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Recommendation on the Draft Regulations for Use of Artificial Intelligence in Courts, 2026

(National Level Policy Document)

**Centre for Research and Applications in Law
(CERA)**

National Law University, Jodhpur



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ABOUT

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National Law University-Jodhpur (NLUJ) is one of India's leading law schools situated in the city of Jodhpur, Rajasthan. Since its establishment in 1999, NLUJ has endeavored to produce exceptional lawyers and legal scholars who aim to push and challenge the existing boundaries of knowledge.

NLUJ is known for its rigorous academic curriculum and its commitment to providing students with a comprehensive education in the field of law. The faculty consists of experienced and well-respected legal scholars, and the university is equipped with state-of-the-art facilities and resources to support student learning and research. In addition, NLUJ is committed to the advancement of knowledge and learning and is striving to become a centre for excellence in legal studies. It is dedicated to churning out committed lawyers of highest academic and professional standards and producing top quality legal scholars.



ABOUT

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Prof. (Dr.) Shilohu Rao is the Research Director and heads CERA activities. The Centre aims to address contemporary challenges, to empower innovation by promoting legal and regulatory framework for emerging technologies such as Artificial Intelligence and blockchain, communication governance, promoting IP awareness among local artisans, and driving policy research on interface between law and technology. The Centre bolster entrepreneurship by supporting MSMEs and women- led enterprises through training programs and assistance in securing Geographical Indication (GI) tags for unique products. CERA aims to serve as a training hub for youth and state employees in legal research, innovation, sustainability and laws.

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LIST OF ABBREVIATIONS

AI	Artificial Intelligence
AICVA	AI Content Verification Authority
CET	Controlled Environment Testing
CoRE-AI	Centre of Research and Excellence on Artificial Intelligence
DPDP Act	Digital Personal Data Protection Act
Gen AI	Generative Artificial Intelligence
IIT	Indian Institutes of Technology
LLMs	Large Language Models
LegRAA	Legal Research Analysis Assistant
MEITY	Ministry of Electronics and Information Technology
ML	Machine Learning
NIC	National Informatics Centre
NJDG	National Judicial Data Grid
NLP	Natural Language Processing
SUPACE	Supreme Court Portal for Assistance in Court Efficiency
SUVAS	Supreme Court Vidhik Anuvaad Software
TEIA	Technical and Ethical Impact Assessment
TERES	Technology Enabled RESolution

ABOUT DRAFT

- **An Introduction**

On 3rd June, 2026, Artificial Intelligence Committee of the Supreme Court of India has prepared a preliminary draft of “Regulations for Use of Artificial Intelligence (AI) in Courts, 2026” and placed in the public domain, inviting comments and suggestions from stakeholders and general public.¹ The regulation is intended to bind the Supreme Court of India, every High Court and all courts including tribunals and statutory commissions.² Structurally, it is grounded on five principles: human primacy, transparency, accountability, data protection and judicial independence, while proceeds to a framework for responsible AI adoption across India’s judicial system.³ The regulation establishes an Apex Body at the Supreme Court of India, supported by five different committees and mirrored by AI Secretariat & AI Committee at each High Court.⁴ Under the regulations, AI shall function solely in an assistive capacity and shall not compromise the independent exercise of judicial authority.⁵

- **Historical Analysis**

The Indian Judiciary started integrating digital technology in the courts with the introduction of e-Courts Mission Mode Project. This project consists of three phases. Phase I (2007 – 2015) focused on the building the base. It provided hardware and internet to the district courts in India, while Phase II (2015 – 2023) connected the courts and brought the services to the public in the form of e-Services Portal, e-Filing, Video Conferencing and setting up of NJDG.⁶ The Phase III (2023 – present) especially focuses on Artificial Intelligence for translation, case management and legal research and to make the courts completely paperless.⁷ The Supreme Court in November, 2019 launched SUVAS which is a machine assisted translation tool trained by AI. This platform supports bi-directional translational between English and 19 Indian languages.⁸ On 6th April, 2021, the then Chief Justice S.A. Bobde launched SUPACE, a tool built on Machine Learning (ML) and Natural Language Processing

¹ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026. (June 3, 2026).

² *Id.* reg. 2.

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

⁴ *Id.* reg. 22, 25, 33 and 34.

⁵ *Id.* reg. 4(2).

⁶ e-Committee, Supreme Court of India, *E-Courts Mission Mode Project*, <https://ecommitteesci.gov.in/project/brief-overview-of-e-courts-project/> (last visited July 2, 2026); Centre for Research and Planning, Supreme Court of India, *White Paper on Artificial Intelligence and Judiciary* (Nov. 2025)

⁷ *Id.*

⁸ Advait Sri Krishna Datta Mamidanna, *Artificial Intelligence in the Indian Judiciary: SUPACE, SUVAS, and the Limits of Assistive Automation*, Dr. Syama Prasad Mookerjee Research Foundation (Feb. 10, 2026).

(NLP) to assist judges by automating administrative and data-processing aspects of judicial research without intruding into legal reasoning. Even after five years of its launch, it remains in experimental and pilot phase only.⁹ Along with the above AI tools, TERES and LegRAA AI tools are also popular in the legal industry.

Before this national level framework came, different High Courts of India framed rules and regulations regarding AI and courts. Kerala High Court was the first to implement policy regarding “Use of AI Tools in the District Judiciary” in July, 2025.¹⁰ It allows AI only to assist for administrative and research tasks and not for final decisions. Judges must always review the work.¹¹ Followed by this, Centre for Research and Planning of Supreme Court issued White Paper on “Artificial Intelligence and Judiciary” in November, 2025.¹² It establishes a progressive, human-in-the-loop framework that permits AI for administrative tasks, translation of documents and legal research while absolutely prohibiting algorithms from replacing human judgment in adjudicatory verdicts.¹³ The 2026 Draft regulations are in continuity with the White Paper as converting that soft-law diagnosis into enforceable rule.

- **Need for the Regulation**

As AI is rapidly expanding its roots across the world, irresponsibly use of AI especially in the legal field is increasing day by day. The best example is AI hallucinated case laws. In December, 2024, the Bengaluru bench of the Income Tax Appellate Tribunal recalled the order in a Rs. 669 Crores trust dispute after discovering that the decision was based on fictitious judgments generated by ChatGPT.¹⁴ In January, 2025, a judge of trial court in Karnataka cited false precedents generated by ChatGPT.¹⁵ In early 2026, a bench comprising of Justice P.S. Narsimha and Justice Alok Aradhe took suo moto cognizance of an Andhra Pradesh trial court order that relied on four fabricated judgments and held that such reliance amounts to professional misconduct rather than mere error.¹⁶ Apart from these, many more episodes exposed structural lacuna regarding use of AI in courts. No binding framework had previously described the permissible and prohibited use of AI, mandated disclosure and fixation of responsibility for verification. Apart from this problem regarding algorithmic bias may affect personal liberty, data privacy and independence of judiciary. Also, earlier to this different High

⁹ *Id.*

¹⁰ High Court of Kerala, *Policy Regarding Use of Artificial Intelligence Tools in District Judiciary* (July 19, 2025).

¹¹ *Id.*

¹² White Paper on Artificial Intelligence and Judiciary, *supra* note 6.

¹³ *Id.*

¹⁴ Nikita Dwivedi, *SC Declares AI-Generated Fake Citations “Misconduct”: What Does This Mean for India's Judiciary?*, MediaNama (Mar. 3, 2026).

¹⁵ *Id.*

¹⁶ *Id.*

Courts had made their own AI policy. So, to have a uniform framework across all courts including tribunals and statutory commissions, this draft regulation became necessary.

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KEY RECOMMENDATIONS

1. To add a proviso under Regulation 1(2)(b) stating that every High Court of India must notify and implement the regulations within a maximum transitional period of 24 months from the date of the Supreme Court's notification. (refer [Regulation 1](#))
2. Amend the Application clause to state that the regulation govern not only to the system of court but also to the AI generated outcomes and materials submitted to the court including those originating from State prosecution agencies and private advocates and predictive risk assessment reports. (refer [Regulation 2](#))
3. Amend definition of 'Artificial Intelligence' in Regulation 3(1)(m) to differentiate clearly between self-learning machine systems, rule based computational algorithms from probabilistic, aligning the definition with global technology standards to ensure that the standard productivity software is not inadvertently confined. Furthermore, refine the definition of 'external system', in Regulation 3(1)(x) to explicitly exclude public digital infrastructure sector such as NIC and approved sovereign cloud services, provided that data processing under such services remains bound by court protocols. Finally, to insert a definition of 'Judicial resource allocation' that presently bears operative consequence without being defined. (refer [Regulation 3](#), [19](#) & [48](#))
4. In Regulation 4(2) insert an explicit systematic safeguard stating that any judicial order or determination that relies on AI generated outputs or analyses must demonstrate independent human implementation of mind to the specific law and facts. Provided further that failure to independently analyse and verify material facts, despite the use of assistive mechanism, constitutes a serious lapse and procedural error in the discharge of judicial functions. (refer [Regulation 4](#))
5. Endorse a stratified transparency calibre. For high-risk systems that affect directly to adjudicative outcomes or personal liberty, absolute explainability must remain a non-negotiable requirement. Whereas, for medium to low-risk administrative tools (such as automated translation or e-filing screening), the transparency prerequisite should be satisfied by comprehensive documentation of training data, demonstrating functional reliability and the use of localized post hoc interpretability structures. (refer [Regulation 7](#))
6. Delete the first proviso of Regulation 8(3), entirely to ensure that human verification remains an absolute. Discretion to bypass verification should only be sanction to clerical executive tasks pre certified by the AI Secretariat. (refer [Regulation 8](#))

7. Insert a compulsory technical clause under Regulation 13 necessitating that any litigant facing conversational AI portal, chatbot or assistant must natively support to all official languages listed under the Eighth Schedule of the Constitution of India. (refer [Regulation 13](#))
8. Modify the proviso of Regulation 16(1) to elucidate that the prohibition on dispute outcome prediction applies rigorously to predicting the specific substantive liability or legal findings, while explicitly permitting administrative and structural analytical mechanism operated to model court level case delays, flows and scheduling timelines. (refer [Regulation 16](#))
9. Regulation 19 be amended to provide a list for permissible uses in the civil and criminal cases separately. For example, in civil matters involving very petty issue, online dispute resolution can be used but not in criminal cases. The regulation shall also expressly provide that conversational AI may only provide procedural information, assist court navigation and answer administrative queries. (refer [Regulation 19](#))
10. The regulation shall expressly prohibit AI system that infer emotional or psychological state, perform biometric categorization except where expressly authorized by law and subject to strict safeguards, evaluate credibility through behavioral analysis and employ behavioral profiling or predictive analytics capable of influencing judicial decision making. (refer [Regulation 20](#))
11. The regulation shall provide that AI-generated evidence shall satisfy ordinary evidentiary standards relating to authenticity and reliability, undergo independent verification where appropriate and disclose the nature and extent of AI use. (refer [Regulation 20](#))
12. Under Regulation 21 a clause shall be inserted that AI system in contravention of Regulation 20 shall be temporarily suspended pending enquiry and be withdrawn if non compliance is established. Any individuals or entities responsible for such violation shall be held liable for appropriate disciplinary, contractual or legal consequences. (refer [Regulation 21](#))
13. Insert a clause under Regulation 24 to expressly empower Apex body to suspend, revoke or modify the approval of any AI systems where periodic audits, incident reports or technological developments indicate that continued deployment may compromise accuracy, fairness, security or compliance with these regulations and to authorize the Apex body to issue temporary emergency directions including the immediate suspension of AI systems if evidence shows a serious risk to judicial integrity, data security or fundamental rights pending detailed technical review. (refer [Regulation 24](#))

14. The regulation can retain the autonomy of committee but require the Apex Body to prescribe minimum procedural standards applicable to all committees. These may include quorum requirements, recording of minutes and reasons for decisions, timelines for deliberation and publication of non-confidential procedural rules. (refer [Regulation 31](#))
15. Regulation 34 shall replace the criterion of administrative purpose with a risk-based approval framework. Expedited approval should be available only for AI systems classified as low-risk following a preliminary Technical and Ethical Impact Assessment and insert a clause requiring AI Secretariat to establish an online complaint portal with defined timeline for resolution and periodic publication of anonymized complaint statistics. (refer [Regulation 34](#))
16. Insert Regulation 35(4) mandating that TEIA reports for high-risk AI systems (particularly those touching personal liberty or adjudicatory functions) for High Risk AI systems, where applicable, obtain an independent review from the CoRE-AI or an empanelled external technical expert panel before Appropriate Authority gives the final approval. (refer [Regulation 35](#))
17. Amend sub-regulation (1) by replacing the word ‘may’ with ‘shall’ and with other changes to be read as: “The Appropriate Authority shall, in all cases involving AI Systems proposed for use in High-Risk applications, and may in other cases, direct that such System be evaluated through Controlled Environment Testing established under the supervision of the AI Secretariat.” (refer [Regulation 36](#))
18. Amend Regulation 38(2) to allow for the appointment of independent and technically-skilled auditors who should be operating under strict confidentiality, security clearances and judicial confidentiality obligations for the purpose of conducting high-level AI audits. AI Secretariat should maintain a list of empanelled audit firms, similar to the CAG's panel that has gone through an appropriate security vetting process to audit. This tension could be solved by having a clear distinction from access to source code (restricted) from ‘functional behaviour audit’ (permissible by empanelled auditors). (refer [Regulation 38](#))
19. Insert Regulation 39(5) which read as the Appropriate Authority shall establish a severity classification framework for AI Incidents, at minimum comprising three tiers:
 - (a) Critical Incidents with respect to hazards which impact on one's personal freedom, fundamental rights and judicial decisions;

(b) Significant Incidents – for events that affect administrative procedures or the integrity of the data; and

(c) Minor Incidents – for technical error that does not have legal consequences.

The time-frames and steps of response and escalation shall be modified as per severity of the incident. (refer [Regulation 39](#))

20. Include Annexures I and II in the final published version of the regulation, to remove any ambiguity as to the prescribed format for disclosing use of AI. (refer [Regulation 43](#))

21. In Regulation 48(5) and 48(7), cross referencing is generally desirable rather than repeating the provisions so as to ensure consistency and avoid inadvertent divergence between provisions through subsequent amendment. (refer [Regulation 48](#))

22. Insert a sub-regulation (1A) specifically addressing public legal literacy for litigants on AI in courts, including plain language guides, FAQs, multilingual explainers on the website of court and AI related legal aid information. (refer [Regulation 49](#))

23. To expand Regulation 52(1) to cover harm arises from the violation of any of the regulations. Also, for structural conflict of interest where AI system in question was used by the court itself, then grievances should be filed before a designated higher/ appellate court. (refer [Regulation 52](#))

24. Amend Regulation 54(2) to the extent that in case of inconsistency than the provisions of Constitutions, Central Acts or State act shall prevail over these regulations. However, these regulations shall prevail over administrative circulars, rules, directions, instructions or notifications so as to prevent arbitrary act done by executive and to preserve integrity and independence of judiciary. (refer [Regulation 54](#))

25. Add a sub-regulation (2) requiring that all the administrative directions, circulars or instructions issued under regulation 55 be –

(a) in writing,

(b) communicate to Apex body within an specified period and

(c) upload on the official website of the court to make it publicly available. (refer [Regulation 55](#))

26. Amend Regulation 56 to the extent that the Chief Justice should require prior consultation from Apex Body and not just limited to communication to the Apex Body before relaxing any provision relating to high-risk AI applications or relating to personal liberty or fundamental rights. (refer [Regulation 56](#))

27. The AI Committee should before finalizing the review of these regulations, should place the review report into the public domain so as to allow the comments and suggestions from advocates, members from academia, technology experts and persons from civil society. This would make the review process more participatory and transparent. (refer [*Regulation 57*](#))

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ENHANCED RECOMMENDATIONS

1. Agentic AI Systems

Regulation 23(a)¹⁷ mentions “autonomous AI agent” without definition or agent-specific controls. Agentic systems act on court systems (filing, scheduling, drafting chains) rather than merely producing output for review.

It is recommended to define “Agentic AI System” under Regulation 3¹⁸; impose agent-specific controls for comprehensive action logging, tool-use permissions and approved at TEIA stage, and a mandatory human checkpoint before any state-changing action on court records or registers. The Agentic Ecosystem is now matured into Loop Engineering models the proposed definition needs to cater the future developments of the AI Industry.

2. Model Drift and Continuous Updates

An annual audit cycle (Regulation 38¹⁹, 48(5)²⁰) is meaningless for cloud-hosted models updated weekly; approval under Regulation 19²¹ attaches to a system whose behavior will not remain the behavior assessed.

It is suggested to insert a change-management trigger: any material model update, retraining or provider-side modification voids the existing approval and requires expedited re-assessment through the Regulation 34(4)²² pathway; vendors must notify updates in advance under Regulation 46(4)²³.

3. Foundation Model vs. Application Layer

Approving “an AI System” conflates the underlying model and the application built on it; the same foundation model may sit beneath a dozen court tools, each separately assessed or not at all.

It is recommended to adopt a two-tier approval structure mirroring the EU’s GPAI/ deployer split model-level empanelment by the Apex Body (safety, provenance, training-data

¹⁷ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 23(a) (June 3, 2026).

¹⁸ *Id.* reg. 3.

¹⁹ *Id.* reg. 38.

²⁰ *Id.* reg. 48(5).

²¹ *Id.* reg. 19.

²² *Id.* reg. 34(4).

²³ *Id.* reg. 46(4).

attestations); use-case approval by AI Committees against the empaneled list. Rationalizes Regulations 19²⁴, 34²⁵ & 46²⁶ and shortens approval timelines.

4. Synthetic Media and Provenance

Regulation 44's²⁷ AICVA is oriented to detection, and detection loses the arms race against generation. The Draft's synthetic-data disclosure duty (Regulation 43(5)²⁸) has no technical substrate.

It is proposed to direct AICVA toward content-provenance standards C2PA-style content credentials and watermark verification for filings and media evidence with detection as fallback; connect to the B-3 authentication protocol so provenance failure triggers heightened proof requirements rather than automatic exclusion.

5. Standing Evaluation Benchmarks (Affirmative Institutional Proposal)

The TEIA risks becoming a paper exercise: there is no measurable standard against which “accuracy” or “reliability” is scored, and no jurisdiction has solved this well.

It is suggested to task CoRE-AI under Regulation 32(3)²⁹ with maintaining standing Indian-law benchmarks multilingual, statute-aware, citation-accuracy evaluation suites against which any system seeking approval must be scored, with minimum thresholds set by the Apex Body per risk tier. This converts the TEIA into a measurable instrument and is a domain in which India could genuinely lead.

At any state any clarification required in this regard the CERA team will make necessary presentation to the Competent Authority of Supreme Court.

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²⁴ *Id.* reg. 19.

²⁵ *Id.* reg. 34.

²⁶ *Id.* reg. 46.

²⁷ *Id.* reg. 44.

²⁸ *Id.* reg. 43(5).

²⁹ *Id.* reg. 32(3).

DETAILED LEGAL ANALYSIS

(Regulation wise)

CHAPTER I

PRELIMINARY

Regulation 1- Short Title and Commencement

Issue:

Sub Regulation (2)(b) of Regulation 1 leaves the applicability date entirely to the independent discretion of the Chief Justices of the respective High Courts. This regional, fragmented approach generates a substantial risk of an asymmetric regulatory environment across the nation judiciary. If different High Courts apprise the commencement at radically distinct times, it could lead to multi-speed justice approach where advocates in one state have the benefit of advanced AI- driven translation and administrative services, while the litigant in another state remain bound to the manual procedure. Sub- regulation (2) of regulation 1 is reproduced below:

“(2) These regulations, or any provision thereof, shall come into force —
(a) in their application to the Supreme Court of India, on such date as the Chief Justice of India may, by notification in the Official Gazette, appoint; and
(b) in their application to a High Court, and to all Courts, Tribunals and statutory Commissions falling within the jurisdiction of such High Court, on such date as the Chief Justice of the respective High Court may, by notification, appoint, and different dates may be appointed for different provisions of these regulations.”³⁰

Recommendations:

To ensure regulatory uniformity and satisfy constitutional parity under Article 14, a binding transitional deadline should be inserted in sub-regulation (2)(b). Therefore, it is recommended to add a proviso stating that every High Court of India must notify and implement the regulations within a maximum transitional period of 24 months from the date of the Supreme Court’s notification. This approach would maintain administrative flexibility at the period of transition while establishing a transparent national baseline for compliance. [Back to Key Recommendations](#)

³⁰*Id.* reg. 1(2).

Regulation 2- Application

Issue:

While application regulation thoroughly covers judicial, adjudicatory and administrative court processes, the provision's wording focuses strictly on systems deployed by the courts. The regulation 2 does not explicitly specify external government agencies/ offices (such as forensic labs, tax authorities or police department) deploy AI models to generate evidence, investigative reports or risk profiles that are subsequently relied on court proceedings. This regulatory gap creates a blind spot as unchecked AI outputs could penetrate court records through extraneous filings, bypassing the foundational protections of data integrity and human oversight. Regulation 2 is reproduced below:

“They shall apply to the use, deployment, or integration of Artificial Intelligence in any judicial, adjudicatory or administrative function of the Supreme Court of India, High Courts, and all Courts including the Tribunals and statutory Commissions performing adjudicatory functions, within the territory of India.”³¹

Recommendations:

The scope of the regulation must be elaborated to govern any AI assisted evidence or materials submitted to the court. The application should be amended to state that the regulations execute not only to the system of court but also to the AI generated outcomes, submitted by State prosecution agencies and private advocates, predictive risk assessment reports, secure that external AI generated inputs are to the same verification and disclosure standards as court-initiated implements.

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Regulation 3- Definitions

Issue:

The distinction between ‘Artificial Intelligence’ and ‘General Purpose Software’ in Regulation 3(1)(m) lacks technical precision. Contemporary word processors and document databases are accelerating augmented with basic heuristic algorithms and automated search features. Without

³¹*Id.* reg. 2.

clear definition, courts may struggle to differentiate standard AI tools and administrative software from high risk, leading to unnecessary compliance obstacle for low-risk systems.

Furthermore, under Regulation 3(1)(x) the definition of ‘external system’ stated is broad and inadvertently captures public offices digital infrastructure, such as NIC or the central cloud platforms, for the reason that these frameworks are technically not managed directly by independent court administrations. Distinguishing these essential national platforms as ‘external system’ would trigger strict written authorization necessity for every data transfer procedure, creating operational gridlock. Sub-regulations of Regulation 3 are reproduced below:

“(m) ‘Artificial Intelligence (AI)’ refers to a machine-based system that infers, learns, and generates decisions, predictions, and recommendations from data, with a varying degree of autonomy, such as, algorithms, computational processes, and software, deployed for court processes, excluding general-purpose software or digital tools, unless such software or tools are specifically embedded with, augmented by, or functionally dependent upon, artificial intelligence.

(x) ‘external system’ means any computing infrastructure, server, software platform or network, not owned, managed, or directly controlled by the Court or the Appropriate Authority.”³²

Recommendations:

Amend definition of ‘Artificial Intelligence’ in regulation 3(1)(m) to transparently differentiate self-learning machine systems, rule based computational algorithms from probabilistic, aligning the definition with global technology standards to ensure that the standard productivity software is not inadvertently confined.

Furthermore, refine the definition of ‘external system’, in regulation 3(1)(x) to explicitly exclude public digital infrastructure sector such as NIC and approved sovereign cloud services, providing their data processing remains bound by court protocols.

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³²*Id.* reg. 3(m) & (x).

CHAPTER II

GENERAL PRINCIPLES TO GOVERN ADOPTION, DEPLOYMENT AND USE OF AI SYSTEMS IN COURTS

Regulation 4- Human Primacy and Judicial Independence

Comments:

Regulation 4 states the foundational cornerstone of the entire regulation by codifying the fundamental of human primacy. By keeping autonomous mechanism strictly subservient to human bring judgment; the provision protects the sovereign constitutional decree of adjudication from intelligence automated dilution. This clear parameter is a necessary defence of judicial sovereignty, ensuring that AI recommendations never dictate legal outcomes.

Issues:

The empirical challenge to human primacy is ‘automation bias’, where judges facing backlogs and high workloads may systematically defer to automated generated research, analyses or summaries without engaging in independent, critical evaluation. Under massive case volumes, a formal regulation stating human primacy may not prevent a practical excessive reliance on AI innovation. Sub- regulation (2) of Regulation 4 is reproduced below:

“(2) Every AI System shall function solely in an assistive capacity and shall not supplant or compromise the independent exercise of judicial authority by a duly appointed judicial officer.”³³

Recommendation:

In Regulation 4(2) insert an explicit systematic safeguard stating that any judicial order or determination that relies on Artificial Intelligence generated outputs or analyses must demonstrate independent human implementation of mind to the specific law and facts. The regulation should elucidate that a failure to independently analyse and verify material facts, despite the use of assistive mechanism, constitutes a serious lapse and procedural error in the discharge of judicial functions.

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Regulation 5- Rule of Law

Comments:

³³*Id.* reg. 4(2).

“Regulation 5 states a strong connection between established judicial ethics and digital tools by anchoring the use of Artificial Intelligence within the Constitution of India and the Bangalore Principles of Judicial Conduct. Through these standard codes of conduct to the autonomous technological realm make certain that core principles such as equality, impartiality and propriety are not compromised by autonomous court registries. It substantiates that technological evolution must remain aligned with constitutional due process.”³⁴

Regulation 6- Fairness and non-discrimination

Issues:

The primary challenge into Regulation 6 is that Indian documented judicial data and crime records can reflect structural socio- economic biases. If automated mechanism is trained on these legacy datasets, they are highly likely to amplify, disguise or perpetuate these biases as objective algorithmic outcomes. For instance, analytical or predictive tools evaluating legal action patterns might sustain historical inequalities against vulnerable or marginalized groups. Prohibiting the bias in abstract is insufficient without addressing the fundamental data used to train these prototypes. Sub – regulation (2) of Regulation 6 is reproduced below:

“(2) No AI System shall be deployed that perpetuates, amplifies, or introduces bias on the grounds of race, religion, caste, sex, gender, disability, language, economic status, or any other ground prohibited under the Constitution or any law for the time being in force and special care shall be taken to protect the rights and interests of vulnerable groups including women, children, persons with disabilities, marginalised and minority communities, and persons from economically and socially disadvantaged backgrounds.”³⁵

Recommendations:

Amend a compulsory requirement that all training datasets, semantic weights and core models utilized in court deployed AI systems undergo representational balancing and bias auditing before approval. The technology committee must verify that the datasets are representative and have been audited to eliminate historical biases prior to deployment.

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Regulation 7- Transparency and Explainability

Issues:

³⁴ *Id.* reg. 5.

³⁵ *Id.* reg. 6(2).

Explainability is indispensable for accountability, state of the art, advanced large language models and deep neural networks are structurally ‘Black Boxes’. The within decision logic cannot be mapped to human comprehensible regulations. A precise insistence on absolute explainability across the courts would effectively prohibit the deployment of analytical or advanced generative AI tools, generating an unresolvable conflict between technological innovation and regulatory compliance. Regulation 7(3) is reproduced below:

“(3) The deployment of AI Systems that are opaque or incapable of explanation shall be subject to heightened scrutiny and shall be restricted in high-risk applications affecting personal liberty or any lawful right of a person.”³⁶

Recommendations:

Endorse a stratified transparency calibre. For high-risk systems that affect directly to adjudicative outcomes or personal liberty, absolute explainability must remain a non-negotiable requirement. Whereas, for medium to low-risk administrative tools (such as automated translation or e-filing screening), the transparency prerequisite should be satisfied by comprehensive documentation of training data, demonstrating functional reliability and the use of localized post hoc interpretability structures.

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Regulation 8- Accountability

Issues:

The proviso of Regulation 8(3) allows the judicial officer or supervisors to dispense with the human verification prerequisite for artificial intelligence outcomes, simply by recording reasons in written. This exception presents a significant risk, specifically in high volume administrative settings where over burdened officers may bypass verification checks to cases. This practice could lead to systematized errors and contradict directly to the Supreme Court’s warning that rely on hallucinated and unverified precedents is a serious lapse. The first proviso of Regulation 8(3) is reproduced below:

“Provided that the officer responsible and accountable for using such AI Tool may, for reasons to be recorded in writing, dispense with the requirement of verification.”³⁷

³⁶*Id.* reg. 7(3).

³⁷*Id.* reg. 8(3).

Recommendations:

Delete the first proviso of sub regulation 3 of regulation 8, entirely to ensure that human verification remains an absolute. Discretion to bypass verification should only be sanction to clerical executive tasks pre certified by the AI Secretariat.

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Regulation 9- Auditability and Continuous Oversight**Comments:**

The audit requirement of the regulation is an essential tool to ensure ethical and technical reliability throughout the process of court system. It would prevent technology drift ensuring standards of justice.

Issue:

“Regulation 9 mandates periodic technical, legal and ethical audits but it does not specify the institutions eligible to perform them. As court registries often lack the highly specialized computers and technical expertise to audit complex architectures, hence audits risk becomes superficial checklists.”³⁸

Recommendations:

For transparent and smooth functioning, the regulation needs to establish structured collaborations with expert technology institutions (such as the National Research Foundation or IITs). These technological institutions can conduct thorough technical audits under confidentiality agreements and strict non-disclosure, ensuring rigorous and independent evaluations.

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Regulation 10- Data Protection and Privacy**Comments:**

“Regulation 10 completely aligns with the DPDP Act, 2023, ensuring that court technical framework aligns respectfully to litigants’ right to privacy. Grounding Artificial Intelligence development in principles of purpose limitation, data minimisation and privacy ensures the standards of data protection.”³⁹

³⁸ *Id.* reg. 9.

³⁹ *Id.* reg. 10

Regulation 11- Purpose Limitation

Comments:

“The provision of ‘purpose limitation’ is highly effective in preventing ‘scope creep’. Obligatory written or separate approvals for any alternative uses of an autonomous mechanism ensures that the systems cleared for low-risk procedure are not incrementally expanded into high-risk adjudicative space without bona fide vetting.”⁴⁰

Regulation 12 – Proportionality

Issues:

Regulation 12 refers to ‘higher levels of risk’, the regulation does not establish an objective, structured risk classification framework. Without predefined and distinct risk categories, the appropriate authorities will lack with consistent standard to deploy and evaluate proportional safeguards, it would lead to inconsistent application of the regulations. Sub- regulation (2) of the Regulation 12 is reproduced below:

“(2) Applications involving higher levels of risk to personal liberty or any lawful right of a person, or the integrity of judicial outcomes shall be subject to correspondingly heightened safeguards including mandatory Human-in-the-Loop requirements and independent oversight.”⁴¹

Recommendations:

Introduce an authorized multi-tiered risk assessment matrix within the proportionality regulation, analogous to international standards such as EU AI Act⁴². Artificial Intelligence mechanism should be classified into defined risk tiers with applications such as tools assisting in legal research, evidence analysis or administrative dockets, subject to compulsory Human-in-the-Loop regular and constraint external audits.

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Regulation 13- Inclusivity and Accessibility

Comments:

“The obligation in the regulation to prevent the expansion of digital divides is censorious for the country with linguistic diversity and socio-economic. Ensuring that autonomous assisted

⁴⁰ *Id.* reg. 11.

⁴¹ *Id.* reg. 12(2).

⁴² EU Artificial Intelligence Act, Regulation (EU) 2024/1689.

outputs expand access to justice rather than marginalized litigants or isolating rural is essential for the legitimacy of technology integration.”⁴³

Issue:

The regulation remains primarily aspirational and it lacks concrete mandates to ensure linguistic inclusivity across Indian judiciary that is multi-lingual tiers.

Recommendations:

Insert a compulsory technical clause necessitating that any litigant facing conversational AI portal, chatbot or assistant must natively support to all official languages listed under the Eighth Schedule of the Constitution of India.

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Regulation 14- Data Integrity

Issue:

The absolute prohibition against systems trained on ‘demonstrably biased’ or ‘unlawfully collected’ datasets. Contemporary foundational and large language models are trained on unstructured and massive web scale datasets where they require compliance record of every source is not possible to verify. Under a literal, strict interpretation this regulation could prevent the judiciary from deploying highly efficient open-source fundamental models. Sub-regulation (2) of Regulation 14 is reproduced below:

“(2)The deployment of AI Systems, trained on unlawfully collected or demonstrably biased datasets, shall be prohibited.”⁴⁴

Recommendations:

Elucidate that the strict prohibition against biased data or unlawful collected data applies specifically to the custom datasets utilized and curated by or on behalf of the court for training or fine- tuning its bespoke systems. For general purpose fundamental structure, compliance should be analyzed based on the provider’s adherence to standard technology validation tests, copyright clearances and governance disclosures.

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⁴³ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 13 (June 3, 2026).

⁴⁴*Id.* reg. 14(2).

Regulation 15- Cyber Security

Comments:

“Cyber security regulation prioritizes the preservation of the court integrity, confidentiality and availability. Provided to the sensitive nature of judicial records and threats of targeted cyber-attacks. Integrating cyber security as a fundamental principle underpins the trust required to operate digital courts.”⁴⁵

Regulation 16- Presumption in Favour of Responsible AI Adoption

Issue:

The prohibition against AI for ‘dispute-outcome prediction’ is essential to fortify human adjudication; the present phrasing of the proviso is overly broad in nature. It could be understood as prohibiting administrative analytical mechanism that model historical case flows, predict scheduling or project litigation durations bottlenecks even though these administrative functions do not require predicting individual liabilities. Proviso of sub regulation (1) of Regulation 16 is reproduced below:

“Provided that no AI System or AI Tool used for the purpose of assistance in Court processes, shall replace humans as far as decision-making is concerned, and shall not be deployed for dispute-outcome prediction.”⁴⁶

Recommendations:

Modify the proviso of Regulation 16(1) to elucidate that the prohibition on dispute outcome prediction applies rigorously to predicting the specific substantive liability or legal findings, while explicitly permitting administrative and structural analytical mechanism operated to model court level case delays, flows and scheduling timelines.

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Regulation 17- Innovation over Restraint

Comments:

“The regulation establishes an ‘Innovation First’ philosophy within an accountable framework. Determine active and responsible adoption over simple restraint in a constructive approach. It allocates a clear policy mandate for the sustainable modernization of the justice system,

⁴⁵ *Id.* reg. 15.

⁴⁶ *Id.* reg. 16(1).

allowing Indian judiciary to remain at the cutting edge of the international legal tech innovation.”⁴⁷

CHAPTER III

PERMISSIBLE AND PROHIBITED USES

Regulation 18 – Appropriate Authority to identify use of AI in Courts

Issue:

Regulation 18 envisages the appropriate authority to identify use of AI in Courts it entails:

“The Appropriate Authority shall determine, from time to time, the areas of Court processes in which AI Systems may be utilized, in accordance with the provisions of these regulations.”⁴⁸

This provision has given power to Appropriate Authority which is defined under regulation 3(l) which is reproduced below:

“Appropriate Authority means—
(i) the Apex Body at the Supreme Court of India; or
(ii) the AI Committee at the respective High Court or Tribunal or Commission,
as the case may be, under whose administrative control an AI System is deployed or proposed to be deployed.”⁴⁹

Thus, in regulation 18 powers are given to the Appropriate Authority which is completely governed by Apex Body and AI Committee of respective High Courts. This raises certain concerns such as inconsistent approvals across different jurisdictions, arbitrary decision-making, absence of measurable standards for evaluating AI systems and inadequate transparency regarding why one AI application is approved while another is rejected. Such discretionary power can undermine the constitutional principles of fairness, transparency and non-arbitrariness.⁵⁰

Recommendation:

⁴⁷ *Id.* reg. 17.

⁴⁸ *Id.* reg. 18.

⁴⁹ *Id.* reg. 3(l).

⁵⁰ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *Maneka Gandhi v. Union of India*, AIR 1978 SC 597; *E.P. Royappa v. State of Tamil Nadu*, 1974 AIR 555.

The Appropriate Authority shall record reasons for every approval or rejection and publish a non-confidential summary of its decision in the AI Register. It shall also review every approval at intervals not exceeding three years or earlier where significant modifications to the system occur.

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Regulation 19 – Permissible Uses of AI

Issue:

Regulation 19 deals with permissible use of AI and specifies the categories of AI applications that may be deployed within the courts such as for administrative support, legal research, case management, translation and other permissible judicial functions. It is reproduced below:

“(1) Subject to prior approval in writing by the Appropriate Authority and to the supervision and verification of officers nominated for that purpose, AI Systems may be used for the following purposes, which are illustrative and not exhaustive:—

(a) case management (including identification of defects in new filings), cause list preparation, hearing scheduling and docket prioritization;

(b) automated transcription of court proceedings, subject to mandatory review and certification of accuracy by a Designated Officer;

(c) translation of judgments, orders, pleadings and other legal documents, subject to human verification of accuracy and fidelity to the original;

(d) legal research, precedent retrieval, citation verification and document summarization;

(e) administrative functions including case filing assistance, defect scrutiny, record management and judicial resource allocation;

(f) conversational AI Assistants and guided chatbots to assist litigants and other stakeholders in accessing Court services and understanding procedural requirements, subject to human oversight of their functioning;

(g) accessibility services including text-to-speech, speech-to-text, Braille translation and visual assistance tools, for persons with disabilities or language barriers;

(h) document authenticity verification and fraud detection in administrative processes, subject to mandatory human review of all outputs before any action is taken;

(i) anonymisation of judgments, orders and Court records for publication in the public domain;

(j) analytical tools for judicial administration, court performance assessment and backlog monitoring and management; and

(k) auto-generation of prescribed formats, notices and summons with metadata merge including automated preparation of administrative documents.

(2) Any use of AI not enumerated under sub-regulation (1), or not otherwise specifically approved, shall require the prior written approval of the Appropriate Authority, which shall record reasons for the grant or refusal of such approval.”⁵¹

This regulation enlists the permissible uses as illustrative and not exhaustive. It says that prior approval of the appropriate authority is required but the drafting also permits future AI applications to be authorized without any amendment to the regulations. Such broad and open-ended language without the definite scope delegates substantial power to authority than ensuring democratic and transparent regulatory oversight. Terms such as case management, judicial administration etc. are also capable of broad interpretation. For example, an AI system initially approved for administrative scheduling could gradually be expanded to influence case prioritization without explicit regulatory scrutiny.

From a constitutional perspective an unguided administrative discretion may invite arbitrariness and ultra vires under Article 14⁵² and the jurisprudence in *E.P. Royappa v. State of Tamil Nadu*.⁵³

Regulation 19 requires human oversight over several AI-assisted roles however the regulation does not define the nature or standard of such oversight. It is unclear whether oversight requires independent assessment or merely formal approval of AI outputs. Also,

⁵¹ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 19 (June 3, 2026).

⁵² INDIA CONST. art. 14.

⁵³ *E.P. Royappa*, 1974 AIR 555.

the regulation does not define the proper mechanism for human oversight as to who will oversight, on what principles it will be oversight etc. Since India is signatory to UNESCO hence, the Guidelines issued by UNESCO for use of AI systems in courts and tribunals are very significant.⁵⁴ It entails that AI in courts shall support and not replace human decision making. It relies on meaningful oversight through the judicial application.⁵⁵

There is absence of objective approval criteria as regulation 19 mandates prior written approval by the appropriate authority but it is silent on the standards governing such approval. Consequently, the authority is not legally required to evaluate the technical reliability, explainability and human right implications of the proposed AI system. This will increase the possibility of arbitrary or inconsistent approvals. UNESCO also recommends that AI deployment shall be accompanied by governance measures. It will evaluate systems before deployment and ensure responsible use throughout their operational lifecycle, merely requiring administrative approval is insufficient to aptly manage AI in courts.⁵⁶

Clause (a) of sub-regulation (1) of regulation 19 authorizes AI- assisted preparation of cause list, hearing rescheduling and docket prioritization. While these functions are administrative but they may influence litigants access to justice and indirectly affect case outcomes. The regulation does not prescribe objective prioritization criteria as how cases are scheduled. This omission raises concern of opaque algorithmic decision making that may hamper litigant's right to equal access to justice, right to be heard and procedural fairness under Article 21.⁵⁷

Clause (d) permits AI assisted legal research, precedent retrieval and citation verification. The regulation adopts an assistive model rather than an autonomous one the concern lies not in the use of AI itself but the absence of clearly prescribe verification standards. The regulation does not specify the extent of permissible reliance on AI assisted research, mandatory verification procedures, responsibility for identifying overruled authorities. AI systems have capacity to rely upon overruled precedents. As legal reasoning is based on legal authorities unverified AI-generated research can compromise the integrity of judicial outcome. It affects procedural fairness under Article 21⁵⁸. UNESCO also notes that judicial

⁵⁴UNESCO, *AI in the Courtroom: UNESCO's New Guidelines for the Judiciary* (Dec. 3, 2025), <https://www.unesco.org/en/articles/ai-courtroom-unescos-new-guidelines-judiciary>

⁵⁵*Id.* Guideline 1.13, at 20.

⁵⁶*Id.* Guideline 2, at 21.

⁵⁷*Maneka Gandhi*, AIR 1978 SC 597; INDIA CONST. art. 21.

⁵⁸ INDIA CONST. art. 21.

officer shall remain responsible for critically evaluating AI-supported outputs before relying upon them.⁵⁹

Clause (e) permits AI-assisted judicial resource allocation without defining its scope. This expression can lead to unequal allocation of resources among courtroom, registry personnel or other institutions. The absence of definitional clarity with respect to allocation may result in inconsistent allocation across different judicial institutions.

Clause (f) allows AI-assisted powered chatbots subject to human oversight but does not define the scope of their functions. Although the oversight exists but users may perceive chatbot responses as authoritative legal advice unless an explicit limitation is prescribed.

There are certain other permissible uses of AI-assisted tool that are accepted in different jurisdictions such as AI-assisted evidence organization, identifying duplicates, compliance monitoring of judicial directions, automated anonymisation of judgments and knowledge-based system as identifying conflicting precedents, finding of common cases, extracting of facts, search similar facts in other cases etc. are needed to be added in permissible use.⁶⁰ Though sub-regulation (2) says that any other uses except as mentioned in sub-regulation (1) has to be passed by written approval of appropriate authority. It is noted that these are purely administrative uses which if approved can ease the process of justice delivery system but written approval will delay it further.

Further a regulation 19 and 20 will apply equally in both civil and criminal cases, it will bring problem in effective implementation of the regulation.

Thus, regulation 19 is one of the strongest provisions in the draft regulations because it limits AI to assist judicial and administrative functions but the gap is still present. The regulation does not adequately prescribe the objective criteria governing such uses, gives wide discretionary power through open ended language has lack of verification standards, non-consideration of possibility of use for other administrative purposes and uniformity in application in both civil and criminal cases. These regulation required to be constitutionally

⁵⁹UNESCO, *supra* note 54, Guideline 1.11, at 20, and Guideline 2.1.1, at 21.

⁶⁰ Monika Hinteregger, *How Is Austria Approaching AI Integration into Judicial Policies?*, Eur. Comm'n for the Efficiency of Just. (CEPEJ), Council of Eur. (2018), <https://rm.coe.int/how-is-austria-approaching-ai-integration-into-judicial-policies-/16808e4d81>; Richard Susskind, *AI and Machine Learning and the Administration of Justice in England and Wales*, Eur. Comm'n for the Efficiency of Just. (CEPEJ), Council of Eur. (2019), <https://rm.coe.int/ai-machine-learning-and-the-administration-of-justice-in-england-and-w/16808e4d87>; Manuella van der Put & Bart Schellekens, *Challenges and Opportunities of AI in the Judicial System: Reflections from the Netherlands*, Eur. Comm'n for the Efficiency of Just. (CEPEJ), Council of Eur. (2018), <https://rm.coe.int/challenges-and-opportunities-of-ai-in-the-judicial-system-reflections-/16808e4d88>

aligned on the principles of fairness, accountability and non-arbitrariness and principles such as endorsed by UNESCO guidelines on use of AI in courts.⁶¹

Recommendations:

1. It shall provide that any new category of permissible use of AI must be incorporated through amendment or publicly notified approval process
2. The clear definition of judicial resource allocation shall be inserted in regulation 3.
3. The regulation shall expressly provide that conversational AI may only provide procedural information, assist court navigation and answer administrative queries.
4. Provide a list for permissible uses in the civil and criminal cases separately. For example, in civil matters involving very petty issue, online dispute resolution can be used but not in criminal cases.
5. The use of anonymized or synthetic data can also be allowed if it serves the intended purpose. For example, in the case name Mr. X v. state of Y, the personal identifiers are removed but AI still can learn legal reasoning without identifying the individual.
6. A clause shall be inserted as to use of AI-assisted tool for tracking enforcement of judgment, orders and directions.

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Regulation 20 – Prohibited uses of AI

Issue:

Regulation 20 is also very important because it adopts prohibitory approach towards AI deployment that poses severe risk to judicial independence, fairness and procedural justice. It operationalized the principles contained in chapter II as to human primacy, transparency and proportionality. However, despite its breath there are certain ambiguities that can weaken implementation. For understanding ambiguities regulation 20 is reproduced here:

“(1)The following uses of AI are strictly prohibited in all Court processes. These prohibitions are absolute and non-derogable, and shall not be subject to relaxation or modification by any authority under these Regulations, including under the power conferred by Regulation 19(1)—

(a) no personal data of any person shall be used to train, test, or refine any AI System without the prior approval of the Appropriate Authority and, where applicable, in compliance with applicable data protection law;

⁶¹ UNESCO, *supra* note 54, Guideline 1, at 18 – 20.

(b) no judicial outcome (including any judgment, order, or finding of fact or law) shall be reached through Algorithmic Decision-Making alone or solely on the basis of AI-generated information, data, or analysis and the human judicial authority shall be the determinative authority in all adjudicative decisions;

(c) no AI System shall perform the function of adjudication or sentencing in any matter without mandatory Human-in-the-Loop and any output of an AI System in relation to adjudicative or sentencing questions shall be treated as advisory only and shall be subject to independent judicial evaluation;

(d) no AI System shall be used for Risk Scoring for any purpose in Court processes, including the assessment of flight risk, prediction of recidivism, evaluation of bail eligibility, or determination of the credibility of parties or witnesses;

(e) no undisclosed, opaque, or unexplainable AI System shall be used in any Court process that may materially affect the lawful rights or personal liberty of any party;

(f) no AI System shall be used to predict, profile, or infer the future conduct or behaviour of parties, accused persons, witnesses, or legal representatives in any Court process;

(g) no AI System shall be used for the surveillance or continuous monitoring of judicial officers, advocates, litigants, or any other person within or in connection with Court premises or Court processes, except as may be specifically authorised by applicable law for the time being in force;

(h) no AI-generated output shall be submitted to a Court as an independent source of evidence without full and transparent disclosure of its AI-generated character; and

(i) no AI System shall be used in any manner that may compromise the confidentiality of judicial deliberations or the independence of the judicial decision-making process.

(2) The prohibitions referred to in sub- regulation (1) shall be absolute and shall not be subject to relaxation or modification by any authority.”⁶²

⁶² Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 20 (June 3, 2026).

Clause (a) of Sub-regulation (1) of regulation 20 prohibits the use of personal data for training, testing or refining AI system unless prior approval of the appropriate authority is obtained and law as to data protection is complied with. This provision though acknowledges the sensitivity of judicial data but fails to prescribe the substantive conditions under which such approval may be granted. The regulation neither talk about an assessment of necessity and proportionality principles nor it mandates consideration for whether anonymized, pseudonymized or synthetic datasets can adequately be used to train AI systems. Approval depends upon administrative discretion rather than objective statutory standards. Judicial records contain sensitive personal information such as medical records, financial details; family details etc. the exception carved in this clause can jeopardize the privacy and erode public confidence in the judiciary.

The constitutional right to privacy recognized in Justice K.S. Puttaswamy v Union of India⁶³ identifies that any restriction upon privacy must satisfy the test of legitimate aim, legality, necessity and proportionality. But this provision is undermining the constitutional framework as to privacy. UNESCO guidelines also emphasizes that AI governance in court shall ensure responsible management of data through robust governance mechanisms.⁶⁴

Clause (c) prohibits AI from constituting the sole basis of judicial outcome and mandates human in the loop for adjudication and sentencing. But human oversight is not alone sufficient to prevent bias. Research shows that AI create a risk of automation bias and judicial officers may knowingly or unknowingly defer to algorithmic recommendations without adequately scrutinizing reasoning or limitations.⁶⁵ UNESCO Guidelines also emphasize that AI shall augment and not replace judicial decision making.⁶⁶ The regulation lacks an operational standard for the implementation of human in the loop governance including judicial training, audit mechanisms, documentation of AI use and periodic validation of AI- assisted systems.

Clause (d) prohibits AI based risk scoring and behavioral prediction in specified judicial contexts but it does not clarify the types of risk expressly prohibit AI systems performing emotion recognition, biometric categorization, credible assessment, psychological inference and judicial scoring. AI systems have capacity to indirectly influence judicial perception

⁶³Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

⁶⁴ UNESCO, *supra* note 54, Guideline 2.2.16, at 24.

⁶⁵ Tatiana Kazim & Joe Tomlinson, Automation Bias and the Principles of Judicial Review, 28 *Jud. Rev.* 9 (2023), <https://doi.org/10.1080/10854681.2023.2189405>

⁶⁶ UNESCO, *supra* note 54, Guideline 3.2.1, at 27.

without generating formal risk scores.⁶⁷ Scientific evidence concerning the reliability of emotion recognition and behavioral inference is contested and their use in judicial proceedings may affect the principle of impartial adjudication.⁶⁸ The judicial decisions influenced by scientifically unreliable profiling technologies may affect the constitutional guarantee of fairness and equality as envisaged in Article 14⁶⁹ and landmark ruling of *E.P. Royappa v. State of Tamil Nadu*.⁷⁰

Regulation shall not put a blanket ban on the AI-based risk scoring though it shall adopt a risk-based governance model which can permit and prohibit AI-system based on risks such as low (predictive text, basic word processing, scheduling and translation etc.), medium (legal research, summarization etc.), high (sentencing recommendation etc.) and unacceptable (risk scoring, automated sentencing etc.) based on their impact on judicial process.⁷¹ It will provide regulatory clarity, facilitates innovation in low-risk administrative functions and ensure stricter safeguards for AI systems capable of affecting court process.

Clause (e) prohibits opaque AI systems if they affect legal rights or personal liberty but it will create a problem as unexplained and opaque AI shall not be used at any cost whether or not it affects any right. It will severely affect access to justice and public confidence in the judicial administration. Article 14⁷² requires that state action shall be fair, transparent and non-arbitrary.⁷³ UNESCO also says AI deployment in the court shall be transparent and explainable so such ambiguity can undermine the constitutional value and UNESCO guidelines.

Clause (g) prohibits AI enabled surveillance of judicial offices, litigants or person related to courts except authorised by applicable law. The exception is drafted broadly and not provides safeguards such as necessity, proportionality or independent oversight. *K.S. Puttaswamy* judgment held that surveillance measure must satisfy legality, necessity and proportionality.⁷⁴ UNESCO Guideline suggests that AI deployment must protect human

⁶⁷W.H. Gravett, Judicial Decision-Making in the Age of Artificial Intelligence, in *Multidisciplinary Perspectives on Artificial Intelligence and the Law* 279, 291 (Helena Sousa Antunes et al. eds., 2024), https://doi.org/10.1007/978-3-031-41264-6_15

⁶⁸S. SG, B. Chandrasekaran & O. J., Ethics and Bias in Emotional AI, 9 *Frontiers in Artificial Intelligence* 1768696 (2026), <https://doi.org/10.3389/frai.2026.1768696>

⁶⁹ INDIA CONST. art. 14.

⁷⁰*E.P. Royappa*, AIR 1974 SC 555.

⁷¹ Natalie Runyon, *Risk Assessment and Ethical Guardrails: A How-to Guide for Courts to Implement AI Responsibly*, Thomson Reuters Inst. (Apr. 10, 2025), <https://www.thomsonreuters.com/en-us/posts/ai-in-courts/guide-ai-implementation/>

⁷² INDIA CONST. art. 14.

⁷³ *E.P. Royappa*, AIR 1974 SC 555.

⁷⁴ *Justice K.S. Puttaswamy*, (2017) 10 SCC 1.

rights, judicial independence and informational security.⁷⁵ But in the present regulation surveillance provision lacks robust governance safeguards.

Clause (h) specifically prohibits the undisclosed AI generated evidence but disclosure alone is not sufficient. Disclosure does not guarantee authenticity and evidentiary reliability. AI generated or enhanced evidence can be inaccurate, manipulated or fabricated despite proper disclosure. It affects right to fair trial under article 21 as judicial decisions must be based on reliable evidence. UNESCO Guideline also says that AI generated output shall support judicial processes without compromising accuracy, accountability and procedural fairness.⁷⁶

Clause (i) prohibits AI system that compromise the confidentiality of judicial deliberations and independence of judicial decision making but it is silent as to specific AI enabled practices that will constitute such a compromise. The absence of definitional clarity may create uncertainty regarding the scope of the prohibition and lead to inconsistent interpretation and enforcement.

For instance, the regulation does not specify whether the prohibition extends to the uploading confidential judgment or judicial notes to external AI platforms, cloud-based processing or storage of deliberative material by third party AI service providers and retention or use of judicial deliberative material for training, testing or model refinement of AI system. The principle behind this clause is to protect the independence of judiciary one of the basic structure of the constitution affirmed by the Supreme Court in *Supreme Court Advocate on record association v Union of India*.⁷⁷ UNESCO guidelines also emphasis that AI system shall preserve judicial independence, impartiality and accountability.⁷⁸ The regulation shall not be ambiguous and shall provide clear provisions regarding the protection of independence of decision making.

Sub regulation 2 says that prohibition mentioned in sub regulation 1 is absolute and cannot be modified or relaxed by any authority. The regulation is giving absolute prohibition on certain use of AI in the courts. It has not considered the evolving nature of AI systems by not providing any institutional mechanisms for the periodic review of the list of prohibited AI practices. The rapid evolution of AI technologies new high-risk practices may emerge and existing prohibitions may require refinement or clarification. UNESCO Guideline

⁷⁵UNESCO, *AI in the Courtroom*, *supra* note 54.

⁷⁶*Id.* Guideline 2.3, at 25–26.

⁷⁷Supreme Court Advocates-on-Record Ass'n v. Union of India, (2016) 5 SCC 1.

⁷⁸UNESCO, *AI in the Courtroom*, *supra* note 54.

advocates for continuous governance of AI system through periodic monitoring, evaluation and updating of governance measures to address evolving technological risks.⁷⁹

Recommendations:

1. The regulation shall expressly prohibit AI system that infer emotional or psychological state, perform biometric categorization except where expressly authorized by law and subject to strict safeguards, evaluate credibility through behavioral analysis and employ behavioral profiling or predictive analytics capable of influencing judicial decision making.
2. A regulation shall be inserted dealing with the risk-based governance model. It shall include following:

Risks	Uses	Prohibition
Low risk AI	Case scheduling, translation, document formatting, predictive text and basic word processing, analyzing email, digital file management and anonymisation of judgment.	Permissible
Medium risk AI	Legal research, summarization, draft generation.	Permitted with human-in-loop
High risk AI	Bail recommendations, sentencing assistance, credibility assessment, case prioritization affecting substantive rights.	Prohibited
Unacceptable risk AI	AI-based risk scoring of litigants, automated judicial decisions, social scoring, assessment of credibility as the sole basis for judicial outcomes.	Strictly prohibited with punishment

3. The regulation shall also prohibit non-explainable AI in all judicial and administrative functions if it influences judicial processes or public confidence.
4. The regulation shall provide that AI-generated evidence shall satisfy ordinary evidentiary standards relating to authenticity and reliability, undergo independent verification where appropriate and disclose the nature and extent of AI use.
5. The regulation shall expressly prohibit use of confidential judicial deliberations for AI training or model improvement, external processing or storage of deliberative material

⁷⁹*Id.* Guidelines 2.1.10–2.1.12, at 22–23; Colombia, Constitutional Court, Ruling (T – 323 / 2024).

without statutory authorization, retention of deliberative data beyond operational necessity and disclosure of deliberative material to third party AI vendors except under strict legal safeguards.

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Regulation 21 – Remedial measures by AI Committee

Issue:

Another major loophole is in the Regulation 21 which provides for remedial measure by AI committee on violation of Regulation 20. It envisages:

“Every violation of any prohibition specified in regulation 20 shall be reported forthwith to the AI Secretariat, which shall be placed before the AI Committee, and the AI Committee shall, after due enquiry, direct such remedial measures, including the suspension of the relevant AI System, as it deems appropriate.”⁸⁰

Regulation 20 prohibited certain AI practices and Regulation 21 act as a legal recourse to go to AI Secretariat and committee for violation of Regulation 20 but it does not prescribe what are the remedial measures that committee will adopt. Whether suspension is mandatory or mere modification is sufficient or permanent withdrawal is possible or retraining of the model will be helpful and what will be the liability of officers or person involved in violation of Regulation 20.⁸¹ Regulation 21 is again giving very wide discretionary power to the committee which is against the principles of non-arbitrariness as held in E.P. Royappa case under Article 14.⁸²

Another concern is that it has mentioned no timeline. It is written “forthwith” and “after due enquiry”. It does not state when the violation is reported then when enquiry will begin and conclude and when will the remedial measures be order. There is also no provision for stay of such AI system which has violated Regulation 20, till the remedial measures ordered, such AI system will continue to run.

One of the principles of natural justice is the reasoned order and Regulation 21 violates this principle.⁸³ The regulation does not provide for recording of reasons, publishing periodic reports with respect to violations and enforcement without revealing the confidential

⁸⁰ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 21 (June 3, 2026).

⁸¹ UNESCO, *supra* note 54, Guideline 3.3.9, at 29.

⁸² E.P. Royappa, AIR 1974 SC 555.

⁸³ I.P. Massey, *Administrative Law* 245 (10th ed. 2022, reprint 2024).

information and notifying affected litigants if judicial proceeding is influenced by such AI system.

Recommendation:

The Regulation 21 shall insert a clause that AI system in contravention of Regulation 20 shall be temporarily suspended pending enquiry and be withdrawn if non compliance is established. Any individuals or entities responsible for such violation shall be held liable for appropriate disciplinary, contractual or legal consequences.⁸⁴

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CHAPTER IV

POLICY MAKING AND INSTITUTIONAL MECHANISM

Regulation 22 – Apex Body

Comments:

Regulation 22 establishes a permanent full time Apex body at the Supreme Court of India to regulate AI governance in court. The regulation is well drafted as it creates an institutional governance mechanism as it provides representation from the judiciary, technology, cybersecurity, finance, academia and government. It also aligns with the UNESCO guidelines which advocate multidisciplinary AI governance by requiring participation of experts in ethics, law and human rights alongside technical specialists to ensure human centered AI governance.⁸⁵

Regulation 23 – Functions of Apex Body

Issue:

Regulation 23 enumerates the functions of the Apex body. These functions collectively establish a coherent governance framework for use of AI in courts. One of the functions is to publish an annual governance report. However, it does not set out the content of this report as it clearly defines annual transparency report in Regulation 45. Clause (h) & (i) of Regulation 23 is reproduced below:

*“The functions of the Apex Body shall be–
(h) to publish an Annual Governance Report on the state of AI in Indian
Courts; and*

⁸⁴ UNESCO, *supra* note 54, Guideline 3.3.9, at 29.

⁸⁵ UNESCO, *supra* note 54, Guideline 2.2.6, at 22.

(i) to discharge such other functions as the Chief Justice of India may, from time to time, assign.”⁸⁶

Recommendation:

A regulation shall be inserted stating clearing the definition and content of annual governance report.

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Regulation 24 – Powers of Apex Body

Issue:

Regulation 24 confers immense power upon the Apex body and establishes a centralized governance framework for AI systems in courts and complements the function prescribed in regulation 23. Though it lacks in two aspects: first there is absence of an express power to suspend or withdraw approval of AI systems. Regulation 24 empowers the Apex body to approve AI systems for deployment in court. But it does not expressly empower the Apex body to revoke, suspend or modify such approval where an AI system is subsequently found to be unsafe, inaccurate, biased, insecure or inconsistent with the regulations. As the AI systems are still evolving so approval shall not be regarded as permanent. UNESCO also requires continuous monitoring as AI system requires ongoing oversight after deployment and not one time approval.⁸⁷

Secondly regulation 24 authorizes the Apex body to prescribe standards and guidelines but does not empower it to issue urgent interim directions where an AI system poses an immediate risk to judicial administration or litigant’s rights. This is because AI system can occasionally show unexpected failures, cybersecurity breaches, hallucinations or systemic bias which requires immediate regulatory intervention. In the absence of express emergency power, the regulatory response may depend upon ordinary administrative procedures which can delay the necessary action. UNESCO advocates adaptive governance capable of responding promptly to the emerging technological risks throughout the AI deployment.⁸⁸ Regulation 24 is reproduced below:

“(1) The powers of the Apex Body shall include the following, namely:—

⁸⁶ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 23 (h), (i) (June 3, 2026).

⁸⁷ UNESCO, *supra* note 54, Guidelines 1.8, at 19; 1.10, at 19; and 2.1.11, at 22–23.

⁸⁸ UNESCO, *AI in the Courtroom*, *supra* note 54.

(a) to set and periodically revise, the minimum mandatory standards and guidelines for the use of AI in Courts across India for compliance by all Courts;

(b) to approve AI Systems proposed for use in Court processes subject to the provisions of Chapter V;

(c) to issue guidelines and clarifications for the implementation of these Regulations;

(d) to oversee the Centre of Research and Excellence on Artificial Intelligence (CoRE-AI) established under regulation 32, and to receive and act upon its reports and recommendations; and

(e) to constitute Standing Committees to assist it in the discharge of its functions.”⁸⁹

Recommendation:

1. Regulation 24 shall expressly empower Apex body the power to suspend, revoke or modify the approval of any AI systems where periodic audits, incident reports or technological developments indicate that continued deployment may compromise accuracy, fairness, security or compliance with these regulations.
2. Regulation 24 shall authorize the Apex body to issue temporary emergency directions including the immediate suspension of AI systems if evidence shows a serious risk to judicial integrity, data security or fundamental rights pending detailed technical review.

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Regulation 25 to 30 – Institutional Governance Framework (Committees)

Comment:

“Regulation 25 establishes the institutional framework for the governance of AI in the courts by constituting specialized committees under the Apex body. It encompasses regulation 26 to 30 which defines their respective functions, and mandates. These committees ensure technical expertise, judicial oversight, cybersecurity, infrastructure development and research. The allocation of specialized function will facilitate informed decision-making in the deployment and oversight of AI systems in courts.”⁹⁰

⁸⁹ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 24 (June 3, 2026).

⁹⁰ *Id.* reg. 25 to 30.

Regulation 31 – Procedure to be followed by the Committees of Apex Body

Issue:

Sub-regulation (1) entails that all the committees of Apex Body shall follow their own procedure. While procedural flexibility is sine quo non but it does not prescribe any minimum procedural requirements such as quorum, voting, dissenting opinions and timelines for decision making. The absence of such minimum requirements can result in inconsistency governance practice and affect procedural transparency. For example: If the Apex Body requires recommendations from both the Technical Committee and the Cyber Security Committee on the deployment of an AI-assisted transcription system. The absence of minimum procedural standards may result in one committee requiring a quorum of all members and issuing a recommendation within 30 days, while another committee may adopt a different quorum or very strict quorum or extensive consultation and no prescribed timeline which leads to delayed recommendation. Such procedural inconsistencies can impede speedy decision-making by the Apex Body.

Sub-regulation (2) says that Apex body can take into consideration the recommendations of committees. It means that recommendations of the committee are only advisory in nature and it is the power of Apex Body to accept or reject such recommendations. However, it does not prescribe the manner in which the Apex Body shall deal with conflicting recommendations from different committees. It also does not provide for recording reasons where it departs from recommendations. It is the principle of natural justice that there shall be reasoned decision.⁹¹ Committees consist of experts in their field and if Apex body rejects their recommendation, then providing of reason and publishing of recommendation with reason for rejection can preserve confidence of public in our judicial system. For example, if an AI system is approved simultaneously by technical evaluation, cybersecurity review, judicial assessment, financial security and data governance analysis but it has received conflicting recommendations on which the regulation is silent as how these recommendations will be conciled by Apex Body. It will result in fragmented governance. Regulation 31 is reproduced below:

“(1) Each Committee of the Apex Body specified in regulation 25 shall frame its own procedure for its meeting and decision-making, subject to such directions as the Apex Body may issue.

⁹¹Massey, *supra* note 83.

(2) The recommendations of each Committee shall be placed before the Apex Body for consideration and final decision.”⁹²

Recommendations:

1. The regulation can retain the autonomy of committee but require the Apex Body to prescribe minimum procedural standards applicable to all committees. These may include quorum requirements, recording of minutes and reasons for decisions, timelines for deliberation and publication of non-confidential procedural rules.
2. Insert a provision requiring the Apex Body, where committee recommendations materially conflict, to record written reasons while accepting or rejecting such recommendations and communicate its final decision to the concerned committees.

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Regulation 32 – Centre of Research and Excellence on Artificial Intelligence

Issue:

Regulation 32 establishes CoRE-AI as the principal research institution supporting the use of AI in courts, but it does not require that its findings be transform into policy. The regulation contains no provision that the Apex Body formally considers CoRE-AI’s recommendations and publishes reasons for accepting or rejecting them. Thus, CoRE-AI’s will become merely an advisory research institution rather than an effective mechanism for evidence-based AI governance. It is important institution as through its empirical research regulatory framework will pace up with the rapidly growing technology. UNESCO guidelines also advocate that governance of AI in courts shall be a continuous process throughout the AI lifecycle.⁹³ Regulation 32 is reproduced below:

“(1) There shall be a Centre of Research and Excellence on Artificial Intelligence (CoRE-AI), as an integrated body, having such number of experts in the fields of technology, law, and academia, as may be determined by the Apex Body, to provide research and legal compliance-related support to the Apex Body.

(2) The experts referred to in sub-regulation (1) shall include Judges, lawyers, technical experts, academicians in the fields of AI and law, Senior

⁹² Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 31 (June 3, 2026).

⁹³ UNESCO, *AI in the Courtroom*, *supra* note 54.

and Distinguished Fellows from Think-tanks, post-doctoral researchers and representatives of the National Judicial Academy.

(3) The functions of the CoRE-AI shall include—

(a) conducting original research on the application of AI in judicial and legal contexts;

(b) evaluating AI tools and prototypes for use in court systems in the light of such research;

(c) maintaining a centralised record of AI tools, evaluations and technical regulations available to Courts and public institutions;

(d) providing technical advice and analytical support to the Apex Body and its Committees;

(e) continuous monitoring and analysis of national and international jurisprudential developments concerning AI and emerging technologies;

(f) conducting research on the legal impact of AI-prototypes, comparative legal tracking and releasing of white papers and empirical studies; and

(g) organising conferences, seminars, colloquiums, symposiums, etc., in relation to the integration of AI in the judicial process.”⁹⁴

Recommendation:

Regulation 32 shall expressly require that CoRE-AI submit periodic research and impact assessment reports to the Apex body to formally consider these recommendations and record reasons whether research recommendations are adopted or not. Also, such research findings shall be published for public view.

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Regulation 33 – AI Committee

Comments:

“Regulation 33 constitutes the AI Committee as the principal institutional mechanism for supervising AI deployment within the Supreme Court and High Courts. It adopts a balanced governance framework by entrusting the Committee with approval, compliance monitoring, audit oversight, issuance of supplementary directions and coordination with the Apex Body. The composition of the Committee appropriately preserves judicial control over AI

⁹⁴ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 32 (June 3, 2026)

governance with administrative and technical assistance. The power to recommend amendments to the Regulations and to communicate AI incidents and best practices further enables continuous institutional learning and adaptive governance. Thus, Regulation 33 establishes a comprehensive framework for decentralized AI governance and maintains coordination with the Apex Body.”⁹⁵

Regulation 34 – AI Secretariat

Issue:

Regulation 34 establishes a body namely AI Secretariat to help AI Committee with power to grant expedited approval to AI tools for administrative purposes, not affecting adjudicatory functions and tools that are functionally similar to already approved tool. This regulation is effective in speedy implementation of AI tools in courtroom though it has certain procedural gaps such as:

Sub-regulation (3) states that secretariats shall consist of officers and experts whose appointment and tenure shall be determined by respective high courts. But it does not prescribe minimum qualification, experience requirement and transparent selection procedures. It will lead to inconsistent standards across different high courts and affect the uniformity and quality of AI deployment in courts.

Sub-regulation (4) authorizes AI secretariat to grant expedited approval where AI tool is used exclusively for administrative purposes or those considered functionally similar to previously approved AI systems. However, the Regulation assumes that administrative AI systems are uniformly low risk. This assumption will not always be true. Certain administrative AI applications if they operated inaccurately or exhibit systemic bias can indirectly affect litigant’s access to justice, procedural fairness and the effective administration of justice such as docket prioritization, resource allocation, case management or authenticity verification etc. Consequently, the criterion of administrative purpose alone may not provide an appropriate basis for expedited approval. UNESCO Guidelines for the Use of AI Systems in Courts and Tribunals, also emphasise that governance measures should be proportionate to the risks posed by the AI system throughout its lifecycle.⁹⁶

Sub-regulation (5) requires maintenance of register of approved AI tools, but it does not specify about the accessibility of register publicly. Because of lack of transparency parties cannot determine which AI systems are deployed, its limitations, audit status etc. and

⁹⁵ *Id.* reg. 33.

⁹⁶ UNESCO, *supra* note 54, Guideline 1.2., at 19.

accountability and public confidence will suffer. It is also against the UNESCO guidelines that stress transparency with respect to the deployment of AI systems.⁹⁷

The regulation does not require secretariat to maintain a repository of failed AI tools, hallucinations, cybersecurity incidents, bias or system malfunctions. This repository can help in institutional learning from previous incidents so that systemic risks can be curtailed.

Further, regulation does not provide any mechanism through which judges, lawyers or court staff may report concerns regarding AI deployment. An AI system can only be effective if there are proper channels for reporting technical failures, bias, inaccuracy or misuse of AI system. Sub-regulations (3), (4), (5) of Regulation 34 are reproduced below:

“(3) The terms of service, manner of appointment, and tenure of officers and experts of the AI Secretariat shall be determined by the respective High Court in consultation with the Apex Body.

(4) The AI Secretariat shall have the power to grant expedited approval for an AI Tool that—

(a) is used exclusively for administrative purposes not involving personal data of parties;

(b) does not affect adjudicatory functions; and

(c) is functionally similar to a tool already approved by the Appropriate Authority.

(5) The AI Secretariat shall maintain a register of all tools cleared under this pathway.”⁹⁸

Recommendation:

1. Regulation shall insert a clause requiring that the any administrative direction issued by the high court relating to the secretariat shall be in writing.
2. Regulation 34 shall provide minimum eligibility criteria, transparent appointment procedures, fixed tenure and public disclosure of appointments.
3. Regulation 34 shall replace the criterion of administrative purpose with a risk-based approval framework. Expedited approval should be available only for AI systems classified as low-risk following a preliminary Technical and Ethical Impact Assessment.
4. Regulation 34 shall require that the register under sub-regulation (5) also contains approved purpose, deploying court, date of approval, version number, risk category,

⁹⁷UNESCO, *supra* note 41, Guideline 3.3.7, at 29.

⁹⁸ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 34 (June 3, 2026).

audit status and summary of technical and ethical impact assessment subject to cybersecurity and confidentiality risks.

5. A clause shall be inserted requiring the secretariat to maintain confidential AI incident register, submit periodic reports to the AI committee and issue advisory notices where systemic risks are identified.
6. The regulation shall insert a clause requiring the secretariat to establish an online complaint portal with defined timeline for resolution and periodic publication of anonymized complaint statistics.

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CHAPTER V

OVERSIGHT, AUDITS AND INCIDENT MANAGEMENT

Regulation 35 – Oversight and Accountability

Issue:

The findings of TEIA provided for in sub-regulation (3) of Regulation 35 do not mention 3rd party or independent validation. The current draft accommodates institutional affiliations that are the same for the reviewers as for the author(s), which can cause an endogenous bias from the point of view of reviewers. Without independent confirmation there exists a problem that might compromise the integrity of the assessment process, in particular if AI Service Providers in general, and private vendors in particular, self-certify the assessment process. Sub-regulation (3) of regulation 35 is reproduced below:

“(3) The Technical and Ethical Impact Assessment shall evaluate at a minimum, the—

- (a) purpose, architecture and functioning of the AI System;*
- (b) nature, source, quality and representativeness of its training data;*
- (c) risks of bias, error, hallucination and misuse in the relevant judicial context;*
- (d) cyber security vulnerabilities and the data protection measures in place;*
- (e) mechanisms for explainability and compliance with Human-in-the-Loop requirements; and*

(f) procedures for redressal of any harm and for incident reporting.”⁹⁹

Recommendations:

Insert a regulation 35(4) mandating that TEIA reports for high-risk AI systems (particularly those touching personal liberty or adjudicatory functions) for High Risk AI systems, where applicable, obtain an independent review from the CoRE-AI or an empanelled external technical expert panel before Appropriate Authority gives the final approval.

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Regulation 36 – Controlled Environment Testing

Issue:

Sub-regulation (1) of regulation 36 is on a discretionary basis (“may...direct”). The use of AI systems that impact personal freedom, such as tools used for determining who should be released on bail, risk assessment software, translating documents in criminal trials or related to high-risk applications, should be compelled to undergo Controlled Environment Testing (CET) prior to use. Discretion at the approval stage may lead to inconsistent standards across High Courts.

“(1) The Appropriate Authority may, in suitable cases and prior to the full-scale deployment of any AI System or AI Tool in Court processes, direct that the AI System or AI Tool be evaluated through Controlled Environment Testing established under the supervision of the AI Secretariat.”¹⁰⁰

Recommendations:

Amend sub-regulation (1) by replacing the word ‘may’ with ‘shall’ and with other changes to be read as: “The Appropriate Authority shall, in all cases involving AI Systems proposed for use in High-Risk applications, and may in other cases, direct that such System be evaluated through Controlled Environment Testing established under the supervision of the AI Secretariat.” It is recommended that a tiered mandatory/discretionary structure should be used which would follow global best practice.

The Enabling Framework for Regulatory Sandbox,¹⁰¹ is currently in an initial stage that stipulates that new technologies should be tested in the Reserve Bank of India's Regulatory

⁹⁹ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 35(3) (June 3, 2026).

¹⁰⁰ *Id.* reg. 36(1).

¹⁰¹ Reserve Bank of India, *Enabling Framework for Regulatory Sandbox* (last updated Feb. 28, 2024)

Sandbox before they are implemented for full use in the regulated activity. Such a similar framework regarding mandatory use of AI in courts would be in line with the right to a fair trial guaranteed by Article 21¹⁰².

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Regulation 37 – AI Register

Comments:

“Regulation 37 mandates the maintenance of an AI Register documenting all approved AI systems, purposes, service providers, approval dates, conditions, TEIA records, audit outcomes and AI incidents. This is a transparency-enhancing provision with strong democratic accountability credentials. The AI Register serves simultaneously as a governance instrument, an audit trail and a public accountability mechanism.”¹⁰³

“The condition of the public dissemination provided in sub-regulation (2) is well supported by conditions relating to data protection, confidentiality and cyber security, and that it is a sensible requirement to suggest that if the full disclosure of an AI system’s architecture should result in security vulnerability issues.”¹⁰⁴

Regulation 38 – Audits

Issue:

The audit is to be carried out ‘in-house’ as stipulated in sub-regulation (2) of regulation 38. A large epistemic limitation is brought together by asking the question of why it would seem to be ‘common sense’ from a security perspective to prohibit external audits. Auditing these may be out of the scope of in-house technical teams, who may not have extensive experience with large language models, either with complex machine learning algorithms or with even complex commercial- or proprietary AI. It creates the danger of complexity creating the adjunct of capture by regulation: the Court will have very little technical capacity for appreciation regarding the actual use of the products by the vendors. Sub-regulation (2) of regulation 38 is reproduced below:

“(2) The audits shall be conducted ‘in-house’, and under no circumstances the source code, algorithms, datasets, or other architectural information shall

¹⁰² INDIA CONST. art. 21

¹⁰³ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 37(1) (June 3, 2026).

¹⁰⁴ *Id.* reg. 37(2).

be shared with any third party or private entity for an audit outside the Court premises.”¹⁰⁵

Recommendations

Adjust sub-regulation (2) to allow for the appointment of independent and technically-skilled auditors who should be operating under strict confidentiality, security clearances and judicial confidentiality obligations for the purpose of conducting high-level AI audits. AI Secretariat should maintain a list of empanelled audit firms, similar to the CAG's panel that has gone through an appropriate security vetting process to audit. This tension could be solved by having a clear distinction from access to source code (restricted) from ‘functional behaviour audit’ (permissible by empanelled auditors).

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Regulation 39 – AI Incident Database

Issue:

The regulation doesn't include a severity category classification system for AI Incidents. All incidents are not the same. The kind of error in a routine administrative notice, is qualitatively different from an error stemming from a bias in a criminal bail order. When there is no severity classification, then the response protocol is identical for all incidents, leading to inefficiency in the response process and it becomes difficult to find a real serious incident in the database when there are many minor incidents. Regulation 39 is reproduced below:

“(1) Every AI Secretariat shall maintain an AI Incident Database for the systematic recording of all AI Incidents, including their type, cause, manner of occurrence, consequences and the remedial measures taken.

(2) Where an AI Incident is reported in any High Court, the AI Secretariat of that High Court shall communicate the relevant findings and learnings to the AI Secretariats of other High Courts and to the Apex Body, so that corrective measures may be adopted across jurisdictions.

(3) Any malfunction, error, or bias in a Court AI Tool with potential legal consequences shall be reported immediately to the AI Secretariat by the officer responsible for supervising such AI Tool.

¹⁰⁵ *Id.* reg. 38(2).

(4) The AI Secretariat shall, on receipt of a report referred to in sub-regulation (3), initiate remedial measures without delay and report the matter to the AI Committee.”¹⁰⁶

Recommendations:

Insert sub-regulation (5) in regulation 39 which read as the Appropriate Authority shall establish a severity classification framework for AI Incidents, at minimum comprising three tiers:

- (d) Critical Incidents with respect to hazards which impact on one's personal freedom, fundamental rights and judicial decisions;
- (e) Significant Incidents – for events that affect administrative procedures or the integrity of the data; and
- (f) Minor Incidents – for technical error that does not have legal consequences.

The time-frames and steps of response and escalation shall be modified as per severity of the incident.

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Regulation 40 – Discretion in Supervising AI Systems

Comments:

Regulation 40 is a short regulation, but very important from a jurisprudential point of view. It confirms that nominated officer is not bound to accept the recommendation from the AI, may make a professional decision to modify or to reject the AI recommendation on their own judgment and should not rely on the recommendation from the AI for making their decision. This clause is a practical implementation of the scheme of “human primacy” referred to in regulation 4¹⁰⁷.

The provision is more in line with the Supreme Court's repeated affirmation that have ruled that judicial authority cannot be delegated to other persons or by extension, to machines. It also aligns with the Bangalore Principles of Judicial Conduct¹⁰⁸, as they provide for judicial independence as "non-negotiable" and mandated under sub regulation (2) of regulation 5¹⁰⁹.

Regulation 41 – Review of AI Systems already in use

¹⁰⁶ *Id.* reg. 39.

¹⁰⁷ *Id.* reg. 4.

¹⁰⁸ Judicial Integrity Group, *The Bangalore Principles of Judicial Conduct* (2002), https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf

¹⁰⁹ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 5(2) (June 3, 2026).

Comments:

“There will already be some AI systems in use by the time compliance made, and Regulation 41 has included a ‘grandfather’ clause to preserve the status quo for one year after the regulations come into force. This is a practical solution that is common sense. Total banning of all existing/present systems is detrimental in the sense that it would lead to disruptions in services, while a total service non-review would have a negative impact on the legitimacy of the framework.”¹¹⁰

Regulation 42 – Emergency and Fall-back Protocol**Comments:**

“Regulation 42 sets forth requirements to establish protocols and guidelines for emergencies and fall-back in each High Court to ensure continuity of Court business in event of failure of any AI system to ensure continued effective working of the courts through manual or alternative methods. Sub-regulation (3) requires that if there is a system failure then the AI Committee to be notified within 24 hours and the fall-back will be set in motion by the AI Secretariat.”¹¹¹

“By incorporating this provision, the ‘Doctrine of Institutional Continuity’ was adopted, which governed that government's functions must not only be entrusted to one technology, or system. It is also in line with the principles of critical infrastructure protections.”¹¹²

Regulations 43 – Transparency and Disclosure**Issues:**

Sub-regulation (3) prescribed Annexure I and II for reference but does not include the draft copy of these documents for public comment to allow stakeholders to meaningfully assess their adequacy. Sub-regulation (3) of regulation 43 is reproduced below:

“(3) Where an AI Tool is used by any party or his legal representative in the preparation or submission of any document, pleading, or evidence, the AI-assisted character of such material shall be disclosed to the Court at the time of submission by way of a duly executed declaration or certificate in the format prescribed under Annexure I and any Court-initiated AI use in any Court

¹¹⁰ *Id.* reg. 41.

¹¹¹ *Id.* reg. 42.

¹¹² *Id.* reg. 42.

process shall be declared in accordance with the format provided in Annexure II.”¹¹³

Recommendations:

To include Annexures I and II in the final published version of the regulation in order to avoid any confusion about prescribed format for disclosing use of AI.

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Regulation 44 – AI Content Verification Authority

Comments:

“The introduction of the AI Content Verification Authority (AICVA) as a distinct institutional structure to oversee, operate and regularly develop verification procedures, tools and protocols for Gen AI-generated content in the court processes is an innovative institutional design with no direct global precedent in the judicial context.”¹¹⁴

Regulation 45 – Annual Transparency Report

Comments:

“Each High Court, Tribunal & Commission shall submit a report to the Apex Body periodically for the year and publish it at least once annually on its official website (hereafter referred to as the Annual Transparency Report) to provide an overall summary of the deployed AI system, result of the audit, information about AI incidents and compliance measures taken during the reporting year.”¹¹⁵. It is an effective public accountability instrument that complies to aspects of the right to information within the scope of Article 19(1)(a)¹¹⁶ and transparency of democratic governance.

CHAPTER VI

PROCUREMENT AND PRIVATE SECTOR ENGAGEMENT

Regulation 46 – Engagement of Private Entities

¹¹³ *Id.* reg. 43.

¹¹⁴ *Id.* reg. 44.

¹¹⁵ *Id.* reg. 45.

¹¹⁶ INDIA CONST. art. 19(1)(a); State of U.P. v. Raj Narain, (1975) 4 SCC 428; Secretary, Ministry of Information & Broadcasting, v. Cricket Association of Bengal, AIR 1995 SC 1236; Bennett Coleman & Co. v. Union of India, AIR 1973 SC 106; Tharun Aravind B & Dr. Saji Sivan S, *The Right to Information as a Fundamental Right: A Constitutional & Judicial Analysis*, 7(2) Indian J. L. & Legal Rsch. 32 (2025).

Comments:

“Regulation 46 is the most comprehensive provision in the draft, spanning nine sub-regulations. It establishes a complete framework for private sector AI procurement: prior approval requirements, comprehensive pre-engagement evaluation, procurement governance, mandatory contractual provisions, continuous monitoring, incident reporting obligations, expedited approval pathways, and intellectual property protection. The twelve mandatory contractual clauses in sub-regulation (4) are particularly impressive in their coverage. Every detail has been considered while drafting the provision.”¹¹⁷

CHAPTER VII

DATA PROTECTION AND CYBER SECURITY

Regulation 47 – Application of Relevant Laws

Comments:

“Regulation 47 anchors the existing framework by allowing that all AI systems in court shall comply with the Digital Personal Data Protection Act, 2023 and the Information technology Act, 2000. The insertion of this regulation is necessary to avoid duplication while ensuring the framework remains current with the general data protection laws. The phrase “any other law...for the time being in force” provides future-proofing as the regulatory landscape evolves.”¹¹⁸

Regulation 48 – Sensitive Judicial Data

Issue:

The sub-regulation (1) of regulation 48 prohibits transfer of sensitive judicial data to any external system without written authorization. As per regulation 3(x), the external system is defined as “any computing infrastructure, server, software platform or network, not owned, managed, or directly controlled by the court or the Appropriate Authority”.¹¹⁹ So data may be inadvertently by National Informatics Centre (NIC) which is not a court or by MeghRaj cloud services or data may be shared between different High Courts for national statistics. These are not the risk scenarios for which the provision was designed to address. Also, written

¹¹⁷ Supreme Court of India, Draft Regulations for Use of Artificial Intelligence (AI) in Courts, 2026, reg. 46 (June 3, 2026).

¹¹⁸ *Id.* reg. 47.

¹¹⁹ *Id.* reg. 3(x).

authorization for each individual data transfer to a shared judicial infrastructure platform is operationally unworkable. Sub-regulation (1) of regulation 48 is reproduced below:

“(1) Sensitive judicial data shall not be transferred to any External System without the express written authorization of the Appropriate Authority.”¹²⁰

There is a significant overlap between sub-regulation (5) and (7) of regulation 48, and regulation 38 (Audits) and regulation 39 (AI Incident Database). Such overlaps may cause confusion of which procedure applies if there is a conflict. Sub-regulation (5) and (7) of regulation 48 is reproduced below:

“(5) Every AI System in use in Court processes shall be subject to regular cybersecurity audits at intervals not exceeding one year, or at such shorter intervals as the AI Secretariat may determine and the outcomes of cybersecurity audits shall be reported to the Appropriate Authority and recorded in the AI Register.”¹²¹

“(7) The AI Secretariat shall ensure that security vulnerabilities and data incidents are identified, documented, escalated and addressed in a timely manner, and shall maintain records of all such incidents in the AI Incident Database.”¹²²

Recommendation:

Amend sub-regulation (1) of regulation 48 to exclude from the external system prohibition:

- (a) data transfers to NIC specifically dedicated to court functions,
- (b) transfers data to MeghRaj cloud services under a court approved data sharing agreement and
- (c) Inter-court transfers for legitimate judicial administration purposes under a protocol approved by the Apex Body.

Also, individual case by case written authorization should be reserved for genuinely external third parties.

For sub-regulation (5) and (7) of regulation 48, cross referencing is generally desirable rather than repeating so as to ensure consistency and avoid inadvertent divergence between provisions through subsequent amendment.

¹²⁰ *Id.* reg. 48(1).

¹²¹ *Id.* reg. 48(5).

¹²² *Id.* reg. 48(7).

CHAPTER VIII

CAPACITY BUILDING, TRAINING, AND BEST PRACTICES

Regulation 49 – Capacity Building and Training

Issue:

Sub-regulation (1) of regulation 49 specifically requires training of judges, advocates and court staff but the category of litigants are not included in this. Despite the fact that litigants, especially self-represented, are clearly affected by procedures with the use of AI, they are completely excluded from the framework of training and capacity-building. Sub-regulation (1) of regulation 49 is reproduced below:

“(1) All Judges, advocates and Court staff, who are required to use or interact with AI Systems in the course of their duties, shall receive regular, structured training on the technical, legal and ethical dimensions of AI, as may be relevant to their functions.”¹²³

Recommendation:

Insert a sub-regulation (1A) specifically addressing public legal literacy for litigants on AI in courts, including plain language guides, FAQs, multilingual explainers on the website of court and AI related legal aid information.

Regulation 50 – Repository of Best Practices on AI Incidents

Comments:

“The concept of creation of living repository of best practices, case studies, lessons drawn from AI incidents and guidance notes by the Appropriate Authority and making it available to all courts and judicial personnel is excellent as it address the problem being created due to learning being lost through staff turnover or change in staff composition.”¹²⁴

Regulation 51 – Review of Training Programmes

Comments:

¹²³ *Id.* reg. 49(1).

¹²⁴ *Id.* reg. 50.

“The biennial review of training programme adequacy by AI Committee in consultation with the AI Secretariat and mandates an annual training calendar from each High Court in coordination with judicial training institution and the Apex Body is good effort to keep the judges, advocates etc. updated with latest technology of AI and to make them more competent regarding use of AI in courts.”¹²⁵

CHAPTER IX

GRIEVANCE REDRESSAL AND REMEDIES

Regulation 52 – Grievance Redressal

Issue:

The regulation suffers from three deficiencies.

- (a) First, such grievance mechanism is available only for the violation of regulation 20. When there is any harm as a result of the misuse of permissible uses of AI that are not covered by regulation 20, there is no grievance mechanism available for this. For example: failure to verify an AI translated judgment or order.
- (b) Second, the regulation requires the party to present an application to the same court in which the AI system was used, leading to this situation of structural conflict of interest.
- (c) Third, there was no avenue of appeal for grievance orders that proved to be unsatisfactory.

The regulation 52 is reproduced below:

“(1) Where any harm is caused to any party to a proceeding as a direct or indirect effect of prohibited use of AI under regulation 20, he or his legal representative, may file an application at the earliest opportunity to the Court in which the relevant AI System was or is being used, and such Court shall, after giving a reasonable opportunity of being heard, pass appropriate orders as it may deem fit.

(2) The High Court may lay down principles and procedures for the adjudication of grievances arising from the use of AI in Court processes, and may prescribe formats for the filing of complaints, so as to ensure accessibility and ease of use for all stakeholders, including persons with limited legal literacy.”¹²⁶

Recommendation:

¹²⁵ *Id.* reg. 51.

¹²⁶ *Id.* reg. 52.

To expand sub-regulation (1) to cover harm arises from the violation of any of the regulations. Also, for structural conflict of interest where AI system in question was used by the court itself, then grievances should be filed before a designated higher/ appellate court.

Add a sub-regulation (1A) to allow appeals of unsatisfactory grievance orders before the next appellate court and where the grievance order is passed by the District Court, then appeal be filed before AI Committee of the High Court.

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Regulation 53 – Other Remedies

Comments:

“Regulation 53 is necessary as it allow persons to seek remedies available under general laws including writ jurisdiction under Article 32 and 226 of the Constitution. No subordinate regulation can oust the writ jurisdiction of Supreme Court and High Courts. Also, this regulation allows approaching competent court for any harm caused by the use of AI in court processes and not just and specific regulation.”¹²⁷

CHAPTER X

MISCELLANEOUS

Regulation 54 – Regulations Not in Derogation of Other Laws

Issue:

The words “any other law on the subject” in sub-regulation (2) are ambiguous and contrasting, as on one hand if some law exists on the subject that contradicts these regulations, the provisions of these regulations can become subordinate to the aforementioned law. On the other hand, if any government circular, administrative rules or notifications issued by MEITY exist in that regard that conflicts the judicial independence or the justice procedure then the provisions of these regulations can become subordinate to that circular, rules or notifications. Sub-regulation (2) of regulation 54 is reproduced below:

¹²⁷ *Id.* reg. 53.

“(2) In the event of any inconsistency between these regulations and the provisions of any other law on the subject, the provisions of such law, as may be applicable, shall prevail.”¹²⁸

Recommendation:

Amend sub-regulation (2) to the extent that in case of inconsistency than the provisions of Constitutions, Central Acts or State act shall prevail over these regulations. However, these regulations shall prevail over administrative circulars, rules, directions, instructions or notifications so as to prevent arbitrary act done by executive and to preserve integrity and independence of judiciary.

It is essential to have clearly decided hierarchy of norms: Constitutional provisions, statutes, these regulations and only then executive rules/ directions. Just like in sub-regulation (4) where it is clearly mention that these regulations shall prevail over administrative actions on the issue of degree of protection to any person, there should be clearly mentioning of hierarchy of norms in sub-regulation (2) as well.

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Regulation 55 – Power to Issue Directions

Issue:

The power conferred to the Chief Justice or the Institutional Head is broad and there is no obligation to communicate to Apex Body or make them publicly available. Such directions may significantly affect the use of AI in courts and their non-disclosure may affect the transparency of the framework. Regulation 55 is reproduced below:

“The Chief Justice or the Institutional Head may issue administrative directions, circulars, or instructions, as may be necessary, for the effective implementation of these regulations, which shall not be inconsistent with the provisions of these regulations.”¹²⁹

Recommendation:

Add a sub-regulation (2) requiring that all the administrative directions, circulars or instructions issued under regulation 55 be –

- (a) in writing,
- (b) communicate to Apex body within an specified period and

¹²⁸ *Id.* reg. 54(2).

¹²⁹ *Id.* reg. 55.

(d) upload on the official website of the court to make it publicly available.

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Regulation 56 – Power to relax or modify

Issue:

The power given to the Chief Justice to modify or relax any provision except regulation 20 is very broad. Absent of consultation requirement, the Chief Justice may unilaterally relax substantive provisions such as audit frequency, Human-in-the-loop mandates or the technical and ethical impact assessment requirement for an entire High Court's jurisdiction. Regulation 56 is reproduced below:

“The Chief Justice may, for reasons to be recorded in writing, relax or modify any provision of these regulations (other than any prohibition specified in regulation 20, which is non-derogable) in relation to any specific Court, AI System, or set of circumstances, provided that such relaxation or modification does not result in a violation of the general principles laid down in Chapter II.

(2) Any modification proposed to these regulations shall be communicated to the Apex Body within a period of two weeks from the date of such modification.”¹³⁰

Recommendations:

Amend regulation 56 to the extent that the Chief Justice should require prior consultation from Apex Body and not just limited to communication to the Apex Body before relaxing any provision relating to high-risk AI applications or relating to personal liberty or fundamental rights.

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Regulations 57 – Review of Regulations

Issue:

Regulation 57 does not include the stakeholders such as advocates, members from academia, technology experts and persons from civil society to participate in the review process of these regulations and it may have subsequent potential impact on these AI regulations. Regulation 57 is reproduced below:

¹³⁰ *Id.* reg. 56.

“(1) The Supreme Court AI Committee shall review these regulations periodically, or whenever necessity arises due to significant developments in AI technology, changes in applicable legislation, or the practical experience of implementation.

(2) Every High Court shall share data, feedback, case studies, and recommendations for improvement with the Supreme Court AI Committee on an ongoing basis, to enable periodic review of these regulations and to facilitate the continuous improvement of AI governance across the judicial system.”¹³¹

Recommendations:

The AI Committee should before finalizing the review of these regulations, should place the review report into the public domain so as to allow the comments and suggestions from advocates, members from academia, technology experts and persons from civil society. This would make the review process more participatory and transparent.

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¹³¹ *Id.* reg. 57.

CONCLUSION

In conclusion, the draft “Regulations for Use of Artificial Intelligence in Courts, 2026” presents a monumental immensely commendable milestone in the digital advancement of the Indian judicial system. By introducing a comprehensive national governance regulation, the draft successfully balances the progressive drive towards smooth judiciary efficiency with the absolute constitutional imperatives of due process, absolute judicial independence and equal protection. The core integrity of ‘human primacy’ correctly positions contemporary and emerging technologies as purely assistive model, ensuring that the sovereign authority of dispute adjudication endure an exclusively human endeavour.

However, to fully understand this vision and protection to judiciary against ‘catastrophic’ risks of AI hallucinations, data bias and localized procedural fragmentation, precise structural refinements are operationally and legally necessary. Implementing uniform commencement timelines, introducing objective multi tired assessment matrices, refining technical definitions of external system and enforcing an absolute/ non- delegable duty of human verification will settle critical ambiguities. Furthermore, ensuring secure public sector data protection and complete linguistic inclusivity will safeguard the interest and trust of marginalized litigants.

By amending these regulations, Supreme Court of India can transform this pioneering draft into a globally benchmarked legal framework. Such balanced approach will successfully foster ethical innovation over passive restraint, ensuring that the integration of AI enhances the overall integrity, accessibility and speed of the justice delivery system.

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