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ARTIFICIAL INTELLIGENCE IN THE INDIAN JUDICIARY: OPPORTUNITIES, CHALLENGES AND ETHICAL CONCERNS

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ABSTRACT

The Indian judiciary faces a structural paradox. It is expected to deliver timely, reasoned and equal justice to a vast population, yet it does so with a judge strength that has never matched demand and with a backlog measured in crores of cases. Artificial intelligence has entered this debate as both a promise and a provocation. This paper undertakes a doctrinal examination of the use of artificial intelligence in Indian courts, drawing on constitutional provisions, statutory instruments, judicial pronouncements, policy documents and comparative materials. It maps the tools already deployed, including SUVAS and SUPACE, and evaluates the opportunities they create for case management, legal research, language access and administrative efficiency. It then analyses the risks of algorithmic bias, opacity, fabricated outputs, data insecurity and diminished accountability, testing each against Articles 14 and 21 of the Constitution, the right to privacy recognised in Puttaswamy, the duty to give reasons and the independence of the judiciary. The early responses of the Punjab and Haryana and Delhi High Courts to generative tools, together with the Kerala High Court policy, are examined alongside developments in the United States and Europe. The paper argues that existing constitutional guarantees permit assistive uses of artificial intelligence but foreclose the delegation of the adjudicatory function to machines. It concludes by proposing a rights-based regulatory framework suited to Indian conditions, built on human oversight, disclosure, independent audit, robust data protection and inclusive technological design, so that technology strengthens access to justice and public confidence without displacing the human judge.

Keywords: Artificial Intelligence; Indian Judiciary; Judicial Ethics; Algorithmic Bias; Access to Justice; Article 21; Generative AI; Court Technology.

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I. INTRODUCTION

Few institutions in India carry as heavy a burden of public expectation as the judiciary. Courts are asked to protect fundamental rights, to referee disputes between citizens and the State, to settle commercial and family quarrels, and to do so within a time frame that keeps justice meaningful. The reality on the ground is far removed from this ideal. The National Judicial Data Grid records pending matters running into crores across the district judiciary, the High Courts and the Supreme Court, and a substantial proportion of these cases have remained undecided for years.[1] The pressure is compounded by a persistent shortage of judges. As far back as 1987, the Law Commission of India urged a major increase in judicial manpower so as to move towards fifty judges per million people, a benchmark that the system has still not reached in any meaningful sense.[2] The Supreme Court has long treated delay as a constitutional problem and not merely an administrative one. In Hussainara Khatoon v. Home Secretary, State of Bihar, the Court read the right to speedy trial into the guarantee of life and personal liberty under Article 21 and observed that a procedure which does not ensure a reasonably quick trial cannot be regarded as fair, just and reasonable.[3] Decades later, the promise of that decision remains only partially realised. In such an environment it is unsurprising that courts, policymakers and technologists have turned to artificial intelligence as a possible instrument of reform.

Artificial intelligence, however, is not an ordinary administrative upgrade like a new filing counter or a digitised cause list. Systems that read documents, summarise arguments, predict outcomes or draft text operate in the same territory as judicial reasoning itself. This proximity is what makes the subject both attractive and dangerous. If used carefully, AI tools may release judges and registry staff from repetitive tasks and widen access to justice for litigants who face barriers of language, distance and cost. If used carelessly, the same tools may import hidden bias into decisions, blur the line between assistance and delegation, and erode the reasoned, transparent and human character of adjudication on which public confidence in courts depends. This paper examines the subject through a doctrinal lens. It does not rely on empirical surveys; instead it analyses constitutional provisions, statutes, judicial decisions, official policy documents and selected foreign materials to determine what the existing legal order permits,

[1]Nat'l Jud. Data Grid, https://njdg.ecourts.gov.in (last visited Sept. 29, 2026) (reporting pending civil and criminal matters across the district courts, High Courts and the Supreme Court of India).

[2]Law Comm'n of India, Rep. No. 120, *Manpower Planning in Judiciary: A Blueprint* (1987) (recommending a substantial expansion of judge strength towards fifty judges per million of population).

[3]*Hussainara Khatoon v. Home Sec'y, State of Bihar*, (1980) 1 S.C.C. 81 (India).

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what it prohibits and what it leaves unsettled. The central question is whether, and to what extent, artificial intelligence can be integrated into the Indian judicial process without compromising the constitutional values of equality, fair procedure, privacy, reasoned decision-making and judicial independence. The discussion proceeds by clarifying the concept of AI in the judicial setting, surveying the initiatives already undertaken in India, weighing the opportunities and the challenges, testing them against the constitutional framework, reviewing the early judicial response, examining the ethical dimension, drawing comparative lessons, and finally proposing a way forward.

II. RESEARCH DESIGN

A. Research Objectives

The main objective of this study is to examine whether, and within what limits, artificial intelligence may be integrated into the Indian judicial process consistently with the Constitution and with the ethical obligations that attach to the administration of justice. To achieve this aim the paper pursues four specific objectives. The first is to describe the manner in which artificial intelligence is presently used or proposed to be used in Indian courts, including the initiatives of the Supreme Court and the High Courts. The second is to identify the concrete advantages that such use may bring to the delivery of justice, particularly in relation to delay, language barriers and administrative burden. The third is to analyse the legal and ethical risks that accompany these tools, with special reference to bias, opacity, unreliability, privacy and accountability. The fourth is to evaluate the adequacy of the existing constitutional, statutory and policy framework and to propose measures that would make the use of AI in courts fair, transparent and accountable.

B. Research Questions

The study is organised around three principal research questions.

1. Which judicial and administrative functions may lawfully be supported by artificial intelligence without infringing the fundamental rights guaranteed by the Constitution, in particular the rights to equality, fair procedure and privacy?
2. Which functions form the core of the judicial power and must therefore remain the exclusive responsibility of the human judge?
3. In the absence of a comprehensive national statute or binding guidelines, what regulatory and institutional measures are necessary to ensure that permitted uses of AI

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remain consistent with the rule of law, judicial independence and public confidence in the courts?

C. Hypothesis

The paper proceeds on the hypothesis that artificial intelligence can lawfully and usefully be employed in the Indian judiciary only as an assistive instrument operating under effective human control, and that the existing constitutional framework does not permit the delegation of adjudicatory decision-making to automated systems. It is further hypothesised that the present reliance on individual judicial restraint and High Court level policies is insufficient, and that a binding national framework built on human oversight, disclosure, audit and data protection is necessary to secure the benefits of the technology while containing its risks. The corresponding null hypothesis is that the existing legal framework is already adequate to regulate the use of artificial intelligence in courts and that no additional normative measures are required. The analysis in the following parts tests these propositions against constitutional text, judicial precedent and comparative experience.

D. Research Methodology

The methodology adopted is purely doctrinal. The study relies on primary sources, namely the Constitution of India, Indian statutes and reported decisions of the Supreme Court and the High Courts, and on secondary sources such as official policy documents, reports of expert and statutory bodies, books and articles. Foreign decisions and instruments are used selectively and only for comparison; they are not treated as binding or as models to be transplanted. The analysis follows the traditional method of extracting principles from decided cases, testing them against constitutional provisions, and applying them to a technological context in which direct authority is still scarce. The approach is analytical and critical rather than empirical, and no survey or interview data has been collected.

The scope of the study is confined to the use of artificial intelligence in the functioning of courts, including adjudication, case management, research support and administration, and does not extend to the wider regulation of AI in other sectors except where necessary for comparison. Because the field is developing rapidly and official practice is still evolving, the position is stated as available at the time of writing, and some policies and tools may change or be superseded. Citations follow the Bluebook system of legal citation, and a Table of Authorities is appended at the end of the paper.

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III. CONCEPTUAL BACKGROUND: WHAT IS MEANT BY AI IN COURTS

The expression artificial intelligence has no single agreed definition, but for legal purposes it may be understood as a family of computational techniques that enable machines to perform tasks ordinarily requiring human intelligence, such as recognising patterns, understanding language, making predictions and generating content. The national approach documents prepared by NITI Aayog treat AI as a general-purpose technology whose deployment must be guided by principles of safety, equality, inclusivity, transparency, accountability and the protection of human values.[4] Three strands of the technology are particularly relevant to courts.

The first is machine learning, in which a system is trained on large volumes of past data and learns statistical regularities that it later applies to new inputs. Predictive tools that estimate the likelihood of reoffending, or the probable duration of a case, belong to this category. The second is natural language processing, which allows software to read, classify, translate and transcribe text and speech. Case-law search engines, automated translation of judgments and speech-to-text transcription of hearings draw on this strand. The third is generative AI, exemplified by large language models, which produce fluent text in response to prompts. These systems do not retrieve verified authority in the way a law report does; they generate the most statistically plausible continuation of a prompt, and this characteristic explains both their usefulness and their capacity to produce confident but fictitious statements.

It is useful to distinguish between assistive and decisional uses. Assistive uses support human actors without determining outcomes: indexing, retrieval, translation, transcription, scheduling and the drafting of routine administrative communications. Decisional uses, on the other hand, either recommend or determine substantive outcomes such as guilt, bail, sentence, liability or damages. Richard Susskind has argued that technology will progressively reshape court services, and that the real question is not whether courts will change but how far the change should extend into the core of adjudication.[5] The Indian legal order, as the later sections show, is comfortable with the first category but has strong reasons to be cautious about the second. This distinction between assistance and decision forms the analytical backbone of the present paper.

[4]NITI Aayog, *Responsible AI for All: Approach Document for India, Part 1 – Principles for Responsible AI* (Feb. 2021).

[5]Richard Susskind, *Online Courts and the Future of Justice* (2019).

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IV. AI IN INDIAN COURTS: THE PRESENT LANDSCAPE

The use of technology in Indian courts has followed a gradual path. The eCourts Mission Mode Project, which grew out of the National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary, first computerised district courts and created case information systems that allow litigants to track their matters. Phase III of the project, which received governmental approval in 2023, moves beyond digitisation and expressly contemplates the adoption of emerging technologies, including artificial intelligence, to improve scheduling, digitise records and support judicial workflows.[6]

Within the Supreme Court, two tools deserve mention. **SUVAS**, the Supreme Court Vidhik Anuvaad Software, uses machine translation to render judgments into Indian languages so that litigants who do not read English can access them. **SUPACE**, the Supreme Court Portal for Assistance in Court's Efficiency, was introduced in 2021 as a research aid that collects and organises facts and legal materials for judges. Official descriptions of both tools stress that they are meant to assist and that decision-making remains entirely with the judge.[7] The same period saw the growth of electronic law reports and the use of speech recognition to transcribe proceedings in selected courts.

Not every development has come from the top. High Courts have begun to frame institutional policies. In mid-2025 the High Court of Kerala issued a policy governing the use of AI tools by the district judiciary within the State, which restricts the use of publicly available generative tools for judicial work, forbids reliance on such tools for reaching findings, granting reliefs or passing orders, and requires human verification of any material derived from them.[8] The policy is significant because it is among the first formal attempts within the Indian judiciary to draw the line between permissible assistance and impermissible delegation.

These initiatives rest on a broader foundation of technology-friendly jurisprudence. In Swapnil Tripathi v. Supreme Court of India, the Supreme Court permitted live-streaming of proceedings of constitutional importance, reasoning that open courts serve transparency and public confidence, and it recognised that technology can be harnessed to deepen those values.[9]

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[6]e-Committee, Sup. Ct. of India, *Vision Document: eCourts Project Phase III* (2023) (contemplating the use of emerging technologies, including artificial intelligence, in court processes).

[7]*See* e-Committee, Sup. Ct. of India, https://ecommitteesci.gov.in (last visited Sept. 29, 2026) (material on SUVAS (Supreme Court Vidhik Anuvaad Software) and SUPACE (Supreme Court Portal for Assistance in Court's Efficiency)).

[8]High Ct. of Kerala, *Policy Regarding Use of Artificial Intelligence Tools in District Judiciary* (July 2025).

[9]*Swapnil Tripathi v. Sup. Ct. of India*, (2018) 10 S.C.C. 628 (India); *see also State of Maharashtra v. Praful B. Desai*, (2003) 4 S.C.C. 601 (India).

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Earlier, in State of Maharashtra v. Praful B. Desai, the Court had accepted that evidence may be recorded through video conferencing without violating the requirement of presence. Similarly, the law relating to electronic evidence, developed through Anvar P.V. v. P.K. Basheer and Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal and now codified in the Bharatiya Sakshya Adhiniyam, 2023, shows that Indian courts are willing to adapt evidentiary rules to digital realities while insisting on authenticity safeguards.[10] These decisions do not address artificial intelligence directly, but they demonstrate a pattern of accommodating technology while preserving procedural integrity, a pattern that should guide any regulation of AI.

V. OPPORTUNITIES

A. Reducing Delay and Improving Case Management

The most immediate promise of AI lies in the management of volume. Case-flow management tools can classify filings, detect defects at the registry stage, identify related or duplicate matters, and flag cases that have exceeded prescribed timelines. Predictive scheduling may help courts allocate hearing dates on the basis of the likely time a matter will consume, reducing the familiar spectacle of overloaded cause lists in which most items are never reached. Because delay directly implicates the Article 21 guarantee recognised in Hussainara Khatoon, technologies that credibly reduce it acquire constitutional relevance and not just administrative appeal.

Bail and undertrial management offers a concrete illustration. The Supreme Court has repeatedly reminded courts that bail is the rule and jail the exception, and in Sanjay Chandra v. CBI and Satender Kumar Antil v. CBI it emphasised that pre-trial detention must not become a form of punishment and issued directions aimed at preventing needless incarceration of undertrials.[11] Section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023 similarly entitles certain undertrial prisoners to release after they have served a prescribed fraction of the maximum sentence. A system that automatically tracks custody periods, charges and statutory thresholds, and alerts the court and prison authorities when a prisoner becomes eligible, would operationalise these safeguards without deciding anything on the merits. In such a setting AI serves as a reminder mechanism for rights that already exist, not as a substitute for judicial

[10] *Anvar P.V. v. P.K. Basheer*, (2014) 10 S.C.C. 473 (India); *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 S.C.C. 1 (India); Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, § 63 (India) (governing the admissibility of electronic records).

[11] *Sanjay Chandra v. CBI*, (2012) 1 S.C.C. 40 (India); *Satender Kumar Antil v. CBI*, (2022) 10 S.C.C. 51 (India).

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choice.

B. Legal Research and Drafting Support

Legal research consumes a large portion of judicial and clerical time. The corpus of Indian law is vast, spread across central and state statutes, thousands of reported decisions and countless unreported orders. Retrieval systems that use semantic search, rather than simple keyword matching, can help locate relevant precedent, trace how a rule has developed and identify conflicting decisions that a Bench should notice. Summarisation tools can prepare a neutral chronology of facts from voluminous pleadings. Provided that the outputs are verified against primary sources, such tools can give judges more time to reflect, which is arguably the scarcest resource in an overburdened court.

C. Language Access and Access to Justice

Language is among the most significant, and least discussed, obstacles to justice in India. The higher judiciary functions largely in English, while most litigants think and speak in one of many regional languages. Machine translation of judgments, orders and pleadings holds the potential to make the law more intelligible to those who are governed by it. In Anita Kushwaha v. Pushap Sudan, the Supreme Court recognised access to justice as a facet of Article 21 and treated an approachable forum, a fair procedure and adjudication within a reasonable time as essential ingredients of that right.[12] Translation tools, virtual help desks that explain court procedure, and voice interfaces for persons unable to read or write can all be seen as means of making the forum more approachable. The constitutional directive in Article 39A, which requires the State to ensure that the legal system promotes justice on the basis of equal opportunity, supports the same conclusion.

D. Consistency and Predictability

A further promise concerns consistency. Litigants and lawyers frequently complain that similar cases receive dissimilar treatment, particularly at the level of sentencing and interim relief. Arbitrariness, as the Supreme Court explained in E.P. Royappa v. State of Tamil Nadu, is antithetical to equality, and a legal system that produces unexplained variation invites the charge of arbitrariness.[13] Analytical tools that reveal patterns of divergence can enable High Courts and judicial academies to identify outliers, design training and issue guidelines. The

[12] *Anita Kushwaha v. Pushap Sudan*, (2016) 8 S.C.C. 509 (India).
[13] *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 S.C.C. 3 (India).

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important qualification is that consistency cannot be pursued at the cost of individualised justice; the tool may illuminate disparity, but it cannot decide what a fair outcome in a particular case requires.

E. Administrative Efficiency

Beyond adjudication, courts perform a large number of administrative tasks including the management of records, service of process, allocation of courtrooms, and the processing of applications for certified copies. Automation of these functions can reduce error and the scope for corruption, improve turnaround times and generate data that supports evidence-based reform. Speech-to-text transcription of hearings, when accurate, creates searchable records that assist appellate courts and reduce disputes about what was said. Such uses are relatively low in risk and offer benefits at scale, which explains why they are ordinarily the recommended starting point for any judiciary experimenting with AI.

F. Support for Litigants, Lawyers and Legal Aid

The benefits of AI need not be confined to judges and registry staff. A large proportion of litigants in India appear without effective legal representation, and many others depend on overstretched legal services authorities. Carefully designed tools can help such litigants understand the stage of their case, the documents required and the reliefs available, in a language they understand. Legal aid providers may use document assembly and triage systems to identify eligible applicants and prioritise urgent matters. Advocates, particularly those practising in district courts and in smaller firms, can use research and drafting assistants to reduce the cost of preparing pleadings. These developments, if accompanied by verification duties, may narrow the gap between well-resourced and poorly resourced parties and thereby serve the substantive equality that Article 39A envisages.

VI. CHALLENGES

A. Algorithmic Bias

AI systems learn from historical data, and historical data is an imperfect mirror of society. If past decisions reflect discrimination on the basis of caste, religion, gender, economic status or region, a model trained on them may reproduce the same patterns while appearing neutral. The concern is not hypothetical. The Wisconsin Supreme Court in State v. Loomis considered the use of a proprietary risk assessment tool at sentencing and, while permitting its limited use, insisted that it could not be determinative and required that judges be cautioned

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about its limitations, including the fact that it relied on group data and that its methodology was undisclosed.[14] An investigative study published by ProPublica around the same time alleged that a widely used recidivism tool wrongly labelled Black defendants as high-risk more often than white defendants, although the developer disputed the analysis.[15] Whatever the final verdict on that particular controversy, it demonstrates how predictive tools can embed disparities.

The Indian context heightens the risk. Data on caste, community and region is entangled with social hierarchy, and criminal justice data in India is known to be incomplete and unevenly recorded. Undertrial populations are drawn disproportionately from economically and socially marginalised groups, so a model that treats past arrest or detention patterns as indicators of future risk may quietly transform structural disadvantage into a personal risk score. The constitutional prohibition on discrimination, together with the guarantee of equal protection, leaves little room for such an outcome.

B. Opacity and the Black Box Problem

Many advanced models operate as black boxes. Even their designers may be unable to give a clear account of why a particular input produced a particular output. Frank Pasquale has described the wider social danger of decisions made by secret algorithms that affected persons cannot inspect or contest.[16] In adjudication this problem is acute because a judicial order must be capable of being understood, criticised and appealed. Trade secret claims by private vendors add a further layer: a court that relies on a proprietary tool it cannot fully examine risks outsourcing part of its reasoning to an entity outside the judicial system, one that is answerable to shareholders rather than to the Constitution.

C. Hallucination and Reliability

Generative systems are prone to fabrication. They may invent case names, misattribute holdings or supply plausible but non-existent statutory provisions. The risk became internationally visible in Mata v. Avianca, Inc., where lawyers filed a brief containing decisions that a chatbot had invented and were sanctioned by the court for doing so.[17] If such errors enter a pleading they may be caught by opposing counsel or the Bench; if they enter a judicial draft,

[14] *State v. Loomis*, 881 N.W.2d 749 (Wis. 2016).
[15] Julia Angwin et al., *Machine Bias*, ProPublica (May 23, 2016), https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing.
[16] Frank Pasquale, *The Black Box Society: The Secret Algorithms That Control Money and Information* (2015).
[17] *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443 (S.D.N.Y. 2023).

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the consequences are more serious, since a fabricated precedent embedded in an order acquires the authority of the court and may be cited in later cases. For a common law system founded on precedent, the integrity of citations is not a matter of form but the foundation of legal reasoning.

D. Data Quality, Language Diversity and the Digital Divide

AI systems are only as good as the data on which they are trained. Indian court records are heterogeneous: they exist in many languages and scripts, in handwritten and printed forms, in inconsistent formats and, in the case of lower courts, often in poorly digitised condition. Models trained mainly on English-language, higher-court materials may perform poorly on vernacular records from district courts, which are precisely the records that matter most for the majority of litigants. Moreover, the promise of technology-mediated access presupposes connectivity, devices and digital literacy, which remain unevenly distributed across regions and social groups. Unless carefully designed, digital justice may widen the gap between those who can navigate it and those who cannot.

E. Privacy, Confidentiality and Data Security

Court records contain highly sensitive personal information, including details of matrimonial disputes, sexual offences, juvenile matters, medical histories and the identities of witnesses. Feeding such material into third-party or cloud-based AI tools raises the risk of leakage, misuse or unauthorised secondary use of data. The Digital Personal Data Protection Act, 2023 establishes a framework of consent, purpose limitation and obligations on data fiduciaries, but it also contains wide exemptions in favour of the State and for certain processing connected with legal claims and law enforcement, which leaves the regulatory position for courts uncertain.[18] Judicial institutions should therefore not assume that the statute alone will protect litigant data in AI deployments; institutional safeguards are required.

F. Accountability, Automation Bias and Deskilling

When a human judge errs, remedies exist in appeal, review and, in extreme cases, disciplinary processes. When an AI-assisted process errs, responsibility becomes diffuse: the judge may point to the tool, the vendor to the data, and the administrator to the specification. This accountability gap is compounded by automation bias, the psychological tendency of

[18]Digital Personal Data Protection Act, 2023, No. 22 of 2023, § 17 (India).

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human beings to defer to machine output, especially when they are pressed for time. A judge who formally retains the final decision but in practice endorses whatever the system suggests has not preserved human judgment in any substantive sense. There is also a longer-term concern of deskilling, since routine reliance on machine-generated summaries and drafts may gradually weaken the analytical capacities of judges and the bar.

G. Vendor Dependence and Institutional Capacity

Most advanced AI systems are built and maintained by private technology firms. A judiciary that adopts such systems without adequate in-house expertise becomes dependent on vendors for updates, security patches, data storage and even the interpretation of the tool's behaviour. Dependence of this kind creates risks of lock-in, unequal bargaining power in procurement and the possibility that commercial priorities will influence the design of public justice infrastructure. It also raises questions about where court data is stored and processed, and under whose jurisdiction. Judicial institutions therefore need technical capacity of their own, including trained personnel who can evaluate vendor claims, test systems independently and insist on contractual terms that protect confidentiality, auditability and continuity of service.

VII. THE CONSTITUTIONAL AND DOCTRINAL FRAMEWORK

A. Equality and Non-Arbitrariness under Article 14

Article 14 prohibits arbitrary State action, and after Royappa it is settled that arbitrariness is incompatible with equality. Any AI system used within the judicial process is an instrument of a public institution and, where it is procured, deployed or mandated by that institution, its use is properly examined as State action. If a tool systematically disadvantages a class of litigants, or if its outputs cannot be rationally explained, it is open to challenge under Article 14. Indian equality jurisprudence has increasingly recognised that facially neutral rules may operate discriminatorily in practice, and this recognition is significant because algorithmic bias is usually unintended and statistical in character rather than the product of deliberate prejudice.

B. Fair Procedure under Article 21

In Maneka Gandhi v. Union of India, the Supreme Court held that the procedure by which a person may be deprived of life or personal liberty must be fair, just and reasonable, and that Articles 14, 19 and 21 are not mutually exclusive but together form a golden triangle

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of rights.[19] Judicial decisions on bail, custody, sentence and civil liability directly affect liberty or property. If a decision is materially shaped by an AI output that the affected person cannot see, understand or challenge, the fairness of the procedure is open to serious doubt. The Maneka Gandhi standard therefore supplies the strongest constitutional argument for transparency and contestability in any AI-assisted adjudication.

C. Privacy and Proportionality

The recognition of privacy as a fundamental right in Justice K.S. Puttaswamy (Retd.) v. Union of India has direct implications for the digitisation of court records and the use of personal data in AI systems.[20] The Court laid down that any interference with privacy must satisfy the requirements of legality, a legitimate aim and proportionality. The proportionality framework was elaborated in the Aadhaar decision and applied to restrictions on fundamental freedoms in Anuradha Bhasin v. Union of India, where the Court emphasised that restrictive measures must be necessary, must adopt the least intrusive means available, and must remain open to review.[21] Applied to the judicial context, this implies that the collection and processing of litigant data for AI purposes must be authorised by law, must pursue a legitimate objective such as efficient justice, and must be necessary and proportionate, with adequate safeguards against misuse.

D. Natural Justice and the Duty to Give Reasons

The rules of natural justice, in particular the requirement that a decision-maker be impartial and that parties be heard, are foundational. In A.K. Kraipak v. Union of India, the Court stressed that natural justice aims to secure justice and prevent its miscarriage, and that the test of bias is the reasonable likelihood of it rather than proof of actual prejudice.[22] A machine that carries embedded bias, or a process in which a party cannot know what material influenced the decision, offends this principle. Closely connected is the duty to give reasons. The Supreme Court has described reasons as the link between the material considered and the conclusion reached, and has insisted that judicial orders must disclose the application of mind.[23] An AI-generated rationale that merely mimics the form of reasoning without reflecting the

[19] *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

[20] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1 (India).

[21] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2019) 1 S.C.C. 1 (India); *Anuradha Bhasin v. Union of India*, (2020) 3 S.C.C. 637 (India).

[22] *A.K. Kraipak v. Union of India*, (1969) 2 S.C.C. 262 (India).

[23] *Kranti Assocs. Pvt. Ltd. v. Masood Ahmed Khan*, (2010) 9 S.C.C. 496 (India); *Anil Rai v. State of Bihar*, (2001) 7 S.C.C. 318 (India).

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actual deliberation of the judge cannot satisfy that duty. Reasons must be the judge's own.

E. Individualised Sentencing

The Court's approach to sentencing reinforces the point. In Bachan Singh v. State of Punjab, the Constitution Bench required that the imposition of the death penalty be based on an individualised weighing of aggravating and mitigating circumstances relating to both the crime and the offender.[24] The philosophy behind the decision extends beyond capital punishment: sentencing is an exercise of moral and legal judgment that resists mechanical formulae. Actuarial risk scores can, at most, supply an input; treating them as a proxy for the balancing exercise would be inconsistent with the individualised approach that the Court has demanded.

F. Judicial Independence

Judicial independence forms part of the basic structure of the Constitution, as reiterated in Supreme Court Advocates-on-Record Association v. Union of India, where the Court struck down the constitutional amendment and the statute establishing the National Judicial Appointments Commission.[25] Independence is usually discussed in relation to the executive and the legislature, but AI raises a new dimension. If the design, training and maintenance of judicial AI tools are controlled by private vendors or executive agencies, they may acquire indirect influence over the manner in which judges research and reason. Institutional control over the technology, including its specifications, data and audit, should therefore remain with the judiciary itself so as to preserve independence in a functional sense.

G. Open Justice and Institutional Transparency

The principle of open justice, endorsed in Swapnil Tripathi, and the transparency obligations of judicial institutions, discussed in Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal, also bear upon AI. In the latter case the Court held that the office of the Chief Justice of India is a public authority under the Right to Information Act, 2005, while acknowledging that transparency must be balanced against judicial independence and privacy.[26] By analogy, information about the AI tools used by courts, their purposes, their limits and the results of their audits is information of public interest, and

[24] *Bachan Singh v. State of Punjab*, (1980) 2 S.C.C. 684 (India).
[25] *Sup. Ct. Advocates-on-Rec. Ass'n v. Union of India*, (2016) 5 S.C.C. 1 (India).
[26] *Cent. Pub. Info. Officer, Sup. Ct. of India v. Subhash Chandra Agarwal*, (2020) 5 S.C.C. 481 (India).

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courts should be prepared to disclose it subject to legitimate exemptions.

H. The Non-Delegation of the Judicial Function

The strands of doctrine discussed above converge on a principle that may be described as the non-delegation of the judicial function. The Constitution vests the judicial power of the State in courts presided over by judges who are appointed through a prescribed process, who take an oath to uphold the Constitution, who enjoy security of tenure and who are removable only through demanding procedures. Every one of these safeguards is designed to ensure that the person deciding a case is independent, accountable and bound by constitutional values. A machine possesses none of these attributes. To allow an automated system to determine the rights of parties would therefore bypass the very guarantees that legitimise judicial authority.

It follows that the line between assistance and delegation must be drawn by asking who actually forms the conclusion. Where a judge consults a summary or a search result and then independently examines the record, applies the law and records reasons, the function remains judicial. Where the judge merely adopts a machine-generated outcome or rationale with little independent scrutiny, the function has in substance been delegated, even if the formal signature remains human. The law should look at substance and not form, and should treat uncritical adoption of machine output as a departure from the duty to apply an independent mind to the case.

VIII. THE EARLY JUDICIAL RESPONSE TO GENERATIVE AI

Indian courts have only begun to confront generative AI, but the early decisions are instructive. In Jaswinder Singh @ Jassi v. State of Punjab, the Punjab and Haryana High Court, while dealing with a bail application in a case involving allegations of assault leading to death accompanied by cruelty, referred to a response generated by ChatGPT in order to obtain a broader perspective on bail jurisprudence where cruelty is alleged.[27] The Court took care to clarify that the reference was not an expression of opinion on the merits of the case and that the tool was not being used as a basis for deciding it. The episode is best understood as an experiment with technology as a supplementary aid; the decision itself rested on the ordinary legal analysis of the facts and settled principles.

A firmer note was struck by the Delhi High Court in Christian Louboutin SAS v. The

[27] *Jaswinder Singh @ Jassi v. State of Punjab*, CRM-M-22496-2022, slip op. (Punjab & Haryana High Ct. Mar. 27, 2023) (India).

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Shoe Boutique – Shutiq, where the plaintiff had relied on responses generated by ChatGPT to support a claim about the reputation of its mark.[28] Justice Prathiba Singh held that such outputs could not form the basis of adjudication of legal or factual issues in a court of law, pointing to the possibility of incorrect responses, fictional data and the uncertain reliability of the underlying material. The Court accepted that AI could serve, at the most, for a preliminary understanding or a first-level review, but not as a substitute for legal evidence and reasoning.

Read together, these decisions, along with the Kerala High Court policy, reveal an emerging judicial consensus: AI may be consulted but not obeyed. It may supply background, but it cannot furnish evidence, authority or reasons. What remains missing is a binding, nationwide norm. At present the position depends on individual judicial restraint and on High Court policies that vary in scope, and no comprehensive rule has been laid down defining permissible uses, disclosure obligations or the consequences of misuse. That gap invites uncertainty and unequal practice across courts.

IX. ETHICAL CONCERNS

Ethical analysis begins from the observation that adjudication is not merely the production of correct outputs. When a court decides a dispute, it recognises the parties as persons entitled to be heard by another person who is capable of understanding their situation and answerable for the decision. Being judged by a machine, however accurate, alters the moral relationship between the citizen and the State. The idea of human dignity, which runs through the Indian constitutional text and case law, suggests that persons should not be reduced to data profiles when their liberty or rights are at stake.

The law is also not a closed system of rules capable of mechanical application. Statutory language is open-textured, precedents pull in different directions, and decisions often require moral evaluation, empathy and an appreciation of social context. Judges routinely decide questions of reasonableness, good faith, the best interests of a child and the public interest, standards that draw upon lived experience. A model may imitate the form of such reasoning, but it does not bear responsibility for the consequences or share in the moral life of the community. For these reasons, ethical accounts of judging emphasise that discretion should remain with humans who can be held to account.

Transparency and explainability constitute a second ethical pillar. Litigants have a

[28] *Christian Louboutin SAS v. The Shoe Boutique – Shutiq*, CS(COMM) 583/2023, slip op. (Del. High Ct. Aug. 22, 2023) (India).

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legitimate interest in knowing whether an AI tool has been used in their case, for what purpose and with what safeguards. Secret use of AI, even for benign ends, corrodes trust when discovered. Fairness requires that tools be tested for disparate impact and that the results of such testing be recorded. The NITI Aayog principles already speak of inclusivity, non-discrimination and accountability, and the same values should be operationalised in judicial settings through binding standards and not merely through aspirational statements.

Confidentiality and professional responsibility form a third pillar. Judges and court staff owe duties of confidentiality regarding matters before them, and lawyers owe similar duties to their clients. Uploading case material to an external AI service may breach these duties. Advocates who use generative tools bear a corresponding obligation to verify every citation and proposition, and courts should be ready to treat the filing of fabricated authority as a serious professional lapse, as the American court did in Mata.

Finally, there is the question of public legitimacy. The authority of courts rests in large part on the public belief that they decide cases through reasoned and impartial human judgment. Even if AI-assisted decisions were statistically better on some measures, an erosion of public confidence in the human character of adjudication would weaken the institution. Efficiency is an important value but it is not the only value, and the Constitution does not permit speed to be purchased at the price of fairness.

X. COMPARATIVE PERSPECTIVES

Foreign experience offers guidance, though not templates. The European Union's Artificial Intelligence Act treats AI systems intended to be used by or on behalf of judicial authorities to research and interpret facts and the law, and to apply the law to a concrete set of facts, as high-risk systems, thereby subjecting them to requirements relating to risk management, data governance, transparency, human oversight, accuracy and robustness.[29] The Act reflects a risk-based philosophy in which the closer the technology comes to the exercise of public power over individuals, the heavier the regulatory obligations.

The European Commission for the Efficiency of Justice, working under the Council of Europe, adopted an Ethical Charter in 2018 which sets out five principles for the use of AI in judicial systems: respect for fundamental rights, non-discrimination, quality and security, transparency, impartiality and fairness, and keeping users under control.[30] The last of these

[29]Regulation 2024/1689, of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), 2024 O.J. (L 1689) 1, annex III.

[30]Eur. Comm'n for the Efficiency of Just. (CEPEJ), *European Ethical Charter on the Use of Artificial Intelligence*

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principles is particularly relevant, since it requires that judicial professionals be able to review decisions and the data used to arrive at them, and that litigants be informed in clear language when AI has been used. The Charter also advises caution about the use of predictive tools in criminal matters. The United States, lacking a comprehensive federal framework, has left the matter largely to litigation and court-specific rules, as the Loomis and Mata episodes show.

Comparative materials support three lessons for India. First, regulation should be proportionate to risk, distinguishing routine administrative tools from those that touch substantive rights. Second, human oversight must be real rather than nominal. Third, disclosure and contestability are not optional extras but conditions of legitimacy. India can learn from these experiences, but it must adapt them to its own constitutional design, linguistic diversity and resource constraints instead of importing them wholesale.

XI. THE WAY FORWARD

The first priority is a clear normative framework. The Supreme Court, acting through its administrative and rule-making powers and with the assistance of the e-Committee, should issue binding national guidelines on the use of AI in courts. These should classify uses by risk, permit assistive uses subject to verification, and prohibit the delegation of any adjudicatory function, including the determination of guilt, liability, bail or sentence, to an automated system. A statutory basis may become desirable in due course, but judicial rule-making can move faster and better protects institutional independence.

Second, the guidelines should mandate meaningful human oversight. A judge who relies on AI-generated research must independently verify each authority and must record the reasoning in his or her own words. Courts should require lawyers and litigants to disclose the use of generative tools in filings and to certify that all cited authority has been checked against primary sources. Where a court itself uses an AI tool in a manner that materially affects a party's rights, that fact should be disclosed to the parties so that they may object or respond.

Third, every tool should be subjected to independent pre-deployment testing and periodic audit for accuracy, bias and security, with the results made available at least in summary form. Procurement should favour open, inspectable systems, and contracts should not allow vendors to invoke trade secrecy to defeat judicial scrutiny. Wherever feasible, the judiciary should build or commission models trained on curated and verified Indian legal data, hosted on secure infrastructure under judicial control, rather than depending on general-

in Judicial Systems and Their Environment (Dec. 2018).

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purpose public tools.

Fourth, data governance must be strengthened. Court-specific protocols should govern the anonymisation of sensitive records, limits on data retention and the prohibition of secondary use, with particular protection for cases involving women, children and victims of sexual offences. The proportionality standard drawn from Puttaswamy should serve as the guiding test. The relationship between the Digital Personal Data Protection Act, 2023 and judicial data processing also deserves clarification through rules or judicial directions.

Fifth, investment in inclusion and capacity-building is essential. Datasets in Indian languages should be developed carefully and tested for performance in district court contexts. Judicial academies should train judges, registry staff and advocates in the strengths and limits of AI, including awareness of hallucination and automation bias. Technology should be accompanied by continuing investment in traditional resources, since no software can replace the appointment of adequate numbers of judges and the improvement of court infrastructure.

Finally, adoption should proceed incrementally through pilot projects in low-risk domains such as translation, transcription and case-flow management, with independent evaluation before expansion. A standing multi-stakeholder committee comprising judges, technologists, academics, bar representatives and members of civil society could review experience and update the guidelines as the technology evolves. This iterative approach is consistent with the judiciary's own tradition of the incremental development of doctrine.

XII. CONCLUSION

Artificial intelligence offers the Indian judiciary tools that could help address some of its most stubborn problems: mounting arrears, linguistic exclusion, scattered information and slow administrative processes. These benefits are real and should not be dismissed out of an abstract fear of technology. At the same time, the technology carries risks that go to the heart of the judicial function, including hidden bias, opacity, fabricated outputs, data insecurity and the gradual blurring of responsibility between human judges and machine systems.

The constitutional analysis undertaken in this paper suggests a principled way to reconcile these considerations. The guarantees of equality under Article 14, fair procedure under Article 21, privacy as recognised in Puttaswamy, the duty to give reasons, the requirement of individualised sentencing and the independence of the judiciary together permit the use of AI as an assistive instrument but do not permit it to displace human adjudication. The early decisions of the Punjab and Haryana and Delhi High Courts and the policy adopted by the Kerala High Court point in the same direction, treating AI as something to be consulted

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with caution and never as an authority.

What is now required is institutional follow-through. A binding national framework, built on human oversight, disclosure, independent audit, robust data protection and inclusive design, would convert scattered good practice into a reliable standard. If India adopts such a framework, technology can strengthen rather than weaken the promise of justice. The guiding principle should be that machines may help courts to work faster and reach further, but the responsibility to judge must always remain with judges.

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