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The Right to Explanation: Can AI Be a Judge Without Being Accountable?

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The integration of artificial intelligence (AI) into judicial processes is frequently justified by the promise of efficiency, consistency and improved access to justice. Yet, when algorithmic systems begin to influence the interpretation of evidence, the application of law or the assessment of legal claims, a fundamental question arises: who is accountable for a decision that cannot be adequately explained? This article examines the constitutional and procedural implications of AI-assisted adjudication in India, with particular reference to Articles 14 and 21 of the Constitution,[1] the principles of natural justice and the judicial obligation to provide reasoned decisions. It argues that the central danger of algorithmic adjudication lies not merely in the possibility of technological error, but in the potential separation of decisional power from legal responsibility. Although AI may assist judicial officers in research, translation, document analysis and case management, its outputs must remain subject to meaningful human scrutiny. The article proposes a rights-based framework built around an enforceable right to explanation, disclosure of material AI involvement, independent verification, contestability and identifiable judicial responsibility. It concludes that technological innovation is compatible with constitutional justice only when it strengthens, rather than obscures, the accountability of the institution exercising judicial power.

Keywords: *judicial accountability, right to explanation, constitutional law, natural justice, algorithmic decision-making.*

[1] Constitution of India 1950, arts 14, 21

INTRODUCTION

The administration of justice increasingly operates within a technological environment. Digital filing, electronic records, automated transcription and AI-assisted legal research have altered how courts process information and manage cases. These developments offer considerable benefits to judicial institutions facing persistent delays and substantial workloads. However, the use of AI raises a question that cannot be resolved merely by demonstrating its technical efficiency: can a system that influences legal outcomes be considered legitimate when the basis of its contribution cannot be adequately understood or challenged? The question becomes particularly important when AI moves beyond administrative assistance and begins to influence the reasoning underlying judicial decisions. A tool that organises documents does not necessarily raise the same concerns as one that ranks evidence, predicts the likelihood of a particular outcome or generates a draft judgment. The greater the system's influence on the determination of rights, the stronger the need for legal safeguards. The Indian constitutional framework already places reasoned decision-making, fairness and non-arbitrariness at the centre of public authority. In [2]*Maneka Gandhi v Union of India*, the Supreme Court established that a procedure affecting personal liberty must be fair, just and reasonable.[3] Similarly, in *Kranti Associates (P) Ltd v Masood Ahmed Khan*, the Court emphasised the importance of reasons in decision-making, recognising their role in preventing arbitrariness and enabling effective scrutiny.[2] These principles were developed in relation to human decision-makers, but their underlying purpose becomes even more significant when technology influences the exercise of public power. This article argues that the right to explanation should be understood as an essential safeguard against the unaccountable exercise of algorithmic influence. The issue is not whether AI can reproduce the language of legal reasoning. It is whether the judicial institution can demonstrate that a decision was reached through a lawful, fair and independently scrutinised process. AI should therefore remain an instrument of judicial assistance, never a substitute for judicial responsibility.

[2] *Maneka Gandhi v Union of India* (1978) 1 SCC 248
[3] *M/S Kranti Associates Pvt Ltd and Anr v Masood Ahmed Khan and Ors* (2010) 9 SCC 496

FROM JUDICIAL ASSISTANCE TO ALGORITHMIC INFLUENCE

AI is not a single technology performing a single function. Its use in courts may range from relatively limited administrative applications to systems capable of generating substantive legal analysis. Treating all these applications as equivalent risks either excessive restriction of useful technologies or insufficient regulation of consequential ones. Administrative applications include scheduling, transcription, translation, anonymisation and the organisation of case records. These can reduce repetitive work and improve the accessibility of court services. AI-assisted research can also help judicial officers identify relevant legislation and precedents, provided that the materials are independently verified. A different category emerges when an AI system recommends a sentence, assesses the credibility of a witness, predicts litigation outcomes or generates reasoning that is subsequently adopted in a judgment. In these situations, the technology does not simply facilitate the process; it may influence the substance of the decision. The distinction is important because human involvement does not automatically guarantee human control. A judicial officer may formally retain the authority to decide a case while relying heavily on a system whose assumptions, training data or reasoning process are difficult to examine. The presence of a human signature at the end of a judgment cannot, by itself, establish that meaningful independent judgment has occurred. This creates a problem of decisional responsibility. The AI developer may claim that the system provides recommendations rather than decisions. The judicial officer may regard the output as technically generated assistance. The institution may attribute errors to the limitations of the technology. Meanwhile, the affected party must challenge the resulting decision without necessarily knowing how the algorithm influenced it. The danger is therefore structural. When influence is distributed among a judge, a technology provider and an opaque system, responsibility may become difficult to locate. The law must prevent this division of functions from becoming a division of accountability.

THE CONSTITUTIONAL FOUNDATIONS OF A RIGHT TO EXPLANATION

Article 14 and Algorithmic Arbitrariness: Article 14 of the Constitution guarantees equality before the law and equal protection of the laws. Its significance extends beyond formal equality to the prohibition of arbitrary State action. An AI system used in a judicial process may undermine this guarantee if its outputs depend on unreliable data, hidden assumptions

or patterns that reproduce existing social inequalities. Algorithmic systems can appear neutral because they apply computational processes rather than express personal opinions. Yet computational neutrality is not the same as legal neutrality. Data may reflect unequal access to institutions, historical patterns of enforcement or discriminatory assumptions embedded in earlier decisions. A system trained on such data may reproduce these patterns while presenting its conclusions as objective assessments. For example, a system designed to recommend bail conditions might identify factors associated with previous failures to appear in court. If those factors indirectly reflect economic disadvantage or unequal policing, the system may disadvantage particular groups even without expressly using a protected characteristic. Such an example illustrates a possible risk, not a claim that every existing judicial AI system operates in this manner. The constitutional problem is that an apparently uniform method can generate unequal consequences without revealing the basis on which those consequences arise. Meaningful explanation would allow the parties and reviewing courts to examine whether the factors considered were relevant, lawful and supported by reliable information. Article 14 should not be interpreted as requiring every computational operation to be publicly disclosed. Rather, where an algorithm materially influences a decision affecting legal rights, the decision must be capable of meaningful legal scrutiny. A conclusion that cannot be examined for arbitrariness cannot adequately be defended merely by describing its source as technological.

Article 21 and Procedural Fairness: Article 21 protects life and personal liberty except according to procedure established by law. Judicial proceedings affecting liberty, including decisions concerning bail and sentencing, demand particular attention to fairness. The interpretation of Article 21 in *Maneka Gandhi* demonstrates that procedural legality cannot be separated from substantive fairness.[4] AI-assisted adjudication challenges this principle when a party is unable to understand or contest a material factor influencing the outcome. A person cannot meaningfully challenge a conclusion merely by being told that a computer-generated assessment supports it. The person must have a reasonable opportunity to identify relevant errors, dispute inaccurate information and present arguments against the reasoning adopted. The requirement of explanation should therefore be linked to the practical ability to participate in proceedings. It does not necessarily require the disclosure of source code in

[4] *Maneka Gandhi v Union of India* (1978) 1 SCC 248

every case. It requires sufficient information to understand the material role played by the system, the factors that influenced its output and the manner in which that output was evaluated by the judicial officer. A further concern arises when an AI-generated conclusion is accepted because it appears technically sophisticated. This may create an imbalance between the institution using the system and a litigant who lacks the technical resources to challenge it. Procedural fairness must remain meaningful even when one side of the process possesses a technological advantage.

The Duty to Provide Reasons: The right to explanation also draws support from the established judicial importance of reasoned decisions. In *Kranti Associates*, the Supreme Court explained that reasons help restrain arbitrary power, demonstrate that relevant considerations have been addressed and enable meaningful review.[5] A reasoned judgment performs several functions. It communicates the basis of the decision to the parties, establishes a record for appellate scrutiny and contributes to the development of legal principles. It also makes the decision-maker answerable for the conclusion reached. AI-generated text may reproduce the appearance of legal reasoning without establishing that the reasoning is accurate or applicable to the particular facts. A judgment containing well-structured paragraphs and references to legal authorities may still rely on an incorrect precedent, overlook a material submission or mischaracterise evidence. The legal obligation to provide reasons cannot therefore be satisfied by presenting an AI-generated explanation without independent evaluation. The explanation must reflect the judicial officer's actual reasoning and demonstrate how the applicable law has been applied to the facts. The responsibility to justify the decision remains with the person exercising judicial authority.

NATURAL JUSTICE IN THE AGE OF THE BLACK BOX

The principles of natural justice require fair procedures, including an appropriate opportunity to be heard and an impartial decision-making process. AI does not automatically violate these principles. Properly designed systems may improve access to information, assist translation and reduce administrative barriers. The difficulty arises when technological assistance interferes with the fairness of the process. Consider a hypothetical case in which an AI system analyses evidence and produces a credibility assessment. If the judicial officer

[5] *M/S Kranti Associates Pvt Ltd and Anr v Masood Ahmed Khan and Ors* (2010) 9 SCC 496

relies materially on that assessment without informing the parties or allowing them to challenge its factual basis, the proceedings may become unfair. A party may be unaware that an additional analytical method has influenced the evaluation of evidence and may therefore lose a meaningful opportunity to respond. This example raises three related concerns. First, the right to be heard requires more than an opportunity to make submissions before a human judge. Where an undisclosed technological assessment materially affects the decision, the opportunity to respond may be incomplete. Secondly, impartiality requires scrutiny of the system's design and operation. A tool may produce systematically unreliable results for particular languages, communities or categories of evidence. Human oversight must therefore involve examination of the relevant risks rather than unquestioning acceptance of the output. Thirdly, the duty to give reasons requires the final decision to disclose the legally relevant considerations actually relied upon. A judicial officer should not use an algorithmic recommendation to bypass the obligation to explain why one party's arguments have been accepted over another's. These concerns do not establish that every AI-assisted process requires full technical disclosure. Some systems may process confidential information or contain proprietary components. Nevertheless, confidentiality and commercial secrecy should not become automatic justifications for withholding information essential to a fair hearing. Appropriate arrangements can protect legitimate interests while permitting independent scrutiny and effective challenge.

HUMAN OVERSIGHT: A NECESSARY BUT INSUFFICIENT SAFEGUARD

A common response to concerns about judicial AI is that a human judge will always make the final decision. Although this principle is essential, its practical effectiveness depends on what human oversight actually involves. A judge who independently examines the facts, verifies authorities and evaluates the relevance of an AI-generated recommendation exercises meaningful control. By contrast, a judge who accepts the recommendation because of workload pressures, perceived technical superiority or limited ability to inspect the system may exercise only nominal control. The latter situation resembles what is often described as automation bias: the tendency to give undue weight to a system-generated recommendation. In judicial proceedings, this risk is particularly significant because technological outputs may be expressed in confident, authoritative language. The appearance of precision can obscure uncertainty. Human oversight must therefore be understood as a substantive obligation

rather than a formal requirement. Judicial officers should be able to reject AI recommendations, identify uncertainty, verify cited authorities and explain their independent conclusions. They should also receive appropriate training concerning the limitations of the technologies they use. Institutional responsibility is equally important. Judges cannot reasonably be expected to identify every technical defect in a complex system without access to reliable documentation, independent testing and appropriate technical assistance. Courts must establish procurement standards, audit procedures and clear rules concerning the permitted uses of AI. The objective is not to make judges responsible for personally understanding every line of code. It is to ensure that no technological recommendation becomes an unquestionable basis for exercising judicial power.

COMPARATIVE PERSPECTIVES: LEARNING FROM THE EUROPEAN UNION

The European Union's Artificial Intelligence Act provides a useful comparative framework. Regulation (EU) 2024/1689 identifies certain AI systems intended to assist judicial authorities in researching and interpreting facts and law, or applying law to particular facts, as high-risk systems. The framework recognises the potential consequences of such technologies for fundamental rights, the rule of law and the right to a fair trial.[6] The classification is significant because it rejects the assumption that AI used in courts should be regulated like ordinary productivity software. The potential impact of a system depends on the function it performs and the rights affected, not simply on whether it is marketed as an assistance tool.

The European framework also distinguishes substantive judicial assistance from purely ancillary administrative functions. This distinction supports a proportionate regulatory approach: systems that materially influence the determination of legal rights warrant stronger safeguards than tools used solely for routine administrative tasks. India can draw from this approach without mechanically adopting the European regulatory model. The Indian constitutional framework, judicial structure and technological conditions require context-sensitive solutions. Nevertheless, the underlying principle is transferable: the greater the potential impact on individual rights, the stronger the requirements of oversight, transparency and accountability should be. The Supreme Court of India's White Paper on Artificial Intelligence and Judiciary, published in November 2025, is an important primary

[6] EU Artificial Intelligence Act 2024, recital 61 and annex III

source for examining the Indian judiciary's engagement with these issues.[7] Its proposals and analysis should be considered alongside applicable rules and institutional developments. The legal status of any subsequent policy or draft regulation must, however, be distinguished from that of binding law.

REIMAGINING THE RIGHT TO EXPLANATION IN INDIA

A workable framework should not attempt to prohibit all AI use in courts. Such a position would overlook the potential of technology to improve research, accessibility and case management. Instead, India should recognise a context-sensitive right to explanation whenever AI materially influences a decision affecting legal rights. This right should have five principal elements.

Disclosure of material AI involvement: Parties should ordinarily be informed when AI has materially contributed to the substantive reasoning of a decision. Routine use for transcription or document formatting may not require the same disclosure as an AI-generated assessment that influences the outcome of a dispute. Disclosure would allow parties to identify when technological influence warrants further examination. It would also discourage the undisclosed adoption of automated recommendations as substitutes for independent judicial analysis.

An Intelligible Account of the System's Contribution: The explanation should identify the purpose for which the system was used, the material factors it considered and the role its output played in the final decision. Where relevant, it should also address significant limitations, uncertainty or known risks of error.

This does not mean that the entire source code must be disclosed in every proceeding. The legal objective is to explain sufficiently for effective scrutiny. Technical information should be made available to qualified independent reviewers where necessary, particularly when a system's operation cannot be adequately evaluated through a general description.

Independent Judicial Verification: Every material AI-generated legal proposition, factual inference or recommendation should be subject to appropriate verification before it is

[7] Centre for Research and Planning, *White Paper on Artificial Intelligence and Judiciary* (Supreme Court of India 2025)

adopted. Legal authorities must be checked against reliable sources, factual conclusions must be tested against the record, and relevant submissions must be considered. The final judgment should reflect the judicial officer's independent reasoning rather than simply reproduce a generated answer. A decision should not acquire legal legitimacy merely because a human officer formally approves it.

A Meaningful Opportunity to Challenge: Where AI materially affects an outcome, parties should have a proportionate opportunity to challenge inaccurate inputs, inappropriate criteria, unreliable outputs or undisclosed technological influence. Reviewing courts should be able to examine whether the use of the system undermined fairness or materially affected the reasoning. A remedy should depend on the nature and seriousness of the defect. Depending on the circumstances and applicable law, the response might include further disclosure, independent review, reconsideration or setting aside a procedurally defective decision.

Clear Allocation of Responsibility: The judicial officer must remain responsible for the legal reasoning and final determination. Court administrators should be responsible for appropriate deployment and institutional safeguards, while technology providers should be subject to suitable obligations concerning reliability, documentation, security and auditability. These responsibilities should complement rather than displace one another. A technology provider should not determine legal rights, and a judicial officer should not be permitted to disclaim responsibility merely because an error originated in a technological system. Together, these elements would convert explainability from a general aspiration into a practical safeguard against unaccountable decision-making.

BEYOND TRANSPARENCY: ACCOUNTABILITY AS A CONSTITUTIONAL REQUIREMENT

Transparency alone cannot resolve every problem associated with judicial AI. A system may disclose its methodology and still produce discriminatory or unreliable outcomes. Similarly, an explanation may be intelligible but legally irrelevant. The right to explanation must therefore operate alongside requirements of accuracy, fairness, contestability and effective review. Accountability also requires attention to institutional incentives. If AI adoption is evaluated principally through the number of cases processed or the reduction of

administrative time, systems that encourage rapid but insufficiently examined decisions may appear successful. A rights-based evaluation must instead consider whether the technology improves the quality and accessibility of justice without weakening procedural safeguards. This distinction is particularly important in a constitutional democracy. Judicial authority is legitimate not simply because it produces an outcome, but because it is exercised within a legal framework that constrains power and permits scrutiny. The legitimacy of a judicial decision cannot be measured exclusively by speed, consistency or computational performance. The right to explanation should accordingly be understood as part of a wider principle of constitutional accountability. It requires institutions to demonstrate that technological assistance has not displaced legal standards, concealed relevant reasoning or prevented affected persons from challenging the exercise of public power. Such a framework would also protect judicial independence. Properly regulated AI may help judges manage information and identify relevant authorities. However, a system that effectively determines outcomes through unexamined recommendations risks transferring practical influence from independent judicial officers to the organisations that design, train or supply the technology. Preserving human judicial responsibility is therefore not an argument against innovation. It is a condition for ensuring that innovation remains compatible with the rule of law.

CONCLUSION

The question of whether AI can be a judge without being accountable reveals a fundamental distinction between technological capability and legal legitimacy. AI can analyse large volumes of information, assist legal research and support the administration of court processes. These functions may contribute to a more accessible and efficient justice system. Yet, the ability to generate a plausible legal conclusion does not establish the authority to determine rights or relieve human institutions of their legal responsibilities. The constitutional challenge is not confined to the possibility of algorithmic error. It arises when the exercise of decisional influence becomes detached from the obligation to provide reasons, permit scrutiny and accept responsibility. Articles 14 and 21, together with the principles of natural justice and reasoned decision-making, offer a foundation for addressing this challenge within Indian law. A right to explanation should not be reduced to a demand for technical disclosure. It should ensure that parties can understand the material influence of AI, challenge its contribution where necessary and obtain a decision supported by

independent judicial reasoning. Such a right must be accompanied by meaningful oversight, proportionate disclosure, independent verification and effective remedies. Ultimately, the legitimacy of judicial AI depends on the limits placed upon it. The future of justice should not be measured by whether machines can imitate judges, but by whether technology enables judicial institutions to discharge their constitutional responsibilities more effectively. An AI system may assist in producing a judgment, but it cannot become a substitute for the accountable exercise of judicial power. Where legal rights are determined, an intelligible explanation and an identifiable bearer of responsibility must remain indispensable.