Journal of International Commercial Law and Technology

Print ISSN: 1901-8401

Website: https://www.jiclt.com

Legislating The Algorithm: Regulating AI In Judicial Decision-Making

Article History:

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How to cite this article: Varun Sharma*,Prof. (Dr.) Pradeep Kulshrestha, Legislating The Algorithm: Regulating AI In Judicial Decision-Making, *J Int Commer Law Technol.* 2025;6(1): 1936-1945.

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Abstract

One of the greatest features of law is that it moves with society. In the era of Artificial Intelligence, it is apt that the benefit must be reaped by all in society, including judicial institutions. The integration of such assistive tools, once thought aspirational, has already begun with the Indian Supreme Court's introduction of SUPACE and SUVAS as structural aids in the judicial decision-making process. This integration is not merely technical, but it must be thoroughly evaluated before reaching any conclusion for its benevolent use in the interest of justice. Even though their inclusion is limited to assisting the judges in the administrative process, their utilization can quickly transition from administrative to substantive. The courts are tasked to decide based on human intelligence, but soon, with the advent of AI in courtrooms, the responsibility may quickly shift from human intelligence to Artificial Intelligence if its integration is unchecked and not validated.

India can always learn from the experiences of other nations. In this regard, comparative evaluation provides imperative lessons for India to assess its integration of Artificial Intelligence and the Adjudicatory Process. The US integration offers us the opportunity to understand the use of COMPAS for docket management, but it also raises questions about bias and subjectivity in AI-driven decision-making. In the European Union, the thorough regulation can offer a path where integration of AI and the Judicial process must be guided by Legislative instruments rather than judicial self-regulation. The Chinese experience offers a caution where even though the pendency can be drastically reduced using AI, it can lead to centralized oversight and loss of judicial autonomy. Each experience by varied nations expounds the issue of innovation vis-à-vis independence . This paper contends that legislating the algorithm is not a matter of administrative convenience but of constitutional necessity. A framework here must entrench human oversight as non-delegable, institutionalise mandatory bias audits, demand transparency and reason-giving proportional to the tool's role, and secure personal data in line with K.S. Puttaswamy judgment and its affirmation of privacy as a facet of Article 21. Above all, it must preserve the decisional autonomy of the judge, protected since the Kesavananda Bharati case as part of the Constitution's unamendable framework. If properly structured, such legislation can reconcile innovation with the rule of law, ensuring that artificial intelligence remains an instrument of justice rather than its surrogate, and reaffirming fairness, reasoned adjudication, and the dignity of the courtroom as enduring constitutional values.

Keywords: Artificial Intelligence in Judiciary; Judicial Independence; Algorithmic Bias; Constitutional Law; Legislative Framework.

Introduction

Artificial Intelligence is advancing steadily worldwide across every field, including law and justice. It is reshaping the judicial structures around the world by promising progressive use but posing specific legal and constitutional challenges. India has adopted the use of AI by implementing SUPACE and SUVACE, which reflects amongst the higher judiciary to integrate technology with the judicial process for the welfare of

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the people[1]. This integration, though commendable, prompts a wider debate: Whether integration of AI with judicial process must proceed through incremental adoption or must be governed by a comprehensive law crafted by the legislature? This critical thought must be evaluated by analyzing various constitutional provisions and landmark cases which have provided new meaning to rights mentioned under Part III of the Indian Constitution. Legislation, if enacted, will not just provide for the way forward but it will also draw the boundaries of permissible limits of AI and adjudication process.

The current approach to integrating AI with the judicial decision-making process has been a tale of caution and concern. The assurance by the Chief Justice of India, while launching SUPACE, that it will be used for allied purposes only and that the AI will never replace the Human Element in the adjudicatory decision-making process, is a sincere effort to keep the primacy of Human Intelligence over AI[2]. This so-called 'human-in-the-loop' model seeks to preserve the judge's role as the ultimate arbiter, with AI relegated to an assistant role.

However, it is imperative to recognize that the global evolution of AI in the legal domain is rapidly eroding these carefully drawn boundaries. In the United States, risk-assessment algorithms have begun to shape sentencing and bail determinations. In the EU and China, the integration of AI and the Judicial Making process is progressing at a faster pace, which must be evaluated to understand its growth and consequential regulation. This practical use of technology begs to settle the question of to what extent it should be permissible and whether it should be acceptable to an extent where it interferes with judicial independence and autonomy in the decision-making process? The legislative framework governing the use of AI in the judicial process must address in detail constitutional concerns, the impact on the rights of the people, and judicial autonomy. This deliberative path can offer a conclusive end to all the ambiguities regarding AI and the Judiciary. This deliberation will further address the limits of permissible use of AI in the judicial decision-making process, and at the same time, it will enable the judiciary to take appropriate benefit of positive technological innovation.

Benefits of using AI for the Indian Judiciary:

For the Indian judiciary which is often described as overburdened, backlogged, and laboring under procedural delays, the potential benefits of carefully applying AI are significant. Efficiency and Case Management gains are the most immediate. AI systems can automate routine and time-consuming tasks that currently eat into judicial time. For instance, 'natural language processing algorithms' can rapidly sort through thousands of pages of case records to identify relevant facts or precedents, which would otherwise require weeks of manual reading by the legal researchers employed by the Supreme Court of India. The Supreme Court's experimental AI assistance tools (SUPACE for research, and an AI-driven transcription service for court hearings, SUVAS) already hint at this benefit, where early use of real-time transcription in Constitution Bench proceedings has expedited the availability of accurate records, enabling judges and lawyers to review arguments almost immediately after hearings[3]. Similarly, AI-driven case management modules as envisaged in Phase III of the e-Courts Project can prioritize cases, schedule hearings smartly and even predict potential bottlenecks, thereby optimizing how judges allocate their time[4]. Automated scheduling and cause-list generation could ensure that courtroom time is used to maximum effect, tackling more matters per day with less idle time. One of the touted advantages of AI is its ability to help address the colossal pendency of cases. By delegating monotonous tasks to machines, judges could focus on core adjudicatory functions. Interestingly, even a modest improvement in administrative efficiency per judge can translate to thousands of cases disposed off per year given the scale of India's hefty docket[5]. Indeed, the Supreme Court's own AI committee has noted that machine-learning tools might be leveraged to clear ministerial arrears (such as checking filing defects, issuing routine notices, etc.), freeing judicial officers to concentrate on substantive hearings[6]. In systems like Brazil's 'VICTOR', which the Indian courts have studied, an AI was able to resolve whether appeals raised a "general repercussion" issue within seconds, a task that consumed human staff nearly 40 minutes per case, resulting in a drastic reduction in pending appeals at the Brazilian apex court[7]. Similar deployment of AI assistive tools in India for matters like identifying batch litigation could have a multiplier effect on backlog reduction.

Moreover, apart from offering efficiency, AI will bring about consistency in judgement as they can detect patterns across vast datasets and can avoid judgments

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[1] National Judicial Data Grid, (2024), https://njdg.ecourts.gov.in/njdg_v3/.

[2] CJI Launches Top Court's AI-Driven Research Portal, THE INDIAN EXPRESS, July 4, 2021, https://indianexpress.com/article/india/cji-launches-top-courts-ai-driven-research-portal-7261821/.

[3] USE OF ARTIFICIAL INTELLIGENCE IN SUPREME COURT, *supra* note 6.

[4] Digital Transformation of Justice: Integrating AI in India's Judiciary and Law Enforcement, (2025), https://www.pib.gov.in/PressNoteDetails.aspx?NoteId=153773&ModuleId=3.

[5] HTTPS://WWW.NITI.GOV.IN/SITES/DEFAULT/FILES/2023-03/NATIONAL-STRATEGY-FOR-ARTIFICIAL-INTELLIGENCE.PDF (2018), https://www.niti.gov.in/sites/default/files/2023-03/National-Strategy-for-Artificial-Intelligence.pdf.

[6] RESPONSIBLE ARTIFICIAL INTELLIGENCE FOR THE INDIAN JUSTICE SYSTEM (2021), https://vidhilegalpolicy.in/wp-content/uploads/2021/04/Responsible-AI-in-the-Indian-Justice-System-A-Strategy-Paper.pdf.

[7] Daniel Becker, VICTOR, the Brazilian Supreme Court's Artificial Intelligence: A Beauty or a Beast?, STANFORD LAW SCHOOL, CODEX JOURNAL.

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that are made overruling landmark precedents. In India, it is particularly useful as we follow the doctrine of '*stare decisis*'. The correct and consistent application of law will reduce disparity between the judgments and will reenforce Article 14 mandate. Once, the judges are well trained in utilization of AI in assistive capacity we may look at the more complex aspect of "predictive justice". This aspect of AI assist the judge in predicting outcomes through analysis of historical data for predicting present case. Eventhough it is a controversial integration, judges can be made aware of the technology and a 'knowhow' of same can be provided to judges. In Indian jurisdiction, this aspect of "predictive justice" can assist lower courts in bringing about standardization in sentencing and damage assessment for achieving substantive consistency in the decision-making process[8]. The use of "predictive justice" must be advisory, but it showcases the might of AI, bringing about rationality and uniformity in the judicial decision-making process.

Artificial Intelligence stands poised to significantly advance access to justice and foster greater administrative inclusivity within our legal system. For decades, language has served as a formidable barrier, with the majority of Supreme Court and High Court judgments rendered in English, a language inaccessible to a vast segment of litigants[9]. It is commendable in my opinion that the AI-assisted translation technology has broken the language barriers and is enabling the litigants to understand the judgments and orders in their preferred language. This is very important aspect in my opinion as it makes the judicial process not just accessible but also understandable to layman. The use of AI by judicial authorities during the pandemic era displays the resilience of our system leveraged towards adaptability for the cause of justice[10]. It can be fairly stated that the benefit of AI will surpass merely addressing the issue of backlogs and instead it will be a transformative development to a level where quality and timely justice is delivered through the marriage of technology and judicial process.

Risks and Challenges associated with the Integration of AI:

Nevertheless, the integration of AI and the judicial process must be carefully scrutinised despite its purposeful promise. The chief concern is with bias and discrimination flowing into the algorithms and disturbing the promise of objectivity[11]. The algorithms are by very nature data-driven, and if the data has been mired with prejudices in society, the resulting algorithm will derail the judicial process by projecting erroneous outcomes. The US experience provides us a valuable lesson that the integration must be backtested thoroughly before its actual application to ensure zero bias or no bias towards any individual or group[12]. The bias enshrined through algorithms is very different from the bias shown by a human judge, as the prior is hidden under complex embedded codes, the latter can be unveiled through interrogation and inquiry. The use of AI in the absence of comprehensive safeguards will erode the neutrality and will directly impact fundamental rights of equality and will erode trust of people in this integration.

Another central challenge is transparency and the right to a fair hearing. In the common law tradition, a judge is expected to provide reasons for a decision enabling parties to understand why they won or lost, and facilitating appellate review. But many AI systems, especially those based on machine learning operate as a "black box" and their internal decision-making logic is not readily interpretable even by their creators. If a judge were to rely on an AI-generated recommendation or analysis in arriving at a verdict, how would that be explained in the judgment? A litigant has a right to know the basis of the decision. Opaque AI decision making process threatens to erode this transparency. In Loomis, one of the grievances was precisely that neither the defendant nor the court could scrutinize how COMPAS computed the risk score, since the algorithm was proprietary[13]. The Wisconsin Supreme Court mitigated this by requiring a warning note about the limitations of the algorithm, but did not solve the opacity problem. In India, the Supreme Court has held that "a speaking order" is part of natural justice and arbitrariness is antithetical to the rule of law[14]. Suppose an AI's involvement in a decision cannot be explained in open court. In that case, there is a real worry that we introduce a new kind of *algorithmic arbitrariness* and decisions that affect life and liberty but whose rationale is inscrutable. This would clash with both Article 14 and Article 21 of the Constitution. It could also impede meaningful appellate review: how would a higher court assess whether the trial judge incorrectly relied on an AI if the decision-making process of that AI is unknown?

Furthermore, there is related issue of accountability. Judicial independence rests on the notion that judges decide cases independently, based on their conscience and knowledge of the law, and are answerable for making those decisions. One might argue that if courts come to depend on software developed by private vendors or other branches of government, the independence of judicial decision-making could be compromised in absence of source code information. Judges must not become mere rubber stamps for algorithmic outputs; otherwise the constitutional role of the judiciary will be fundamentally altered. Indeed, one of the reasons France outlawed "judge analytics" by external actors was to prevent undue pressure on judges and preserve their autonomy in decision-making free

[8] RESPONSIBLE ARTIFICIAL INTELLIGENCE FOR THE INDIAN JUSTICE SYSTEM, *supra* note 12.

[9] Digital Transformation of Justice: Integrating AI in India's Judiciary and Law Enforcement, *supra* note 10.

[10] AMITAI ETZIONI and OREN ETZIONI, Should Artificial Intelligence Be Regulated?, Vol. 33, UNIVERSITY OF TEXAS AT DALLAS, 32, https://www.jstor.org/stable/44577330.

[11] Digital Transformation of Justice: Integrating AI in India's Judiciary and Law Enforcement, *supra* note 10.

[12] Julia Angwin, Pro-Publica, THERE'S SOFTWARE USED ACROSS THE COUNTRY TO PREDICT FUTURE CRIMINALS. AND IT'S BIASED AGAINST BLACKS. (2016).

[13] State v. Loomis (Wisconsin Supreme Court 2016).

[14] M/S Kranti Asso. Pvt. Ltd. & Anr vs Masood Ahmed Khan, 9 SCC 496 (Supreme Court of India 2025).

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from data-driven reputational scoring[15]. The same principle shielding judges from undue influence must apply if the influence is exerted by an AI embedded in the court's own processes.

Privacy and data security present further challenges. AI systems that rely on large datasets, which in the legal context may include sensitive personal information about litigants, victims, and witnesses, etc. The Supreme Court's *Puttaswamy*[16] judgment affirmed that individuals have a fundamental right to control their personal data and that any state encroachment on privacy must be backed by law, which serves a legitimate aim and is proportionate. When courts use AI, particularly if cloud-based or developed by third parties, questions arise about compliance with privacy norms. A further challenge lies in AI's use of unrepresentative data. An algorithm trained on data that is biased and subjective will produce results that will be erroneous and will impact countless individuals and groups before it is detected and rectified. It is therefore a necessity that we evolve a comprehensive code for collection, tabulation, analysis, validation of data to ensure that there is no entrenched bias in the data before its actual use by the judicial authorities. In the absence of a legislative mandate, there remains a troubling ambiguity as to how, for example, the recommendations of a sentencing guideline AI are to be scrutinized for consistency or bias when placed before a judge. Experience from other domains demonstrates that continuous monitoring is not a luxury but a necessity, especially as AI systems encounter new and evolving datasets.

Currently, courts lack the technical expertise to oversee the integration of artificial intelligence in judicial processes. The major challenge in integrating AI in adjudicatory process is the very nature of law which is 'dynamic'. This characteristic of law makes the integration challenging as assistive AI model must be constantly updated to lend a helping hand to the judges. The the AI and Law must move in tandem to avoid any miscarriage of justice. Moreover, the greatest challenge of integration is 'empathetic position of judges' i.e. the human element attached to court navigated adjudicatory process which may, with AI integration, become data-set driven adjudicatory process devoid of empathy and human element. The reliance on AI must be strictly monitored to ensure that the technology is merely an instrument rather than becoming an end in itself. Public trust in the judiciary may erode if people believe judicial decisions are determined by machines rather than human judges. When a judge listens attentively to a victim or an accused person, it assures that justice is both rational and compassionate[17]. To supplant this with a data-driven analysis risks alienating the public and eroding trust. Indeed, surveys of public perception reveal a widespread discomfort with the use of AI tools in judicial decision-making, with many fearing a loss of compassion and understanding in court outcomes[18]. This highlights an important consideration where justice must not only be done, but it must be seen to be done. These instances compels us to evolve a workable and effective legislative framework governing use of AI in judicial decision making process[19]. Any such framework must be firmly anchored in the constitutional mandates of equality and privacy, as articulated in Puttaswamy[20], and must explicitly safeguard the independence of the judiciary in its decision-making. The following sections will examine what such a legislative approach should encompass, and how it may be harmonized with the autonomy of the judiciary under our established constitutional principles.

The Legislative Imperative:

The formal democratic legitimacy for integration of adjudication with AI is a necessity. Regulations are the need of the hour to first enable the judiciary to use it in assistive capacity and to maintain good check and balance that the integration is not abused to result in violation of basic fundamental rights. While the 'Framers of Indian Constitution' were engaged in drafting the Constitution, it was a concern for them that there must be unity in diversity in the position of law across the territory of India. The law must be clear and certain for the people and it must be applied uniformly by the courts within the territory of India. In the contemporary case, informal guidelines, SoP's etc., may serve the short-term integration of AI in the adjudicatory process but for the long term inclusion requires formal rules that enables the court to reap the benefit of technology at the same time balancing the issues of accountability and transparency[21]. An, internal protocol that lacks any legal consequence will make the technology a hub of opaqueness and an instrument of exploitation. The legal consequence backed by regulations not only facilitates the use of technology but also addresses the question of responsibility and accountability. Moreover, to maintain judicial supremacy and decision making process there must be supervision of AI integration in court process. As the AI committee already exist at the Apex Court, its alignment with statutory norms will enforce the public trust in acceptance of AI assistive technology in decision making process[22]. This formal and informal democratic legitimacy will truly reflect the integration of AI in the adjudicatory process and its acceptance by citizens of India.

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[15] Jason Tashea, France Bans Publishing of Judicial Analytics and Prompts Criminal Penalty, ABA JOURNAL (2019).

[16] KS Puttaswamy v Union of India, 1 SCC.

[17] RESPONSIBLE ARTIFICIAL INTELLIGENCE FOR THE INDIAN JUSTICE SYSTEM, *supra* note 12.

[18] Roee Sarel, Public Perceptions of Judicial Use of AI: A Legal & Psychological Perspective, HE CAMBRIDGE HANDBOOK ON AI AND TECHNOLOGIES IN COURTS (AGNE LIMANTE AND MONIKA ZALNIERIUTE EDS., FORTHCOMING 2026).

[19] Digital Transformation of Justice: Integrating AI in India's Judiciary and Law Enforcement, *supra* note 10.

[20] KS Puttaswamy v Union of India, 1 SCC.

[21] EU Artificial Intelligence Act of 2024.

[22] USE OF ARTIFICIAL INTELLIGENCE IN SUPREME COURT, *supra* note 6.

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A legislative framework, which is meticulously crafted by the legislators, can resolve issues concerning the use of AI in the adjudicatory process. The regulations will not only enable the judges to take assistance of AI in the decision-making process, but they will also settle the issue of transparency and accountability, which will help in protecting the rights of the citizens. For example, Parliament could require all AI systems to be checked for unfair impact and certified as non-discriminatory, supporting the principle of equality. Laws can also require that AI decisions are explained clearly to meet fair trial standards. Putting these rules into law matches court practices with constitutional values and gives a stable base for using AI in courts. Without such laws, people might challenge the use of AI in court as unfair. A law that sets out when AI can be used and protects people's rights to information would help guide courts and reduce legal uncertainty.

The law, if carefully crafted, must create a nuanced position where there is a balance between technology and the independence of the judiciary. This position will enable the Parliament to create guardrails that provide for both permissive and safeguarding provisions. The provisions will ensure that the judges are the one who makes the final call on the suggestions and analysis provided by the AI tools to ensure that Judicial Independence is not affected. In absence of enabling provisions and loaded with internal directives Judges may be compelled to strictly base their decision on the suggestions of AI assistive tools which will go unchecked and will be gross violation of basic structure doctrine which demand independence of judiciary[23]. Therefore the preferable model is a law that is enabling and protective, not prescriptive of judicial outcome. For instance, the legislation might authorize courts to use AI for specified purposes of research, transcription, preliminary assessments, etc., but also expressly state that '*any AI output does not bind the judge and retains full discretion'*. It should also ideally be formulated after consultation with the judiciary perhaps following the precedent of the Judges Inquiry Act or examples of Memoranda of Procedure, where the two branches coordinate on matters affecting judicial administration. One could envision the law establishing a framework, and the Supreme Court, operating within that framework, issuing detailed rules to govern day-to-day usage. The trajectory of international legal developments lends considerable weight to the argument for legislative intervention[24]. It is, therefore, essential that the adoption of automation within the judiciary be guided by conscious policy choices, rooted in principle and reflective of our constitutional ethos. In this context, legislation stands as the primary means by which such policy is given form, ensuring that the evolution of our legal system remains transparent, principled, and true to the spirit of the Constitution[25].

Comparative Analysis of AI Integration in Judicial Systems:

American Experience- Experiences from around the world illustrate both the promise of AI in courts and the attendant regulatory gaps. In the United States of America, algorithmic tools have been employed in criminal justice for risk assessment in a given case. A notable example is the COMPAS (Correctional Offender Management Profiling for Alternative Sanctions**)** algorithm which is used in certain jurisdictions to estimate a defendant's recidivism risk for bail or sentencing purposes. This came to national attention in *State v. Loomis*[26] where a defendant challenged the trial court's reliance on a proprietary risk score in sentencing as a violation of due process as the algorithm's methodology was opaque. The Wisconsin Supreme Court ultimately upheld the use of the COMPAS score, but only with cautionary instructions stating that the "judges must be warned of the tool's limitations and are prohibited from using such scores as the sole basis for decisions affecting incarceration severity[27]. The *Loomis* ruling underscores a key point that U.S. courts have allowed AI inputs under judicial discretion, yet without a uniform legislative standard, leaving fundamental rights protections to be negotiated on a case-by-case basis. Outside the courtroom, at least a few U.S. state legislatures have begun addressing algorithmic bias and transparency through statutes, but comprehensive regulation of "AI in the judiciary" remains absent at the federal level.

European Experience: It has moved more affirmatively toward formal guidelines than most of the other developed nations. The Council of Europe's Commission for the Efficiency of Justice adopted a landmark European Charter on the Use of AI in Judicial Systems[28], enumerating principles to guide AI deployment under considerations like respect for fundamental rights, non-discrimination, quality and security, transparency and impartiality, and "user control through judges discretion"[29]. The EU Act classifies AI systems used in judicial decision-making as "high-risk," recognizing their profound impact on rights and the rule of law[30]. The law enacted by the European Union explicitly states that the final decision in court must always be made by a human, not by an automated system, and it seeks to prevent AI from *de facto*

[23] Kesavananda Bharati v. State of Kerala, 4 SCC.
[24] Sarel, *supra* note 24.
[25] Dan L. Burk, Algorithmic Fair Use, 86 U. CHI. L. REV. 283 (2019), https://heinonline.org/HOL/Page?handle=hein.journals/uclr86&id=295&div=12&collection=sccjournals.
[26] State v. Loomis.
[27] Christoph Engel, Code Is Law: How COMPAS Affects the Way the Judiciary Handles the Risk of Recidivism, 33 ARTIFICIAL INTELLIGENCE AND LAW 383 (2025).
[28] European Ethical Charter on the Use of Srtificial Intelligence in Judicial Systems and Their Environment of 2018, EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ).
[29] Id.
[30] [CSL STYLE ERROR: reference with no printed form.].

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displacing of judicial independence[31]. These developments exemplify a proactive legislative posture where instead of banning AI in courts, Europe aims to harness it under robust safeguards.

The integration of artificial intelligence (AI) in the Chinese judiciary has expanded significantly, driven by a state policy to develop 'Smart Courts.'[32] Chinese courts have incorporated AI into various aspects of judicial administration, including intelligent case filing, voice-to-text transcription during hearings, and software that recommends relevant laws and prior cases to assist judges in drafting judgments[33]. The Supreme People's Court of China has endorsed the nationwide implementation of such AI integration by 2026, emphasizing the benefits of increased efficiency, consistency, and reduced judicial workloads through AI use in an assistive capacity[34]. Chinese officials maintain that the technology serves as a support tool, with judges retaining responsibility for final outcomes[35]. However, this approach raises concerns from a rule-of-law perspective. The centralization and data-driven oversight characteristic of 'Smart Courts' may increase executive influence over judges, and issues related to algorithmic opacity or bias are not widely subject to public scrutiny in this system.

Smaller jurisdictions offer additional instructive models for illustrative learnings. For instance, Estonia made headlines by proposing a "robot judge" to adjudicate small claims (up to €7,000) to alleviate backlogs in its civil courts. Under this practice, parties would submit evidence online, an AI would issue a decision, and a human judge would only intervene on appeal[36]. As bold as this experiment sounds it gave an algorithm first-instance decision-making authority, and it is being approached cautiously as a pilot project. The Estonian Ministry of Justice has indicated that such a system, if implemented, would initially be limited in scope and subject to calibration with input from jurists; moreover, any AI-generated judgment would be appealable to a human judge, preserving a human check on the machine's output[37]. Elsewhere, Brazil's Supreme Federal Court has introduced an AI system called "*VICTOR*" to aid in "docket management," where it automatically filters and classifies incoming appeals, especially those raising repetitive issues, helping the court identify matters of general importance and dispose of routine cases more efficiently[38]. Evidence suggests that 'VICTOR' has significantly reduced the time which court clerks spend on preliminary case sifting, although the ultimate decision whether to admit or reject an appeal remains with the Judge of the Court. In similar manner, Singapore and Australia have utilized AI for generation of transcripts and evidence analysis in pilot programs, and the United Kingdom has experimented with AI in administrative tasks like scheduling, legal research and during investigation for example, use of HARM (Harm Assessment Risk Tool) to for assessing the recurring offenders. Nevertheless, the English judiciary has formally noted that sentencing decisions by AI would be unacceptable in the absence of a clear legislative mandate[39].

Two learnings emerge from these global case studies. First, there is a common recognition of AI's utility in improving court efficiency, whether through case triage (Brazil), predictive analytics (U.S. risk assessments), or expedited adjudication of minor disputes (Estonia). Second, jurisdictions that uphold the rule of law are increasingly asserting the need for oversight and limits on AI in judicial functions. In civil-law Europe, this takes the form of codified regulation[40]. In common-law countries, it appears as a cautionary jurisprudence and policy statements contemporarily. What remains largely uncharted is the legislative terrain as very few countries have enacted statutes specifically addressing the 'judicial' use of AI. France offers one example of a targeted law under which it outlawed the practice of using analytics to profile judges, illustratively predicting how a particular judge might decide a case, based on data from their past decisions, punishing such "judge analytics" to protect judicial privacy and independence[41]. The French law, however, regulates use of AI *by private parties* and researchers, rather than use by the courts themselves. Thus, the direct regulation of courts deploying AI, especially in decision-making, is an evolving frontier. India has an opportunity to learn from these varied experiences as it contemplates whether and how to legislate in this domain.

Proposed Indian Framework for AI in Judicial Decision-Making

For India, any legal framework governing AI in the courtroom should be tailored to our constitutional and

[31] § Recital 61.

[32] Straton Papagianneas & Nino Junius, Fairness and Justice through Automation in China's Smart Courts, 51 COMPUTER LAW & SECURITY REVIEW 105897 (2023), https://linkinghub.elsevier.com/retrieve/pii/S0267364923001073.

[33] Judiciary Embraces AI for Efficiency, CHINA DAILY GLOBAL, 2025, at 004, https://epaper.chinadaily.com.cn/a/202501/02/WS6775e8ada3105c25b38f1519.html.

[34] Dory Reiling & Straton Papagianneas, Lessons from China's Smart Court Reform?, 16 INTERNATIONAL JOURNAL FOR COURT ADMINISTRATION 2 (2025), https://www.iacajournal.org/articles/10.36745/ijca.679/.

[35] Liyangyu, Beijing Internet Court Launches AI Judge, XINHUA, 2019, http://www.xinhuanet.com/english/2019-06/27/c_138178826.htm#:~:text=The%20AI%20judge%2C%20based%20on,to%20focus%20on%20judicial%20trials.

[36] Eric Niiler, Can AI Be a Fair Judge in Court? Estonia Thinks So, WIRED, 2020, https://www.wired.com/story/can-ai-be-fair-judge-court-estonia-thinks-so/.

[37] Id.

[38] Becker, *supra* note 13.

[39] Artificial Intelligence (AI) – Judicial Guidance, (2025).

[40] § Recital 61.

[41] Tashea, *supra* note 21.

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institutional context. Here, we propose key elements of an "AI in Judiciary Act" that would permit innovation while safeguarding core principles:

1. Scope and Definitions: It is imperative that the law provides a precise and comprehensive definition of what constitutes an '*AI system*' within the judicial context. A clear distinction ought to be drawn between decision-assistive AI tools and administrative AI tools. The Act, in its wisdom, should impose more rigorous safeguards upon the former category, while subjecting the latter to a more measured regulatory approach. Moreover, it is essential that the Act expressly stipulates its applicability to all courts and tribunals throughout India, thereby ensuring a uniform and consistent legal framework across the nation. This scope and definition in our opinion if crafted carefully will set the tone for the regulatory process in India.

2. Permissible Uses and Human Oversight: It is imperative that any legislative framework concerning the use of Artificial Intelligence within the judiciary must clearly delineate the scope of permissible assistance, while simultaneously safeguarding the essential functions that remain in the exclusive domain of human judgment[42].

The law may, for instance, permit AI to assist in tasks such as legal research, forecasting case backlogs, suggesting sentencing parameters in light of established precedent, or facilitating the translation of documents. Yet, it is imperative that these functions remain under the vigilant scrutiny and ultimate authority of a human judge or a duly empowered court officer, for it is upon their shoulders that the solemn responsibility of rendering the final decision rests. The notion that no machine, regardless of its sophistication, may supplant the human arbiter in the adjudication of disputes is not a mere procedural formality, but rather a manifestation of the deeper values and traditions that have shaped our legal culture over time. It is essential, therefore, that legislation articulates with clarity that *"the determination of facts and law in any judicial proceeding is the exclusive prerogative of the judge, whose reasoning must be rooted in his or her own independent assessment. Such a provision does not simply codify a procedural rule, but enshrines the enduring principle that, while technology may serve as an aid, it can never substitute the conscience and discernment that are the hallmarks of the judiciary"*[43]. *Furthermore*, the law ought to require that any reliance upon AI-generated output by a judge be transparently recorded within the judgment or proceedings, so that all parties are made aware of the extent to which AI has played a role. This transparency is not merely a technical requirement, but a vital safeguard, ensuring that the process remains anchored in fairness, accountability, and the foundational ideals of justice.

3. Standards for Quality, Bias and Testing: Any regulatory framework for artificial intelligence in the judicial context should establish robust technical standards. No AI system should be deployed without rigorous pre-deployment testing to ensure accuracy and reliability. Outputs of AI systems must be examined for disparate impacts on protected groups, including those defined by religion, caste, or gender, in accordance with the equality mandates of Article 15[44]. If bias is detected beyond an acceptable threshold, the AI tool should not be approved for use until the bias is effectively addressed. To implement these safeguards, the Act may establish or designate a technical advisory body composed of data scientists, jurists, and subject-matter experts to evaluate and certify AI systems for judicial application. For instance, a statutorily constituted '*Judicial AI Board*' under the auspices of the Supreme Court could be entrusted with the responsibility of reviewing algorithms and maintaining an authoritative list of approved tools that satisfy the twin criteria of quality and non-discrimination[45]. Any AI system that has not undergone this process of scrutiny and certification must be categorically excluded from judicial use.

4. Transparency and Explainability Requirements: The challenge posed by the so-called 'black-box' nature of artificial intelligence in judicial proceedings necessitates a legal framework that mandates the utmost transparency in the deployment of such systems within our courts. It is imperative that, wherever practicable, open-source AI models be preferred, or at the very least, that algorithms whose architecture and decision-making criteria are amenable to external audit be employed. In circumstances where proprietary AI developed by private entities is considered, the law must require that the underlying source code or model logic be entrusted to a reliable custodian for confidential scrutiny, thereby precluding the possibility of 'secret software' exerting influence over judicial outcomes without the knowledge of the judiciary. This approach is consonant with the evolving global consensus that artificial intelligence in the realm of justice must be subject to audit and must possess the capacity to elucidate *its reasoning in a manner comprehensible to those it serves.*[46]. While not all AI can achieve full explainability, the law should push for designs that maximize it. And critically, it should guarantee litigants a right to know; how an AI contributed to a decision.

5. Data Protection and Security: Given that AI will consume and process judicial data, which may include personal data, the framework must integrate with India's data protection regime. It should mandate that any personal data used by judicial AI is used only for the purpose of the specific judicial function and not beyond it. Perhaps cross-referencing the Data Protection Act, it

[42] Niiler, *supra* note 42.
[43] Burk, *supra* note 31.
[44] PRATAP BHANU MEHTA, THE OXFORD HANDBOOK OF THE INDIAN CONSTITUTION (2016).
[45] RESPONSIBLE ARTIFICIAL INTELLIGENCE FOR THE INDIAN JUSTICE SYSTEM, *supra* note 12.
[46] A. D. (Dory) Reiling, Courts and Artificial Intelligence, INTERNATIONAL JOURNAL FOR COURT ADMINISTRATION (2020).

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can designate courts as "data fiduciaries" with respect to litigant data and impose duties accordingly. It is imperative that robust cybersecurity standards be established and rigorously enforced, particularly in the context of AI systems operating within the judicial sphere. Such systems must not only adhere to the highest government security certifications but also be insulated from any form of unauthorized access. The sanctity of in-camera proceedings, for example, demands that data arising from such confidential hearings is never introduced into AI systems without the most stringent safeguards, lest the fundamental principle of confidentiality be compromised. By enshrining these requirements within the legal framework, we not only give effect to the privacy expectations articulated in Puttaswamy[47] but also reinforce the trust that sensitive information entrusted to the judiciary will remain inviolate, even as we harness the transformative potential of AI.

6. Liability and Redress: It is imperative that the Act delineate with precision the locus of responsibility in instances where an AI tool malfunctions or produces an erroneous outcome. The principle of judicial accountability, which lies at the heart of our legal culture, would suggest that the judge must remain ultimately answerable for any decision rendered, irrespective of the extent to which AI has influenced the process; this is in consonance with the doctrine of human oversight. Nevertheless, where a manifest error can be directly attributed to a malfunction in the AI system, the law must provide a clear and effective mechanism for rectification. Furthermore, it would be prudent to empower courts to apprise the oversight board of any such AI-related anomalies, thereby ensuring that the tool may be duly corrected or updated in the interest of justice. In the context of vendor-supplied systems, the inclusion of indemnity clauses becomes essential, so that the vendor is held accountable for any defects inherent in the software. As regards the redressal of grievances by litigants, the established appellate process would, in most cases, suffice; however, the law may contemplate a distinct ground of review in circumstances where a decision, based solely upon an AI-generated recommendation and contrary to law or fact, has resulted in prejudice to a party eventhough, in principle, such an eventuality ought not to arise if judicial vigilance is maintained. It may also be considered appropriate to incorporate a provision to the effect that "*no decision of a court shall be rendered invalid merely on account of assistance received from an AI system, provided that the decision has been independently reviewed by the court".* Such a safeguard would ensure that litigants are not permitted to challenge decisions solely on the basis of AI involvement, but must instead demonstrate a substantive error or infringement of rights.

7. Institutional Infrastructure and Training: A forward-looking framework must invest in capacity-building for judges as well as lawyers. The Act could establish an "AI in Courts" unit under the Supreme Court's E-Committee to implement the provisions. It may prescribe that a certain percentage of judicial training programmes include modules on understanding AI outputs, statistical reasoning, and recognizing potential AI biases. Allocating funds and mandating training through legislation signals its priority. The law could also foster collaboration with academia and think tanks to continuously study the impact of AI in courts, ensuring the framework adapts to new developments.

8. Periodic Review and Sunset: Given the rapid evolution of AI, it would be prudent for the statute to contain a clause for periodic review of both the technology and the law. For instance, a requirement that the law must be reviewed by a committee of Parliament or an expert commission every five years and to recommend any necessary amendments in light of technological advances or lessons learned. This built-in feedback loop ensures the legal framework is not static. Additionally, if the idea of AI judging small cases[48] ever becomes technologically viable and normatively acceptable, Parliament could later amend the law to cautiously expand AI's role, but only after fresh debate[49].

In implementing such a framework, Parliament must coordinate with the higher judiciary to avoid any constitutional tussle. Given that the administration of lower courts is largely in the hands of High Courts[50] and the Supreme Court has administrative supremacy over its own affairs, the law could be fashioned as an '*enabling statute*': it sets mandatory minimum standards and creates enabling powers, but the actual operational rules (the "how") can be issued by the Supreme Court and High Courts via rules or notifications under the authority of the Act. This cooperative model will uphold the basic structure while ensuring legislative objectives are met. Ultimately, the goal of an Indian AI-in-Courts legislation would be to reap the technology's benefits in enhancing justice delivery, without degrading the quality or fairness of adjudication. It must reassure all stakeholders including judges, lawyers, litigants, and the public that AI is a servant of the court, not a silent usurper of the judge. If crafted correctly, such a framework can become a model for other democracies grappling with the same challenge. It bears emphasizing that the constitutional values of due process, open justice, reasoned decisions, equality before law, and judicial independence are not negotiable; any technology in the courtroom must bend to these values, not the other way around[51].

Closing Synthesis: Preserving Human Intelligence in the Age of Artificial Intelligence:

[47] *KS Puttaswamy v Union of India*, 1 SCC.
[48] Niiler, *supra* note 42.
[49] RESPONSIBLE ARTIFICIAL INTELLIGENCE FOR THE INDIAN JUSTICE SYSTEM, *supra* note 12.
[50] The Constitution of India of 1950, § Article 79.
[51] RESPONSIBLE ARTIFICIAL INTELLIGENCE FOR THE INDIAN JUSTICE SYSTEM, *supra* note 12.

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In the current era where technology is replacing human inputs at faster pace than anticipated, it is essential that we engage, not ignore the possibility of integrating technology with judicial decision-making process. Such is not merely a research initiative, it is a constitutional necessity. There is absolutely no denial that the administrative assistance of AI technology will help the court in many positive aspects, its associated risks must be thoroughly evaluated to avoid violation of constitutional rights of the people and to avoid over-dependence on the AI assistive technologies. It is therefore essential to maintain fine balance of technology integration and its strategic regulation for making best use of AI capabilities without compromising human judgment[52].

The creation of laws does not merely intend to create rules and regulations. It goes beyond legal rules and provide for level-playing field for all the stakeholders in the adjudicatory process where the ultimate objective is to protect the fundamental rights enshrined in the Part III of Indian Constitution and assisted by creative interpretation on court in judgment like Puttaswamy[53]. The Puttaswamy case reminds us that individual dignity should not be lost for the sake of technology. Any new law should be based on constitutional values, making sure AI helps make court proceedings fairer and more honest.

We can learn dearly from the experience of other countries in integrating the adjudicatory process with AI assistive technologies. Regulating AI integration with judicial decision-making process is essential to safeguard legal protection available to common citizens of our country. Prohibiting the use of AI will prevent judges from taking advantage of the technology in addressing administrative issues, leading to delay and pendency. The better way forward is to systematically integrate AI into the process with adequate safeguards and thorough back testing before its actual implementation by the judges to avoid bias and violation of rights. The legislative process must be deliberative, coordinated and holistic to ensure that laws created are wholesome to deal with all aspects arising out of this integration. There must be inclusion of all stakeholders to avoid later challenges, and it must progressively engage with the public for wider consultation and awareness. The process must reflect the values enshrined in the constitution and it must be responsive towards the changing need of the society. It must inculcate aspirations of people in a sense that its reflects their active participation in the law making process. The legislature must ensure that the law is transparent and fair, and it must create accountability by distinctly pointing out the requisite burden of responsibility at every stage of the judicial decision-making process.

In essence, humans can cherish this integration by wisely modulating the process. This change must be carefully structured on constitutional doctrines and human rights concerns. This integration will impact the rights of people, and hence it must be thoroughly checked before its actual implementation in the decision-making process, either in administrative or substantive assistance. This is a key moment for India to strengthen our judicial system by utilizing technological innovation and ensuring greater transparency and quality adjudication by the courts. This will consolidate our belief that technology must forward constitutional values instead of overpowering them. By making laws with care and foresight, we can make sure technology helps our courts, but never takes the place of human judgment and justice.

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