

Justice in the Age of Algorithms: A Constitutional and Jurisprudential Study of India's Draft Regulations for the Use of Artificial Intelligence in Courts, 2026

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Abstract

The integration of Artificial Intelligence (AI) into judicial systems marks a significant shift in the administration of justice, offering opportunities to improve efficiency, accessibility, and case management. Recognising the growing role of AI within the Indian judiciary, the Supreme Court's e-Committee released the *Draft Regulations for the Use of Artificial Intelligence in Courts, 2026*, with the objective of establishing a structured framework for the responsible adoption of AI in judicial processes. While the Draft Regulations seek to ensure that AI functions only as an assistive tool and not as a substitute for judicial decision-making, they also raise important constitutional and jurisprudential concerns relating to judicial independence, procedural fairness, transparency, accountability, and the rule of law.

This study undertakes a doctrinal analysis of the Draft Regulations by examining their compatibility with the constitutional principles governing the administration of justice in India. Drawing upon comparative developments from other jurisdictions, this discussion evaluates whether the proposed regulatory framework adequately addresses concerns surrounding algorithmic bias, explainability, human oversight, and institutional accountability. It argues that although the Draft Regulations represent a progressive step towards judicial modernisation, they require a more rights-oriented framework capable of ensuring that technological innovation remains subordinate to constitutional values. The legitimacy of AI-assisted justice ultimately depends not upon technological advancement alone, but upon preserving public confidence in an independent, transparent, and human-centred judicial system.

Keywords: Artificial Intelligence, Indian Judiciary, Draft Regulations for the Use of Artificial Intelligence in Courts, 2026, Constitutionalism, Judicial Ethics, Explainable AI, Rule of Law.

Introduction and Research Problem

Justice has traditionally been understood as an inherently human enterprise. The legitimacy of adjudication has never rested merely upon the accuracy of legal outcomes but upon the confidence that those outcomes are produced through independent reasoning, impartial deliberation and adherence to constitutional principles¹. Courts derive their authority not from positional superiority but from the public trust that

¹ *Kesavananda Bharati v. State of Kerala*, (1973) 4 S.C.C. 225; *Supreme Court Advocates-on-Record Ass'n v. Union of India*, (1993) 4 S.C.C. 441.

judicial decisions represent the careful exercise of human judgment within a framework of law. The increasing incorporation of Artificial Intelligence into judicial administration therefore, presents one of the most significant jurisprudential questions confronting modern legal systems: Can algorithmic technologies enhance the administration of justice without altering the constitutional character of judicial decision-making itself?

The last decade has witnessed an unprecedented expansion of AI across both public and private institutions. Governments increasingly rely upon predictive analytics, automated decision-support systems and machine learning models to improve administrative efficiency, while private entities have integrated AI into commercial transactions, financial regulation, healthcare, education and dispute resolution. Judicial institutions have not remained isolated from this transformation. Courts across several jurisdictions now employ AI-assisted tools for document review, legal research, transcription, translation, case allocation and docket management.² Some jurisdictions have experimented with algorithmic systems capable of assessing litigation risks, recommending sentencing ranges or assisting judges in evaluating large volumes of documentary evidence. Although these developments promise greater efficiency, consistency and accessibility, they simultaneously raise profound constitutional concerns regarding transparency, accountability, and the preservation of judicial independence.

India's journey towards judicial digitalization predates the recent emergence of generative AI. Initiatives undertaken under the e-Courts Mission Mode Project, followed by technological innovations such as *SUPACE* and the Supreme Court Vidhik Anuvaad Software (*SUVAS*), reflected a gradual institutional effort to modernize judicial administration while improving access to justice. The experience gained during the COVID-19 pandemic further accelerated the adoption of digital technologies, including virtual hearings, electronic filing systems, and hybrid court proceedings. Against this backdrop, the publication of the *Draft Regulations for the Use of Artificial Intelligence in Courts, 2026*, represents the first comprehensive attempt to articulate normative standards governing the permissible use of AI within the Indian judicial ecosystem.

The significance of the Draft Regulations extends beyond technological governance. They represent an institutional acknowledgement that artificial intelligence is no longer a speculative possibility but an operational reality capable of influencing judicial processes. The proposed framework recognizes the benefits that AI may offer in reducing administrative burdens, improving research capabilities, facilitating multilingual access to judicial records, and enhancing institutional efficiency. Simultaneously, it attempts to preserve the foundational principle that judicial authority must remain vested exclusively in human judges. The Regulations repeatedly emphasize that AI is intended to function as an assistive instrument rather than a decision-maker, thereby reaffirming the constitutional centrality of human adjudication.

Nevertheless, the emergence of judicial AI raises questions that extend well beyond the text of the Draft Regulations. The increasing dependence upon algorithmic systems inevitably affects the manner in which judicial reasoning is generated, evaluated and communicated. The phenomenon commonly described as "*automation bias*" demonstrates that human decision-makers often place disproportionate reliance upon algorithmic recommendations, particularly where those systems appear technically sophisticated or institutionally endorsed.

² Council of Eur., *Eur. Comm'n for the Efficiency of Justice (CEPEJ), European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and Their Environment* 8–15 (2018); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* ¶¶ 18–31 (2021).

The constitutional implications become even more pronounced when viewed through the framework of Articles 14 and 21 of the Constitution of India. Fair procedure, reasoned decision-making, equality before law and access to justice are not merely procedural ideals but enforceable constitutional guarantees. Any technological intervention capable of influencing judicial processes must therefore satisfy standards that are considerably more rigorous than those applicable to administrative automation in other branches of government. Unlike executive decision-making, judicial adjudication performs the constitutional function of safeguarding individual rights against arbitrary state action. This distinctive role requires AI governance within courts to be evaluated through the lens of constitutional legitimacy rather than technological efficiency alone.

The publication of the Draft Regulations also coincides with growing international concern regarding the ethical and legal implications of judicial AI. Recent controversies involving fabricated legal authorities generated through generative AI systems have demonstrated that algorithmic tools remain susceptible to inaccuracies capable of undermining judicial credibility. Equally significant are concerns relating to algorithmic opacity, embedded bias and cybersecurity vulnerabilities. These developments suggest that the legal discourse surrounding judicial AI must move beyond questions of technological capability towards a deeper examination of institutional accountability and constitutional governance.

It is against this backdrop that the present discussion undertakes a constitutional and jurisprudential examination of India's *Draft Regulations for the Use of Artificial Intelligence in Courts, 2026*. The discussion proceeds on the central premise that while the Draft Regulations represent a significant institutional milestone in India's judicial modernization project, they do not by themselves resolve the deeper constitutional questions generated by algorithmic adjudication. Through a doctrinal analysis of the proposed framework, supplemented by comparative international experience, the discussion argues that the legitimacy of AI-assisted justice ultimately depends upon preserving the human, transparent, and accountable character of judicial decision-making. The challenge before Indian constitutionalism is therefore not whether artificial intelligence should enter the courtroom, but whether the rule of law can continue to flourish in an age increasingly shaped by algorithms.

Research Objectives

The present study seeks to undertake a comprehensive constitutional and jurisprudential examination of the *Draft Regulations for the Use of Artificial Intelligence in Courts, 2026*, with particular emphasis on their implications for the administration of justice in India. While the Draft Regulations acknowledge the transformative potential of Artificial Intelligence in enhancing judicial efficiency and access to justice, they simultaneously attempt to regulate its responsible use by judges, judicial officers, advocates, litigants, court personnel, and other stakeholders interacting with the judicial system. Against this backdrop, the study pursues the following objectives:

1. To examine the evolution of Artificial Intelligence within India's justice delivery ecosystem, including its gradual integration into judicial administration, court processes, legal practice, and dispute resolution mechanisms.
2. To critically analyse the regulatory architecture established under the Draft Regulations for the Use of Artificial Intelligence in Courts, 2026, with particular reference to the rights, obligations, and ethical responsibilities imposed upon judges, advocates, court officials, litigants, and Artificial Intelligence service providers.
3. To evaluate the constitutional compatibility of the Draft Regulations by examining their consistency

with the principles of judicial independence, procedural fairness, equality before law, open justice, privacy, transparency, accountability, and the rule of law.

4. To assess whether the safeguards incorporated within the Draft Regulations adequately address the legal and ethical risks associated with Artificial Intelligence, including algorithmic bias, opacity, hallucinations, confidentiality, cybersecurity, professional responsibility, and human oversight.
5. To comparatively analyse emerging international approaches to Artificial Intelligence governance within judicial systems and identify principles and best practices capable of strengthening India's proposed regulatory framework.
6. To propose recommendations for developing a constitutionally robust, ethically responsible, and technologically adaptive framework governing the use of Artificial Intelligence across the Indian justice delivery system, ensuring that technological innovation strengthens rather than compromises public confidence in the administration of justice.

Research Questions

In light of the growing integration of Artificial Intelligence into the justice delivery system and the regulatory framework proposed under the Draft Regulations for the Use of Artificial Intelligence in Courts, 2026, the present study seeks to address the following research questions:

1. Whether the Draft Regulations for the Use of Artificial Intelligence in Courts, 2026, establish a comprehensive and constitutionally compatible framework governing the responsible use of Artificial Intelligence across the Indian justice delivery ecosystem?
2. Whether the regulatory safeguards envisaged under the Draft Regulations adequately balance technological innovation with constitutional guarantees such as judicial independence, equality before law, procedural fairness, privacy, transparency, accountability, and the rule of law?
3. To what extent do the Draft Regulations effectively regulate the use of Artificial Intelligence by judges, advocates, litigants, court personnel, and technology providers while preserving the integrity and fairness of judicial proceedings?
4. Whether the existing regulatory framework sufficiently addresses emerging legal and ethical concerns arising from the use of Artificial Intelligence, including algorithmic bias, explainability, hallucinations, confidentiality of judicial and client data, cybersecurity, professional responsibility, and meaningful human oversight?
5. What lessons may be drawn from comparative international frameworks governing Artificial Intelligence in judicial systems, and how can such principles contribute to strengthening India's proposed regulatory framework?
6. What additional legislative, institutional, and ethical safeguards are necessary to ensure that Artificial Intelligence remains an assistive tool that enhances, rather than undermines, public confidence in the administration of justice?

Research Hypothesis

The present study proceeds on the hypothesis that the Draft Regulations for the Use of Artificial Intelligence in Courts, 2026 represent India's first comprehensive attempt to establish a governance framework for the responsible integration of Artificial Intelligence within the justice delivery system. By extending their regulatory ambit beyond judicial decision-making to encompass advocates, litigants, court personnel, and technology providers, the Draft Regulations acknowledge that the ethical and constitutional

implications of Artificial Intelligence are shared across the entire legal ecosystem rather than being confined to the judiciary alone.

However, the study hypothesises that although the Draft Regulations lay a significant normative foundation for the adoption of trustworthy Artificial Intelligence, they do not comprehensively resolve several critical constitutional, legal, and professional concerns. In particular, issues relating to algorithmic transparency, explainability, allocation of liability, confidentiality of judicial and client information, professional responsibility of legal practitioners, accountability of Artificial Intelligence service providers, and effective enforcement mechanisms continue to require greater regulatory clarity.

Accordingly, the study proceeds on the premise that the long-term legitimacy of Artificial Intelligence within the Indian justice delivery system will depend not merely upon technological advancement, but upon the development of a constitutionally compatible, ethically grounded, and institutionally accountable regulatory framework that preserves judicial independence, safeguards procedural fairness, protects litigants' rights, and reinforces public confidence in the administration of justice.

Research Methodology

The present study adopts a qualitative doctrinal research methodology to critically examine the legal, constitutional, and jurisprudential dimensions of the *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026*³. The research is primarily based on the analysis of primary legal sources, including the Constitution of India, judicial precedents, statutory enactments, the *Draft Regulations for the Use of Artificial Intelligence in Courts, 2026*, and other policy documents issued by the Supreme Court of India relating to judicial digitalisation and Artificial Intelligence. The study also examines relevant international legal instruments, ethical frameworks, and comparative regulatory models governing the responsible use of Artificial Intelligence within judicial systems.

The research follows a descriptive-cum-analytical approach. It first examines the regulatory framework proposed under the Draft Regulations by analysing its objectives, guiding principles, institutional architecture, permissible and prohibited uses of Artificial Intelligence, governance mechanisms, transparency obligations, accountability standards, and oversight procedures.⁴ Thereafter, the study undertakes a critical evaluation of the proposed framework through the lens of constitutional principles such as judicial independence, the rule of law, equality, procedural fairness, privacy, transparency, and access to justice.

Unlike studies that primarily focus upon the use of Artificial Intelligence by judges in adjudicatory functions, the present research adopts a broader institutional perspective by examining the implications of the Draft Regulations for the entire justice delivery ecosystem, including judges, advocates, litigants, court staff, registry officials, Artificial Intelligence service providers, and other stakeholders whose functions are regulated or affected by the proposed framework.⁵ This broader perspective enables a more comprehensive evaluation of the legal and ethical obligations that accompany the increasing integration of Artificial Intelligence into court processes.

The study further employs a comparative legal approach by analysing internationally recognised frameworks, including the European Ethical Charter on the Use of Artificial Intelligence in Judicial

³ Supreme Court of India, *Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026* (Draft for Public Consultation, June 2026)

⁴ *Id.* chs. II–V

⁵ *Id. reg.* 43(3)–(6)

Systems, UNESCO's *Recommendation on the Ethics of Artificial Intelligence*, and other comparative developments relating to Artificial Intelligence governance.⁶ Such comparative analysis assists in identifying best practices while assessing whether the Indian regulatory framework adequately addresses issues relating to explainability, algorithmic accountability, human oversight, professional responsibility, data governance, and institutional transparency.

Finally, the study adopts a critical and reform-oriented approach, wherein the Draft Regulations are not merely described but assessed for their practical viability, constitutional compatibility, and regulatory adequacy. Based on this evaluation, the study proposes recommendations intended to strengthen India's emerging framework for the responsible adoption of Artificial Intelligence within the justice delivery system.

Literature Review and Research Gap

The rapid advancement of Artificial Intelligence (AI) has generated extensive interdisciplinary scholarship examining its implications for governance, public administration, legal reasoning, and judicial decision-making. Existing literature has predominantly focused on the ethical implications of algorithmic decision-making, concerns surrounding algorithmic bias, transparency and explainability, the impact of automation on judicial independence, and the broader relationship between Artificial Intelligence and the rule of law. International organisations, including the Council of Europe, UNESCO, the Organisation for Economic Co-operation and Development (OECD), and the European Union, have also contributed significantly by developing normative principles intended to guide the responsible deployment of Artificial Intelligence within justice systems and other public institutions.⁷

Within the Indian context, academic discourse has largely centred upon the digital transformation of the judiciary through initiatives such as the e-Courts Mission Mode Project, the introduction of the Supreme Court's SUPACE platform, digitisation of court records, online dispute resolution mechanisms, virtual courts, and the constitutional implications arising from the increasing use of technology in judicial administration.⁸ A considerable body of scholarship has examined whether Artificial Intelligence may improve efficiency, reduce judicial backlog, strengthen legal research, and enhance access to justice while simultaneously cautioning against excessive reliance upon opaque algorithmic systems in adjudication.

Notwithstanding these contributions, the existing literature reveals three significant limitations.

First, the overwhelming majority of scholarly works examine Artificial Intelligence from the perspective of judicial decision-making alone, treating judges as the principal or exclusive users of AI technologies. Consequently, comparatively little attention has been devoted to the manner in which Artificial Intelligence affects the broader justice delivery ecosystem comprising advocates, litigants, registry

⁶ Council of Europe, *European Commission for the Efficiency of Justice (CEPEJ), European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and Their Environment* (2018); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

⁷ Council of Europe, *European Commission for the Efficiency of Justice (CEPEJ), European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and Their Environment* (2018); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021); Organisation for Economic Co-operation and Development (OECD), *OECD Principles on Artificial Intelligence* (2019); Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act).

⁸ Supreme Court of India, e-Committee, SUPACE: Supreme Court Portal for Assistance in Court Efficiency; Supreme Court of India, e-Committee, *Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026 (Draft for Public Consultation, June 2026)*

officials, court administrators, technology vendors, and other institutional actors whose conduct increasingly influences the fairness and integrity of judicial proceedings.

Secondly, much of the existing scholarship predates the publication of the *Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026*. As a result, there remains limited academic engagement with India's first comprehensive attempt to establish an institutional governance framework regulating Artificial Intelligence in courts through legally structured principles relating to human primacy, transparency, accountability, permissible and prohibited uses, institutional oversight, audit mechanisms, procurement standards, disclosure obligations, and grievance redressal.⁹

Thirdly, while comparative scholarship frequently analyses regulatory developments in jurisdictions such as the European Union, Canada, Singapore, the United Kingdom, and the United States, relatively few studies evaluate whether those international principles can be meaningfully adapted to India's unique constitutional framework, judicial structure, procedural laws, and access-to-justice concerns.

Accordingly, the present study seeks to bridge these gaps by undertaking a comprehensive constitutional and jurisprudential analysis of the *Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026*. Rather than viewing the Regulations merely as ethical guidance governing judges, the study conceptualises them as a regulatory framework governing the responsible use of Artificial Intelligence across the entire justice delivery ecosystem. It critically evaluates the Draft Regulations from the perspective of constitutional governance, professional ethics, institutional accountability, technological innovation, and comparative regulatory practice, while offering recommendations for strengthening India's emerging framework for responsible Artificial Intelligence adoption within courts.

Research and Analysis

1. The Rise of Artificial Intelligence in India's Justice Delivery Ecosystem

The integration of Artificial Intelligence (AI) into judicial institutions marks one of the most significant technological transformations in the contemporary administration of justice. Traditionally, courts have relied upon human reasoning, judicial discretion, and adversarial advocacy to resolve disputes. However, increasing case pendency, procedural complexity, exponential growth in digital evidence, and rising public expectations for efficient justice delivery have compelled judicial institutions across the world to explore technological solutions capable of assisting, though not replacing, human decision-making. Artificial Intelligence has consequently emerged as a powerful tool capable of enhancing administrative efficiency, improving legal research, facilitating multilingual access, strengthening case management, and supporting numerous routine functions that accompany judicial proceedings.¹⁰

India's journey towards AI-assisted justice did not commence with the Draft Regulations of 2026. Rather, it represents the culmination of a broader process of judicial digitalisation that has evolved over the past two decades. Initiatives such as the e-Courts Mission Mode Project, virtual hearings, digitisation of judicial records, electronic filing of cases, National Judicial Data Grid (NJDG), translation technologies, and the Supreme Court's *SUPACE* platform collectively laid the technological foundation upon which the present regulatory framework has been conceived. These initiatives gradually shifted the judiciary from merely digitising court records towards exploring intelligent technologies capable of assisting judges,

⁹ *Id.* chs. II–IX

¹⁰ Council of Europe, *European Commission for the Efficiency of Justice (CEPEJ), European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and Their Environment* (2018); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021); OECD, *OECD Principles on Artificial Intelligence* (2019)

registry officials, advocates, and litigants in performing diverse judicial and administrative functions more efficiently.¹¹

Unlike many earlier technological reforms that focused primarily upon court administration, the *Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026* recognise Artificial Intelligence as an integral component of the broader justice delivery ecosystem. The Regulations apply not merely to adjudicatory functions but also to administrative and judicial processes undertaken by the Supreme Court, High Courts, subordinate courts, tribunals, and statutory commissions. They further acknowledge that AI may affect a diverse range of stakeholders including judicial officers, advocates, litigants, registry personnel, AI service providers, and private technology vendors responsible for developing or deploying AI systems within court processes.¹²

This broader institutional approach represents a notable shift in regulatory philosophy. Instead of perceiving Artificial Intelligence solely as a technological innovation, the Draft Regulations conceptualise it as a subject of institutional governance. The framework accordingly regulates not only the deployment of AI systems but also the responsibilities of those who develop, supervise, rely upon, or interact with such systems. It introduces principles governing transparency, accountability, explainability, data protection, cybersecurity, professional responsibility, continuous auditing, disclosure obligations, and institutional oversight, thereby recognising that trust in AI-assisted justice depends as much upon governance mechanisms as upon technological capability itself.¹³

Another distinctive feature of the Draft Regulations lies in their adoption of a balanced regulatory philosophy. On one hand, the Regulations expressly encourage innovation by creating a presumption in favour of the responsible adoption of AI wherever it demonstrably improves access to justice, judicial efficiency, or administrative effectiveness. On the other hand, they simultaneously prohibit the use of Artificial Intelligence for adjudication, sentencing, risk scoring, behavioural prediction, or any form of autonomous judicial decision-making capable of compromising judicial independence or affecting individual rights. This calibrated approach reflects an acknowledgment that Artificial Intelligence should augment, rather than substitute, human legal reasoning.¹⁴

While this regulatory philosophy deserves appreciation, it also raises important constitutional and jurisprudential questions. Whether the proposed safeguards are sufficient to address concerns relating to algorithmic opacity, allocation of liability, confidentiality of judicial data, professional obligations of advocates, accountability of private AI vendors, and meaningful human oversight remains a matter requiring careful examination. It is these questions that form the central focus of the present study.

2. The Regulatory Architecture of the Draft Regulations: Principles, Powers and Practical Challenges

The Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026 represent India's first structured attempt to establish a comprehensive governance framework for the deployment of Artificial Intelligence within the justice delivery system. Rather than functioning merely as a code of ethical conduct or a technological policy, the Draft Regulations seek to regulate the complete lifecycle of AI—from its approval and deployment to oversight, auditing, procurement, transparency and grievance redressal. In

¹¹ Supreme Court of India, *e-Committee, e-Courts Mission Mode Project; National Judicial Data Grid (NJDG); Supreme Court of India, SUPACE (Supreme Court Portal for Assistance in Court Efficiency)*

¹² Supreme Court of India, *Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026*, regs. 2–3

¹³ *Id.* ch. II

¹⁴ *Id.* regs. 19–20

doing so, the Regulations move beyond the traditional understanding of judicial digitalisation and instead attempt to institutionalise AI governance through legally enforceable principles, defined institutional responsibilities, and continuous regulatory supervision.¹⁵

A notable feature of the Draft Regulations is that they consciously reject both extremes that presently dominate global discourse on Artificial Intelligence. They neither embrace unrestricted technological experimentation nor advocate excessive regulatory restraint. Instead, they adopt what may be described as a "regulated innovation" model, wherein technological advancement is encouraged subject to constitutional safeguards, institutional accountability, and meaningful human supervision. This philosophy is expressly reflected in the twin principles of "Presumption in favour of responsible AI adoption" and "Innovation over Restraint," which encourage courts to actively identify opportunities for AI deployment while simultaneously prohibiting any erosion of judicial independence or procedural fairness.¹⁶

From a policy perspective, this represents a progressive departure from earlier discussions surrounding AI in the judiciary. The Draft does not perceive Artificial Intelligence as an exceptional technology requiring blanket prohibition; instead, it recognises AI as an inevitable component of modern judicial administration whose risks should be managed through governance rather than avoidance. Such an approach is consistent with contemporary international regulatory thinking, particularly the European Union's shift towards risk-based regulation instead of technology-specific prohibitions.

Nevertheless, the adoption of a presumption favouring AI deployment also warrants careful scrutiny. Judicial institutions fundamentally differ from commercial or administrative organisations because every technological intervention ultimately affects constitutional rights, procedural fairness, and public confidence in the administration of justice. While the Draft appropriately provides that AI must remain assistive and that final adjudicatory authority shall always vest in a human judicial officer, it simultaneously encourages courts to actively seek opportunities for AI adoption.¹⁷ The coexistence of these two objectives may create practical tensions. For instance, subordinate courts facing increasing administrative pressures may gradually expand AI usage beyond routine administrative functions into areas that indirectly influence adjudicatory outcomes, such as document prioritisation, legal research, summarisation of pleadings, or identification of precedents. Although none of these functions formally determines the outcome of litigation, each possesses the capacity to shape judicial reasoning in subtle yet significant ways.

In this regard, the Draft could have adopted a more nuanced risk-classification model, similar to that employed under the European Union AI Act, by categorising AI applications according to the degree of constitutional risk they pose. Administrative functions such as scheduling, translation, transcription, metadata generation, anonymisation of judgments and accessibility services present relatively low risks and may appropriately benefit from a presumption favouring innovation. Conversely, AI systems used for legal research, evidence management, document summarisation, or analytical assistance during adjudication warrant considerably higher levels of regulatory scrutiny because inaccuracies or algorithmic bias within these functions may indirectly influence judicial outcomes. By treating all permissible AI

¹⁵ *Supreme Court of India, Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026, chs. II–IX (Draft for Public Consultation, June 2026)*

¹⁶ *Id. regs. 16–17*

¹⁷ *Id. regs. 4, 16 & 19*

applications within a broadly similar regulatory framework, the Draft risks underestimating the varying degrees of constitutional sensitivity associated with different categories of AI deployment.

Another noteworthy aspect of the Draft is its deliberate emphasis upon governance rather than technology. Unlike several international instruments that primarily prescribe ethical principles, the Draft creates an elaborate institutional structure comprising an Apex Body, AI Committees, Technical Committees, a Cyber Security Committee, a Case and Data Management Committee, an AI Secretariat, and a Centre of Research and Excellence on Artificial Intelligence.¹⁸ Collectively, these institutions are entrusted with approving AI systems, conducting ethical and technical assessments, supervising audits, maintaining AI registers, reporting AI incidents, framing standards, and monitoring compliance across jurisdictions. The creation of such specialised institutions reflects an appreciation that effective AI regulation cannot depend solely upon judicial discretion but requires continuous technical expertise and administrative oversight. However, the proposed institutional framework also raises important implementation concerns. The establishment of multiple committees undoubtedly strengthens regulatory oversight, yet it may simultaneously generate overlapping jurisdictions, procedural delays, and administrative complexity. The Draft remains largely silent regarding the manner in which conflicts between these bodies will be resolved, the timelines within which approvals must be granted, or the appellate mechanisms available against regulatory decisions affecting AI deployment. Similarly, while the Regulations envisage periodic audits and annual transparency reports, they do not prescribe measurable indicators for evaluating whether an AI system has demonstrably improved efficiency, accuracy, or access to justice. In the absence of objective performance metrics, regulatory oversight may become largely procedural rather than outcome-oriented. Accordingly, while the Draft Regulations deserve considerable appreciation for establishing India's first institutional AI governance framework, their long-term success will depend upon the development of clearer implementation standards, risk-based classification of AI systems, measurable compliance benchmarks, and effective coordination between the various regulatory institutions created under the proposed framework.

3. Constitutional Foundations of AI Governance in Indian Courts

The deployment of Artificial Intelligence within the judicial system is not merely a question of technological innovation; it is fundamentally a constitutional issue. Every stage of the judicial process—from filing of pleadings and management of evidence to adjudication and delivery of judgments—is governed by constitutional guarantees that preserve fairness, equality, accountability and public confidence in the administration of justice. Consequently, any regulatory framework seeking to integrate Artificial Intelligence into court processes must satisfy constitutional standards rather than merely demonstrate technological efficiency. The Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026 recognise this constitutional reality by expressly affirming that AI shall remain an assistive technology operating under meaningful human supervision and shall not replace judicial discretion or undermine judicial independence.¹⁹

The constitutional legitimacy of AI-assisted justice in India primarily derives from the principle of the Rule of Law, which forms part of the Constitution's basic structure.²⁰ The Rule of Law requires that judicial power be exercised through reasoned decision-making, equal application of legal principles and accountability to law rather than to automated computational outputs. Unlike commercial decision-

¹⁸ *Id.* chs. IV–V

¹⁹ *Supreme Court of India, Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026, regs. 4–7*

²⁰ *Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225; Indira Nehru Gandhi v. Raj Narain, 1975 Supp SCC1*

making, where algorithmic optimisation may often be desirable, judicial decision-making involves balancing competing rights, interpreting legislative intent, appreciating evidence and exercising equitable discretion—functions that cannot presently be reduced to purely computational processes. By prohibiting autonomous adjudication and preserving the primacy of human judges, the Draft Regulations attempt to reconcile technological innovation with this foundational constitutional principle.²¹

Equally significant is the relationship between Artificial Intelligence and Article 14 of the Constitution, which guarantees equality before the law and equal protection of the laws. Algorithmic systems are inherently dependent upon the quality, representativeness and neutrality of the data on which they are trained. If historical judicial data contain unconscious institutional biases, discriminatory patterns or inconsistent legal reasoning, AI systems relying upon such datasets may unintentionally reproduce or amplify those inequities. This concern has received considerable international attention, particularly in relation to predictive algorithms employed in criminal justice and risk assessment. The Draft Regulations acknowledge these risks by requiring fairness, non-discrimination, explainability and periodic auditing of AI systems before and during their deployment.²²

Nevertheless, the Regulations stop short of prescribing objective standards for measuring algorithmic bias or identifying discriminatory outcomes. While fairness is recognised as a governing principle, the Draft does not require independent bias testing, publication of audit methodologies or disclosure of benchmark datasets used for validating AI systems. In practice, therefore, compliance with the principle of equality may depend largely upon internal administrative assessments rather than transparent and independently verifiable standards. Given that Article 14 prohibits not only intentional discrimination but also arbitrary State action, future versions of the Regulations should mandate periodic equality impact assessments for all high-risk AI applications deployed within the justice delivery system.

The Draft Regulations also engage closely with Article 21, particularly the guarantee of fair procedure recognised by the Supreme Court as an indispensable component of the right to life and personal liberty.

²³Procedural fairness requires that litigants understand the basis upon which judicial decisions are reached and retain an effective opportunity to challenge adverse findings. If AI-generated summaries, legal research outputs or analytical recommendations influence judicial reasoning without adequate disclosure or verification, litigants may effectively be deprived of an opportunity to meaningfully contest the material influencing the adjudicatory process. Recognising this concern, the Draft imposes disclosure obligations regarding AI-assisted filings and emphasises explainability, traceability and human oversight in AI deployment.²⁴

However, the existing disclosure framework principally regulates parties and legal representatives rather than judicial reliance upon AI-generated outputs. The Draft does not clearly indicate the circumstances in which judges should disclose reliance upon AI-assisted research or whether litigants possess a right to question the reliability of AI-generated analytical material consulted during judicial deliberations. While complete disclosure of every technological tool may be neither practical nor necessary, greater procedural clarity would strengthen transparency and reinforce public confidence in AI-assisted adjudication.

²¹ Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts*, 2026, reg. 4.

²² Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts*, 2026, regs. 8–15

²³ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

²⁴ Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts*, 2026, reg. 43

The constitutional implications of Artificial Intelligence further extend to the right to privacy, recognised as a fundamental right in *Justice K.S. Puttaswamy (Retd.) v. Union of India*²⁵. AI systems deployed within courts may process highly sensitive personal information including financial records, medical documents, biometric information, commercial secrets and confidential communications. The Draft Regulations accordingly prescribe principles relating to data minimisation, cybersecurity, confidentiality and responsible data governance.²⁶ These safeguards constitute an important step towards protecting sensitive judicial information against misuse or unauthorised disclosure.

At the same time, the Draft leaves several practical questions unanswered. It does not comprehensively regulate cross-border processing of judicial data, retention periods for AI-generated datasets, anonymisation standards for machine learning purposes or liability arising from data breaches caused by third-party AI vendors. These omissions become particularly significant as courts increasingly rely upon externally developed AI tools that may involve cloud-based infrastructure or outsourced technical services. Constitutional protection of privacy under Article 21 requires not merely broad statements of principle but enforceable obligations capable of ensuring effective accountability where personal data are compromised.

Viewed collectively, the Draft Regulations represent a conscious attempt to embed constitutional values within India's emerging framework for judicial Artificial Intelligence. Their emphasis upon judicial independence, human primacy, fairness, transparency and privacy demonstrates an appreciation that technological innovation cannot be divorced from constitutional governance. Nevertheless, constitutional compliance cannot remain confined to declaratory principles. As AI systems become increasingly sophisticated and integrated into judicial workflows, the effectiveness of the regulatory framework will ultimately depend upon enforceable safeguards, measurable accountability standards and robust institutional oversight capable of translating constitutional values into day-to-day judicial practice.

4. Permissible and Prohibited Uses of AI: Drawing the Boundary Between Assistance and Adjudication

One of the most consequential features of the Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026 is their attempt to distinguish between legitimate technological assistance and impermissible substitution of judicial authority. This distinction lies at the centre of constitutional AI governance because the legality of a particular system cannot be determined merely by whether it produces useful results. It must also be examined in light of the function performed, the degree of human control retained, the rights affected, and the possibility that an apparently administrative tool may indirectly influence adjudicatory outcomes. The Draft Regulations address this concern by enumerating permissible uses of AI while simultaneously identifying activities that remain beyond the acceptable limits of automation.²⁷

4.1 Permissible Uses: AI as an Assistive Instrument

The Draft Regulations permit the use of approved AI systems for a range of functions, including legal research, document summarisation, transcription, translation, anonymisation, case management, administrative assistance, accessibility services, and other support-oriented tasks.²⁸ These uses reflect the practical reality that a substantial part of judicial work involves processing large volumes of information

²⁵ 2015 SCC OnLine SC 1640

²⁶ Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026*, regs. 12–15

²⁷ Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026*, regs. 19–20

²⁸ *Id.* reg. 19

rather than exercising judicial discretion in the strict sense. Properly designed AI systems may assist courts in locating authorities, organising records, converting oral proceedings into searchable transcripts, translating judicial documents into regional languages, and improving access for persons with disabilities. The inclusion of translation and accessibility services is particularly significant in the Indian context. The linguistic diversity of the country frequently creates barriers for litigants who cannot effectively understand pleadings, orders, or proceedings conducted in a language unfamiliar to them. AI-assisted translation may therefore advance access to justice by reducing dependence upon delayed or expensive manual translation. Similarly, speech-to-text systems, screen-reading tools, and automated captioning may improve participation by persons with visual, auditory, or other disabilities. In such contexts, Artificial Intelligence performs an enabling rather than determinative role.

However, the classification of a function as “assistive” should not automatically place it outside constitutional scrutiny. Legal research and document summarisation, for example, may appear to be preliminary tasks, but the selection, exclusion, or prioritisation of material can significantly shape judicial reasoning. An AI research tool that systematically favours frequently cited precedents may marginalise newer, minority, or dissenting positions. Likewise, an automated summary may omit factual qualifications that are central to a party’s case. The constitutional risk therefore arises not only when an AI system renders a decision, but also when it structures the information upon which a human decision-maker relies. For this reason, permissible-use classifications should be accompanied by differentiated safeguards. Low-risk functions such as scheduling hearings or formatting documents may require basic accuracy and security checks. By contrast, systems used for legal research, evidentiary organisation, or summarisation should be subject to stricter validation, source traceability, and mandatory human verification. The Draft Regulations recognise the importance of oversight, but they do not fully articulate distinct levels of scrutiny for different categories of permissible use. A risk-sensitive framework would prevent the label of “assistance” from becoming a broad exemption from meaningful accountability.

4.2 Prohibited Uses: Preserving Judicial Authority

The Draft Regulations prohibit the use of AI for autonomous adjudication, determination of guilt or liability, sentencing, risk scoring, behavioural prediction, and other functions capable of replacing or substantially impairing independent judicial decision-making. They also restrict reliance upon opaque or unapproved systems where the basis of the output cannot be meaningfully examined.²⁹ These prohibitions reflect the constitutional premise that judicial power must remain vested in legally authorised human institutions that are capable of giving reasons, considering context, and remaining accountable through appellate and review mechanisms.

The prohibition against AI-based adjudication is justified not merely because present-day systems may produce inaccurate results. Even a highly accurate system would raise deeper jurisprudential concerns. Judicial decision-making is not a mechanical exercise of matching facts with predetermined rules. Courts interpret ambiguous legislation, distinguish precedents, weigh competing constitutional values, assess credibility, and exercise discretion informed by institutional responsibility. A computational system may identify statistical relationships or generate legally plausible text, but it does not bear constitutional office, professional responsibility, or moral accountability for the coercive consequences of a judgment.

The restrictions on risk scoring and behavioural prediction are equally important. Such systems commonly rely upon correlations derived from past data and may treat group-based patterns as indicators of individual

²⁹ *Id. reg. 20*

conduct. Within criminal justice, bail, sentencing, or preventive detention, this approach could undermine the presumption of innocence and individualised adjudication. Historical data may also contain distortions produced by unequal policing, socioeconomic disadvantage, caste-based discrimination, or inconsistent enforcement. An algorithm trained upon such records may reproduce these patterns under the appearance of technical neutrality.

Nevertheless, the Draft Regulations should clarify whether the prohibition extends only to systems that directly generate judicial outcomes or also to tools that indirectly recommend, rank, or prioritise possible outcomes. An AI tool may formally avoid “deciding” a case while assigning risk levels, identifying a supposedly appropriate sentence, or presenting one legal conclusion as statistically preferable. Judges may retain nominal authority while becoming susceptible to automation bias—the tendency to defer to computer-generated recommendations because they appear objective or technically sophisticated. Human involvement, therefore, cannot be equated automatically with meaningful human control.

4.3 The Problem of Functional Overlap

The practical boundary between permissible assistance and prohibited adjudication is likely to be difficult to maintain. A summarisation tool may influence factual appreciation; a precedent-recommendation system may shape legal interpretation; and an automated case-classification mechanism may affect urgency, listing, or allocation. Even administrative tools may generate substantive consequences where they influence the order in which cases are heard or the attention particular claims receive.

The Draft Regulations would therefore benefit from adopting a functional impact test. Under such a test, an AI system would be evaluated not solely according to its formal description but according to its actual or reasonably foreseeable effect upon legal rights and judicial outcomes. Relevant considerations should include whether the system influences the evaluation of evidence, recommends a legal conclusion, affects liberty or property, determines access to a procedural benefit, or materially shapes the information presented to a decision-maker.

Systems satisfying these criteria should be treated as high-risk even when described as research, administrative, or advisory tools. Their deployment should require prior approval, documented testing, independent audits, source verification, disclosure of limitations, and an effective mechanism through which affected parties may challenge erroneous outputs.

The Draft Regulations correctly establish that Artificial Intelligence must augment rather than replace human judgment. Yet the durability of this principle will depend upon how carefully the boundary between assistance and adjudication is interpreted in practice. A formal prohibition on autonomous decision-making is insufficient if AI systems are permitted to influence decisive stages of judicial reasoning without corresponding safeguards. The regulatory objective must therefore be not merely to retain a human judge at the end of the process, but to preserve genuine intellectual independence, informed scrutiny, and constitutional accountability throughout the decision-making chain.

5. Institutional Governance and Regulatory Oversight: Evaluating the Multi-Tier Framework

One of the distinguishing characteristics of the Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026 is that they do not merely prescribe substantive principles governing AI deployment but also establish an elaborate institutional framework for supervising compliance. Unlike several international ethical instruments that rely predominantly upon voluntary principles or broad policy recommendations, the Draft seeks to institutionalise AI governance by creating specialised regulatory bodies entrusted with policy formulation, technical evaluation, cybersecurity, auditing, capacity building,

and continuous monitoring.³⁰ The emphasis on institutional oversight reflects an understanding that responsible AI governance cannot be achieved solely through normative principles; it requires dedicated bodies possessing legal authority, technical expertise, and administrative continuity.

The governance structure proposed under the Draft Regulations is deliberately multi-layered. At its apex is the Apex Body, which is entrusted with overall policy direction, approval of standards, inter-institutional coordination, and supervision of AI deployment across the judicial system. Supporting the Apex Body are specialised committees, including the *Artificial Intelligence Committee*, the *Cyber Security Committee*, the *Case and Data Management Committee*, and the *Centre of Research and Excellence on Artificial Intelligence*, each performing distinct regulatory and technical functions.³¹ Together, these institutions are expected to evaluate AI systems prior to deployment, monitor compliance with ethical and technical standards, review cybersecurity practices, maintain records of approved AI applications, coordinate capacity-building initiatives, and facilitate continuous research into emerging technological developments. The creation of specialised regulatory institutions is a significant advancement over conventional models of judicial administration, which generally rely upon judges or court administrators to supervise technological reforms alongside their ordinary responsibilities. Artificial Intelligence presents challenges extending beyond legal interpretation into areas such as machine learning, data science, cybersecurity, software engineering, procurement, and digital risk management. By recognising that effective regulation requires interdisciplinary expertise, the Draft moves towards a governance model that integrates legal and technical oversight rather than treating technological issues as purely administrative matters.

Nevertheless, the effectiveness of this institutional architecture will ultimately depend upon the clarity with which powers and responsibilities are allocated. While the Draft assigns distinct functions to different committees, several provisions indicate overlapping areas of responsibility, particularly concerning system approval, compliance monitoring, auditing, and policy formulation.³² Without clearly defined reporting hierarchies and decision-making procedures, the existence of multiple oversight bodies may inadvertently create regulatory fragmentation rather than institutional coordination. Questions relating to which body possesses final authority in the event of conflicting technical assessments, whether committee recommendations are binding, and how disagreements between technical experts and judicial administrators are to be resolved remain largely unanswered.

The Draft Regulations also devote considerable attention to AI audits and continuous monitoring, recognising that compliance cannot be assessed solely at the stage of procurement or initial deployment. AI systems evolve through software updates, retraining of models, integration of new datasets, and changes in operational environments. Consequently, a system that satisfies ethical and technical standards at one point in time may subsequently generate unforeseen risks or exhibit declining performance. The requirement of periodic audits therefore represents one of the most important safeguards incorporated within the Draft.³³ It reflects a shift from static regulation towards continuous governance, where accountability extends throughout the operational lifecycle of an AI system.

However, the audit framework itself remains relatively underdeveloped. The Regulations require periodic assessments but provide limited guidance regarding the methodology to be adopted, the frequency of audits, the qualifications of auditors, or the objective benchmarks against which AI systems should be

³⁰ Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts*, 2026, chs. IV–VIII

³¹ *Id.* chs. IV–V

³² *Id.*

³³ *Id.* chs. VI–VII

evaluated. For example, the Draft does not specify acceptable thresholds for accuracy, explainability, false-positive rates, cybersecurity resilience, or algorithmic bias. Nor does it distinguish between internal compliance reviews conducted by judicial authorities and independent external audits undertaken by neutral experts. In the absence of such standards, there exists a risk that audits may become procedural formalities rather than meaningful evaluations of constitutional compliance and technological reliability. Another notable feature of the Draft is its emphasis upon capacity building and institutional learning. The establishment of the Centre of Research and Excellence on Artificial Intelligence reflects an appreciation that judicial regulation of emerging technologies must remain adaptive rather than static. AI systems evolve rapidly, and governance mechanisms that remain effective today may become obsolete within a relatively short period. Continuous research, judicial training, and interdisciplinary collaboration are therefore essential to ensure that courts possess both the technical literacy and institutional capacity necessary to supervise increasingly sophisticated AI applications.³⁴

While this emphasis on research deserves appreciation, the Draft could have further strengthened institutional accountability by requiring periodic public reporting on the performance of AI systems deployed across courts. Transparency reports disclosing the number of approved AI applications, audit findings, identified cybersecurity incidents, corrective measures adopted, and complaints received would significantly enhance public confidence while facilitating independent academic scrutiny. Such reporting mechanisms have increasingly become an accepted feature of digital governance frameworks across several jurisdictions and would align closely with the constitutional principles of transparency and accountability.

The governance framework would also benefit from greater judicial participation in technical decision-making. Although specialised committees are indispensable, decisions concerning AI deployment within courts should not become excessively technocratic. Judicial institutions derive their legitimacy not merely from technical competence but from constitutional accountability and public trust. Accordingly, technical expertise should inform judicial governance rather than replace it. A balanced regulatory model would therefore ensure meaningful collaboration between judges, technologists, cybersecurity specialists, legal academics, advocates, and representatives of civil society in shaping AI governance policies.

Viewed as a whole, the institutional architecture established by the Draft Regulations represents one of the most ambitious attempts to create a dedicated governance ecosystem for Artificial Intelligence within the judiciary. Its emphasis on specialised oversight, continuous auditing, research, and institutional capacity building reflects an appreciation that AI governance is an ongoing regulatory process rather than a one-time administrative exercise. Nevertheless, the framework would be considerably strengthened through clearer allocation of institutional powers, objective audit standards, greater transparency, independent oversight mechanisms, and measurable performance indicators capable of evaluating whether AI deployment has genuinely improved efficiency, fairness, and access to justice.

6. Transparency, Explainability and Accountability: Ensuring Trust in AI-Assisted Justice

Artificial Intelligence can strengthen judicial efficiency only if its functioning inspires public confidence. Unlike conventional software, many AI systems generate outputs through complex computational processes that may not be readily understandable even to their developers. This phenomenon, commonly referred to as the "black-box problem," presents a significant challenge for judicial institutions, where every decision affecting legal rights must be capable of reasoned justification and scrutiny. Recognising

³⁴ *Id. ch. VIII*

this concern, the Draft Regulations identify transparency, explainability, accountability and auditability as fundamental principles governing AI deployment within courts.³⁵

Transparency in judicial AI extends beyond merely disclosing that an AI system has been used. It requires sufficient information regarding the purpose of the system, the nature of its outputs, its limitations, and the extent to which those outputs influence judicial or administrative processes. The Draft Regulations accordingly emphasise that AI systems should remain capable of meaningful human oversight and should not operate in a manner that obscures responsibility for decisions affecting litigants.³⁶ This approach reinforces the constitutional principle that judicial authority ultimately rests with human decision-makers rather than automated technologies.

Closely linked to transparency is the principle of explainability. In the judicial context, explainability requires that users are able to understand, at least in broad terms, how an AI-generated recommendation, summary or analytical output has been produced. Absolute technical disclosure may neither be feasible nor desirable, particularly where proprietary systems are involved. Nevertheless, courts must possess sufficient information to evaluate the reliability of AI-generated outputs before relying upon them. Explainability therefore serves as a safeguard against blind acceptance of algorithmic recommendations and enables judges to exercise independent legal judgment rather than treating AI outputs as inherently authoritative.

Despite recognising explainability as a guiding principle, the Draft Regulations do not prescribe minimum standards for achieving it. The framework remains silent on questions such as the level of documentation that AI vendors must provide, whether source datasets should be independently reviewable, or the extent to which affected parties may challenge AI-generated analyses during judicial proceedings. This lack of specificity may create uncertainty in practice, particularly where courts utilise proprietary commercial AI systems whose internal functioning is protected by intellectual property rights.

The Draft also introduces important *disclosure obligations* for advocates and litigants using AI-generated material in pleadings or submissions. Such disclosures enhance procedural fairness by enabling courts to identify AI-assisted content and exercise appropriate scrutiny where necessary.³⁷ However, the Regulations impose comparatively limited obligations regarding judicial use of AI-assisted research tools. While judges remain the ultimate decision-makers, greater procedural clarity regarding the disclosure of AI-assisted analytical tools would further strengthen public confidence in AI-assisted adjudication without compromising judicial independence.

Accountability constitutes the third pillar of trustworthy AI governance. The Draft Regulations correctly reject the notion that responsibility may be shifted to technology itself. Instead, accountability continues to rest upon identifiable human actors, including judicial institutions, authorised users, and AI service providers depending upon their respective roles in the deployment and operation of AI systems.³⁸ This approach is consistent with established constitutional principles, since only legal persons—not technological systems—can be held answerable for violations of rights or failures of due process.

Nevertheless, the Draft would benefit from a more comprehensive allocation of liability. The present framework does not clearly distinguish between responsibility arising from inaccurate AI outputs, negligent deployment, defective software design, inadequate supervision, or cybersecurity failures. Future

³⁵ Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts*, 2026, regs. 5–15

³⁶ *Id.* regs. 4–11

³⁷ *Id.* reg. 43

³⁸ *Id.* chs. IV–VII

regulations should expressly define the respective obligations of courts, vendors, developers and users to minimise uncertainty where AI-related errors result in prejudice to litigants.

Ultimately, transparency, explainability and accountability should not be viewed as isolated regulatory principles but as mutually reinforcing safeguards. Transparent systems promote explainability; explainability enables meaningful oversight; and effective oversight strengthens accountability. Together, these principles ensure that Artificial Intelligence remains a tool for enhancing justice rather than diminishing public confidence in judicial institutions.

7. Data Protection, Privacy and Cybersecurity

Artificial Intelligence systems deployed within courts inevitably process substantial volumes of sensitive information, including pleadings, witness statements, medical records, financial documents, commercially confidential information and personal identifiers. Consequently, AI governance within the judiciary cannot be separated from data governance. Recognising this relationship, the Draft Regulations incorporate principles relating to privacy, confidentiality, cybersecurity and responsible data management while requiring judicial institutions to adopt appropriate safeguards throughout the lifecycle of AI deployment.³⁹ The significance of these safeguards is particularly evident in light of the Supreme Court's recognition of privacy as a fundamental right under Article 21 in *Justice K.S. Puttaswamy (Retd.) v. Union of India*⁴⁰. Judicial data frequently contain information whose unauthorised disclosure may prejudice ongoing litigation, commercial interests or individual dignity. AI systems capable of processing such information therefore require stronger safeguards than ordinary administrative databases. The Draft accordingly emphasises secure data handling, access controls, cybersecurity measures and responsible governance of judicial information.⁴¹

A notable strength of the Regulations is their recognition that cybersecurity constitutes an essential component of judicial independence. A compromised AI system may not merely expose confidential information but also undermine public confidence in the integrity of judicial proceedings. The establishment of a dedicated Cyber Security Committee demonstrates an appreciation that technological vulnerabilities require specialised institutional expertise rather than ad hoc administrative responses.⁴² Despite these safeguards, important regulatory gaps remain. The Draft does not comprehensively address issues such as cross-border cloud storage, retention periods for AI-generated datasets, deletion protocols, vendor access to confidential judicial information or liability arising from third-party data breaches. As judicial institutions increasingly rely upon externally developed AI systems, these issues are likely to assume considerable practical significance. Future regulations should therefore establish clearer contractual obligations for AI vendors together with mandatory breach-notification procedures and periodic cybersecurity assessments.

Viewed collectively, the privacy and cybersecurity provisions of the Draft Regulations represent an important constitutional safeguard against the misuse of judicial information. However, the effectiveness of these provisions will ultimately depend upon detailed implementation standards capable of ensuring that technological innovation does not compromise confidentiality, informational privacy or public trust in the administration of justice.

³⁹ Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts*, 2026, regs. 12–15.

⁴⁰ 2015 SCC OnLine SC 1640

⁴¹ Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts*, 2026, regs. 12–15

⁴² *Id.*, ch. IV, reg 30

8. Comparative Analysis : Positioning India's Draft Regulations within the Global AI Governance Landscape

The increasing integration of Artificial Intelligence into judicial systems has prompted governments and international organisations to develop regulatory frameworks that balance technological innovation with constitutional values and human rights. Although jurisdictions differ in their legal traditions and institutional structures, there is an emerging international consensus that AI should function as an assistive technology subject to human oversight, transparency, accountability, and effective regulatory supervision. The *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026* broadly align with these global developments while simultaneously adopting certain innovations tailored to the Indian judicial system.⁴³

Perhaps the most influential international instrument governing judicial AI is the *European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems*, adopted by the European Commission for the Efficiency of Justice (CEPEJ). The Charter identifies five foundational principles—respect for fundamental rights, non-discrimination, quality and security, transparency, and user control—which continue to shape AI governance across several European jurisdictions. Rather than encouraging automation of judicial decision-making, the Charter emphasises that AI should remain subordinate to human judicial authority and should enhance, rather than replace, access to justice.⁴⁴ These principles closely resemble the emphasis placed by the Indian Draft Regulations on human primacy, fairness, explainability, judicial independence, and responsible AI deployment.

Similarly, UNESCO's *Recommendation on the Ethics of Artificial Intelligence (2021)* adopts a rights-based approach by requiring AI systems to respect human dignity, privacy, equality, diversity, environmental sustainability, and democratic governance. Unlike sector-specific judicial frameworks, UNESCO provides a broader ethical framework applicable across public administration, education, healthcare, law enforcement, and judicial institutions.⁴⁵ The Indian Draft Regulations reflect many of these principles by incorporating safeguards relating to accountability, transparency, inclusiveness, cybersecurity, and institutional oversight.³

A more detailed regulatory approach is evident in the *European Union Artificial Intelligence Act*, which adopts a risk-based model for regulating AI systems. Rather than classifying technologies according to the sectors in which they operate, the AI Act categorises systems based upon the level of risk they pose to fundamental rights and public interests. AI applications involving law enforcement, judicial administration, migration, education, employment, and critical infrastructure are generally subjected to heightened compliance obligations, including mandatory risk assessments, human oversight, technical documentation, quality management systems, and post-market monitoring.⁴⁶

In comparison, the Indian Draft Regulations do not expressly classify judicial AI applications according to risk. Although they distinguish between permissible and prohibited uses, the same regulatory standards

⁴³ Supreme Court of India, *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026 (Draft for Public Consultation, June 2026)*; Council of Europe, *European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and Their Environment (2018)*; UNESCO, *Recommendation on the Ethics of Artificial Intelligence (2021)*; Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 (Artificial Intelligence Act).

⁴⁴ Council of Europe, European Commission for the Efficiency of Justice (CEPEJ), *European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and Their Environment (2018)*

⁴⁵ UNESCO, *Recommendation on the Ethics of Artificial Intelligence (2021)*

⁴⁶ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act)

broadly apply to all authorised applications irrespective of their potential constitutional implications. Consequently, AI systems used for administrative scheduling and those assisting legal research or evidentiary analysis are regulated within substantially similar governance structures despite posing significantly different levels of legal risk. Incorporating a formal risk-classification mechanism would therefore strengthen the Indian framework by enabling regulatory requirements to correspond more closely with the constitutional sensitivity of individual AI applications.

Another distinctive feature of the Indian Draft Regulations is their institutional governance model. While many international instruments primarily articulate ethical principles or compliance obligations, the Indian framework establishes dedicated governance bodies, including the Apex Body, Artificial Intelligence Committee, Cyber Security Committee, AI Secretariat, and the Centre of Research and Excellence on Artificial Intelligence. This institutional architecture demonstrates a more implementation-oriented approach by recognising that AI governance requires continuous supervision rather than one-time regulatory approval. In this respect, the Draft Regulations arguably advance beyond several international ethical frameworks by proposing permanent institutional mechanisms dedicated exclusively to judicial AI governance.⁴⁷

However, certain international practices could further strengthen the Indian framework. The European Union AI Act places considerable emphasis upon conformity assessments, technical documentation, independent compliance evaluation, and post-deployment monitoring. Similarly, several jurisdictions increasingly require periodic transparency reporting, public disclosure of significant AI incidents, and independent review of high-risk systems. Although the Draft Regulations incorporate auditing and transparency requirements, they provide comparatively limited guidance regarding audit methodologies, measurable compliance indicators, independent certification, or public reporting obligations. Adoption of these practices would substantially enhance regulatory accountability without undermining judicial independence.

Viewed comparatively, the Indian Draft Regulations successfully align themselves with the core international principles governing trustworthy Artificial Intelligence while simultaneously developing a governance framework suited to India's institutional realities. Their principal strength lies in recognising that AI regulation within courts extends beyond technology and requires continuous institutional oversight. Their principal weakness lies not in the constitutional philosophy they adopt, but in the absence of sufficiently detailed implementation standards capable of translating broad regulatory principles into measurable compliance obligations. Future iterations of the Regulations should therefore seek to combine India's robust institutional framework with the more granular risk-based compliance mechanisms increasingly adopted in other jurisdictions.

9. Challenges, Recommendations and the Way Forward

The Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026 constitute a significant milestone in India's journey towards responsible AI governance within the justice delivery system. By establishing guiding principles, institutional oversight mechanisms, disclosure obligations, and clear boundaries between permissible and prohibited AI applications, the Draft provides a robust normative foundation for integrating emerging technologies into judicial administration. Nevertheless, as with any first-generation regulatory framework, its long-term effectiveness will depend upon its ability to respond

⁴⁷ *Supreme Court of India, Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026, chs. IV–VIII*

to evolving technological capabilities and emerging constitutional challenges. The following recommendations seek to strengthen the existing framework while preserving its core objectives.

9.1 Adoption of a Risk-Based Regulatory Framework

The Draft Regulations distinguish between permissible and prohibited uses of AI but do not differentiate between authorised AI systems according to the degree of constitutional or legal risk they pose. Consequently, AI applications used for administrative scheduling are broadly regulated in the same manner as systems assisting legal research or evidentiary analysis, despite their vastly different potential impact upon judicial outcomes.

Future versions of the Regulations should therefore adopt a risk-based classification model, categorising AI systems as low-risk, medium-risk, high-risk, or prohibited applications. Such a framework would enable regulatory obligations—including testing, auditing, documentation, and approval procedures—to correspond proportionately with the potential impact of each AI application upon fundamental rights and judicial decision-making.

9.2 Strengthening Explainability and Independent Audits

Although explainability is recognised as a foundational principle, the Draft provides limited guidance regarding how explainability should be assessed in practice. Regulatory compliance should not depend merely upon a declaration by developers that an AI system is explainable.

Independent technical audits conducted by accredited experts should therefore become mandatory for high-risk AI systems. Audit reports should evaluate algorithmic accuracy, bias, cybersecurity resilience, source reliability, and compliance with constitutional principles before deployment and at periodic intervals thereafter. Greater standardisation of audit methodologies would also promote consistency across judicial institutions.

9.3 Clarifying Accountability and Vendor Liability

The Draft correctly emphasises accountability but does not comprehensively allocate responsibility among judicial institutions, AI developers, software vendors, cloud-service providers, and authorised users. As judicial institutions increasingly rely upon commercially developed AI solutions, contractual ambiguity may create uncertainty regarding liability for inaccurate outputs, data breaches, or cybersecurity failures. Future regulations should therefore establish a comprehensive liability framework defining the respective responsibilities of courts, vendors, developers, and third-party service providers. Mandatory contractual clauses governing confidentiality, cybersecurity standards, data ownership, incident reporting, and post-deployment technical support should also be incorporated into procurement policies.

9.4 Enhancing Transparency and Public Confidence

Public confidence constitutes the foundation of judicial legitimacy. While the Draft incorporates disclosure obligations and institutional oversight, greater transparency regarding AI governance would strengthen public trust.

The judiciary should consider publishing annual AI governance reports containing information regarding approved AI systems, completed audits, identified cybersecurity incidents, complaints received, corrective actions undertaken, and measurable improvements in judicial administration. Such reports would promote institutional accountability while facilitating independent academic research into the practical impact of AI deployment within courts.

9.5 Continuous Capacity Building

Effective regulation ultimately depends upon the ability of judges, registry officials, advocates, and court administrators to understand both the capabilities and limitations of Artificial Intelligence. Judicial

education should therefore extend beyond technical operation of AI tools and include constitutional implications, algorithmic bias, data governance, cybersecurity, professional ethics, and responsible AI usage.

Training programmes should also encourage interdisciplinary collaboration between judges, legal scholars, computer scientists, cybersecurity professionals, and data governance experts to ensure that AI regulation remains responsive to rapidly evolving technological developments.

9.5 Periodic Regulatory Review

Artificial Intelligence continues to evolve at a pace unmatched by conventional legislative processes. Static regulatory frameworks risk becoming outdated shortly after their adoption. The Draft Regulations should therefore provide for a mandatory periodic review, preferably every three to five years, enabling the judiciary to revise regulatory standards in light of technological advancements, judicial experience, comparative international developments, and stakeholder feedback.

Such periodic review would ensure that the regulatory framework remains adaptive without sacrificing legal certainty or institutional stability.

Taken together, these recommendations are intended not to replace the existing Draft Regulations but to reinforce their constitutional and institutional foundations. The Draft has already established an important governance framework by recognising that AI within courts requires structured regulation rather than unregulated experimentation. The next stage of reform should therefore focus upon improving implementation, strengthening accountability, refining institutional oversight, and ensuring that technological innovation continues to serve the constitutional promise of fair, transparent, and accessible justice.

Conclusion

The integration of Artificial Intelligence into judicial systems represents one of the most significant institutional transformations in the contemporary administration of justice. As courts increasingly rely upon AI-assisted technologies for legal research, document management, translation, transcription, case administration, and other judicial support functions, the challenge is no longer whether Artificial Intelligence should become part of the justice delivery system, but how its use can be regulated in a manner that preserves constitutional values while harnessing technological innovation. The publication of the *Draft Regulations for the Use of Artificial Intelligence (AI) in Courts, 2026* marks a decisive step in this direction by providing India's first comprehensive framework governing the responsible deployment of AI across the judicial ecosystem. Rather than treating AI as a purely technological development, the Draft recognises it as a matter of constitutional governance requiring institutional oversight, ethical safeguards, and clearly defined regulatory standards.

This study has demonstrated that the Draft Regulations adopt a balanced regulatory philosophy by encouraging responsible innovation while preserving the centrality of human decision-making within judicial processes. Their emphasis on human primacy, judicial independence, transparency, explainability, accountability, privacy, cybersecurity, and institutional oversight reflects an appreciation that the legitimacy of AI-assisted justice depends not merely upon operational efficiency but upon continued adherence to the principles underlying the rule of law. Equally significant is the Draft's recognition that AI governance extends beyond judges to encompass advocates, litigants, court personnel, registry officials, and technology providers, thereby acknowledging that responsibility for trustworthy AI is shared across the entire justice delivery ecosystem.

At the same time, the analysis undertaken in this study indicates that the existing framework remains a work in progress. While the Draft establishes a strong normative and institutional foundation, greater regulatory precision is required in relation to risk classification, independent auditing, explainability standards, allocation of liability, vendor accountability, cybersecurity obligations, and measurable compliance mechanisms. These issues become increasingly important as AI systems evolve from performing routine administrative functions to assisting tasks capable of indirectly influencing judicial reasoning. The long-term success of the regulatory framework will therefore depend not only upon the principles it articulates but also upon the effectiveness with which those principles are translated into enforceable institutional practices.

The comparative analysis undertaken in this study further demonstrates that India's Draft Regulations broadly align with internationally accepted principles governing trustworthy Artificial Intelligence while simultaneously introducing an institutional governance framework that is particularly responsive to the needs of the Indian judiciary. Nevertheless, valuable lessons may still be drawn from comparative approaches, particularly in relation to risk-based regulation, conformity assessments, transparency reporting, and continuous post-deployment monitoring. Adapting these practices within India's constitutional framework would strengthen both regulatory effectiveness and public confidence without compromising judicial independence.

Ultimately, Artificial Intelligence should not be viewed as a substitute for judicial reasoning but as a carefully regulated instrument capable of improving the administration of justice when deployed within constitutionally defined limits. The enduring legitimacy of judicial institutions rests not upon technological sophistication alone, but upon their continued ability to deliver fair, transparent, reasoned, and accountable justice. The true measure of success for India's emerging AI governance framework will therefore lie not in the extent to which courts adopt Artificial Intelligence, but in whether such adoption strengthens public confidence in the judiciary while preserving the constitutional values that form the foundation of the Indian legal system.

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