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Artificial Intelligence in Judicial Systems: Risks, Challenges, and Legal Safeguards in AI-Generated Evidence and Algorithmic Hallucinations

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Artificial Intelligence in Judicial Systems: Risks, Challenges, and Legal Safeguards in AI-Generated Evidence and Algorithmic Hallucinations

ABSTRACT

The growing integration of Artificial Intelligence (AI) in the judicial system has radically changed the way of research in the field of law, case management, predictive analytics, and evidence analysis. While AI is efficient and improves access to justice, its use for the generation of legal content and evidence-based information raises serious concerns, including algorithmic hallucination, fabricated citations, misinformation, evidentiary reliability and due process concerns. This paper critically reviews legal risks of an AI generated evidence and the issues of the inaccuracy or fabrication of AI generated evidence in a court of law. The paper will cover the following: (i) Admissibility and Authenticity of AI-Generated Evidence, (ii) Judging the Risks of Evidence Generated by AI, (iii) Recent Judges' Response to AI-Generated Evidence and (iv) Proposals for legal protection of responsible AI use. The methodology used in the research is a doctrinal and comparative approach, that operates based on the statutes, case laws, policy documents, and international regulatory frameworks. It covers the case of Mata vs Avianca Inc (2023), Gummadi Usha Rani vs Sure Mallik arjuna Rao (2026) along with the developments in the law such as the EU AI Act and the new AI governance framework of India. The paper concludes that the transparency requirements, human control, verification, and AI evidentiary controls are necessary to maintain judicial fairness, accountability, and public trust.

KEYWORDS

Artificial Intelligence, Courts, Algorithmic Hallucinations, AI-Generated Evidence, Legal Safeguards.

1. INTRODUCTION

The common features in the administration of justice are human reasoning, discretion of the judge and the estimation of credible evidence. Historically, the way evidence is acquired, presented and evaluated in court has been adapting to changes in technology, ranging from oral evidence to documentary, scientific, and electronic evidence.[1]

[1] *See* PAUL ROBERTS & ADRIAN ZUCKERMAN, CRIMINAL EVIDENCE (2d ed. 2010).

Enactment of the Indian Evidence Act 1872 was a formal platform to determine the admissibility and proof in colonial India, this has been recently replaced by Bharatiya Sakshya Adhiniyam 2023 to cope with modern-day digital reality.[2] But, the advent of Artificial Intelligence has come with a much more complicated issue, one that is not catered for by the traditional evidentiary tools.[3]

Artificial Intelligence is now used beyond its utilitarian role in administration and legal research.[4] In judicial administration, predictive sentencing, legal analytics, facial recognition investigations, automated document review, and digital evidence assessment are all areas where AI is significantly contributing to judicial administration.[5] In judicial administration, AI is playing a significant role, especially in predictive sentencing, legal analytics, facial recognition investigations, automated document review, and digital evidence assessment. The highly publicized implementation of COMPAS in the United States brought up the issue of algorithmic bias and fair due process in the criminal sentencing process.[6] China has been testing internet courts and platforms integrating AI in courts, and India has been making efforts to implement technological changes with the e-Courts Mission and SUPACE.[7]

A more worrying issue has arisen as the rise of generative AI systems that can create synthetic outputs that closely simulate reality have emerged.[8] AI generated videos, voice-cloning, fake documents, forensics and manipulated digital evidence are getting better at being introduced to legal proceedings as evidence.[9] Concerns about authenticity,

[2] The Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 170, INDIA CODE (2023).
[3] *See* KEVIN D. ASHLEY, ARTIFICIAL INTELLIGENCE AND LEGAL ANALYTICS (2017).
[4] *See* Harry Surden, *Artificial Intelligence and Law: An Overview*, 35 GA. ST. U. L. REV. 1305 (2019).
[5] *See* Eur. Comm'n for the Efficiency of Just. [CEPEJ], European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems and Their Environment (Dec. 3–4, 2018) [hereinafter *CEPEJ Charter*].
[6] *See* State v. Loomis, 881 N.W.2d 749 (Wis. 2016) (permitting sentencing courts to consider COMPAS risk scores only with written cautions about the tool's limitations); Julia Angwin et al., *Machine Bias*, PROPUBLICA (May 23, 2016), https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing.
[7] *See* Zuigao Renmin Fayuan Guanyu Jiakuai Jianshe Zhihui Fayuan de Yijian (最高人民法院关于加快建设智慧法院的意见) [Opinions of the Supreme People's Court on Accelerating the Construction of Smart Courts] (issued by the Sup. People's Ct., 2017) (China) [hereinafter *Smart Court Opinions*].
[8] *See* STUART RUSSELL & PETER NORVIG, ARTIFICIAL INTELLIGENCE: A MODERN APPROACH (4th ed. 2021).
[9] *See* Bobby Chesney & Danielle Keats Citron, *Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security*, 107 CALIF. L. REV. 1753 (2019).

reliability, and admissibility of evidence in traditional evidence law are called into question by this AI-generated evidence.[10] The risk is even greater if AI systems produce fake legal information-often referred to as "algorithmic hallucination."[11] The Generative AI tools have been shown to manipulate facts, make up legal analysis, cite non-existent and non-existent precedents and construct inaccurate legal citations. What made the issue go all the way was when lawyers took advantage of AI-generated fictional precedents before a court in *Mata v. Avianca, Inc.*[12] This is an indication that AI can not only alter facts but can also foul up judicial reasoning.[13]

The trend of reliance on opaque algorithmic systems also poses a more general constitutional issue of the right to a fair trial, due process, privacy, transparency, accountability and legitimacy of institutions.[14] These emerging threats are not currently adequately catered for by existing legislation, such as Bharatiya Sakshya Adhiniyam 2023, data protection laws and international ethical guidelines, which are all disjointed and inadequate.[15] Although it is important to have a degree of background knowledge about the governance of AI broadly, there has been little scholarship on the specific legal consequences of evidence created by AI and algorithmic hallucination in judicial context.[16]

This paper contends that the current laws of evidence and algorithmic hallucination cannot address the challenges of using AI to create evidence in court cases. It argues that the modern justice system needs a new form of Algorithmic Evidentiary Accountability (AEA) for verifying AI-generated content, providing liability for errors arising from technology, and providing constitutional protection and maintaining human oversight in judicial decisions.

The study is doctrinal and comparative and compares the Indian laws with the laws and developments in the USA, EU and China. The paper aims to suggest measures to protect these technological advancements

[10] *See* SEAN E. GOODISON, ROBERT C. DAVIS & BRIAN A. JACKSON, DIGITAL EVIDENCE AND THE U.S. CRIMINAL JUSTICE SYSTEM (RAND Corp. 2015).
[11] *See* OPENAI, GPT-4 TECHNICAL REPORT (2023), https://arxiv.org/abs/2303.08774.
[12] Mata v. Avianca, Inc., 678 F. Supp. 3d 443 (S.D.N.Y. 2023) (sanctioning attorneys who submitted non-existent judicial opinions generated by ChatGPT).
[13] *See* Benjamin Weiser, *Here's What Happens When Your Lawyer Uses ChatGPT*, N.Y. TIMES (May 27, 2023), https://www.nytimes.com/2023/05/27/nyregion/avianca-airline-lawsuit-chatgpt.html.
[14] *See CEPEJ Charter*, *supra* note 5.
[15] *See* The Digital Personal Data Protection Act, No. 22 of 2023, INDIA CODE (2023); U.N. Educ., Sci. & Cultural Org. [UNESCO], Recommendation on the Ethics of Artificial Intelligence, U.N. Doc. SHS/BIO/REC-AIETHICS/2021 (Nov. 23, 2021) [hereinafter *UNESCO Recommendation*].
[16] *See generally* THE CAMBRIDGE HANDBOOK OF GENERATIVE AI AND THE LAW (Mimi Zou, Cristina Poncibò, Martin Ebers & Ryan Calo eds., 2025).

from becoming a threat to the justice system, by analyzing legal issues, case studies and policy evaluations.

Today, when machines can fake it, algorithms can fake it, the question for today's legal systems is not if AI should be introduced into courts, but whether justice can flourish in an uncertain algorithmic world of fake truths.

2 CONCEPTUAL AND LEGAL FOUNDATIONS

2.1 Evolution of Law of Evidence: From Traditional Proof to Digital Evidence

Historically, the law of evidence has been a development to accommodate, and adapt to, different ways of establishing truth inside the judicial process. In the classical law-based systems, the courts were mostly oral, resorting to oaths, confessions and statements from witnesses to ascertain facts in issue. Trust in witnesses, discretion of judges was key to adjudication.[17] The development of modern legal systems led to documentary evidence being used as a source of evidence that was more reliable, then came the scientific and forensic evidence including fingerprint analysis, DNA profiling, handwriting examination and medical reports.

Relevance, admissibility and the burden of proof and standard of evidence are laid down in India by the Indian Evidence Act 1872. But as technology evolved, the importance of electronic records, emails, CCTV photos, metadata and digital communication was developed. This led to the electronic evidence being recognised by law, which has now further been expanded by the Bharatiya Sakshya Adhiniyam 2023.[18]

The current time is a whole new ball game, from human made evidence to machine made evidence. AI-generated evidence can be automatically produced, manipulated or changed by algorithms and do not require any human intervention, unlike typical electronic evidence created by human action. [19] This shift in which courts have to create an "evidentiary authenticity crisis" whether digital content is fact or fabricated by algorithms.

[17] *See* WILLIAM TWINING, RETHINKING EVIDENCE: EXPLORATORY ESSAYS (2d ed. 2006).
[18] The Bharatiya Sakshya Adhiniyam, No. 47 of 2023, §§ 2(1)(d), 57, 61–63, INDIA CODE (2023).
[19] *See* ASHLEY, *supra* note 3.

Table 1: Transformation of Evidence System in the Age of Artificial Intelligence

Stage of Legal Evolution	Nature of Evidence	Core Legal Standard	Emerging AI Disruption	Resulting Legal Challenge
Traditional Era	Oral + testimonial evidence	Credibility & oath-based truth	No AI involvement	Human bias but identifiable accountability
Classical Documentary Era	Written documents, records	Authenticity + signature verification	Digital duplication	Document forgery easier but still traceable
Electronic Evidence Era	Emails, CCTV, metadata	Indian Evidence Act 1872 → electronic record admissibility rules	Digital manipulation	Need for forensic validation
Modern Digital Era	AI-assisted legal tools	Bharatiya Sakshya Adhiniyam 2023 recognition of electronic records	AI-assisted drafting, research tools	Dependence on algorithmic outputs
AI Generative Era	Deepfakes, synthetic audio, AI documents	No specific statutory test	AI-generated evidence & hallucinations	Authorship + authenticity crisis
Algorithmic Justice Era (Emerging)	Predictive models, automated reasoning	Limited procedural safeguards	Black-box decision systems	Transparency + due process breakdown
Future AI Court Era (Speculative)	Fully AI-assisted adjudication inputs	Constitutional safeguards only	Autonomous reasoning systems	Judicial independence risk

Sources: *Author's compilation based on Twining (2006), Government of India (2023), UNESCO (2021), and OECD (2019)."*[20]

[20] *See UNESCO Recommendation*, *supra* note 15; Org. for Econ. Coop. & Dev. [OECD], Recommendation of the Council on Artificial Intelligence, OECD/LEGAL/0449 (May

The history of evidence law shows a definite movement from the "truth authenticated by humans" to "uncertainty produced by algorithms" and a new jurisprudential difficulty to check the "legal reality" produced by machines.[21]

2.2 Emergence of Artificial Intelligence in Judicial Systems

Artificial Intelligence has quickly found its way into courts around the globe. Today, AI technologies are employed to support case management, legal analytics, judicial scheduling, transcribing and categorizing documents. New technologies are being adopted by courts to cut down on the time spent in the courts, and to make them more efficient. (European Commission for the Efficiency of Justice.[22]

The Supreme Court of India has introduced SUPACE in India for the benefit of the judges in conducting case studies and research in legality.[23] In a similar way, United States has been considered as the country that sparked international debate over algorithmic bias and opacity as its use in sentencing practices.

In addition to its use in predictive policing, facial recognition surveillance, automated bail recommendation, legal drafting and forensic investigations, AI is also being utilized in other sectors. Although these changes signal a possible improvement in the process, transparency, accountability and judicial independence are also issues of concern.[24]

2.3 Nature and Scope of AI-Generated Evidence

AI generated evidence is digital evidence that has been entirely engineered, greatly manipulated, or re-created by AI systems and then used in court. Unlike traditional electronic evidence, Artificial Intelligence-based evidence can replicate reality in a very sophisticated manner, and can be very difficult to detect.[25]

This encompasses synthetic videos with altered facial expressions and speech patterns, voice clone technology-generated audio, contract creation using AI algorithms, and computer-generated forensic reports.

22, 2019, amended May 3, 2024) [hereinafter *OECD Recommendation*].

[21] *See* TWINING, *supra* note 17.

[22] *See CEPEJ Charter*, *supra* note 5.

[23] *See* State v. Loomis, 881 N.W.2d 749 (Wis. 2016); IndiaAI, *Enhancing the Efficiency of India's Courts Using AI* (July 20, 2021), https://indiaai.gov.in/case-study/enhancing-the-efficiency-of-india-s-courts-using-ai.

[24] *See UNESCO Recommendation*, *supra* note 15.

[25] *See* Chesney & Citron, *supra* note 9.

Super advanced AI features can even recreate crime scenes, digitally manipulate surveillance footage, and give a realistic, but completely imaginary, narrative.

When evidence like this emerges, it may be called "synthetic truth litigation" as courts can now be faced with situations in which they are not sure which is the authentic evidence and which is technologically created evidence.[26]

2.4 Understanding Algorithmic Hallucinations in Legal Processes

Algorithmic hallucination occurs when generative AI systems generate, present, or output false, misleading or completely made-up information as if it is factual. Algorithmic hallucinations are usually not the result of intentional fraud, but instead randomly arise as a result of biased training sets, probabilistic language generation, context-agnosticity or design limitations in an AI system.[27]

In the legal arena, hallucinations can lead to false quotations of other courts' decisions, non-existent precedents, misreading of laws and incorrect statements of facts. One of the biggest such cases came to light in the recent *Mata v. Avianca, Inc.,* which saw lawyers enter faked court precedents created by ChatGPT in front of a court.[28]

This case is a more significant legal philosophical question as courts presume that legal research aids in uncovering the truth. But algorithmic hallucinations can lead to what could be termed an "epistemic risk to judicial reasoning" - judges, lawyers and litigants could be wrongly affected by algorithms giving them false information. With the increasing use of AI in the legal field, avoiding such mistakes is crucial to maintaining the credibility of legal systems.

3. AI IN COURTS: GLOBAL EXPERIENCES AND JUDICIAL LESSONS

3.1 United States: Predictive Justice and the COMPAS Controversy

The United States is one of the pioneering countries worldwide to incorporate AI into the criminal justice system. Amongst those questions, one of the most discussed is about the use of an algorithm known as COMPAS, which is used to determine the likelihood of recidivism and help judges when deciding bail, parole and sentencing. Judge's use of algorithmic risk scores to assess if an accused was a threat to society

[26] *See* GOODISON ET AL., *supra* note 10.
[27] *See* Ziwei Ji et al., *Survey of Hallucination in Natural Language Generation*, 55 ACM COMPUTING SURVS. 248 (2023).
[28] Mata v. Avianca, Inc., 678 F. Supp. 3d 443 (S.D.N.Y. 2023).

became more widespread.[29] The use of algorithmic risk scores by courts to answer the question of whether an accused person is a threat to society became more routine.

The debate over COMPAS became even more heated because of reports that the algorithm over-identifies black defendants as high-risk offenders, making it difficult to confirm that it is not racially biased or opaque and that it is not violating someone's rights to due process. These concerns have now been taken up by the courts in *State v. Loomis* in which the court determined if an algorithmic tool could be used to make sentencing decisions in the absence of full understanding of how it works.[30]

3.2 China: Smart Courts and Automated Adjudication

China has been actively applying AI in judicial administration, such as the development of the Internet courts and 'smart court'. China has been building smart court systems and Internet courts for judicial administration. These courts resolve commercial disputes, IP issues and disputes among those who are involved in e-commerce online. Eastern law courts have embraced AI in the case filing, evidence presentation, legal document creation, and virtual court appearances.[31] Certain systems employ AI-based judges' assistants that deliver legal advice, and perform repetitive judicial duties.

This is a substantial improvement on resource access and access to the system, nonetheless, there are concerns about further over-intrusion of state control, inadequate procedural protection, and lack of human oversight.[32] Some say that excessive automation could turn the justice into an administrative thing and cease to be a constitutional one.

The Chinese model is illustrative of the danger of becoming too efficient with automation and therefore losing judicial independence if there are no accountability measures in place.

3.3 European Union: Regulatory and Rights-Based Approach

The European Union has taken a more conservative approach than the United States and China in recognizing the potential of AI in the judiciary, with a rights-based perspective. The European Union (EU) has designated some AI systems employed in judicial and law enforcement

[29] *See* NORTHPOINTE, INC., PRACTITIONER'S GUIDE TO COMPAS CORE (2015).
[30] State v. Loomis, 881 N.W.2d 749 (Wis. 2016); *see also* Angwin et al., *supra* note 6.
[31] *See Smart Court Opinions*, *supra* note 7.
[32] *See* SUP. PEOPLE'S CT., CHINESE COURTS AND INTERNET JUDICIARY (2019) (China).

procedures as high-risk technologies, as part of the EU AI Act. The EU framework puts a special focus on transparency, human oversight, accountability, non-discrimination and data protection. It limits the untethered introduction of AI systems which could infringe on the fundamental rights.[33]

3.4 India: E-Courts and Emerging AI Integration

Digital technologies have been gradually introduced in the courts in India, as part of the E-Courts Mission Mode Project to combat judicial delays and enhance access to justice. The Supreme Court of India has come up with an initiative to help judges when conducting research on law and managing documents: SUPACE. In addition, there are tools, like SUVAS, to make language more accessible in judicial proceedings.[34]

Even with these advancements, India still does not have a specific law governing AI produced evidence, accounting for algorithms or the reliance of the courts on AI products. The existing Bharatiya Sakshya Adhiniyam 2023 doesn't address the concerns of the evidentiary aspects of AI sufficiently.[35] India is in a transition period where the use of technology is growing than the law.

Table 2: Global Judicial Cases on AI-Related Legal Issues

S. No.	Cases	AI Issue	Legal Concern	Key Outcome
1	**Mata v. Avianca, Inc. (USA)**	AI hallucination (fake citations)	Reliability of AI legal research	Sanctions imposed; duty of verification established
2	**State v. Loomis (USA)**	Predictive algorithm in sentencing	Due process & transparency	Allowed with caution; limits on reliance
3	**USA (facial recognition cases)**	AI misidentification	Wrongful arrest risk	Courts acknowledged reliability concerns

[33] *See* Regulation 2024/1689, of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), art. 6(2), annex III, ¶ 8(a), 2024 O.J. (L 1689) 1.

[34] *See* IndiaAI, *supra* note 23; Shritama Saha, *The Supreme Court of India Gets a New AI Portal, SUVAS*, ANALYTICS INDIA MAG. (Dec. 22, 2022), https://analyticsindiamag.com/the-supreme-court-of-india-gets-a-new-ai-portal-suvas.

[35] *See* The Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 63, INDIA CODE (2023).

4	**UK (deepfake-related cases)**	Synthetic media evidence	Authentication of digital proof	Strict verification required
5	**EU (AI governance context)**	High-risk AI regulation	Fundamental rights protection	Risk-based regulatory model adopted
6	**China (smart courts)**	Automated adjudication tools	Judicial independence vs efficiency	Limited state-controlled automation allowed
7	**India (SUPACE/E-Courts)**	AI judicial assistance	Role of AI in judiciary	AI used only for assistance, not adjudication

Sources: *Author's compilation based on State v. Loomis (2016); Mata v. Avianca, Inc. (2023); Regulation (EU) 2024/1689 (EU AI Act); Supreme Court of India (SUPACE & SUVAS); Supreme People's Court of China (Smart Courts).*

3.5 Comparative Lessons for Judicial Accountability

This comparative analysis of the jurisdictions shows that the use of AI in courts brings with it both opportunities and risks. The United States points to risk of algorithmic bias, while China shows risks of too much automation; the European Union presents a right based regulatory framework, and India reflects the legal void of developing jurisdictions.[36]

The experiences around the world show that the judiciary needs to be mindful of the use of AI. Technological innovation, while it must be efficient, cannot be unfair, and must be subject to constitutional values, safeguards to the procedures, and human control.[37]

4. ADMISSIBILITY CRISIS OF AI-GENERATED EVIDENCE UNDER INDIAN LAW

4.1 Nature of AI-Generated Evidence

AI generated evidence" is defined as digital evidence that is 100% produced, heavily edited or algorithmically re-created using artificial intelligence systems, and then introduced in a legal proceeding.[38] AI-

[36] *See CEPEJ Charter*, *supra* note 5.
[37] *See UNESCO Recommendation*, *supra* note 15.
[38] *See* ASHLEY, *supra* note 3.

generated evidence could be a machine's own creation as opposed to more traditional electronic evidence like emails, CCTV footage, call logs or digital documents created by humans.

Deep fake videos, fake audio recordings, contract generation, manipulated surveillance videos and footage, automated forensic reports, reconstructed simulation of the crime scene, and fabricated digital records are all part of this category. This is increasingly hard to tell with the more sophisticated the Generative AI tool is.[39]

A major issue in the legal challenge is that the traditional rules of evidence are based on the assumption of human behavior, author identification and source identification. AI generated evidence challenges these assumptions, and can produce what can be termed an "authorship vacuum" that can make it difficult for courts to determine who created the evidence and who is responsible for its manipulation.[40]

4.2 Deepfakes and Synthetic Media in Criminal Trials

Deepfakes is created using artificial intelligence to produce highly realistic and fake visual and audio content which can simulate the features of real people. In criminal litigation, for instance, the deepfake evidence might be able to be used to make a confession, edit video footage from surveillance cameras, alter witness testimony, or falsely charge somebody with a crime.

Synthetic media is a dangerous tool in the hands of investigators in the areas of terrorism, sexual offences, financial fraud, political violence and cybercrime.[41] Manipulated video can illicitly suggest to the viewer that an accused person has committed an offence and cloned voice technology can create fake telephonic confessions.

Currently, the Indian criminal courts do not have dedicated procedures to identify deepfakes. This gives rise to what can be described as a "visual presumption problem", in which the courts might automatically presume the realistic digital visuals to be true even if technology has been used.

4.3 Authentication Challenges

Authentication is very important to the admissibility of any evidence. The traditional evidence is electronic and needs proof of source, ownership, integrity and chain of custody. AI-generated evidence, however, makes this tricky as algorithms can modify originals' metadata,

[39] *See* Chesney & Citron, *supra* note 9.
[40] *See* THE CAMBRIDGE HANDBOOK OF GENERATIVE AI AND THE LAW, *supra* note 16.
[41] *See* The Bharatiya Sakshya Adhiniyam, No. 47 of 2023, INDIA CODE (2023).

make copies, and generate content that looks real.[42]

Often there are questions about:

- Who created the AI-generated material?
- Which software was used?
- Was the evidence manipulated after creation?
- Can the source code be examined?
- Who certifies algorithmic authenticity?

4.4 Burden of Proof Issues

The issue of who is responsible for authentication when evidence created through AI is disputed is indeed one of the most complex legal issues.

In general, the party presenting the evidence must prove the authenticity and relevance of the evidence. However, there is uncertainty with the evidence generated by AI as it can be complex and well crafted, so if a party is not technically savvy there is a risk of opposing parties not being able to challenge it.[43]

This brings with it some important questions:

- Should you be liable to the party which presents AI-generated evidence?
- Should an independent forensic certification be required by the courts?
- Should there be a duty on AI developers to fail to verify?

4.5 Analysis under Bharatiya Sakshya Adhiniyam 2023

The Bharatiya Sakshya Adhiniyam 2023 introduces a modern approach to the concept of evidence in India by allowing electronic and digital records as evidence. Provisions on Electronic records do not seem to cover technological advances that have occurred since the enactment of Indian Evidence Act 1872.[44]

But the law has a focus on "traditional" electronic evidence, e.g. email, digital files, files generated by human interaction. Does not directly control:

- Deepfakes

[42] *See* GOODISON ET AL., *supra* note 10.
[43] *See* ROBERTS & ZUCKERMAN, *supra* note 1.
[44] Bharatiya Sakshya Adhiniyam, 2023, §§ 61–63.

- Synthetic media
- AI-generated forensic reports
- Autonomous algorithmic outputs
- Machine-created fabricated evidence

4.6 Gaps in Current Indian Evidentiary Law

Major gaps include:

1. No definition of AI-generated evidence legally.
2. There are no compulsory deep fake detection standards.
3. There is no certification system for AI-generated content.
4. Lack of liability regime for manufactured algorithmic products
5. There are no guidelines for the evaluation of algorithmic evidence from the judiciary.
6. Judiciary has no guidelines about algorithmic evidence evaluation.

5. ALGORITHMIC HALLUCINATIONS AND JUDICIAL ERRORS

5.1 Meaning and Causes of Algorithmic Hallucinations

Algorithmic hallucination happens when generative AIs generate fake, false, misleading or fabricated content without any uncertainty tags. What makes these hallucinations so dangerous is they're typically grammatically correct and professionally formatted, so it is hard for the user to realize that they are false.[45]

In legal systems, hallucinations can manifest as the AI producing fake judicial precedents, false interpretations of the statute, misquoting parts of the constitution, false legal summaries, or a false factual narrative.[46] However, algorithmic hallucinations are not necessarily caused by human error, and can be mistakenly attributed to deliberate attempts or an underlying goal of the algorithm.

Firstly, probabilistic language generation is one of the significant reasons for hallucination.[47] What ChatGPT (and similar systems) predict is likely based on patterns in the data it's been trained on, not on the legal accuracy of the information that's in the authoritative databases. This means that the AI can come up with answers that sound persuasive in a legal context but don't contain any facts.

Secondly, The Second reason is that there are no adequate or proper training sets. Legal AI systems that are based on outdated laws, limited

[45] *See* Ji et al., *supra* note 27.
[46] *See* ASHLEY, *supra* note 3.
[47] *See* OpenAI, *OpenAI Model Spec* (2025), https://model-spec.openai.com.

case databases, or non-authoritative legal sources can generate outdated or inaccurate legal judgments.

Thirdly, there are no source verification mechanisms that can significantly help to reduce hallucinations. Some generative AI tools will not automatically check if the cited judgement, statutes or fact is accurate.[48]

Lastly, the reason is that the law is complex in itself and thus provides an environment where hallucinatory experiences are likely to occur. While AI tools can assist in identifying relevant precedents, analyzing case law, and interpreting statutes, they are still unable to completely capture the subtleties of legal reasoning, considering context, distinguishing between jurisdictions, and constructing statutes.[49]

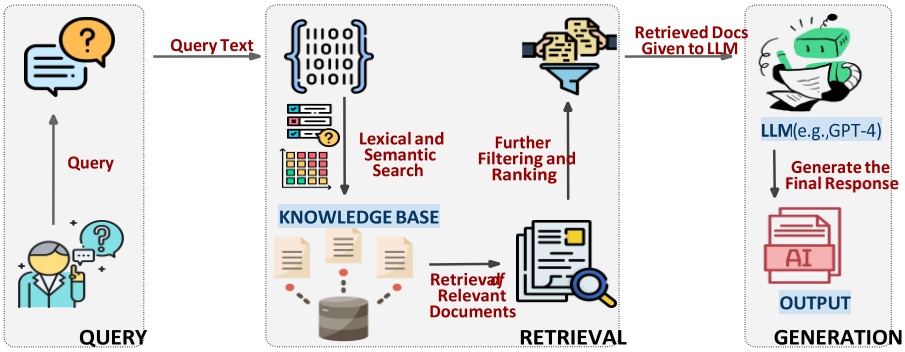
5.2 The Hallucination Problem

We will concentrate on one of the biggest challenges that has been on the forefront of legal AI's discussion, "hallucination" or the ability of AI tools to deliver outputs which are clearly wrong.[50] In a few high-profile cases, attorneys were disciplined for the presence of fabricated citations from AI-generated cases and non-existent case law in court documents. In a number of incidents, lawyers faced discipline for including non-existent case laws and AI-generated ones in court documents. Several prior works reported that the accuracy of LPs on questions related to the law is between 58% and 82% on average.[51] False precedents, misinterpretations of the law, and false facts can all be included in such hallucinations, and this can result in serious problems for judicial proceedings and legal practice.

Figure 1: Retrieval-Augmented Generation (RAG) Pipeline Used in

[48] *See* NAT'L INST. OF STANDARDS & TECH., U.S. DEP'T OF COM., NIST AI 100-1, ARTIFICIAL INTELLIGENCE RISK MANAGEMENT FRAMEWORK (AI RMF 1.0) (2023).
[49] *See* THE CAMBRIDGE HANDBOOK OF GENERATIVE AI AND THE LAW, *supra* note 16.
[50] *See* NESTOR MASLEJ ET AL., STANFORD INST. FOR HUM.-CENTERED A.I., ARTIFICIAL INTELLIGENCE INDEX REPORT 2025 (2025).
[51] *See* Matthew Dahl et al., *Large Legal Fictions: Profiling Legal Hallucinations in Large Language Models*, 16 J. LEGAL ANALYSIS 64 (2024).

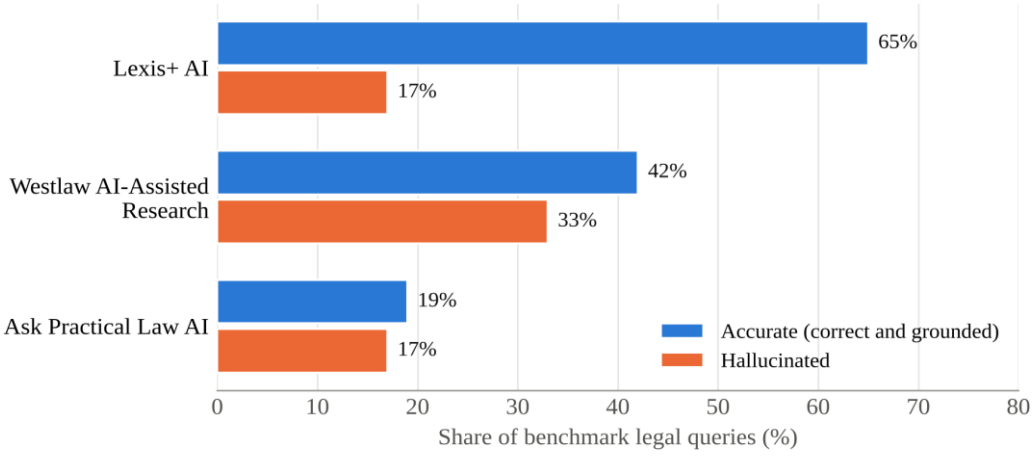
Legal AI Research Tools



Source: Adapted from Varun Magesh et al., *Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools*, 22 J. Empirical Legal Stud. 216 (2025) (fig. 3).

Typical "Retrieval-Augmented Generation" system consists of two stages.[52] In the retrieval phase, the user's query is run against the natural language processing algorithms and then legal documents (statutes or judicial cases) that are relevant to the query are retrieved from the database. Secondly, in the generation phase, the information retrieved is provided to the language model which produces a response based on the information retrieved. Even with these protections, with a complex process such as retrieval, interpretation, and the generation of the final response, errors and hallucinations can occur. As a result, there are ongoing issues regarding the reliability, authenticity, and accuracy of legal workflows when using advanced legal AI solutions.

Figure 2: Accuracy and Hallucination Rates of Leading AI Legal Research Tools



Source: Prepared by the authors from Varun Magesh et al., *Hallucination-*

[52] *See* Patrick Lewis et al., *Retrieval-Augmented Generation for Knowledge-Intensive NLP Tasks*, 33 ADVANCES NEURAL INFO. PROCESSING SYS. 9459 (2020).

Free? Assessing the Reliability of Leading AI Legal Research Tools, 22 J. Empirical Legal Stud. 216 (2025). Remaining responses were classified as incomplete. Hallucination rates for Lexis+ AI and Ask Practical Law AI are reported as "more than 1 in 6" queries.

5.3 Fake Citations and Incorrect Legal Research

The most obvious symptom of algorithmic hallucination is creating bogus legal citations. AI systems can generate false judgments, make up case names, quote non-existent portions of judicial opinions and cite non-existent laws.[53]

In the case of *Mata v. Avianca, Inc.*, lawyers filed a legal brief with judicial precedents created by ChatGPT, an issue that sparked worldwide attention. The cases that were quoted were all invented, but made it onto the court rolls as real cases.[54] When the court eventually discovered the existence of some of the cited judgments (and the lack of others), it imposed sanctions on the attorneys.

In this case, AI hallucinations have directly impacted the judicial process and posed a lawyer's professional responsibility concern. AI-generated legal research also revealed that legal professionals could be susceptible to overreliance on AI-generated legal research without doing their own due diligence.

In addition to plagiarizing citations, AI tools can misrepresent statutory language, fail to accurately paraphrase the judgment, miss important legal nuances, or give incorrect legal guidance on procedures. For adversarial legal systems, these mistakes could have an effect on pleadings, appeals, and opinions.

5.4 Risks of Judicial Dependence on AI Tools

Judges face risks in relying on AI tools from case management to legal research, sentencing suggestions to predictive policing, and document analysis, judicial systems around the globe are utilizing AI technologies in their case management processes.[55] The good of these technologies is efficiency, but too much reliance on these technologies is a serious danger.

First, judges could be misled by the inaccurate algorithmic suggestions

[53] *See* ASHLEY, *supra* note 3.
[54] Mata v. Avianca, Inc., 678 F. Supp. 3d 443 (S.D.N.Y. 2023).
[55] *See UNESCO Recommendation*, *supra* note 15.

in their bail decisions, sentencing and evaluation of evidence.

Second, automation bias can also be created that judges tend to trust more in the output of automated systems because they are objective or data-driven.[56]

Third, relying too heavily on AI could undermine the development of legal reasoning, as it might supplant the need for independent legal analysis.

Fourth, black-box algorithms are frequently opaque and hard for courts to comprehend how decisions came to be made.[57]

Last but not leaset, biased datasets can reinforce systemic discrimination in predictive justice systems.[58]

5.5 Analysis of Important Cases

In State of Washington v. Puloka (2024),[59] The court rejected the use of AI-enhanced video evidence due to the absence of a scientific basis, peer review, and reproducibility of the AI software used to enhance the videos. It argued that AI-driven changes might violate the Daubert admissibility standard with regards to authenticity and reliability of digital evidence.

Munir, R (on the application of) v Secretary of State for the Home Department, (2026),[60] the tribunal recognised that Microsoft Copilot was only used for drafting and editorial support in drafting its judgment. But it said that the judge made all legal reasoning, factual findings and judicial conclusions independently of AI, stressing the importance of not to replace judicial conclusions by AI.

Gummadi Usha Rani vs Sure Mallikarjuna Rao, (2025),[61]The High Court of Andhra Pradesh condemned the lower court for citing fake case numbers

[56] *See* Raja Parasuraman & Victor Riley, *Humans and Automation: Use, Misuse, Disuse, Abuse*, 39 HUM. FACTORS 230 (1997).
[57] *See* Regulation 2024/1689, of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), art. 13, 2024 O.J. (L 1689) 1.
[58] *See* Angwin et al., *supra* note 6.
[59] State v. Puloka, No. 21-1-04851-2 KNT (Wash. Super. Ct. Mar. 29, 2024) (excluding AI-enhanced video evidence under the Frye standard).
[60] R (Munir) v. Sec'y of State for the Home Dep't [2026] UKUT 81 (IAC) (U.K.) (addressing AI-generated false citations and the supervision of legal representatives).
[61] Gummadi Usha Rani v. Sure Mallikarjuna Rao, C.R.P. No. 2487 of 2025, 2026 LiveLaw (AP) 15 (Andhra Pradesh H.C.) (India) (holding that reliance on AI-generated non-existent citations did not vitiate an order resting on correctly applied law, while cautioning against unverified use of AI tools), *notice issued*, 2026 SCC OnLine SC 341 (India).

with the assistance of AI in its order. It restated that while AI can aid in legal research, it cannot replace the legal analysis of judges and lawyers and all AI-generated references should be carefully checked by judges and lawyers.

In the case of Mata v. Avianca, Inc. (2023),[62] the case highlighted the potential risks of generative AI in legal practice, with lawyers providing fake case citations generated by AI. The court sanctioned the attorneys and reiterated that the attorneys have an ongoing professional responsibility to check the accuracy and authenticity of all legal authorities prior to filing in court.

In a similar fashion, State v. Loomis, (2016)[63] discussed the problems arising from opacity of algorithms in sentencing decisions. While the case centered mainly on predictive risk algorithms, it also highlighted wider issues about the trust of proprietary algorithms which are not subject to independent review by judges.

These cases demonstrate two key areas of judicial risks with respect to AI:

- To create a Lawful Reality via hallucination.
- Opacity in algorithmic decisions making

6. CONSTITUTIONAL RISKS OF AI-DRIVEN JUSTICE

6.1 Right to Fair Trial

Right to fair trial is one of the basic pillars of a democratic constitution and it is an integral part of Article 21 of the Indian Constitution. [64]The guarantees of a fair trial are that the judge makes an impartial judgment, that both sides have the same chance to present evidence, that the judge provides legal representation, and that the judge provides a reasoned judgment.

These protections could be threatened in multiple ways through the use of AI-based judicial tools. Predictive sentencing algorithms may be used to decide bail, but without defendants being able to argue for a bail decision based on the algorithm. The evidence created by AI could be used without adequate proof. Consequences of deepfakes and synthetic media on factual determination. Legal precedents which can result from an automated legal research tool may be misleading and influence legal

[62] Mata v. Avianca, Inc., 678 F. Supp. 3d 443 (S.D.N.Y. 2023).
[63] State v. Loomis, 881 N.W.2d 749 (Wis. 2016).
[64] INDIA CONST. arts. 14, 21.

arguments.[65]

6.2 Privacy Rights

A lot of AI systems are built on the basis of the collection of large-scale data, tracking systems, biometric systems, facial recognition technologies, and behavioral analytics. This practice poses significant risk to information privacy.[66]

The Supreme Court of India in *Justice K.S. Puttaswamy v. Union of India* has recognized privacy as a fundamental right in India and privacy is an integral part of Article 21.[67]

The judicial process can be automated using AI, which could include:

- Facial recognition surveillance
- Biometric tracking
- Predictive policing databases
- A digital communication monitoring system is automatically implemented.
- Mass data profiling, of people

6.3 Algorithmic Discrimination

Algorithmic discrimination is one of the most popular concerns about the constitutionality of AI. AI systems are trained based on past data and when such data is based on social inequality, discrimination can be reproduced at scale. The use of COMPAS in United States illustrated the effects that predictive tools can have on overclassifying minority communities as high-risk criminals.[68]

In India, algorithmic bias can be disproportionately impacting marginalized communities that lack caste, religion, socio-economic status, are unable to read and write in English and/or lack digital literacy. This form of discrimination is in direct contradiction to the constitution, which states that all are equal before the law (Article 14).[69] This could lead to a phenomenon that can be understood as "digital constitutional inequality", which is an increase of structural discrimination by the technology systems.

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[65] *See UNESCO Recommendation*, *supra* note 15.
[66] *See OECD Recommendation*, *supra* note 20.
[67] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1 (India) (recognising privacy as a fundamental right protected by Article 21).
[68] *See* State v. Loomis, 881 N.W.2d 749 (Wis. 2016).
[69] INDIA CONST. art. 14.

6.4 Due Process Concerns

Under the concept of due process, the legal process must be rational, transparent and fair. Process must not be arbitrary in judicial decisions that impact on liberty.

AI systems frequently operate on black box logic, meaning it's hard to see how they make their decisions. Many AI systems are built on models that are not explainable, that is, it's difficult to know how the models make decisions. Litigants may not be aware of how a predictive score was created, what evidence was flagged and how the risk assessments were worked out.

This raises a number of due process issues:

1. Inability to challenge algorithmic decisions
2. Absence of transparency
3. Denial of meaningful hearing
4. Automated errors without accountability

In the case of State v. Loomis, the issue of proprietary algorithms having an impact on sentencing without being fully explained came up.[70]

This can lead to a "black-box adjudication", and a loss of constitutional due process because of invisible technological reasoning.

6.5 Judicial Independence

A judicial AI system could have indirect influence over legal outcomes due to the design of the technology-by-technology companies. Governments that can influence the technology for adjudication can influence the adjudicatory processes. Relying on recommendations from AI algorithms could diminish judges into a rubber-stamping role for the machine's decisions. This, in turn, may be referred to as "algorithmic constitutional capture," in which private technology systems start to have an impact on the public justice institutions.[71]

The judiciary has to be an institution of the human constitution, having as its guiding principle reason, empathy and interpretation of the law, and not be reduced to a tool of technology.

7. REGULATORY GAPS AND COMPARATIVE POLICY RESPONSES

[70] State v. Loomis, 881 N.W.2d 749 (Wis. 2016).
[71] *See UNESCO Recommendation*, *supra* note 15.

7.1 EU AI Act

The EU AI Act is considered one of the most sophisticated and comprehensive AI laws globally, aiming to strike a balance between fostering innovation and safeguarding public welfare. The EU AI Act has become one of the most advanced AI regulations in the world, designed to balance innovation and public interest. The Act adopts a risk-based classification approach, which classifies AI systems depending on the AI system's potential impact on the fundamental rights and safety. Applications in the security sector, such as in law enforcement, border control and judiciary purposes, are usually considered high risk applications because of the impact that they have on individual rights and freedoms.[72] The framework contains very demanding requirements on transparency, human control, data management, accountability and risk management. It also bans some AI practices that are deemed to be in conflict with fundamental rights.

The EU AI Act does not only apply to judicial AI systems, but it is an important precedent that shows that AI systems that have an impact on fundamental rights (or that could have an impact) should be under greater legal scrutiny. But, it still has a lack of detailed procedural rules which are specifically geared toward the processes of decision making, assessment of evidence and judicial reasoning in the courtroom.

7.2 UNESCO AI Ethics Principles

The Recommendation on the Ethics of Artificial Intelligence (AI) from the UNESCO aims at establishing a global ethical framework, ensuring that the development and use of AI will be human-centred and respect the fundamental rights. It highlights notions of human dignity, equity, transparency, accountability, non-discrimination, privacy safeguarding and sustainability.[73] These principles are not legally binding, but can provide a useful framework to guide the creation of AI policies by states.

From a judicial perspective, UNESCO's principles further the notion that AI should be subject to constitutional principles and human judgment. But it has proved not to be as effective as it could be, because it is not binding and lacks enforcement mechanisms, especially for judicial AI use.

7.3 OECD AI Principles

These principles focus on inclusive growth, transparency, robustness,

[72] *See* Regulation 2024/1689, of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), art. 6(2), annex III, ¶ 8, 2024 O.J. (L 1689) 1.
[73] *See UNESCO Recommendation*, *supra* note 15.

safety, accountability and values handling humans. They advocate for governments to promote innovation, and responsible and ethical use of AI systems.[74]

Like the UNESCO guidelines, the OECD framework, however, is still too general and is not legally enforceable. It doesn't offer specific guidelines for the judiciary's use of AI or discuss particular issues, like AI-generated evidence, algorithmic hallucinations or automated sentencing systems.

7.4 India Regulatory Vacuum

The government's progress towards AI in judicial processes, like the E-Courts Mission Mode Project and the Supreme Court of India's implementation of technology solutions like SUPACE and SUVAS, has initiated the use of AI in India's judicial landscape. The government's efforts in incorporating AI into judicial processes, such as the E-Courts Mission Mode Project and the introduction of AI-powered technology by the Supreme Court of India like SUPACE and SUVAS, have kicked off the use of AI in the Indian judicial system. The thrust of these programmes is mainly to increase the efficiency, decrease pendency and increase accessibility of justice.[75]

But even with this technological uptake, there is no specific legislation in India to regulate the use of AI in judicial decision making or evidentiary aspects. The Bharatiya Sakshya Adhiniyam 2023 merely acknowledges the use of electronic evidence, without specifically outlining the concept of AI-generated evidence, deepfakes, algorithmic hallucinations or guidelines for how AI can be used in court.[76] Likewise, DPPDA 2023 offers data protection, but lacks provisions for algorithmic accountability in courts.[77]

7.5 Need for Specialized Judicial AI Regulation

By comparing international approaches, it is found that although there are valuable ethical and regulatory efforts underway, none of them comprehensively tackles the specific challenges related to AI in judicial settings.[78] Unlike other types of AI that may affect other constitutional rights, the use of judicial AI has a particular impact on constitutional rights, evidentiary requirements, and the legitimacy of the adjudication process. Accordingly, general-purpose AI governance structures will not

[74] *See OECD Recommendation*, *supra* note 20.
[75] *See* IndiaAI, *supra* note 23.
[76] The Bharatiya Sakshya Adhiniyam, No. 47 of 2023, §§ 61–63, INDIA CODE (2023).
[77] The Digital Personal Data Protection Act, No. 22 of 2023, INDIA CODE (2023).
[78] *See OECD Recommendation*, *supra* note 20.

be able to deal with the risks related to using AI in the judiciary.

The need of the hour is a judicial AI regulatory framework that tackles challenges related to the admissibility of AI-generated evidence, the verification of deepfakes, algorithmic transparency, liability and remediation, and mandatory human oversight.[79] If these processes are not structured in such a way, then courts can be technologically efficient and constitutionally insecure-procedural fairness and constitutional protections could be undermined by the quest for automation.

Table 3: Comparative Regulatory Approaches to AI in Judicial Systems

Jurisdiction / instrument	Approach	Legal status	Position on judicial AI	Gap identified in this paper
United States	Court-led, case by case	Case law and court rules	Risk scores allowed with cautions (Loomis); sanctions for unverified AI citations (Mata)	No uniform standard for AI-generated evidence
China	State-led smart courts and internet courts	Supreme People's Court opinions and policy	AI supports filing, evidence presentation and drafting	Risk of over-automation and weak human oversight
European Union	Risk-based regulation	Binding (AI Act, Regulation 2024/1689)	AI assisting judicial authorities classed as high-risk	Few court-specific procedural rules on evidence
UNESCO	Ethics Recommendation (2021)	Non-binding	Human-centred AI, transparency and accountability	No enforcement mechanism
OECD	AI Principles (2019, updated 2024)	Non-binding	Transparency, robustness and accountability	No guidance on judicial use or AI evidence
India	e-Courts Phase III; SUPACE;	BSA 2023 and DPDP Act 2023 (general	AI used for research and translation, not	No definition of, or test for, AI-generated

[79] *See* Regulation 2024/1689, of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), arts. 13–14, 50, 2024 O.J. (L 1689) 1.

	SUVAS	laws)	adjudication	evidence

Source: Prepared by the authors from Sections 3 and 7 and the sources cited there.

8. PROPOSED FRAMEWORK FOR ALGORITHMIC EVIDENTIARY ACCOUNTABILITY

8.1 Mandatory Disclosure of AI-Generated Evidence

One of the key principles that must be upheld to ensure fairness in the production, editing or analysis of evidence, is the requirement to disclose any use of AI tools in the production, editing or analysis of evidence. The parties that will present the evidence in court should be clear about the use of artificial intelligence in creating or manipulating the evidence.[80] This can range from deepfake identification software to generative AI solutions, forensic reconstruction tools, or automated document analysis tools.

In cases where AI was used, mandatory disclosure is crucial as it helps to ensure the evidence's authenticity and reliability while also allowing the opposing party to effectively challenge any evidence or arguments that resulted from AI.

8.2 AI Evidence Certification Mechanism

The evidence created by AI should be formally certified and verified to guarantee its authenticity and reliability, before it will be allowed in court. It can be provided by forensic laboratories that have been accredited by the relevant authorities or by digital verification authorities that are authorized by the relevant authorities, which certify the integrity, origin and unaltered nature of the evidence.

This would be like DNA or ballistic evidence in that it would certify the authenticity of a digital or algorithmic work, but would be tailored to the evidence of digital and algorithmic evidence. It would also facilitate courts to determine compliance of the AI system used by it with the recognised technical and ethical standards. Currently, there is a big gap in evidence available under the Bharatiya Sakshya Adhiniyam 2023 because of the lack of such a certificate.[81]

8.3 Deepfake Forensic Verification Units

[80] *See id.* art. 50(4).
[81] Bharatiya Sakshya Adhiniyam, 2023, § 63(4).

In the era of sophisticated deep fake technology, it is essential that there be special forensic units to identify and analyse deep fake media. These units need to be autonomous technical units with cutting edge detection systems and be able to detect manipulated audio, video and digital images.

These institutions would help courts ensure that the evidence they are considering is accurate and genuine and minimise the chances of a miscarriage of justice arising from the presentation of fake evidence.[82] Establishment of dedicated verification system would definitely help increase judicial reliability in cases regarding evidence produced/manipulated by AI.

8.4 Human Oversight Requirement

Despite the progress of the artificial intelligence, there should be human finals judges. AI systems should only serve as advisory systems and not decision makers. Ensuring that constitutional values like fairness, proportionality and due process are maintained is the reason why there is mandatory human oversight.[83]

This is especially true in cases of particular and sensitive judgment, such as those relating to the freedom of choice and criminal liability, as well as in assessment of evidence. When algorithms are used in judging, human oversight makes sure that they are not biased, hallucinatory or make automated mistakes, which preserves the constitutional legitimacy of the judicial decision-making process.

8.5 Judicial AI Training and Capacity Building

Judges, lawyers and court administrators must have the requisite technical literacy to be able to effectively use artificial intelligence in courts.[84] There is a need to launch judicial training programmes to create awareness on how AI systems work, what they are capable of and what their drawbacks are. This training should cover algorithms, bias, hallucination, authenticity and evaluation of digital evidence, and technical forensic reports. If not trained properly, it is possible that the AI systems could be relied upon without being critically evaluated, potentially compromising the judicial process and fairness.

8.6 Civil and Criminal Liability Model

If legal harm is done by the results of the AI-generated evidence or algorithm, a comprehensive accountability system should be in place to

[82] *See UNESCO Recommendation*, *supra* note 15.
[83] *See id.*
[84] *See CEPEJ Charter*, *supra* note 5.

clearly establish liability. Responsibilities can be shared across various stakeholders such as users, developers and institutions to deploy.

Verified evidence is required and lawyers could be held accountable for submitting evidence generated by AI. AI developers could be liable for any faulty or misleading AI systems that they create. Institutions can be held liable for the improper implementation and/or the absence of safeguards.[85] The multi-layered liability structure helps to prevent 'accountability waning' and accountabilities are not transferred to the next party to the AI ecosystem, without any one party having too much liability.

9. CONCLUSION

The use of AI in judicial systems is one of the most revolutionary advancements in modern times in the administration of justice. In all jurisdictions, the use of AI has started to impact aspects of legal research, case management, predictive analytics, and forensic investigation, as well as evidentiary assessment. Although technology will bring efficiencies, consistency and accessibility, there are some serious legal and constitutional issues that cannot be ignored and which call into question the bedrock principles of adjudication.[86]

The shift from the old methods of presenting evidence to the digital methods of presenting evidence and now to the AI generated evidence, have dramatically changed the evidentiary landscape as this study has shown. The law was mainly aimed at controlling the information generated by human or electronically by the Indian Evidence Act 1872 and its successor Bharatiya Sakshya Adhiniyam 2023.[87] But with the rise of AI-generated evidence, especially deep fakes, AI-generated AV content and AI-reconstructed documents, establishing author and authenticity of evidence is becoming much more challenging.

Algorithmic hallucinations, for their part, have also exposed a new facet of the vulnerability of the law. For instance, as seen in *Mata v. Avianca, Inc.*, generative AI can generate fake citations for law, judicial information, or even fake judicial opinions, which can directly impact court proceedings.[88] The danger is heightened when lawyers and other legal actors use such outputs without proper verification which

[85] *See OECD Recommendation*, *supra* note 20.
[86] *See generally* Regulation 2024/1689, of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), 2024 O.J. (L 1689) 1.
[87] The Bharatiya Sakshya Adhiniyam, No. 47 of 2023, INDIA CODE (2023).
[88] Mata v. Avianca, Inc., 678 F. Supp. 3d 443 (S.D.N.Y. 2023).

compromises the integrity of the procedures and responsibility in professional duties.

Such as the United States, the European Union, China and India, shows that there are still some reactions taking shape, but they are not comprehensive or specialised enough. While offering valuable normative clarity, EU AI Act and international principles (including UNESCO and OECD) do not completely capture the specific issues and concerns of AI in judicial decision-making processes. Despite the efforts of the government to introduce digital reforms through schemes such as the E-Courts project and the Supreme Court of India's development of tools for artificial intelligence generated evidence and algorithmic accountability, there is a clear regulatory lacuna in India related to the use of AI for generating evidence and holding algorithms accountable.[89]

The implementation of AI at the constitutional level is significant as it poses serious issues with the right to a fair trial, privacy, equality, due process and judicial independence. The concept of privacy has been recognised as an integral part of Article 21 of the Indian Constitution in the case of *Justice K.S. Puttaswamy v. Union of India*.[90]

It is although AI can offer improved efficiency for the judiciary, it also presents serious threats to the integrity of the evidence and constitutional justice. As AI continues to play a significant role in judicial processes, it is crucial that the future of AI in the courts be managed with a sense of equilibrium, combining technological advancement with strong legal protections. The legitimacy of justice in the digital age will largely be determined by maintaining the principles of fairness and due process, human reasoning, and constitutional values as central to justice, and not ceding their primacy to AI.

[89] *See UNESCO Recommendation*, *supra* note 15; *OECD Recommendation*, *supra* note 20; Press Release, Press Info. Bureau, Gov't of India, Cabinet Approves eCourts Phase III for 4 Years (Sept. 13, 2023), https://pib.gov.in/PressReleasePage.aspx?PRID=1956919; IndiaAI, *supra* note 23; Saha, *supra* note 34.

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