Conclusions of the 1st Study Commission
of the International Association of Judges ("IAJ") – 2024
"THE EFFECTS OF ARTIFICIAL INTELLIGENCE ON THE JUDICIARY"

In 2024, the IAJ 1st Study Commission sent out a questionnaire on the topic of "The Effects of Artificial Intelligence on the Judiciary." The questionnaire asked respondents to answer questions regarding the use of AI by the judiciary; guidelines, rules, and regulations governing the use of AI by judges; the impact of AI on the handling of evidence; the pros and cons of AI use by judges; the effects of AI on the administration of justice and judicial independence; and possible limitations on the use of AI by judges.

We received 39 responses to the questionnaire. The responses show that the use of AI in judicial systems varies significantly across countries. While some nations have no AI implementation, many countries have limited or experimental use of AI systems by judges, and a few have more advanced applications. A detailed General Report summarizing the various countries' specific responses is available on the IAJ's website.

The 1st Study Commission met in Cape Town, South Africa and discussed the effects of AI on the judiciary. I thank our board members Lukasz Granosik (Canada), Javier Martínez (Spain), Alexandra Vaillant (France), and Michelle Childs (USA) for facilitating the excellent discussion. The following are our conclusions and recommendations:

1. **Judicial Independence and the Role of AI:** AI may serve as a tool to support the decision-making power of judges or judicial independence but should not replace it: the final decision-making must remain a human-driven activity. While AI can provide better access to information and analysis, there are concerns about its potential to erode judicial independence if judges over-rely on AI. Judicial independence must be safeguarded in the face of AI adoption.

2. **The Administration of Justice and Efficiency:** AI has the potential to significantly improve the efficiency of judicial administration, including faster case processing, case management tools, and more consistent application of the law. However, these benefits must be balanced against the risks of over-standardization and loss of case-specific nuance. AI is useful for translating documents and speech, transcribing speech, document management, the random assignment of cases, and anonymizing opinions to permit more public access. These applications demonstrate AI's potential to enhance efficiency in judicial processes without directly interfering with judicial decision-making.

3. **Public Trust:** The introduction of AI in the judiciary has the potential to either enhance or erode public trust in the legal system. Transparent communication about AI use, clear ethical guidelines, and demonstrated benefits in terms of efficiency

and fairness will be crucial in maintaining and building public confidence in the judiciary.

4. **Access to Justice:** AI has the potential to improve access to justice by making legal information more readily available.

5. **Emerging Regulatory Frameworks:** Judges need clear guidelines and ethical frameworks governing AI use in the judiciary, with many judges suggesting that AI use by judges should be optional, particularly for research activities. Many countries and international bodies are developing guidelines and regulations for AI use by the judiciary. These frameworks emphasize ethical considerations, transparency, and the protection of fundamental rights as well as the judicial independence. The evolution of these regulations will be crucial in shaping the future of AI in judicial systems.

6. **The Rule of Law:** The judiciary should only use AI to support and enhance the rule of law. AI systems must therefore be designed, implemented, and used based upon a clear, generally applicable, and publicly accessible legal and ethical framework.

7. **Transparency and Accountability:** The use of AI by the judiciary raises important questions about transparency and accountability. Ensuring that AI systems are explainable and that the decision-making processes are open to scrutiny is essential for maintaining public trust in the justice system.

8. **Judicial Oversight, Quality, and Security:** In order to maintain judicial independence, impartiality and autonomy, court administrators and judges should have oversight over AI systems implemented in their jurisdictions. In addition, the accuracy of any information a judge has been provided by an AI tool must be checked before it is relied upon by the court.

9. **Privacy, Data, and Cyber-Security:** The use of AI in judicial processes can involve handling sensitive personal data. Robust measures must be implemented to protect privacy and ensure data security, addressing concerns about unauthorized access or misuse of information. Additionally, courts must take steps to make sure that any AI tools are properly protected from cyber-security threats.

10. **Bias and Fairness:** AI systems have the potential to perpetuate or amplify existing biases. Ensuring fairness and preventing discrimination in AI-assisted judicial processes is an important goal that requires ongoing attention and research.

11. **AI and the Impact on Handling Evidence:** AI may enhance the ability to process large amounts of data, potentially uncovering relevant evidence more efficiently. However, the benefits are balanced with concerns about the need for transparency in AI-assisted evidence analysis and the importance of maintaining human oversight in evidence evaluation. AI might also play a role in a judge's evaluation of evidence presented by litigants. In light of AI's ability to produce falsified evidence (such as "deepfakes"), and falsified precedents ("hallucinations"), courts need to be more cautious in evaluating evidence and ensuring that it is authentic.

12. **Monitoring AI Use by Litigants:** All legal representatives are responsible for the material they put before a judge and have a professional obligation to ensure that it is accurate and appropriate, but the court must also ensure that litigants adhere to these standards.

13. **Understanding AI and Its Applications:** Before using any AI tools, judges should ensure that they have a basic understanding of their capabilities and potential limitations.

14. **Training and Education:** Comprehensive training programs for judges and legal professionals on automation technology are necessary. This education should cover both the potential benefits and risks of AI, ensuring its responsible and effective use.

15. **Funding:** The introduction, maintenance, use by court administration and judges, and updating of AI technology should be adequately funded. Financing should support the effective implementation and upgrades of AI tools.

16. **Evolving Legal Landscape:** The use of AI in the judiciary may necessitate updates to existing laws and the creation of new legal frameworks. This includes considerations around the admissibility of AI-generated evidence and the rights of individuals in AI-assisted judicial processes.

17. **Limitations on Use of AI:** AI should be prohibited or more heavily regulated in certain proceedings, such as criminal proceedings or proceedings involving minors. Some countries express concern about use of data analytics, such as predictive sentences, and drafting judgments, but some countries use these tools with human oversight.

18. **Gradual Implementation:** Given the complexities and potential risks associated with AI in the judiciary, a cautious and gradual approach to implementation is widely recommended. To guard against unforeseen consequences and to also allow for a proper evaluation of technological innovation, any use of new AI technology should be subject to piloting before it is fully implemented. Judges must carefully evaluate and adjust AI systems to ensure they align with judicial principles and values.

19. **Judicial Autonomy:** Judicial autonomy must be respected in using AI technology. No judge should be required to utilize generative AI tools.

20. **In Conclusion:** AI use by the judiciary has significant potential to improve efficiency and consistency in the administration of justice, but its implementation must be carefully managed to preserve the integrity of the justice system and judicial independence. The goal should be to enhance, rather than undermine, the administration of justice and the rule of law. As judiciaries around the world navigate this technological transition, ongoing evaluation, adjustment, and international cooperation will be crucial to realizing the benefits of AI while mitigating its risks.

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Topic for 2025 - Judicial Resources and the Impact on Judicial Independence