5 September 2024) CETS No 225.

[77] *Awuni* (n 15).

The limit lies at the first and second sources. Existing law neither requires institutions to adopt systems whose operation can be explained nor determines how commercial confidentiality is to be weighed against the requirements of fair administration. Comparative authority is instructive. In the SyRI case, the Hague District Court emphasized that transparency was required in the interest of verifiability, so that affected persons and the courts could assess whether the system operated lawfully, and it held the legislation incompatible with article 8 of the Convention because the risk model was not sufficiently transparent and verifiable.[78] In *Ligue des droits humains*, the Court of Justice of the European Union went further, holding that the opacity of self-learning systems, which makes it impossible to understand why a given result was produced, could deprive persons of their right to an effective remedy, and that the automated processing of passenger data therefore had to be confined to pre-established, non-discriminatory criteria.[79] In *Houston Federation of Teachers v Houston Independent School District*, a United States federal court allowed a due process challenge to proceed against the use of a proprietary algorithm to evaluate teachers, on the ground that teachers had no meaningful way to verify the scores that determined their employment because the vendor treated its methodology as a trade secret.[80] The Supreme Court of Canada, in a case unconnected with technology, has identified the hallmarks of a reasonable administrative decision as justification, transparency and intelligibility.[81] That formulation, though persuasive only, expresses what the requirement of reasonableness in article 23 plausibly demands, and it implies that an institution which cannot render its reasoning intelligible to the affected person has not made a reasonable decision.

B. Automated administrative decisions

Where a public decision is solely automated, article 23 requires that it be fair and reasonable, and section 41 of Act 843 may apply if the decision is not within the exclusions in section 41(4). Where a decision is partly automated, the analysis is more complex and, in practice, more important: the question is whether the human participant exercises genuine judgment or merely ratifies the system's output. There is also a prior conceptual question, which the Full Court of the Federal Court of Australia confronted in *Pintarich v Deputy Commissioner of Taxation*. A taxpayer had received a computer-generated letter that appeared to remit interest, and the majority held that no 'decision' had been made because a decision requires a mental process of reaching a conclusion and an objective manifestation of it; Kerr J, dissenting, warned that the law's conception of a decision must adapt to a world in which outcomes are increasingly produced by machines.[82] The case is a warning against allowing the language of administrative law to leave automated outputs in a conceptual no man's land, where they bind the citizen in practice but are not decisions in law. Article 23, which speaks of the 'acts and decisions' of administrative bodies, is wide enough to avoid that trap, and it should be read so.

Comparable legal orders have regulated automated public decision-making in markedly different ways. The Canadian Directive on Automated Decision-Making requires federal institutions to complete and publish an algorithmic impact assessment before an automated decision system is put into production, to arrange peer review, and to ensure that the system allows for human involvement, with requirements that increase with the system's assessed impact level.[83] The United Kingdom has, in one respect, moved in the opposite direction: the Data (Use and Access) Act 2025 replaced the near-prohibition of solely automated significant decisions in article 22 of the UK GDPR with a regime in which, outside the processing of special category data, such decisions are generally permitted, subject to mandatory safeguards that include providing information about the decision, enabling representations, enabling human intervention and enabling the decision to be contested.[84] South Africa's Protection of Personal Information Act prohibits subjecting a data subject to a decision that results in legal consequences for, or affects to a substantial degree, that person and that is based solely on automated processing intended to provide a profile, subject to exceptions that include decisions governed by a law or code of conduct specifying appropriate measures to protect the data subject's legitimate interests.[85] The divergence among these jurisdictions is itself instructive. There is no single correct model, and the choice between a prohibition with exceptions and a permission with safeguards is a legitimate policy choice for Parliament. What the three models share is that none leaves the question to the discretion of individual institutions. Ghanaian law presently does. Outside the narrow compass of

[78] *SyRI* (n 29) para 6.91.
[79] Case C-817/19 *Ligue des droits humains ASBL v Conseil des ministres* EU:C:2022:491.
[80] *Houston Federation of Teachers, Local 2415 v Houston Independent School District* 251 F Supp 3d 1168 (SD Tex 2017).
[81] *Canada (Minister of Citizenship and Immigration) v Vavilov* 2019 SCC 65, [2019] 4 SCR 653 [99].
[82] *Pintarich v Deputy Commissioner of Taxation* [2018] FCAFC 79, (2018) 262 FCR 41.
[83] Treasury Board of Canada Secretariat, *Directive on Automated Decision-Making* (modified 24 June 2025) ss 6.1.1 to 6.1.3, 6.3.7 and 6.3.13 and Appendix C.
[84] Data (Use and Access) Act 2025, s 80, substituting arts 22A to 22D of the UK GDPR, brought into force on 5 February 2026 by the Data (Use and Access) Act 2025 (Commencement No 6 and Transitional and Saving Provisions) Regulations 2026, SI 2026/82.
[85] Protection of Personal Information Act 4 of 2013 (South Africa), s 71(1) and (2).

section 41, it contains no general rule governing when public decisions may be automated, what safeguards must accompany automation, or what makes human participation meaningful.

C. Discrimination

Article 17 prohibits discrimination on the enumerated grounds, and Part III argued that its text is capable of reaching proxy discrimination where differential treatment is shown to be attributable mainly to a protected characteristic. The difficulty is evidentiary and prospective. A claimant cannot usually prove that a model discriminates without access to its design, its training data and its outputs across populations, so the law places on her a burden that the structure of the technology makes almost impossible to discharge. *Bridges*, considered in Part IV, illustrates a different approach: the English public sector equality duty is a duty of process, not of outcome, and it must be discharged before, and at the time a policy is being considered.[86] The Dutch childcare benefits affair, in which nationality was used as a risk factor in a system for detecting benefit fraud, shows what can happen in the absence of such a duty: the discrimination arose without any single malicious choice, from a system that no one was required to examine for disparate effects.[87] Ghana has no statutory equivalent of the English duty. The question is whether article 17, read with article 23 and with the commitment to equality in article 37(1), imposes a comparable obligation of prospective inquiry on public institutions that deploy systems with known risks of disparate impact. Part VI argues that it does.

D. Defective procurement

As Part IV observed, the Public Procurement Act contains no provision specific to algorithmic systems, and comparative experience shows that the consequences of defective acquisition and institutional over-reliance are far from hypothetical. The litigation concerning the Post Office's Horizon system in the United Kingdom, although it concerned accounting software rather than artificial intelligence, demonstrated how an institution's reliance on a system whose defects it did not understand, combined with an institutional posture that treated the system's outputs as reliable, could produce grave injustice over many years, culminating in the quashing of convictions that had rested on the system's data.[88] In Australia, the automated debt-raising scheme known as Robodebt, which averaged annual income data to infer overpayments of welfare benefits, was conceded by the Commonwealth, in proceedings before the Federal Court, to have produced debts that were not validly raised where they rested on income averaging alone; a national class action was subsequently settled, and the Royal Commission that followed found that the scheme's defects had been capable of discovery long before it was abandoned.[89] These are foreign events, not authorities, but they show that the risks addressed in this article are real. In each, the failure was institutional before it was technical: the decisive error lay in the terms on which the system was acquired, adopted and trusted, and not in any single decision it produced.

E. Diminished human oversight

Human oversight is the safeguard most frequently invoked and least frequently specified. Research on public sector algorithms has shown that human reviewers tend to defer to algorithmic outputs, particularly under time pressure and where departure from a recommendation must be justified while compliance need not be.[90] The danger is that the human becomes what has been described as a 'moral crumple zone', absorbing responsibility for the failures of a system over which she had little real control.[91] The common law already possesses a doctrine that names this danger, although it was developed for a different purpose. A public authority entrusted with a discretion may adopt a policy to guide its exercise, but it must not fetter that discretion by applying the policy so rigidly that it refuses to consider whether a particular case calls for a different result; Lord Reid, adopting the words of Bankes LJ, said that such an authority must not 'shut his ears to an application'.[92] Where a minister in effect handed his decision to another department's view, the decision was quashed because the discretion had not been exercised by the person in whom it was vested.[93]

---

[86] *Bridges* (n 28) [175] to [176].

[87] Amnesty International, *Xenophobic Machines: Discrimination through Unregulated Use of Algorithms in the Dutch Childcare Benefits Scandal* (October 2021).

[88] *Bates v Post Office Ltd (No 6: Horizon Issues)* [2019] EWHC 3408 (QB); *Hamilton v Post Office Ltd* [2021] EWCA Crim 577.

[89] *Amato v Commonwealth of Australia* (Federal Court of Australia, VID611/2019, orders of 27 November 2019); *Prygodicz v Commonwealth of Australia (No 2)* [2021] FCA 634; Royal Commission into the Robodebt Scheme, *Report* (Commonwealth of Australia, July 2023).

[90] Ben Green, 'The Flaws of Policies Requiring Human Oversight of Government Algorithms' (2022) 45 Computer Law and Security Review 105681.

[91] Madeleine Clare Elish, 'Moral Crumple Zones: Cautionary Tales in Human-Robot Interaction' (2019) 5 Engaging Science, Technology, and Society 40.

[92] *British Oxygen Co Ltd v Minister of Technology* [1971] AC 610 (HL) 625, per Lord Reid.

[93] *H Lavender & Son Ltd v Minister of Housing and Local Government* [1970] 1 WLR 1231 (QB).

An official who treats an algorithmic recommendation as conclusive, without asking whether the case before her calls for a different answer, fetters her discretion in exactly this sense.

The decision of the Federal Court of Canada in *Haghshenas v Canada* illustrates both the strength and the limit of the conventional judicial response. The Court held that the use of a processing tool by an immigration officer did not in itself breach procedural fairness, and that the reasonableness of the decision was to be assessed on its own terms, whether or not such a tool had been used.[94] That approach preserves the integrity of review by focusing on the decision and not the tool, but it also means that a court will rarely inquire whether the officer's engagement with the case was genuine. Article 23 similarly focuses on the decision, and Ghanaian law does not presently specify what human oversight must consist of in order to count.

F. Fragmented responsibility

The problem of many hands is particularly acute where systems are procured from vendors, configured by technical units and applied by front-line officials. At one level, existing Ghanaian law answers it clearly: the institution that exercises a power is responsible for its exercise, and the attribution provisions of the Electronic Transactions Act support, by analogy, the conclusion that a system's outputs are the acts of those on whose behalf it operates.[95] At another level, the law is silent on internal allocation. It does not require an institution to designate an officer responsible for each system, to document who approved its deployment, who set its parameters and who monitors its performance, or to keep records that would enable a court or the Commission on Human Rights and Administrative Justice to trace a defective outcome to its source. External responsibility is clear, but internal answerability is not, and external responsibility without internal answerability tends in practice to produce institutional defensiveness rather than correction.

G. Effective remedies

Ghanaian constitutional law is comparatively strong on remedies. Article 33(2) confers on the High Court wide power to issue directions, orders and writs for the purpose of enforcing or securing the enforcement of fundamental rights. *Nduom* establishes that a statutory dispute-resolution mechanism does not oust that jurisdiction, and *Gorni* confirms that declaratory relief for breach of article 18(2) is available against both a private operator and a public regulator in the context of identity data.[96] Article 218(d) and article 229 give the Commission on Human Rights and Administrative Justice power to pursue correction and to litigate, and Ghana's obligation under article 2(3) of the International Covenant on Civil and Political Rights to ensure an effective remedy for violations of Covenant rights reinforces the domestic guarantees.[97] The difficulty is practical rather than doctrinal. Remedies presuppose that a person knows a decision was algorithmically influenced, can obtain the information needed to challenge it and can afford to litigate. Where a system has operated at scale, individual litigation may also be an inadequate response to a systemic defect, because relief for one claimant does nothing for the many others who were similarly affected but did not sue. A framework that relies solely on individual litigation will under-enforce the law in precisely the cases where enforcement matters most.

VI. THE DOCTRINE OF CONSTITUTIONAL ANSWERABILITY

A. The idea of answerability

The analysis so far has shown that the Ghanaian legal order contains substantial resources for governing public AI, and that its weaknesses lie less in an absence of principle than in the points at which principle is applied. This Part develops a doctrine that relocates those points: the doctrine of constitutional answerability. Its organizing idea is simple. Public power in Ghana is exercised in the name of the people and within the limits of the Constitution. An institution that exercises such power must therefore be able, at all times, to answer three questions about any decision it makes: who decided, on what basis, and by what route the decision may be corrected. An institution that has arranged its affairs so that it cannot answer those questions does more than expose itself to an adverse finding in a particular case. It fails to satisfy a standing condition of the lawful exercise of its powers.

The distinction between accountability and answerability is deliberate. Accountability, as Part II explained, is a relationship between an actor and a forum, activated when the forum calls the actor to account. Answerability is the prior condition that makes accountability possible: the actor's continuing capacity to give an account when called upon. Much of the literature on algorithmic accountability concentrates on the forum, asking how courts, regulators and auditors should scrutinize systems and what affected

---

[94] *Haghshenas v Canada (Citizenship and Immigration)* 2023 FC 464 [24], [28].

[95] Act 772 (n 12) s 21.

[96] *Nduom* (n 37); *Gorni* (n 5).

[97] Constitution of the Republic of Ghana 1992, arts 218(d) and 229; ICCPR (n 22) art 2(3); UN Human Rights Committee, General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant (26 May 2004) UN Doc CCPR/C/21/Rev.1/Add.13.

persons are entitled to know.[98] The doctrine developed here concentrates on the actor, asking what the Constitution requires of a public institution before any forum has been engaged. That shift of focus is what allows the doctrine to reach the earlier points at which, as the Introduction argued, algorithmic power actually operates. It also reflects the drafting of the Constitution. Article 23 imposes a primary duty to act fairly and reasonably before it confers any right of redress, and article 296 attaches a duty of candour to every discretion from the moment it is vested. The constitutional text speaks first to the actor and only secondarily to the forum, and the doctrine follows the same order.

The doctrine consists of four propositions. Each is grounded in the text of the Constitution and in existing Ghanaian authority, and each is stated with an indication of whether it reflects settled law or is advanced as an argument for its development.

B. First proposition: discretion is non-transferable

Article 296 speaks of discretionary power 'vested in any person or authority', and article 23 imposes its duties on 'administrative bodies and administrative officials'. Both provisions presuppose that public power has an identifiable holder who is subject to the constitutional duties that attach to it. It follows that discretion conferred by law on a person or authority may not be transferred to an algorithmic system. In one sense, this is an application of the familiar principle that a delegate may not sub-delegate without authority, a principle received into Ghanaian law with the common law under article 11 and illustrated by the decision that a disciplinary power vested in a board could not lawfully be exercised by the port manager to whom the board had purported to hand it.[99] The principle has always allowed for the realities of administration: officials may act in the name of the minister who bears responsibility for them, because the minister remains answerable for what they do.[100] What the principle has never allowed is a transfer of the power itself to someone outside the chain of answerability. The constitutional grounding gives it a sharper edge still. An algorithmic system is not a person or authority in which discretion can be vested. It has no capacity to be fair or candid, to be free of resentment or prejudice, or to act in accordance with due process of law. It can only be a tool used by the person or authority in whom the discretion is vested.

The operational test that follows is whether the holder of the discretion retained, and actually exercised, the capacity to decide otherwise than the system recommended. A decision in which the official retained that capacity and exercised it after genuine consideration is the official's decision, informed by the system. A decision in which the official lacked the information, the time, the authority or the practical freedom to depart from the system's output is, in substance, the system's decision, and it is unconstitutional, because the discretion has been exercised by an entity in which it was never vested. The test is deliberately functional. It does not ask the formal question, which section 41 of Act 843 invites, whether a human signed the decision. It asks whether a human held the power that the law conferred. In this respect it converges with the common law rule against fettering, which permits a policy but requires the decision-maker to remain willing and able to depart from it, and with the reasoning in *OQ v Land Hessen*, which looked through the nominal human step to the place where the decision was in truth made.[101]

It is submitted that this proposition applies a settled principle and does not create new law. Its application to algorithmic systems has not been tested in a Ghanaian court, but its foundations in the text of articles 23 and 296 and in the rules against unauthorized delegation and the fettering of discretion are secure.

C. Second proposition: candour requires explicability

Article 296(a) deems every discretionary power to imply a duty to be fair and candid. So far as the author is aware, the word 'candid' has not received sustained judicial exposition in Ghana, and its content is therefore open to principled development. In ordinary usage, candour denotes frankness and openness: a willingness to disclose the true basis of one's conduct. A duty of candour attached to the exercise of public power is accordingly a duty to be able to disclose the true basis of a decision to those entitled to know it, including the affected person and any court reviewing the decision. English public law, which has no equivalent constitutional text, nonetheless arrived at a related position through the common law, holding that public authorities defending judicial review

---

[98] See, among many contributions, Danielle Keats Citron, 'Technological Due Process' (2008) 85 Washington University Law Review 1249; Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* (Harvard University Press 2015); Sandra Wachter, Brent Mittelstadt and Luciano Floridi, 'Why a Right to Explanation of Automated Decision-Making Does Not Exist in the General Data Protection Regulation' (2017) 7 International Data Privacy Law 76; Lilian Edwards and Michael Veale, 'Slave to the Algorithm? Why a "Right to an Explanation" Is Probably Not the Remedy You Are Looking For' (2017) 16 Duke Law and Technology Review 18; Marion Oswald, 'Algorithm-Assisted Decision-Making in the Public Sector: Framing the Issues Using Administrative Law Rules Governing Discretionary Power' (2018) 376 Philosophical Transactions of the Royal Society A 20170359; Jennifer Cobbe, 'Administrative Law and the Machines of Government: Judicial Review of Automated Public-Sector Decision-Making' (2019) 39 Legal Studies 636.

[99] Constitution of the Republic of Ghana 1992, art 11(1) and (2); *Barnard v National Dock Labour Board* [1953] 2 QB 18 (CA).

[100] *Carltona Ltd v Commissioners of Works* [1943] 2 All ER 560 (CA).

[101] *British Oxygen* (n 93); *OQ v Land Hessen* (n 55).

proceedings owe the court a duty of candour to disclose the true basis of their decisions,[102] and that fairness will often require reasons to be given so that the affected person can know whether the decision is open to challenge.[103] Article 296(a) places that duty in the Constitution and attaches it to the discretion itself, and not merely to any litigation that may later follow.

The second proposition is that this duty, read with the requirements of fairness and reasonableness in article 23 and with the recognition in *Awuni* that transparency and objectivity are components of fairness, operates as a requirement of explicability. An institution cannot disclose the true basis of a decision if it does not itself know that basis. Where a decision depends materially on the output of a system whose operation the institution cannot explain, the institution is structurally incapable of candour about that decision. The practical consequence proposed is evidential. Where a public body relies on an algorithmic output in making a decision adverse to an individual and, on challenge, cannot explain in intelligible terms how the output was generated and why the decision-maker relied on it, a court should be prepared to infer that the duty of candour and the requirements of fairness and reasonableness have not been met. The burden of explanation should rest on the institution that chose to rely on the system, not on the individual who was subjected to it. Section 14 of the Evidence Act, which allocates the burden of persuasion 'except as otherwise provided by law' and 'unless and until it is shifted', leaves room for exactly this allocation, and the presumption of regular performance of official duty in section 37 should not be permitted to fill the gap that the institution's own inability to explain has created.[104]

The proposition does not require every model to be interpretable in a technical sense, and it does not prohibit the use of complex systems. It requires the institution to be able to give an account of the decision sufficient to enable the affected person to understand it and a court to review it. Such an account might describe the factors the system weighs, the data on which it relies and its known error rates, together with the reasons why the decision-maker accepted its output in the particular case and the alternatives she considered and rejected. Where the institution can give such an account, the proposition is satisfied; where it cannot, the institution has chosen a tool incompatible with its constitutional duties. The proposition goes beyond existing authority. It is offered as a principled development of article 296(a), which the text supports and which, it is submitted, the courts should adopt, drawing where necessary on article 33(5) to recognise that the capacity to understand the basis of a decision that governs one's life is among the rights 'inherent in a democracy and intended to secure the freedom and dignity of man'.

D. Third proposition: responsibility attaches at acquisition and design

The third proposition is that the constitutional duties of a public institution attach not only when a system is used to decide a case but also when it is acquired, designed and configured. Article 23 requires administrative bodies to comply with the requirements imposed on them by law, and those requirements include the Constitution itself, which article 12(1) obliges every organ of government and its agencies to respect and uphold. A body that enters into a procurement contract which denies it the ability to explain, audit or correct the system it acquires has, by that act, disabled its own capacity to comply with articles 23 and 296 in every future case in which the system is used. The constitutional defect lies in the contract before it appears in any decision.

The proposition draws support, by analogy, from *Bridges*, which locates the English public sector equality duty at the moment a policy is formed and may require the authority to acquire information it lacks.[105] The analogy is imperfect, because the English duty is statutory and Ghana has no equivalent statute, but it shows that a legal order can coherently locate the obligation of inquiry at the point of adoption, before any individual application. The Kenyan decision quashing the roll-out of identity cards for want of a prior data protection impact assessment, and the South African decision in *AllPay* setting aside a defective technology procurement, show African courts locating legal scrutiny at the same early point.[106] In Ghana, it is submitted, the obligation follows from article 17 read with article 23. An institution that adopts a system with a known or reasonably foreseeable risk of discriminatory effect, without inquiring into that risk, does not act reasonably within the meaning of article 23, and it exposes the persons subject to the system to the very disabilities that article 17 forbids. The Supreme Court's insistence in *Abu Ramadan v Electoral Commission* that the Commission take active steps to ensure the integrity of the register of voters, without waiting for individual challenges to its contents, shows that the Court is willing to treat the quality of a public dataset as a matter of constitutional obligation where the exercise of a fundamental right depends upon it.[107]

The consequence is that procurement is a constitutionally significant act. The officials who specify, evaluate and contract for an algorithmic system exercise public power with constitutional implications, and the terms on which they acquire it are subject to

---

[102] *R v Lancashire County Council, ex p Huddleston* [1986] 2 All ER 941 (CA); *Belize Alliance of Conservation Non-Governmental Organisations v Department of the Environment* [2004] UKPC 6, [2004] Env LR 38 [86].

[103] *R v Secretary of State for the Home Department, ex p Doody* [1994] 1 AC 531 (HL) 564, per Lord Mustill.

[104] NRCD 323 (n 24) ss 14 and 37.

[105] *Bridges* (n 28) [175].

[106] *Republic v Joe Mucheru, ex parte Katiba Institute* (n 30); *AllPay* (n 68).

[107] *Abu Ramadan and Nimako v Electoral Commission and Attorney-General (No 2)* [2015-2016] 1 SCGLR 1; Constitution of the Republic of Ghana 1992, arts 42 and 45(a).

constitutional scrutiny. This is the most novel of the four propositions. It extends existing principle to a context the courts have not considered, and it is advanced as an argument for the development of the law, not as a statement of settled law.

E. Fourth proposition: no technology may narrow the remedial route

The fourth proposition is that the use of an algorithmic system may not diminish the remedies available to a person affected by a decision. Article 33 confers the right to apply to the High Court for redress without prejudice to any other action that is lawfully available, article 23 itself guarantees the right to seek redress before a court or other tribunal, and in *Nduom* the Supreme Court held that a statutory provision for arbitration did not oust the constitutional jurisdiction.[108] It follows that neither a statute, nor a contract, nor the design of a system may confine complaints about algorithmic decisions to mechanisms that exclude the constitutional route. A vendor's complaints process, an internal review that cannot obtain the information needed to reverse the decision, or a statutory reconsideration procedure framed as an exclusive remedy would each be incompatible with article 33 to the extent that it purported to displace judicial redress for the contravention of a fundamental right. The United Kingdom Supreme Court's decision in *R (UNISON) v Lord Chancellor*, which quashed the order imposing employment tribunal fees because its practical effect was to prevent access to justice, illustrates the principle that a barrier need not be formally exclusive to be unlawful; it is enough that it makes the remedy unattainable in practice.[109]

The proposition also has a practical dimension. A remedy is effective only if it can be exercised. A system that leaves no record from which the basis of a decision can be reconstructed, or that is designed so that its outputs cannot be corrected once generated, narrows the remedial route as surely as an ouster clause. The Court of Justice's recognition in *Ligue des droits humains* that the opacity of a system can itself deprive persons of an effective remedy is the comparative counterpart of this point.[110] The fourth proposition therefore imposes a design requirement: public AI systems must be built and operated so that their decisions can be traced, reviewed and reversed, and the records they generate must be preserved as public records under Act 535. The proposition largely applies settled principle, although its design dimension is a development.

F. The limits of the doctrine

Three limits prevent the doctrine from being overextended. First, it applies to the exercise of public power affecting identifiable persons. It does not govern the use of AI for internal administrative tasks with no direct effect on individuals, such as drafting correspondence or summarizing documents, although such uses may raise other concerns. Secondly, it is graduated. The intensity of the obligations it imposes should vary with the significance of the decision, the vulnerability of the persons affected and the degree of reliance placed on the system: a system that suggests a filing category for a routine document does not engage the doctrine in the same way as one that determines eligibility for a social benefit. Proportionality of this kind is familiar from the limitation clauses of Chapter 5 itself, including the words 'as may be necessary in a free and democratic society' in article 18(2). Thirdly, the doctrine does not prohibit the use of AI. It prohibits the use of AI in a manner that disables the conditions of lawful decision-making. An institution that adopts AI consistently with the four propositions acts lawfully, and may well act more fairly and consistently than one that relies on unaided human judgment.

VII. THE GHANA PUBLIC AI ANSWERABILITY FRAMEWORK

The doctrine supplies the principles; this Part translates them into an institutional framework of eight elements. For each element, the existing legal foundation is distinguished from the reform needed to make it fully operative. The framework is designed to be implemented in stages, through administrative guidance in the first instance and through legislation in due course, and to be proportionate, with requirements that intensify according to the impact of the system concerned.

A. Lawful authorization and inventory

Every public AI system that affects identifiable persons should have a clear legal basis and should be recorded in a public register maintained by a designated authority. The register should identify the institution using the system, its purpose, the decisions it informs, the officer responsible for it, any vendor and the date of its most recent assessment. The existing foundation lies in article 1(1), which requires power to be exercised in the manner laid down by the Constitution; in article 18(2), which requires interferences with privacy to be in accordance with law; and in the proactive disclosure duties of the Right to Information Act. The reform needed is the designation of an authority to maintain the register and a requirement that institutions contribute to it. Two comparative models are available: the United Kingdom's Algorithmic Transparency Recording Standard, whose use has been mandatory across central

[108] *Nduom* (n 37).
[109] *R (UNISON) v Lord Chancellor* [2017] UKSC 51, [2020] AC 869.
[110] *Ligue des droits humains* (n 80).

government since a phased roll-out that began in 2024,[111] and the published algorithmic impact assessments required by the Canadian Directive. A register is inexpensive to maintain and indispensable in practice, because no other accountability mechanism can function if no one knows which systems exist.

B. Tiered algorithmic impact assessment

Before deploying a system that informs decisions affecting identifiable persons, an institution should assess the system's legal basis, purpose and data, its known limitations, its risks of error and of disparate impact, the safeguards that will accompany it and the means by which affected persons may challenge its outputs. The assessment should assign the system to an impact tier, and the required safeguards should increase with the tier. The Canadian Directive supplies the most developed model: its algorithmic impact assessment assigns one of four impact levels, and Appendix C attaches to each level requirements that include peer review, notice, human involvement, explanation and training.[112] The European Union's Artificial Intelligence Act requires deployers that are bodies governed by public law to carry out a fundamental rights impact assessment before using certain high-risk systems, although the application of the main obligations for stand-alone high-risk systems has been deferred to 2 December 2027 by the Digital Omnibus on AI, which entered into force on 27 July 2026.[113] Kenya's Data Protection Act, 2019, whose impact assessment requirement was enforced in the identity card litigation, offers an African statutory precedent.[114] The existing Ghanaian foundation lies in the third proposition of the doctrine, grounded in articles 17 and 23, and in the principles of purpose specification and quality of information in Act 843. The reform needed is a statutory or regulatory requirement specifying the content of the assessment and the tiers.

C. Meaningful human review

Where a system informs a decision of medium or high impact, the decision should be taken by an identified official who has the authority, competence, information and time to depart from the system's output, and a departure should be neither penalized nor more burdensome to justify than compliance. The institution should record, for each decision, whether the official followed or departed from the system's recommendation, and it should monitor departure rates as an indicator of whether review is genuine. A departure rate close to zero across a large volume of decisions does not prove that review is perfunctory, but it is a signal that warrants inquiry. The existing foundation lies in the first proposition of the doctrine, grounded in articles 23 and 296 and in the common law rules against unauthorized delegation and the fettering of discretion. The reform needed is the specification of these criteria in guidance or regulation. By making the genuineness of review measurable, the criteria respond directly to the critique that human oversight is often illusory.

D. Notice, reasons and transparency

A person affected by a decision of medium or high impact that was materially informed by an algorithmic system should be told that a system was used, given an intelligible account of the main factors that bore on the decision, and told how to challenge it. The existing foundation lies in article 23 as interpreted in *Awuni*, in the duty of candour under article 296(a), in section 41(2) of Act 843 so far as it applies, and in the second proposition of the doctrine. The reform needed is the extension of the notification duty to materially automated decisions, including those made for purposes authorised by an enactment, and a statement of what an intelligible account must contain. Article 86 of the European Union's Artificial Intelligence Act, which gives affected persons a right to obtain clear and meaningful explanations of the role of a high-risk system in decisions that significantly affect them, and section 5 of South Africa's Promotion of Administrative Justice Act, which entitles a person whose rights have been materially and adversely affected by administrative action to request adequate reasons, offer comparative reference points.[115]

E. Auditability and traceable decision records

Every system of medium or high impact should keep logs sufficient to reconstruct, for any individual decision, the inputs the system received, the version of the model in use, the output it generated and the action the official took. Records should be retained long enough to permit challenge and should be producible to the affected person, to oversight bodies and to the courts. Institutions should also commission periodic audits of system performance, internal or independent according to tier, including analysis of error rates across relevant population groups. The existing foundation lies in the fourth proposition of the doctrine, in the Public Records and

---

[111] Government Digital Service, 'Making the Algorithmic Transparency Recording Standard (ATRS) Mandatory across Government' (*Data in Government blog*, 8 May 2025) https://dataingovernment.blog.gov.uk/2025/05/08/making-the-algorithmic-transparency-recording-standard-atrs-mandatory-across-government/.

[112] Treasury Board of Canada Secretariat (n 84) s 6.1 and Appendix C.

[113] Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L 2024/1689, art 27; Regulation (EU) 2026/1744 of 8 July 2026 amending Regulation (EU) 2024/1689 [2026] OJ L 2026/1744.

[114] Data Protection Act 2019 (Kenya), s 31; *Republic v Joe Mucheru, ex parte Katiba Institute* (n 30).

[115] Artificial Intelligence Act (n 114) art 86; Promotion of Administrative Justice Act 3 of 2000 (South Africa), s 5.

Archives Administration Act, in the evidential provisions of the Electronic Transactions Act, in the audit mandate of article 187 and in the security, standards made under the Cybersecurity Act, which protect the integrity of the records. The reform needed is a specific record-keeping obligation for algorithmic decisions and a tiered audit requirement.

F. Procurement safeguards

The Public Procurement Authority should issue guidelines, and Parliament should in due course enact provisions, requiring contracts for algorithmic systems used in decisions affecting identifiable persons to include, at a minimum: rights for the procuring entity to access documentation sufficient to explain the system's operation; rights to audit the system or to have it audited independently; access to information about the data on which the system was trained and tested, including evidence of testing for disparate impact; obligations on the vendor to cooperate with oversight bodies and courts; provisions ensuring that the procuring entity retains ownership of, or access to, its own data and decision records; and exit provisions that prevent the entity from being locked into a system it cannot replace. Where the transaction is an international business transaction within article 181(5), the parliamentary approval process should be used to examine these terms. The existing foundation lies in the third proposition of the doctrine, in article 181(5) and in the capacity of procurement law, confirmed by the 2016 amendment, to serve public values. The reforms needed are the guidelines and, subsequently, legislation. The purpose of these safeguards is to ensure that the State does not buy what it cannot lawfully use.

G. Coordinated oversight

Ghana does not need a single new regulator with exclusive jurisdiction over AI, which would duplicate existing mandates and absorb scarce resources. It needs a coordinating function. The Responsible AI Office associated with the National AI Strategy, or the Emerging Technologies Agency proposed in the pending Bill, could perform that function by maintaining the register, setting assessment standards and convening the existing regulators. The Data Protection Commission would remain responsible for data protection, the Commission on Human Rights and Administrative Justice for complaints of administrative injustice and human rights violations, the Cyber Security Authority for security, the Right to Information Commission for access to information, the Public Procurement Authority for procurement and the Auditor-General for the scrutiny of expenditure. A memorandum of understanding among these bodies, providing for the referral of complaints and the sharing of findings, would allow a complaint that arises in one jurisdiction to inform the work of all. The existing foundation lies in the constitutional and statutory mandates of these bodies, and in particular in the independence that article 225 secures for the Commission on Human Rights and Administrative Justice. The reform needed is the designation of the coordinating function and the conclusion of the inter-institutional arrangements.

H. Enforceable remedies

The remedial architecture should operate at three levels. At the individual level, affected persons should have access to prompt internal reconsideration by an official with authority to reverse the decision, without prejudice to their right to apply to the High Court under article 33 or to complain to the Commission on Human Rights and Administrative Justice or the Data Protection Commission. At the systemic level, oversight bodies should have power to require an institution to suspend a system pending investigation where there is credible evidence of systemic error or discrimination, and to require the remediation of past decisions affected by a defect. At the judicial level, the courts should be prepared, in appropriate cases, to grant structural relief directed at the system as well as individual relief directed at the decision, drawing on the breadth of the directions, orders and writs that article 33(2) permits. The South African Constitutional Court's supervision of the social grants payment system in *Black Sash Trust v Minister of Social Development*, in which it retained jurisdiction and required periodic reports to ensure that grants continued to be paid lawfully, shows how such relief can protect the beneficiaries of a public system while its defects are cured.[116] The existing foundation lies in article 33, in articles 218(d) and 229, in *Nduom* and in the fourth proposition of the doctrine. The reform needed is a systemic power of suspension and remediation, which no existing body clearly possesses in respect of algorithmic systems generally.

I. Summary of the framework

The following table summarizes the eight elements, distinguishing in each case the existing legal foundation from the proposed reform.

Element	Existing legal foundation	Proposed reform
Lawful authorization and inventory	Arts 1(1), 18(2); Act 989 proactive disclosure	Designated authority; mandatory public register
Tiered impact assessment	Arts 17, 23; Act 843 s 17; third proposition	Statutory or regulatory assessment with impact tiers

[116] *Black Sash Trust v Minister of Social Development* [2017] ZACC 8, 2017 (3) SA 335 (CC).

Element	Existing legal foundation	Proposed reform
Meaningful human review	Arts 23, 296; delegation and fettering rules; first proposition	Criteria for genuine review; monitoring of departure rates
Notice, reasons and transparency	Arts 23, 296(a); *Awuni*; Act 843 s 41(2)	Notice extended to materially automated decisions
Auditability and decision records	Art 187; Acts 535, 772 and 1038; fourth proposition	Record-keeping obligation; tiered audit requirement
Procurement safeguards	Act 663 as amended; art 181(5); third proposition	PPA guidelines; standard contract clauses; later legislation
Coordinated oversight	Arts 21(1)(f), 218, 225; Acts 843, 989, 1038, 663	Coordinating authority; inter-regulator arrangements
Enforceable remedies	Arts 33, 218(d), 229; *Nduom*; fourth proposition	Systemic suspension and remediation powers

VIII. INSTITUTIONAL READINESS AND IMPLEMENTATION

A framework that ignored Ghana's institutional realities would be an exercise in legal transplantation rather than constitutional design. Four realities must be confronted. The first is capacity. Algorithmic impact assessment, audit and meaningful oversight require technical expertise that is scarce within the public service and the regulators and is in high demand in the private sector. The framework accommodates this constraint by being tiered, so that the most intensive requirements are reserved for high-impact systems, and by relying on coordination among existing bodies instead of creating a new one. A small cadre of public sector specialists, shared across institutions through the coordinating function, would be more effective than requiring every ministry to build its own capacity, and it would also make it easier for the Auditor-General and the courts to obtain informed assistance when they need it.

The second reality is data quality. Many algorithmic harms originate in the data on which a model is trained or to which it is applied, and records that are incomplete, inconsistent or unrepresentative will produce outputs with the same defects at a far greater scale. An impact assessment that did not examine the provenance and quality of data would miss the most common source of error, and the quality principle in Act 843, together with the Supreme Court's treatment of the integrity of the voters' register in *Abu Ramadan*, supplies the legal anchor for insisting on that examination. The third reality is the pace of adoption. The directive to integrate AI across ministries, departments and agencies by 2026 creates pressure to deploy before governance arrangements are in place. That pressure is understandable, but the doctrine of answerability implies that adoption without answerability accumulates legal risk, which will eventually have to be met in the courts. A pragmatic interim measure would be to require that any system deployed before the full framework is in place be registered, subjected to a simplified assessment and equipped with a route to human review and complaint.

The fourth reality is enforcement. The Data Protection Commission's announcement of more rigorous enforcement against both public and private institutions is a welcome signal, but enforcement against public bodies raises particular difficulties where the regulator depends on the government for its resources. The independence of the oversight bodies, and the willingness of the courts to entertain challenges to algorithmic decisions, will ultimately determine whether the framework is effective. Officials who identify defects should be able to report them under the protection of the Whistleblower Act without fear of reprisal, since internal disclosure is often the quickest route by which a malfunctioning system comes to light. The readiness of the courts themselves is also relevant: judges and lawyers will need sufficient familiarity with the technology to ask the right questions, and judicial training and the professional bodies have a part to play in building it.

Sequencing is therefore critical, and the article proposes three phases. In the first, which requires no legislation, the coordinating function should be designated administratively, the register established, interim guidance on impact assessment and human review issued, and guidelines on algorithmic procurement published by the Public Procurement Authority. In the second, the Data Protection Bill and the Emerging Technologies Bill should be used to place the core obligations on a statutory footing. In the third, the experience of the first two phases should inform a review of whether further legislation, including a general statute on administrative justice, is required.

IX. COUNTERARGUMENTS

A. The innovation objection

The first objection is that the framework would chill innovation by imposing costs and delays on public institutions at the very moment the government seeks to accelerate adoption. The objection has force, and the framework responds to it by being tiered and by imposing only light obligations on low-impact systems. It nonetheless mistakes the relationship between governance and adoption. Public trust is a precondition of sustained adoption, and a single high-profile failure of an ungoverned system, of the kind

experienced in the Netherlands, the United Kingdom and Australia, could set back public sector AI by years. Governance, on this view, is an investment in the durability of innovation rather than an obstacle to it, and the National AI Strategy's own commitment to fairness, transparency and accountability suggests that the government shares that view.

B. The sufficiency objection

The second objection is that existing law is sufficient and that the courts can adapt articles 23 and 296 to new technologies as cases arise. The objection is partly correct, and this article has argued that existing law contains more resources than are often recognized. Adjudication is, however, an inadequate primary mechanism for governing systems that operate at scale. Courts decide cases after harm has occurred, on the facts the parties present, and they cannot supervise the design or procurement of systems. Litigation is also slow and expensive, and many of those most likely to be affected by public AI, such as recipients of social benefits, are the least able to litigate. The doctrine of answerability is offered to the courts as a guide to adjudication, but the framework is necessary because adjudication alone will under-enforce the law.

C. The illusory oversight objection

The third objection is that human oversight is frequently illusory, so that requiring it merely lends a veneer of legitimacy to automated decision-making. This critique, noted in Part V, is the most serious challenge to frameworks that rely on human review. The framework meets it in three ways: by specifying the conditions of meaningful review, by making the genuineness of review measurable through the monitoring of departure rates, and by combining human review with impact assessment, audit and systemic remedies rather than relying on it alone. Where a system's outputs are such that no human can meaningfully review them, the first proposition implies that the system should not be used to inform decisions in which discretion is vested in a human.

D. The overconstitutionalisation objection

The fourth objection is that the doctrine reads too much into the Constitution, and that the courts, as *Ransford France* and *Afoko* illustrate, are wary of converting constitutional benchmarks into grounds of invalidity. The objection is a fair reminder of the limits of interpretation, and the article has accordingly been explicit about which propositions reflect settled principle and which are arguments for development. The first and fourth propositions rest on secure textual and judicial foundations. The second and third are developments, offered in the expectation that the courts will consider them in appropriate cases; the framework does not depend on their judicial adoption, because it can be implemented through legislation and administrative guidance. The article does not ask the courts to invalidate algorithmic decisions for want of regulations under article 296(c). It asks Parliament and the executive to provide what article 296(c) envisages.

E. The commercial confidentiality objection

The fifth objection is that vendors will not supply systems on terms that require disclosure, audit and cooperation with oversight bodies. That is an empirical claim, and the experience of other jurisdictions suggests that vendors adapt to the requirements of large public purchasers. Where they do not, the third proposition supplies the answer: an institution should not acquire a system on terms that prevent it from complying with the Constitution. The Court of Justice's approach in *Dun & Bradstreet Austria*, under which a claim of trade secrecy is to be weighed by a court or supervisory authority with access to the protected information rather than accepted as a complete answer to the data subject's right to an explanation, shows that confidentiality and accountability can be reconciled through procedure.[117] The State's purchasing power is substantial, and a coordinated approach across government, using standard contract clauses, would considerably strengthen its negotiating position.

F. The human fallibility objection

The final objection is that human officials are themselves biased, inconsistent and sometimes corrupt, and that a framework which subjects algorithmic decisions to more scrutiny than human ones perversely favours the less reliable decision-maker. The premise is accepted. The article does not assume that AI is worse than human judgment, and it acknowledges that well-designed systems may reduce arbitrariness. The framework, however, does not subject algorithmic decisions to a higher standard than human decisions. It applies the same standard, that of articles 23 and 296, and it addresses those features of algorithmic systems, namely their opacity, their scale and their capacity to induce deference, that can prevent the standard from being applied at all. Ensuring that algorithmic decisions are explicable, reviewable and correctable is the condition on which AI's potential to improve public administration can be realized without sacrificing the rule of law.

[117] *Dun & Bradstreet Austria* (n 56).

X. LEGISLATIVE OPTIONS

Four legislative options are available, and they are not mutually exclusive. The first is administrative action without legislation: the designation of a coordinating function, the issue of guidance and the establishment of a register by executive decision. This option is quick and flexible, but it creates no enforceable rights and may be reversed at will. It is appropriate as the first phase of implementation but inadequate as a permanent settlement.

The second option is to reform the data protection regime through the Data Protection Bill. The reform should extend the protections of section 41 to decisions based materially, rather than solely, on automated processing; narrow the exclusion for decisions made for purposes authorised or required by an enactment, so that public bodies remain subject to the safeguards when they act under statutory powers; require data protection impact assessments for high-risk processing; and confer a right to meaningful information about the logic involved in automated decisions. This option builds on an existing statute and an existing regulator, and it would address several of the gaps identified in Part IV. Its limitation is that data protection law is concerned with personal data and cannot address algorithmic harms that do not involve the processing of personal data or that are systemic rather than individual.

The third option is to include in the Emerging Technologies Bill a dedicated Part on the use of AI by public institutions, establishing the register, the impact assessment requirement, the criteria for human review, the procurement safeguards and the coordinating function. This option would provide a comprehensive framework, but it carries the risk that public sector obligations would be subordinated to the Bill's primary purpose of promoting emerging technologies. If it is pursued, the public sector provisions should be drafted with the doctrine of answerability in view and made expressly subject to the Constitution.

The fourth and most ambitious option is the enactment of a general statute on administrative justice that gives effect to article 23 by specifying the requirements of fair administrative action for all decisions, algorithmic or not, in the way that the Promotion of Administrative Justice Act gives effect to section 33 of the South African Constitution through its provisions on procedurally fair administrative action, reasons and judicial review.[118] Ghana has no general statute of this kind. Such a statute would be valuable well beyond the context of artificial intelligence. South African experience also shows how such a statutory regime operates alongside a constitutional principle of legality, under which every exercise of public power must be rationally related to the purpose for which the power was given.[119] The disadvantage of this option is the time and political effort that its enactment would require.

The article recommends a combination of the first three options, sequenced as described in Part VIII, with the fourth pursued as a longer-term project. It also recommends that the legislative response make express use of article 296(c), which envisages the publication, by constitutional or statutory instrument, of regulations to govern the exercise of discretionary power. Although the Supreme Court in *Ransford France* limited the obligation to quasi-judicial discretion and declined to treat non-compliance as invalidating, it recognized the standard embodied in article 296(c) as a desirable benchmark for good practice.[120] Algorithmic systems are, in a real sense, rules that structure discretion: they determine which cases are prioritized, which risks are flagged and which outcomes are recommended. Regulations made by statutory instrument to govern the use of algorithmic systems in the exercise of significant discretionary powers would therefore honour the design of article 296(c) more fully than any other available measure, and because such regulations would be subject to the laying, publication and annulment procedure in article 11(7), they would bring the rules embedded in public algorithms within the reach of parliamentary scrutiny for the first time. The Emerging Technologies Bill or the Data Protection Bill could empower the responsible Minister, or the coordinating authority, to make such regulations and could require their publication before high-impact systems are deployed.

XI. CONCLUSION

This article asked whether Ghana's constitutional and administrative law can preserve legality, human judgment, institutional responsibility and effective remedies as artificial intelligence increasingly shapes public decision-making. It answers that the Constitution already contains the essential principles. Article 1 makes the manner in which power is exercised a constitutional question. Article 23 makes fair, reasonable and lawful administration a fundamental right. Article 296 sets out in the constitutional text itself the conditions of lawful discretion, requiring fairness and candour and forbidding arbitrariness. Article 17 forbids discrimination, and article 18 protects privacy, which the Supreme Court has held to be engaged by the unauthorized use of a person's national identity data. Article 125 vests judicial power in courts that must be able to review what the administration does, and article 33 guarantees access to them. The statutes examined, though designed for other purposes or for an earlier stage of

[118] Promotion of Administrative Justice Act 3 of 2000 (South Africa), ss 3, 5 and 6; Constitution of the Republic of South Africa 1996, s 33.

[119] *Pharmaceutical Manufacturers Association of South Africa: In re Ex parte President of the Republic of South Africa* [2000] ZACC 1, 2000 (2) SA 674 (CC) [85], [90].

[120] *Ransford France* (n 42).

technological development, provide meaningful but partial protection. The most significant single provision, section 41 of Act 843, is weakest precisely where public power is concerned, because it excludes decisions made for purposes authorised by an enactment. The gap is therefore one of application rather than of principle. By holding that discretion is non-transferable, that candour requires explicability, that responsibility attaches at acquisition and design, and that no technology may narrow the remedial route, the doctrine of constitutional answerability carries the constitutional duties of public institutions to the places where algorithmic power is actually exercised. The eight-part framework derived from the doctrine translates those duties into administrable obligations, proportionate to the impact of the systems concerned and capable of being implemented in stages through existing institutions.

The larger claim of the article concerns the relationship between technology and constitutionalism. It is often said that law must keep pace with technology, as though law were the pursuer and technology the quarry. The Ghanaian Constitution suggests a different relationship. Its framers did not know of machine learning, but they knew a great deal about the dangers of unaccountable power, having lived through its consequences, and they wrote into the Constitution conditions that power must satisfy whatever form it takes. The task is not to make the Constitution catch up with the machine but to insist that the machine be made answerable to the Constitution, much as the voice of the *okyeame* has always remained answerable to the stool for which he speaks. Where that insistence is maintained, artificial intelligence can strengthen the rule of law by making public administration more consistent, more efficient and, if properly governed, more transparent than before. Where it is abandoned, the same technology can hollow out the rule of law while leaving its forms intact. The choice between those futures will be made not in laboratories but in procurement offices, ministries, regulators and courts, and the 1992 Constitution has already equipped Ghana to make it well. Democratic accountability and public trust in the age of intelligent systems will depend on whether the people of Ghana, in whose name and for whose welfare the powers of government are exercised, can continue to ask of every decision made about them who decided, on what basis, and how it may be put right, and receive an answer.

REFERENCES

1) Ministry of Communication, Digital Technology and Innovations, 'Ghana Launches National AI Strategy to Drive Digital Transformation and Economic Growth' (24 April 2026) https://moc.gov.gh/2026/04/24/ghana-launches-national-ai-strategy-to-drive-digital-transformation-and-economic-growth/.
2) Ministry of Communication, Digital Technology and Innovations, address of the Minister to the African Education Trust Fund Conference, Accra (November 2025) https://moc.gov.gh/?p=8393.
3) Constitution of the Republic of Ghana 1992, art 12(1).
4) ibid arts 23, 33 and 296; Gorni v Vodafone Ghana Ltd (2026) JELR 114865 (SC), Civil Appeal No J4/40/2025, 25 February 2026.
5) Kwesi Yankah, Speaking for the Chief: Okyeame and the Politics of Akan Royal Oratory (Indiana University Press 1995). On the communitarian conception of responsibility within which such offices operate, see Kwame Gyekye, Tradition and Modernity: Philosophical Reflections on the African Experience (Oxford University Press 1997); Kwasi Wiredu, Cultural Universals and Particulars: An African Perspective (Indiana University Press 1996).
6) Constitution of the Republic of Ghana 1992, arts 129(3) and 136(5).
7) ibid art 40(c); Interpretation Act 2009 (Act 792), s 10(4).
8) Mark Bovens, 'Analysing and Assessing Accountability: A Conceptual Framework' (2007) 13 European Law Journal 447.
9) Dennis F Thompson, 'Moral Responsibility of Public Officials: The Problem of Many Hands' (1980) 74 American Political Science Review 905.
10) Lon L Fuller, The Morality of Law (rev edn, Yale University Press 1969) 38 to 39 and 81 to 91.
11) Electronic Transactions Act 2008 (Act 772), s 1.
12) Constitution of the Republic of Ghana 1992, art 35(8).
13) Revenue Administration Act 2016 (Act 915); West African Examinations Council Act 2006 (Act 719); Public Procurement Act 2003 (Act 663); Data Protection Act 2012 (Act 843).
14) Awuni v West African Examinations Council [2003-2004] 1 SCGLR 471.
15) Constitution of the Republic of Ghana 1992, art 1(1) and (2).
16) ibid art 35(1).
17) ibid arts 2(1), 2(2) and 130(1).
18) Tuffuor v Attorney-General [1980] GLR 637; New Patriotic Party v Attorney-General [1993-94] 2 GLR 35.
19) Constitution of the Republic of Ghana 1992, arts 33 and 141; High Court (Civil Procedure) Rules 2004 (CI 47), Orders 55 and 67.
20) Constitution of the Republic of Ghana 1992, art 17(1) to (4). The descriptions listed in art 17(3) do not coincide exactly with the grounds listed in art 17(2).

21) ibid art 15(1); International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 26; African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58, arts 2 and 3.
22) Act 792 (n 8) s 10(4).
23) Evidence Act 1975 (NRCD 323), s 14.
24) Constitution of the Republic of Ghana 1992, art 18(2).
25) Gorni (n 5). The majority comprised Amadu, Mensa-Bonsu, Kulendi and Darko Asare JJSC; Dzamefe JSC dissented.
26) National Identification Authority Act 2006 (Act 707); National Identity Register Act 2008 (Act 750); Electronic Communications Act 2008 (Act 775); National Communications Authority Act 2008 (Act 769).
27) R (Bridges) v Chief Constable of South Wales Police [2020] EWCA Civ 1058, [2020] 1 WLR 5037 [91], [124], [130].
28) Nederlands Juristen Comité voor de Mensenrechten v State of the Netherlands (SyRI) ECLI:NL:RBDHA:2020:1878 (Hague District Court, 5 February 2020) para 6.91.
29) Nubian Rights Forum v Attorney-General (Consolidated Petitions Nos 56, 58 and 59 of 2019) [2020] eKLR (High Court of Kenya); Republic v Joe Mucheru, Cabinet Secretary, Ministry of Information Communication and Technology; ex parte Katiba Institute [2021] eKLR (High Court of Kenya).
30) Constitution of the Republic of Ghana 1992, art 33(5).
31) ibid art 23.
32) Awuni (n 15).
33) ibid, per Akuffo JSC, as quoted and applied in Republic v High Court (Commercial Division), Ex parte Kevin Ekow Taylor (Supreme Court, Civil Motion No J5/80/2025, 22 July 2025) [32], per Amadu JSC.
34) Constitution of the Republic of Ghana 1992, art 19(13).
35) Asare v Attorney-General [2017] GHASC 25, Writ No J1/1/2016, 22 June 2017, per Gbadegbe JSC.
36) Nduom v Bank of Ghana (2023) JELR 111222 (SC), Civil Appeal No J4/07/2023, 19 July 2023, per Pwamang JSC.
37) Attorney-General and General Legal Council v Ganaku [2023] GHACA 37, Suit No H1/114/2022, 16 February 2023, per Adjei-Frimpong JA.
38) Constitution of the Republic of Ghana 1992, art 296(a) to (c).
39) Padfield v Minister of Agriculture, Fisheries and Food [1968] AC 997 (HL).
40) Constitution of the Republic of Ghana 1992, art 11(7).
41) Ransford France v Electoral Commission and Attorney-General, Writ No J1/19/2012, Supreme Court, 19 October 2012, per Date-Bah JSC.
42) Afoko v Attorney-General, Writ No J1/8/2019, Supreme Court, 19 June 2019, per Marful-Sau JSC. Pwamang JSC concurred in the result on different grounds, taking the view that the power was subject to art 296(c).
43) Constitution of the Republic of Ghana 1992, art 125(1) and (3).
44) State v Loomis 881 NW 2d 749 (Wis 2016).
45) Constitution of the Republic of Ghana 1992, art 21(1)(f); Right to Information Act 2019 (Act 989), long title.
46) Constitution of the Republic of Ghana 1992, art 33(1) and (2).
47) ibid arts 218(a) and (d), 225 and 229; Commission on Human Rights and Administrative Justice Act 1993 (Act 456).
48) Constitution of the Republic of Ghana 1992, art 187(2); Audit Service Act 2000 (Act 584).
49) Constitution of the Republic of Ghana 1992, arts 34(1) and 37(1); Ghana Lotto Operators Association v National Lottery Authority [2007-2008] SCGLR 1088.
50) Data Protection Act 2012 (Act 843), ss 1, 17 and 45.
51) ibid s 37.
52) ibid s 41(1) to (6). The structure of the section follows that of the Data Protection Act 1998 (UK), s 12.
53) Act 792 (n 8) s 10(4).
54) Case C-634/21 OQ v Land Hessen (SCHUFA Holding) EU:C:2023:957.
55) Regulation (EU) 2016/679 (General Data Protection Regulation) [2016] OJ L119/1, art 15(1)(h); Case C-203/22 CK v Dun & Bradstreet Austria GmbH (CJEU, 27 February 2025).
56) Digital Policy Alert, 'Ministry of Communication, Digital Technology and Innovations Closes Consultation on Data Protection Act, 2025' (31 October 2025) https://digitalpolicyalert.org/event/34534-ministry-of-communication-digital-technology-and-innovations-closes-consultation-on-data-protection-act-2025-including-data-protection-regulation; Ghana News Agency, 'DPC Strengthens Enforcement after Registering 2,575 Data Controllers' (13 October 2026) https://gna.org.gh/2026/10/dpc-strengthens-enforcement-after-registering-2575-data-controllers/.
57) Right to Information Act 2019 (Act 989), ss 1 to 3.

58) ibid ss 5 and 6 and the exemptions that follow.
59) Act 772 (n 12) s 1(1)(a) to (c).
60) ibid ss 7, 17, 21 and 25 to 27.
61) NRCD 323 (n 24) s 37.
62) Cybersecurity Act 2020 (Act 1038), ss 2 to 4.
63) ibid s 4(h).
64) Public Procurement Act 2003 (Act 663), as amended by the Public Procurement (Amendment) Act 2016 (Act 914). Section 1 of Act 914 amended s 2 of Act 663 by inserting 'environmentally and socially sustainable' after 'non-discriminatory'.
65) Bridges (n 28) [52], [171].
66) ibid [175].
67) AllPay Consolidated Investment Holdings (Pty) Ltd v Chief Executive Officer, South African Social Security Agency [2013] ZACC 42, 2014 (1) SA 604 (CC); AllPay Consolidated Investment Holdings (Pty) Ltd v Chief Executive Officer, South African Social Security Agency (No 2) [2014] ZACC 12, 2014 (4) SA 179 (CC); Constitution of the Republic of South Africa 1996, s 217(1).
68) Constitution of the Republic of Ghana 1992, art 181(5).
69) Attorney-General v Faroe Atlantic Co Ltd [2005-2006] SCGLR 271; Republic v High Court (Commercial Division), Accra, Ex parte Attorney-General (Balkan Energy Ghana Ltd, Interested Party) [2011] 2 SCGLR 1183.
70) Public Records and Archives Administration Act 1997 (Act 535).
71) Audit Service Act 2000 (Act 584); Whistleblower Act 2006 (Act 720).
72) Constitution of the Republic of Ghana 1992, art 218; Act 456 (n 48).
73) 'Ghana's National AI Strategy Secures Cabinet Approval: Sam George' Citi Newsroom (26 February 2026); Ministry of Communication, Digital Technology and Innovations (n 2).
74) 'Ghana's National AI Strategy Secures Cabinet Approval' (n 74); 'Ghana to Launch National AI Strategy on April 24 as Mahama Sets Continental Vision' News Ghana (2026) https://www.newsghana.com.gh/ghana-to-launch-national-ai-strategy-on-april-24-as-mahama-sets-continental-vision/.
75) Digital Policy Alert, 'Emerging Technologies Bill, 2025' https://digitalpolicyalert.org/change/16653-emerging-technologies-bill-2025; 'Gov't to Lay Emerging Technologies Bill before Parliament in 2026' Citi Newsroom (November 2025) https://citinewsroom.com/2025/11/govt-to-lay-emerging-technologies-bill-before-parliament-in-2026/.
76) African Union, Continental Artificial Intelligence Strategy (July 2024); African Commission on Human and Peoples' Rights, Resolution on the Need to Undertake a Study on Human and Peoples' Rights and Artificial Intelligence (AI), Robotics and Other New and Emerging Technologies in Africa, ACHPR/Res 473 (EXT.OS/XXXI) 2021; Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (opened for signature 5 September 2024) CETS No 225.
77) Awuni (n 15).
78) SyRI (n 29) para 6.91.
79) Case C-817/19 Ligue des droits humains ASBL v Conseil des ministres EU:C:2022:491.
80) Houston Federation of Teachers, Local 2415 v Houston Independent School District 251 F Supp 3d 1168 (SD Tex 2017).
81) Canada (Minister of Citizenship and Immigration) v Vavilov 2019 SCC 65, [2019] 4 SCR 653 [99].
82) Pintarich v Deputy Commissioner of Taxation [2018] FCAFC 79, (2018) 262 FCR 41.
83) Treasury Board of Canada Secretariat, Directive on Automated Decision-Making (modified 24 June 2025) ss 6.1.1 to 6.1.3, 6.3.7 and 6.3.13 and Appendix C.
84) Data (Use and Access) Act 2025, s 80, substituting arts 22A to 22D of the UK GDPR, brought into force on 5 February 2026 by the Data (Use and Access) Act 2025 (Commencement No 6 and Transitional and Saving Provisions) Regulations 2026, SI 2026/82.
85) Protection of Personal Information Act 4 of 2013 (South Africa), s 71(1) and (2).
86) Bridges (n 28) [175] to [176].
87) Amnesty International, Xenophobic Machines: Discrimination through Unregulated Use of Algorithms in the Dutch Childcare Benefits Scandal (October 2021).
88) Bates v Post Office Ltd (No 6: Horizon Issues) [2019] EWHC 3408 (QB); Hamilton v Post Office Ltd [2021] EWCA Crim 577.
89) Amato v Commonwealth of Australia (Federal Court of Australia, VID611/2019, orders of 27 November 2019); Prygodicz v Commonwealth of Australia (No 2) [2021] FCA 634; Royal Commission into the Robodebt Scheme, Report (Commonwealth of Australia, July 2023).

90) Ben Green, 'The Flaws of Policies Requiring Human Oversight of Government Algorithms' (2022) 45 Computer Law and Security Review 105681.
91) Madeleine Clare Elish, 'Moral Crumple Zones: Cautionary Tales in Human-Robot Interaction' (2019) 5 Engaging Science, Technology, and Society 40.
92) British Oxygen Co Ltd v Minister of Technology [1971] AC 610 (HL) 625, per Lord Reid.
93) H Lavender & Son Ltd v Minister of Housing and Local Government [1970] 1 WLR 1231 (QB).
94) Haghshenas v Canada (Citizenship and Immigration) 2023 FC 464 [24], [28].
95) Act 772 (n 12) s 21.
96) Nduom (n 37); Gorni (n 5).
97) Constitution of the Republic of Ghana 1992, arts 218(d) and 229; ICCPR (n 22) art 2(3); UN Human Rights Committee, General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant (26 May 2004) UN Doc CCPR/C/21/Rev.1/Add.13.
98) See, among many contributions, Danielle Keats Citron, 'Technological Due Process' (2008) 85 Washington University Law Review 1249; Frank Pasquale, The Black Box Society: The Secret Algorithms That Control Money and Information (Harvard University Press 2015); Sandra Wachter, Brent Mittelstadt and Luciano Floridi, 'Why a Right to Explanation of Automated Decision-Making Does Not Exist in the General Data Protection Regulation' (2017) 7 International Data Privacy Law 76; Lilian Edwards and Michael Veale, 'Slave to the Algorithm? Why a "Right to an Explanation" Is Probably Not the Remedy You Are Looking For' (2017) 16 Duke Law and Technology Review 18; Marion Oswald, 'Algorithm-Assisted Decision-Making in the Public Sector: Framing the Issues Using Administrative Law Rules Governing Discretionary Power' (2018) 376 Philosophical Transactions of the Royal Society A 20170359; Jennifer Cobbe, 'Administrative Law and the Machines of Government: Judicial Review of Automated Public-Sector Decision-Making' (2019) 39 Legal Studies 636.
99) Constitution of the Republic of Ghana 1992, art 11(1) and (2); Barnard v National Dock Labour Board [1953] 2 QB 18 (CA).
100) Carltona Ltd v Commissioners of Works [1943] 2 All ER 560 (CA).
101) British Oxygen (n 93); OQ v Land Hessen (n 55).
102) R v Lancashire County Council, ex p Huddleston [1986] 2 All ER 941 (CA); Belize Alliance of Conservation Non-Governmental Organisations v Department of the Environment [2004] UKPC 6, [2004] Env LR 38 [86].
103) R v Secretary of State for the Home Department, ex p Doody [1994] 1 AC 531 (HL) 564, per Lord Mustill.
104) NRCD 323 (n 24) ss 14 and 37.
105) Bridges (n 28) [175].
106) Republic v Joe Mucheru, ex parte Katiba Institute (n 30); AllPay (n 68).
107) Abu Ramadan and Nimako v Electoral Commission and Attorney-General (No 2) [2015-2016] 1 SCGLR 1; Constitution of the Republic of Ghana 1992, arts 42 and 45(a).
108) Nduom (n 37).
109) R (UNISON) v Lord Chancellor [2017] UKSC 51, [2020] AC 869.
110) Ligue des droits humains (n 80).
111) Government Digital Service, 'Making the Algorithmic Transparency Recording Standard (ATRS) Mandatory across Government' (Data in Government blog, 8 May 2025) https://dataingovernment.blog.gov.uk/2025/05/08/making-the-algorithmic-transparency-recording-standard-atrs-mandatory-across-government/.
112) Treasury Board of Canada Secretariat (n 84) s 6.1 and Appendix C.
113) Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L 2024/1689, art 27; Regulation (EU) 2026/1744 of 8 July 2026 amending Regulation (EU) 2024/1689 [2026] OJ L 2026/1744.
114) Data Protection Act 2019 (Kenya), s 31; Republic v Joe Mucheru, ex parte Katiba Institute (n 30).
115) Artificial Intelligence Act (n 114) art 86; Promotion of Administrative Justice Act 3 of 2000 (South Africa), s 5.
116) Black Sash Trust v Minister of Social Development [2017] ZACC 8, 2017 (3) SA 335 (CC).
117) Dun & Bradstreet Austria (n 56).
118) Promotion of Administrative Justice Act 3 of 2000 (South Africa), ss 3, 5 and 6; Constitution of the Republic of South Africa 1996, s 33.
119) Pharmaceutical Manufacturers Association of South Africa: In re Ex parte President of the Republic of South Africa [2000] ZACC 1, 2000 (2) SA 674 (CC) [85], [90].
120) Ransford France (n 42).