Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2026 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

Artificial Judges and Constitutional Limits: Examining Automated Adjudication

Priyam Pratik[a]

[a]Faculty of Law, University of Allahabad, Prayagraj, India

Received 15 May 2026; *Accepted* 15 June 2026; *Published* 19 June 2026

The rapid integration of artificial intelligence into judicial and quasi-judicial processes has opened a set of constitutional questions that legal systems around the world are only beginning to confront. From risk-assessment tools used at sentencing hearings in the United States to the early experiments with algorithmic case management in India, automated systems are steadily encroaching on the territory that constitutions have, for generations, reserved for human judges. This article examines those encroachments through a constitutional lens. It asks whether algorithmic adjudication can satisfy the requirements of the right to a fair hearing, the guarantee of reasoned decision-making, and the prohibition of arbitrary state action. Drawing on judicial decisions, constitutional text, and comparative practice across India, the European Union, and the United States, the article argues that the deployment of opaque, unaccountable algorithms in adjudicatory settings violates foundational constitutional norms. These include the right to life and personal liberty under Article 21 of the Indian Constitution, the right to equality under Article 14, the separation of powers, and the judicial independence mandated by Article 50. The article further examines the structural tension between algorithmic certainty and the contextual, discretionary nature of judicial reasoning. It concludes by proposing a framework of constitutional safeguards, including mandatory explainability requirements, independent algorithmic audits, and meaningful avenues for human review, that must be put in place before any automated system can be given a role in adjudication.

Keywords: *artificial intelligence, judicial independence, due process, algorithmic bias.*

INTRODUCTION

There is something deeply unsettling about the idea of a machine pronouncing judgment on a human being. Judges have always occupied a peculiar position in constitutional orders: they exercise state power over individual lives, yet they are expected to do so with wisdom, empathy, and a sensitivity to context that no algorithm can replicate. And yet, the question of whether automated systems can or should perform adjudicatory functions is no longer purely theoretical. Across the world, governments and courts are testing, and in some cases already deploying, artificial intelligence tools in processes that determine bail, sentencing, child custody, and immigration status.

The COMPAS algorithm in the United States, which assigns defendants a numerical 'risk score' used by judges when deciding on bail and sentencing, has become something of a symbol for the wider debate. Its use drew intense scrutiny after an investigation found that the tool was significantly more likely to mislabel Black defendants as high risk than White defendants with comparable criminal histories.[1] Similar concerns have emerged in Europe and, increasingly, in India, where the government's push toward digital courts and AI-assisted case management has accelerated in recent years. These developments raise a question that sits at the intersection of constitutional law, legal philosophy, and computer science: can automated adjudication be squared with the guarantees that liberal constitutions provide to persons who come before state power?

This article takes that question seriously. It begins in Part II by mapping the constitutional terrain, drawing on Article 21 of the Indian Constitution, the principles of judicial independence and separation of powers, and comparative frameworks from the United States and Europe. Part III turns to the specific problem of algorithmic opacity and the right to reasoned decisions. Part IV analyses the bias question through an equal protection lens. Part V examines the due process dimensions, with particular attention to the right to confront adverse evidence. Part VI considers the structural argument about the separation of powers and the substitution of human judgment. Part VII offers a framework for constitutionally compliant use of AI in judicial contexts, and Part VIII concludes.

[1] Julia Angwin et al., 'Machine Bias' (*Pro Publica*, 23 May 2016) <https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing> accessed 01 May 2026

THE CONSTITUTIONAL TERRAIN: FOUNDATIONAL GUARANTEES AT STAKE

Article 21 and the Right to Judicial Protection: Article 21 of the Indian Constitution declares that no person shall be deprived of life or personal liberty except according to procedure established by law.[2] For much of the first three decades after independence, that article was read narrowly. The Supreme Court's landmark decision in Maneka Gandhi v Union of India changed all of that.[3] The Court held that the procedure referred to in Article 21 must be fair, just, and reasonable. It cannot be arbitrary or oppressive. From that reading, a robust jurisprudence has grown: one that treats the right to a fair hearing, the right to know the reasons for a decision affecting one's liberty, and the right to an impartial adjudicator as components of Article 21.

When an automated system makes, or substantially influences, a decision to detain a person, to impose a harsher sentence, or to deny a benefit, the question becomes whether the 'procedure' it applies satisfies the Maneka Gandhi standard. An algorithm that assigns a risk score based on factors a defendant cannot inspect or challenge can hardly be said to offer a procedure that is fair or reasonable in any meaningful sense. It is a black box, and black boxes do not satisfy constitutional requirements.

Article 14 and the Prohibition on Arbitrariness: Article 14 guarantees equality before the law and equal protection of the laws.[4] The Supreme Court has long held that Article 14 strikes at arbitrariness in state action. An action is arbitrary when it lacks a rational basis, when it treats similarly situated persons differently without justification, or when it is guided by irrelevant considerations. Algorithmic systems, as will be examined in Part IV, can reproduce and even amplify structural inequalities that are already embedded in historical data. When they do so in an adjudicatory context, they risk violating Article 14 on multiple grounds simultaneously: by treating individuals as statistical proxies rather than as persons with individual circumstances, and by producing discriminatory outcomes that the equal protection guarantee exists to prevent.

[2] Constitution of India 1950, art 21
[3] *Maneka Gandhi v Union of India* AIR 1978 SC 597
[4] Constitution of India 1950, art 14

Judicial Independence and Article 50: Article 50 of the Indian Constitution directs the State to take steps to separate the judiciary from the executive.[5] Read alongside the provisions on the appointment and removal of judges, Article 50 reflects a structural commitment to judicial independence. The Supreme Court has described that independence as a basic feature of the Constitution that cannot be abrogated even by constitutional amendment.[6] Judicial independence has two dimensions. The first is institutional: the courts as an institution must be free from executive or legislative control. The second is decisional: individual judges must be free to decide cases according to law and conscience, without fear of consequences for their decisions.[7] Both dimensions are implicated when algorithmic tools are inserted into the adjudicatory process. If a judge is expected to defer to, or is effectively bound by, the output of an algorithm designed and operated by the executive branch, the decisional independence of the judiciary is compromised. And if the algorithm itself embeds the preferences or assumptions of its designers, the institutional independence of the court is undermined in a subtler but equally real way.

The Comparative Picture: Article 6 ECHR and the Due Process Clause: The right to a fair trial under Article 6(1) of the European Convention on Human Rights provides that everyone is entitled to a fair and public hearing before an independent and impartial tribunal established by law.[8] The European Court of Human Rights has read that provision as requiring reasoned judgments, the opportunity to present one's case effectively, and the right to adversarial proceedings.[9] The duty to give reasons is particularly significant: in Suominen v Finland, the Court emphasised that courts are obliged to state the reasons for their judgments so that parties can understand the basis of the decision and exercise their right of appeal.[10] The UN Human Rights Committee has similarly read Article 14(1) of the ICCPR as requiring that judgments be reasoned. In the United States, the Due Process Clause of the Fourteenth Amendment has been interpreted to require, at a minimum, that persons deprived of liberty interests receive notice and an opportunity to be heard before an impartial decision-maker. These comparative anchors will be returned to throughout the article; they

[5] *Ibid* art 50
[6] *S P Gupta v President of India and Ors* AIR 1982 SC 149
[7] *State of Bihar and Anr v Bal Mukund Sah and Ors* (2000) 4 SCC 640
[8] European Convention for the Protection of Human Rights and Fundamental Freedoms 1953, art 6
[9] *Golder v United Kingdom* [1975] ECHR 1
[10] *Suominen v Finland* App No 37801/97

suggest a convergence across constitutional traditions on the importance of transparency, accountability, and human judgment in adjudication.

ALGORITHMIC OPACITY AND THE RIGHT TO REASONED DECISIONS

One of the most persistent criticisms of AI-assisted adjudication is the opacity of the systems involved. Many of the algorithms deployed in criminal justice and administrative adjudication are proprietary. The companies that own them treat their internal workings as trade secrets. This creates a structural problem for constitutional law: how can a person challenge a decision if they cannot know the basis on which it was made?

The problem came to a head in the United States in Wisconsin v Loomis.[11] Eric Loomis was sentenced to six years in prison, in part based on a COMPAS risk score. He challenged the sentence on the ground that the use of a proprietary algorithm whose methodology he could not examine violated his right to due process. The Wisconsin Supreme Court upheld the sentence, holding that the algorithm was only one factor considered by the judge and that sufficient information about COMPAS had been publicly disclosed to permit a meaningful challenge. The US Supreme Court declined to hear the case. The decision has been widely criticised, and with good reason. The court's reasoning rested on the assumption that because the judge had formally considered other factors, the use of an opaque algorithmic score did not determine the outcome. But in practice, as research on judicial behaviour suggests, numerical scores exert a powerful anchoring effect on human decision-makers. A judge who sees a 'high risk' label is unlikely to disregard it simply because it is described as one factor among many.

The makers of COMPAS, for their part, have never fully disclosed the algorithm's weighting methodology. The factors it uses include the number of prior offences, age at first arrest, and responses to a questionnaire about neighbourhood and social environment. Critics have pointed out that several of these factors are proxies for race.[12] The defendant has no meaningful way to test whether the score assigned to them reflects an accurate assessment of their individual circumstances or a statistical generalisation about people who look like them.

[11] *State v Loomis* [2016] 881 N W 2d 749
[12] Julia (n 1)

This is not merely a technical problem. It is a constitutional one. The requirement of a reasoned decision is not a procedural nicety. It reflects the deeper principle that when the state acts against an individual, it must be able to justify its action to that individual. That justification must be intelligible to the person affected. An algorithmic score, produced by a system whose internal logic cannot be explained in human terms, does not satisfy that requirement.[13] As Virginia Eubanks has argued, the opacity of these systems is not accidental; it is often a feature, not a bug, designed to insulate decisions from scrutiny.

The problem is compounded by what is sometimes called the 'accuracy-interpretability trade-off.' The most powerful machine learning models, such as deep neural networks, are often the hardest to explain. A system that can predict recidivism with high statistical accuracy may do so through patterns that resist any intuitive description. The more accurate the algorithm, on some metrics, the less explainable it becomes.[14] This creates a dilemma for legal systems that want the supposed efficiency gains of AI while also maintaining the transparency that constitutional law demands. The dilemma cannot be wished away; it must be confronted directly, as Part VII attempts to do.

ALGORITHMIC BIAS AND THE EQUAL PROTECTION GUARANTEE

The algorithmic bias problem is, at its core, a manifestation of a much older problem: the reproduction of historical discrimination through facially neutral instruments. The equal protection clause of the Fourteenth Amendment in the United States and Article 14 of the Indian Constitution both prohibit not just explicitly discriminatory laws, but also laws and practices that, while neutral in appearance, produce discriminatory effects on protected groups. The US Supreme Court has grappled with this distinction in cases like Ricci v DeStefano, where the tension between disparate treatment and disparate impact theories came to a head.[15]

Algorithms trained on historical data inherit the biases of that history. If historically Black defendants were more likely to be arrested, charged, and convicted than White defendants for comparable conduct, a recidivism prediction tool trained on that data will learn to

[13] Virginia Eubanks, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor* (St Martin's Press 2018) 168
[14] Sandra G Mayson, 'Bias In, Bias Out' (2019) 128 Yale Law Journal 2218 <https://yalelawjournal.org/article/bias-in-bias-out> accessed 12 May 2026
[15] *Ricci v DeStefano* [2009] 557 US 557

associate Blackness with higher risk. The tool does not need to use race as an explicit input variable; it can arrive at racially disparate outputs through proxies like neighbourhood, zip code, or type of prior offence.[16] The mathematical camouflage is perfect: the algorithm appears objective because it uses numbers, and numbers appear to be neutral. But as Cathy O'Neil has memorably put it, a model is not objective just because it is quantitative; it reflects the choices, assumptions, and values of its creators.[17]

The ProPublica investigation into COMPAS found that Black defendants were nearly twice as likely as White defendants to be falsely flagged as high risk. White defendants were more likely to be incorrectly classified as low risk. These are not merely statistical curiosities; they are constitutionally relevant facts. A sentencing system that systematically results in harsher outcomes for members of a protected group, without a justification that can survive scrutiny, raises serious questions under both the disparate impact doctrine and the substantive equal protection guarantee. The fact that the disparity is produced by a machine rather than a human decision-maker does not diminish its constitutional significance; if anything, it makes it harder to remedy because the machine does not have a conscious discriminatory intent that can be identified and challenged.

In the Indian context, the implications are equally troubling. India has a history of caste-based discrimination that has left deep imprints on data about criminal justice, land records, and social outcomes. An AI system trained on Indian administrative data without careful attention to these structural distortions risks encoding and perpetuating caste prejudice in an algorithmically sanitised form. Article 14, read alongside the special provisions for Scheduled Castes and Scheduled Tribes and the non-discrimination clauses elsewhere in Part III, demands that the state take positive steps to prevent such outcomes, not just refrain from overt discrimination.[18]

THE DUE PROCESS DIMENSIONS: NOTICE, HEARING, AND CONFRONTATION

Due process, in both its procedural and substantive variants, occupies a central place in constitutional adjudication. The procedural dimension asks whether the procedures used to

[16] Kate Crawford, *Atlas of AI: Power, Politics, and the Planetary Costs of Artificial Intelligence* (Yale University Press 2021) 97
[17] Cathy O'Neil, *Weapons of Math Destruction: How Big Data Increases Inequality and Threatens Democracy* (Crown Publishers 2016) 89
[18] Constitution of India 1950, art 14

deprive a person of a protected interest are adequate. The substantive dimension asks whether the deprivation can be justified at all. Both are engaged by algorithmic adjudication.

The American doctrinal framework for procedural due process, as articulated in Mathews v Eldridge, balances three factors: the private interest affected, the risk of erroneous deprivation under the existing procedure, the probable value of additional safeguards, and the government's interest, including the burdens that additional safeguards would impose.[19] In Goldberg v Kelly, the Court held that welfare recipients were entitled to a hearing before benefits could be terminated, because the stakes were too high to permit a purely paper-based decision.[20] Applying the Mathews framework to algorithmic adjudication, the risk of erroneous deprivation is high precisely because the algorithm cannot account for the individual circumstances that distinguish one case from another. The probable value of additional safeguards, in the form of a right to inspect the algorithm and challenge its inputs, is correspondingly great. The government's interest in efficiency, while real, does not outweigh these considerations when liberty is at stake.

The confrontation problem is particularly acute. In an adversarial legal system, parties have the right to confront adverse evidence and test it through cross-examination or argument. If a sentencing judge relies on an algorithmic risk score, what does the defendant confront? They cannot cross-examine the algorithm. They cannot call their designers as witnesses and challenge the methodological choices they made. They cannot even see the data on which their own score is based, because that data is often held by the company that owns the system. As Frank Pasquale has argued, the black box society creates a fundamental asymmetry between the state and the individual: the state has access to powerful, opaque tools of assessment and prediction, while the individual stands exposed and defenceless.[21]

The European Union's General Data Protection Regulation offers one legislative response to these concerns. Article 22 of the GDPR provides that individuals have the right not to be subject to a decision based solely on automated processing when that decision produces significant legal effects or similarly affects them significantly.[22] Recital 71 elaborates that the

[19] *Mathews v Eldridge* [1976] 424 US 319
[20] *Goldberg v Kelly* [1970] 397 US 254
[21] Frank Pasquale, *The Black Box Society - The Secret Algorithms That Control Money and Information* (Harvard University Press 2015) 141
[22] General Data Protection Regulation 2016, art 22

data subject should have the right to obtain an explanation of the decision reached after such assessment and to challenge the decision. The Wisconsin Supreme Court in Loomis acknowledged that defendants should be able to challenge the accuracy of information relied on in sentencing, but stopped short of holding that the opacity of the algorithm itself was constitutionally fatal.[23] The GDPR's approach, which grants a right to explanation, comes much closer to what due process demands.

In India, the Information Technology Rules of 2021 introduced requirements for certain online platforms to explain their algorithmic processes.[24] The Supreme Court's recognition of the right to privacy as a fundamental right in Justice K S Puttaswamy (Retd) v Union of India added a further layer of constitutional protection.[25] Justice Chandrachud, in his concurring opinion, emphasised that informational privacy protects the right of individuals to control and determine the uses of information about themselves.[26] That principle, applied to algorithmic adjudication, supports a right to know not only what data has been used but how it has been processed and what weight it has been given. The Personal Data Protection Bill, as it was drafted, recognised a right not to be subjected to automated decisions that have a significant effect on the person, subject to limited exceptions.[27]

SEPARATION OF POWERS AND THE DELEGATION PROBLEM

There is a structural argument against AI adjudication that goes beyond the individual rights analysis. Constitutions separate powers not merely to protect individuals from state overreach, but to maintain the institutional integrity of the different branches of government. The judicial power, in particular, is traditionally understood as something that cannot be delegated wholesale to non-judicial actors. Adjudicating a dispute is not merely a matter of processing information and applying a rule; it involves the exercise of judgment, the weighing of competing considerations, and the acceptance of responsibility for a decision that has human consequences.

The European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems, adopted by the Council of Europe's advisory body on judges in 2018, acknowledges this

[23] *State v Loomis* [2016] 881 N W 2d 749
[24] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, r 4(2)
[25] *Justice K S Puttaswamy (Retd) and Anr v Union of India and Ors* (2017) 10 SCC 1
[26] *Ibid* [310]
[27] Personal Data Protection Bill 2019, cl 20

concern. It insists that AI tools used in judicial contexts must respect human rights, must not diminish the effective exercise of judicial independence, and must prevent the development of algorithmic determinism by promoting the essential role of judges.[28] The Charter identifies the non-discrimination principle and the principle of 'under user control,' meaning that judicial actors must retain the power to review and override algorithmic outputs, as central requirements.

Under the Indian Constitution, laws that are inconsistent with or in derogation of fundamental rights are void to the extent of that inconsistency.[29] The basic structure doctrine, articulated in Kesavananda Bharati v State of Kerala and reaffirmed in many subsequent decisions, holds that certain constitutional features are so fundamental that they cannot be abrogated even by constitutional amendment.[3031] The separation of powers and the independence of the judiciary have both been recognised as components of the basic structure. In Minerva Mills Ltd v Union of India, the Court made clear that the power of judicial review is itself part of the basic structure.[32] A system of algorithmic adjudication that effectively removes decisions from judicial oversight, or that makes judicial review practically meaningless because the algorithmic basis for a decision cannot be examined, strikes at this basic structural guarantee.

The right to approach the courts under Articles 32 and 226 is described by the Supreme Court as a fundamental right in itself.[33] In L Chandra Kumar v Union of India, the Court held that the power of judicial review conferred on the High Courts and the Supreme Court is part of the inviolable basic structure of the Constitution.[34] If an algorithmic decision can only be reviewed by another algorithm, or if human judicial review is rendered toothless by the impossibility of accessing the underlying decision logic, the right of access to courts is hollowed out.

[28] European Commission for the Efficiency of Justice, *European ethical Charter on the use of Artificial Intelligence in judicial systems and their environment* (Council of Europe 2018)
[29] Constitution of India 1950, art 13
[30] *I R Coelho (Dead) by Lrs v State of Tamil Nadu and Ors* (2007) 2 SCC 1
[31] *Kesavananda Bharati Sripadagalvaru and Ors v State of Kerala and Anr* AIR 1973 SC 1461
[32] *Minerva Mills Ltd and Ors v Union of India and Ors* (1980) 3 SCC 625
[33] Constitution of India 1950, arts 32, 226
[34] *L Chandra Kumar v Union of India and Ors* (1997) 3 SCC 261 [80]

There is also the question of accountability. A human judge who makes a wrong decision can be held to account through the appellate process, through disciplinary proceedings, and ultimately through the democratic legitimacy of the judicial institution as a whole. An algorithm cannot be held accountable. Its developers may be geographically and legally distant from the jurisdiction in which it is deployed. Its outputs may be treated as neutral and technical even when they reflect deeply contested value choices. The NJAC case affirmed the primacy of judicial independence and the collegium system in India's constitutional framework.[35] The logic of that decision, which resisted executive encroachment on judicial appointments, applies with equal force to resist the encroachment of algorithmic tools on judicial decision-making.

TOWARDS A FRAMEWORK FOR CONSTITUTIONALLY COMPLIANT AI IN ADJUDICATION

The analysis in the preceding parts does not lead to the conclusion that AI has no place in the justice system. There are areas where algorithmic tools can genuinely improve the administration of justice: scheduling, document management, legal research, the translation of legal texts, and the identification of case patterns that might otherwise escape notice. The argument is not against technology; it is against the unregulated substitution of algorithmic judgment for human judgment in decisions that directly affect individual rights and liberties.[36]

India has already moved substantially toward digitalised court administration. The eCourts Mission Mode Project and its successive phases have brought case management software, video conferencing facilities, and electronic filing to courts across the country.[37][38] The National Court Management Systems Committee has developed detailed plans for AI-assisted case management. The danger is that this trajectory, driven by efficiency concerns and resource constraints, may move faster than the constitutional framework can

[35] *Supreme Court Advocates-on-Record Association and Anr v Union of India* (2016) 5 SCC 1
[36] Richard E Susskind, *Online Courts and the Future of Justice* (Oxford University Press 2019) ch 8
[37] National Court Management Systems Committee (NCMS), *National Court Management Systems: Policy and Action Plan 2024* (Supreme Court of India 2012)
[38] eCommittee, Supreme Court of India, *Digital Courts: Vision & Roadmap, Phase III of the E-courts Project* (Department of Justice, Ministry of Law and Justice 2023)

accommodate. The courts and the legislature need to establish clear boundaries before, not after, fully automated adjudicatory systems are deployed.

What would a constitutionally compliant framework look like? The following principles are proposed.

The Complementarity Principle: AI tools may be used to assist human adjudicators, but may not replace them in decisions that affect fundamental rights. The human judge must retain genuine decisional authority and must not be required or expected to defer to algorithmic outputs. This principle reflects both the due process requirement and the structural imperatives of judicial independence. The right of access to justice, recognised by the Supreme Court in Anita Kushwaha v Pushap Sudan as a fundamental right under Article 21, requires not just that courts exist, but that they function as genuinely adjudicatory institutions staffed by human decision-makers capable of exercising judgment.[39]

Mandatory Explainability: Any algorithmic tool used in an adjudicatory context must be explainable at the level required to enable meaningful challenge. This does not require the disclosure of all technical details, but it does require that the factors considered, the weights assigned to them, and the basis for the classification or score be disclosed to the person affected. The GDPR's right to an explanation provides a useful model.[40] In India, this requirement can be grounded in Article 21's fair procedure requirement and in the right to privacy's informational dimension. Legislation implementing this requirement should specify that an explanation is only adequate if it can be understood by a person of ordinary intelligence and can form the basis for a meaningful challenge.[41]

Independent Algorithmic Audits: Algorithms used in judicial or quasi-judicial proceedings should be subject to independent, ongoing audit for accuracy, bias, and consistency. The audit body should be independent of both the judicial institution deploying the tool and the commercial entity that developed it. Its findings should be publicly available. Where an audit

[39] *Anita Kushwaha v Pushap Sudan* (2016) 8 SCC 509 [30]
[40] Ryan Calo, 'Artificial Intelligence Policy: A Primer and Roadmap' (2017) 51 University of California, Davis Law Review 399 <https://lawreview.law.ucdavis.edu/sites/g/files/dgvnsk15026/files/media/documents/51-2_Calo.pdf> accessed 12 May 2026
[41] Andrew D Selbst and Solon Barocas, 'The Intuitive Appeal of Explainable Machines' (2018) 87(3) Fordham Law Review 1085 <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=5569&context=flr> accessed 12 May 2026

reveals systematic bias or unexplained disparities in outcomes across protected groups, deployment should be suspended until the problem is corrected. This mirrors the requirements that the law imposes on other instruments of proof: forensic evidence must be validated, expert witnesses must be qualified, and statistical evidence must be subjected to scrutiny.[42]

Prohibition on Sole Reliance: No decision affecting individual liberty may be based solely or primarily on an algorithmic output. The human adjudicator must consider the individual circumstances of the case and must be able to depart from the algorithmic recommendation with reasons. This principle, already present in embryonic form in the GDPR and in several national data protection frameworks, addresses both the due process problem and the structural argument about the non-delegability of judicial power.

Scrutiny for Compliance with the Right to Equality: Algorithms deployed in adjudicatory contexts should be required to demonstrate, before deployment and periodically thereafter, that they do not produce systematically disparate impacts on protected groups. The burden of demonstrating non-discrimination should fall on those deploying the algorithm, not on individuals affected by it. This reversal of the burden is justified by the asymmetry of information between the state and the individual in algorithmic adjudication: the state has access to the data and the methodology; the individual has neither.[43]

Legislative Clarity: The legality principle, familiar from ECHR jurisprudence and applicable in Indian law through the requirement that restrictions on fundamental rights be authorised by law, demands that the deployment of AI in adjudicatory contexts be authorised by clear, accessible, and foreseeable legislation.[44][45] Executive orders, administrative circulars, or terms of contract with private technology companies are insufficient. Parliament must specify the purposes for which AI tools may be used in judicial proceedings, the safeguards that must be in place, and the remedies available to persons adversely affected. The Digital Personal

[42] Deirdre Mulligan and Kenneth A Bamberger, 'Saving Governance-By-Design' (2019) 106(3) California Law Review 697 <https://www.jstor.org/stable/26577731> accessed 12 May 2026
[43] Antoinette Rouvroy and Thomas Berns, 'Algorithmic Governmentality and Prospects of Emancipation' (2013) 177(1) Reseaux 163 <https://shs.cairn.info/journal-reseaux-2013-1-page-163?lang=en> accessed 12 May 2026
[44] *Olsson v Sweden* [1988] 11 EHRR 259
[45] *Silver and Ors v United Kingdom* [1983] 5 EHRR 347

Data Protection Act 2023 provides some of this framework in the data protection context, but it does not address the adjudicatory context specifically.[46]

CRITICAL PERSPECTIVES AND COUNTERARGUMENTS

The constitutional case against unrestricted AI adjudication is strong, but it is worth engaging seriously with the counterarguments before concluding. The efficiency argument is the most obvious. India's courts face a pendency crisis of enormous proportions: tens of millions of cases are pending across the court system, and ordinary litigants often wait years, sometimes decades, for a decision. If AI tools can reduce pendency, improve consistency, and make justice more accessible to people who currently cannot afford or navigate the legal system, is that not a constitutional good? Access to justice is, after all, a right that the courts have repeatedly recognised.

This argument has force, but it does not answer the constitutional objections. Efficiency cannot justify the violation of fundamental rights. A court that disposes of cases quickly but does so on the basis of arbitrary, opaque, or discriminatory criteria is not delivering justice; it is delivering the simulacrum of justice. The constitutional requirements of fairness, reasoned decisions, and equality are not optional features that can be traded off against efficiency. They are the minimum conditions that the Constitution establishes for the legitimate exercise of judicial power. As Mireille Hildebrandt has argued, the question is not whether algorithmic decision-making is faster or cheaper, but whether it is legitimate.[47]

A second counterargument is that human judges are themselves biased. Research in cognitive psychology has documented a wide range of biases that affect judicial decision-making: anchoring effects, in-group favouritism, fatigue-driven variation in outcomes, and sensitivity to legally irrelevant factors such as the physical appearance of the defendant. If human judges are biased, why should we insist on human judgment as a constitutional requirement?

This argument, while raising genuine concerns about human decision-making, does not support the substitution of algorithmic judgment. The appropriate response to judicial bias

[46] Digital Personal Data Protection Act 2023, s 16
[47] Mireille Hildebrandt, *Smart Technologies and the End(s) of Law: Novel Entanglements of Law and Technology* (Edward Elgar Publishing Ltd 2016) 20

is better procedural safeguards, diversity on the bench, appellate review, and training, not the wholesale replacement of human judgment with machine judgment. The constitutional requirement of human judicial decision-making reflects not a naive belief in human infallibility, but a commitment to a form of judgment that is contextual, accountable, and embedded in the moral and social fabric of the community it serves.[48] An algorithm cannot be held to account in the way that a judge can; it cannot explain itself in terms that connect to human values; and it cannot adapt its reasoning to the complexity of individual lives.

A third argument is that careful regulation can make AI adjudication constitutionally acceptable: if algorithms are transparent, audited, and subject to human override, the constitutional objections dissolve. This argument is more promising, and it is essentially the position taken in Part VII above. But it is important not to understate the difficulty of making good on these regulatory commitments. Proprietary interests resist transparency. Audit requirements can become box-ticking exercises. Human override provisions can become nominal if judges feel pressure to conform to algorithmic outputs. Constitutional safeguards are only as good as the institutions that enforce them, and those institutions must be given the resources and the authority to do so effectively.[49]

CONCLUSION

The question of AI judges is not a distant science-fiction scenario. It is a present constitutional challenge that is taking shape in the policy documents, procurement contracts, and pilot programmes of justice systems around the world. This article has argued that, in their current form, most systems of algorithmic adjudication cannot satisfy the constitutional requirements that liberal democracies have developed to protect individuals from the arbitrary exercise of state power.

The right to a fair procedure under Article 21, the prohibition on arbitrary action under Article 14, the requirement of judicial independence under Article 50, and the structural guarantee of judicial review as a basic feature of the Constitution together impose a demanding set of constraints on any system that purports to adjudicate disputes or impose

[48] Jack M Balkin, 'The Three Laws of Robotics in the Age of Big Data' (2017) 78(5) Ohio State Law Journal 1217 <https://openyls.law.yale.edu/server/api/core/bitstreams/08fc8025-26f0-4725-88da-bdc2d794df18/content> accessed 12 May 2026

[49] *A v Secretary of State for the Home Department* [2004] UKHL 56; *Report with Recommendations to the Commission on a Civil Law Rules on Robotics* (European Parliament 2017)

legal consequences on individuals. Those constraints are not satisfied by systems that are opaque, unaudited, prone to discriminatory outputs, and insulated from meaningful challenge.

At the same time, the article has not argued for a blanket ban on AI in the justice system. There are genuine benefits to be derived from the use of technology in court administration, legal research, and the management of non-adjudicatory functions. The constitutional argument is targeted at the specific use of automated systems in decisions that directly and significantly affect individual rights. In that domain, the human judge must remain at the centre, not as a rubber stamp for algorithmic outputs, but as a genuine decision-maker who exercises judgment, accepts responsibility, and can be held to account.[50]

The framework proposed in Part VII, built around the principles of complementarity, explainability, independent audit, prohibition on sole reliance, non-discrimination scrutiny, and legislative authorisation, offers a path toward the use of AI in adjudication that respects constitutional requirements. Implementing that framework will require sustained political will, adequate resourcing, and genuine commitment to the rule of law over the rule of efficiency.[51]

The deeper point is philosophical as much as legal. Adjudication is a form of social practice through which communities settle disputes and affirm shared values. It requires judgment, which is irreducibly human. It requires accountability, which algorithms cannot provide. And it requires the kind of contextual sensitivity to the circumstances of the individual, the history of the community, and the meaning of the rule at stake, that no algorithm can replicate. The Constitution's insistence on a human judge is not a technological conservatism to be overcome; it is a wisdom about human dignity and the nature of justice that remains as relevant in the age of artificial intelligence as it was when the Constitution was written.

India stands at a crossroads. Its constitutional framework is among the most detailed and rights-protective in the world. Its judiciary has shown, in generation after generation, a capacity for creative and courageous constitutional interpretation. As AI tools press their

[50] Tom Ginsburg and Aziz Z Huq, *How to Save a Constitutional Democracy* (The University of Chicago Press 2018)
[51] Bernard E Harcourt, *Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age* (The University of Chicago Press 2008)

way into the justice system, driven by pressure to reduce pendency and improve administrative efficiency, the courts and the legislature have an opportunity, and a responsibility, to insist that the constitutional guarantees of fairness, equality, and judicial independence are not sacrificed on the altar of technological convenience.[52] The future of justice need not be algorithmic. It can, and must, remain human.[53]

[52] *NATIONAL STRATEGY FOR ARTIFICIAL INTELLIGENCE #AIFORALL* (NITI Aayog, 2018); Draft National Data Governance Policy 2022

[53] Neil MacCormick, *Rhetoric and the Rule of Law: A Theory of Legal Reasoning* (Oxford University Press 2009) 15