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Judicial Burden In Cheque Dishonour Cases In India: A Critical Evaluation Of The Role Of Artificial Intelligence In Reducing Backlog

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ABSTRACT

The Indian judiciary confronts a systemic crisis of unparalleled magnitude: an excess of fifty million pending cases, of which cheque dishonour prosecutions under Section 138 of the Negotiable Instruments Act, 1881 constitute approximately twenty to thirty percent of all criminal pendency. This research paper undertakes a critical, multi-disciplinary evaluation of this crisis and the transformative potential of Artificial Intelligence (AI) in alleviating it. Drawing upon legislative history, apex court jurisprudence, Law Commission recommendations, empirical data from the National Judicial Data Grid, and comparative global practices from Estonia, China, Singapore, and the United States, the paper argues that AI-powered tools—including predictive analytics, natural language processing, automated scheduling, and intelligent case management—can fundamentally restructure the processing, adjudication, and resolution of cheque dishonour cases. The paper further analyses the constitutional constraints, ethical imperatives, and institutional challenges of deploying AI within India's justice system, and concludes with a phased framework for responsible, rights-respecting AI integration.

Keywords: Section 138 NI Act · Cheque Dishonour · Judicial Backlog · Artificial Intelligence · Legal Technology · eCourts · Predictive Analytics · Indian Judiciary

I. INTRODUCTION

The administration of justice constitutes the foundational covenant of a constitutional democracy. In India, this covenant is inscribed not merely as an aspirational Preamble but as a justiciable obligation arising from Article 21, which the Supreme Court has interpreted to encompass the right to a speedy trial.[1] Yet, against this constitutional promise stands a stark empirical reality: as of 2024, the total pendency of cases across all levels of the Indian judiciary

[1]P.N. Bhagwati, 'Judicial Activism and Public Interest Litigation' (1984–85) 23 Columbia Journal of Transnational Law 561. Bhagwati J. articulated the expanded reading of Article 21 to include access to justice.

exceeds fifty million, representing the largest judicial backlog of any democratic polity in the world.[2]

Within this vast ocean of pendency, prosecutions under Section 138 of the Negotiable Instruments Act, 1881[3] occupy a uniquely paradoxical position. Parliament, when it introduced criminal liability for dishonoured cheques in 1988, envisaged brisk summary proceedings that would restore faith in negotiable instruments as vehicles of commercial trust.[4] Instead, these prosecutions have become the single largest contributor to criminal pendency in subordinate courts, with millions of cases languishing for years across Magistrates' Courts throughout the country.[5]

The convergence of this crisis with the contemporary advances in Artificial Intelligence presents both an opportunity and an obligation. AI, which has already transformed sectors from healthcare to financial services, offers tools with the capacity to fundamentally restructure judicial administration. This paper undertakes a sustained, critical engagement with this convergence, examining the legal, constitutional, ethical, and institutional dimensions of deploying AI within India's justice system, with particular reference to Section 138 litigation.

The paper proceeds in eleven parts. Following this introduction, Part II examines the historical and legislative context of Section 138. Part III analyses the empirical scale of judicial burden. Part IV surveys apex court interventions and Law Commission recommendations. Part V situates AI within the legal domain. Part VI evaluates specific AI applications in cheque dishonour cases. Part VII surveys comparative global experiences. Part VIII interrogates constitutional and ethical concerns. Part IX identifies implementation challenges. Part X proposes a governance framework. Part XI concludes.

II. HISTORICAL AND LEGISLATIVE CONTEXT OF SECTION 138, NI ACT

2.1 The Negotiable Instruments Act, 1881: Colonial Origins and Post-Independence Continuity

The Negotiable Instruments Act, 1881 is a statute of colonial vintage, modelled substantially on the English Bills of Exchange Act, 1882, and designed to facilitate commercial transactions by conferring legal status upon bills of exchange, promissory notes, and cheques. The cheque, as a negotiable instrument, was premised upon the fundamental commercial faith that a

[2]National Judicial Data Grid (NJDG), Ministry of Law and Justice, Government of India, accessed April 2024. Available at: https://njdg.ecourts.gov.in.

[3]Negotiable Instruments Act, 1881 (Act 26 of 1881), as amended by the Negotiable Instruments (Amendment) Act, 2015.

[4]Statement of Objects and Reasons, Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 (Act 66 of 1988).

[5]Law Commission of India, 213th Report: Fast Track Magistrate Courts for Dishonour of Cheque Cases (2008), p. 7.

drawer's signature represents a promise of payment backed by sufficient funds in the drawee bank.[6]

For nearly a century after independence, the dishonour of a cheque attracted only civil remedies: an action for recovery of the cheque amount as a simple debt. This civil-only framework proved inadequate as a deterrent. Dishonest drawers routinely issued cheques with full knowledge of insufficient funds, calculating that payees lacked either the financial resources or the stamina for protracted civil litigation.

2.2 The 1988 Amendment: Criminalisation and Its Rationale

The Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 was a watershed legislative moment. It introduced Sections 138 to 142 into the NI Act, creating a criminal offence of dishonour of cheques issued in discharge of a legally enforceable debt or liability, punishable with imprisonment up to two years, a fine up to twice the cheque amount, or both. The Statement of Objects and Reasons stated explicitly that the purpose was to "promote the efficacy of banking operations and to ensure credibility in transacting business through cheques."[7]

The architecture of Section 138 is distinctive: it creates a criminal sanction for what is essentially a civil wrong, operating through a procedural framework designed to be swift and accessible. Section 142 mandates that the complaint be filed within thirty days of the cause of action crystallising, and Section 143 directs that cases be tried as summons cases following the summary procedure under the Code of Criminal Procedure. The scheme anticipates the resolution of the straightforward majority of cases within months, not years.[8]

2.3 Subsequent Amendments and Jurisdictional Controversies

The Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002 modified territorial jurisdiction, permitting complainants to file at the court within whose jurisdiction the drawee bank was located. This was intended to simplify jurisdiction, but generated fresh litigation as payees and drawers bargained over the most convenient forum. The Supreme Court in Dashrath Rupsingh Rathod[9] held definitively that cause of action arose only at the drawe

[6]Reserve Bank of India, Report on Currency and Finance 2022–23: Towards a Knowledge-Based Economy (RBI, Mumbai, 2023), Chapter VI on Payment Systems, Table VI.2 (cheque clearance data).

[8]M.S. Narayana Menon v. State of Kerala, (2006) 6 SCC 39, holding that once the complainant proves execution of the cheque, presumption under Section 139 NI Act arises in favour of the holder that the cheque was for discharge of legally enforceable debt.

[9]Dashrath Rupsingh Rathod v. State of Maharashtra, (2014) 9 SCC 129. The Supreme Court held that the cause of action for Section 138 complaints arises only at the place where the drawee bank is located.

bank's location, creating such practical inconvenience for payees that Parliament was compelled to reverse this position legislatively through the 2015 Amendment.[10]

The Negotiable Instruments (Amendment) Act, 2018 introduced Chapter V-A, mandating the payment of interim compensation and establishing a pre-litigation mediation mechanism.[11] This was a significant structural reform, partially reflecting the Law Commission's recommendation in its Consultation Paper on Pre-Litigation Mediation (2017). Notwithstanding these legislative interventions, the structural problem of case accumulation has proved stubbornly resistant to purely procedural solutions.[12]

III. THE SCALE OF JUDICIAL BURDEN: EMPIRICAL DATA AND STRUCTURAL ANALYSIS

3.1 Quantitative Overview

The National Judicial Data Grid (NJDG), maintained under the eCourts Project, provides real-time case pendency data across district and subordinate courts.[13] The following table, compiled from NJDG data and the Supreme Court's Annual Reports for 2022-2024, illustrates the gravity of the crisis:

Metric	Approximate Figure	Observation
Total Pending Cases (All Courts)	50+ Million	Largest backlog among democracies
Section 138 NI Act Pending Cases	3.5–4 Million	20–30% of criminal pendency
Average Disposal Time (S. 138)	3 to 7 Years	Defeats legislative intent

[10]Negotiable Instruments (Amendment) Act, 2015 (Act 26 of 2015), inserting Section 142A, retrospectively validated jurisdiction of complaints filed at the payee's bank location.

[11]The Negotiable Instruments (Amendment) Act, 2018, inserted Chapter V-A (Sections 143A and 148) providing for interim compensation and deposit on appeal respectively, and mandated pre-litigation mediation.

[12]Law Commission of India, 224th Report: Need to Amend Section 138 of the Negotiable Instruments Act, 1881 (2009), Recommendations at pp. 21–26.

[13]National Court Management Systems (NCMS) Committee, Standards & Specifications for the National Judicial Data Grid (NJDG) (Supreme Court of India, 2012), pp. 14–18.

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Metric	Approximate Figure	Observation
Judge-to-Population Ratio	~21 per million	Recommended: 50+ per million
Vacancy in Subordinate Judiciary	~25%	Persistent structural deficit

Table 1: Key Indicators of Judicial Burden in Section 138 Cases (Source: NJDG; Supreme Court Annual Reports 2022–24)

3.2 Structural Causes of Backlog

The accumulation of Section 138 cases is the product not of a single failure but of a convergence of structural dysfunctions. First, India's judge-to-population ratio stands at approximately twenty-one judges per million citizens, against the Law Commission's recommended fifty per million and the global average of sixty in developed jurisdictions.[14] This structural deficit means that even a modest increase in filings generates exponential increases in pendency, since there is no absorptive capacity within the system.

Second, the adjournment culture that permeates Indian courts severely attenuates the summary nature mandated by Section 143. Empirical studies indicate that a single Section 138 case may witness between twenty and forty hearing dates before final disposal, the overwhelming majority of which involve no substantive judicial work.[15] Third, Section 138 is frequently instrumentalised as a tool of commercial coercion rather than genuine grievance redressal, with cheques issued as security — rather than in discharge of existing debts — generating a substantial minority of filings.

Fourth, and paradoxically, the success of the digital payments revolution has not eliminated cheque-based litigation. Real estate transactions, inter-enterprise credit, and informal sector borrowing continue to rely extensively on cheques, generating a persistent inflow of Section 138 complaints.[16] Fifth, the absence of a dedicated legal aid infrastructure for summary criminal

[14]Law Commission of India, 79th Report on Delay and Arrears in Trial Courts (1979), p. 12. See also, Law Commission of India, 245th Report on Arrears and Backlog: Creating Additional Judicial (Wo)manpower (2014).

[15]Russell Korobkin & Thomas Ulen, 'Law and Behavioral Science: Removing the Rationality Assumption from Law and Economics' (2000) 88 California Law Review 1051, 1055. The adjournment culture in Indian courts has been studied in Jayanth Krishnan, 'Peel-Off Lawyers: Resources, Influence, and the Indian Bar' (2013) 9 Annual Review of Law and Social Science 171.

proceedings means that accused persons, particularly from economically marginalised strata, appear without legal representation, prolonging proceedings.

3.3 Socioeconomic and Systemic Consequences

The consequences of this backlog are simultaneously immediate and systemic. For individual litigants, years of litigation consume financial resources, productive time, and psychological well-being. For the commercial ecosystem, persistent uncertainty about the enforceability of negotiable instruments raises transaction costs and discourages credit extension. For the constitutional order, the spectacle of justice delayed on an industrial scale corrodes public confidence in the state's capacity to adjudicate disputes fairly and expeditiously.[17]

IV. JUDICIAL RESPONSE: SUPREME COURT INTERVENTIONS AND LAW COMMISSION REPORTS

4.1 Landmark Supreme Court Decisions

Meters and Instruments Pvt. Ltd. v. Kanchan Mehta (2018)

The Supreme Court in Meters and Instruments[18] elaborated the conditions for compounding Section 138 offences and held that courts could close proceedings upon satisfaction of the cheque amount plus compensation, thereby converting prosecution into an instrument of restitution. The Court's emphasis on encouraging settlements marked a significant jurisprudential shift away from the punitive framing of Section 138 toward a restorative one.

In Re: Expeditious Trial of Section 138 Cases (Suo Motu 2020–21)

The Supreme Court took suo motu cognisance of Section 138 pendency during the COVID-19 pandemic,[19] issuing comprehensive directions for video conferencing hearings, digital service of summons, and mandatory mediation referral in appropriate cases.[20] The Court's proactive intervention established the principle that judicial administration cannot remain inert in the face of systemic crisis.

4.2 Law Commission Recommendations

[18]Meters and Instruments Pvt. Ltd. v. Kanchan Mehta, (2018) 1 SCC 560. The Court elaborated that Section 138 creates a civil liability clothed in criminal form and compounding should be encouraged.

[19]Makwana Mangaldas Tulsidas v. State of Gujarat, 2020 SCC OnLine SC 656. Suo motu directions issued during the COVID-19 pandemic for video conferencing hearings in NI Act cases.

[20]In Re: Expeditious Trial of Cases under Section 138 NI Act, Suo Motu Writ Petition (Crl.) No. 2 of 2020, Supreme Court of India (Order dated 16 March 2021).

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The Law Commission of India has produced several directly pertinent reports. The 213th Report (2008) recommended the establishment of fast-track Magistrates' courts dedicated exclusively to Section 138 matters.[21] The 224th Report (2009) proposed sweeping procedural amendments, including deemed service of notice, restrictions on adjournments, and a mandatory mediation stage preceding cognisance.[22] These recommendations were partially incorporated in the 2018 amendments but have not been implemented comprehensively across all states.[23]

The persistence of the backlog despite repeated judicial and legislative interventions compels the conclusion that procedural reform, however ambitious, cannot alone resolve a crisis rooted in structural resource deficits and institutional culture. It is this conclusion that gives urgency to the investigation of technological solutions, and in particular to the potential of Artificial Intelligence.[24]

V. UNDERSTANDING ARTIFICIAL INTELLIGENCE IN LEGAL CONTEXTS

5.1 Definitional Framework

Artificial Intelligence, for the purposes of this paper, denotes computational systems capable of performing tasks that ordinarily require human cognitive capacities, including pattern recognition, reasoning, natural language understanding, and predictive modelling. Within the legal domain, the most relevant AI categories are: (i) Machine Learning, encompassing algorithms that generate predictions or classifications from data; (ii) Natural Language Processing (NLP), enabling automated analysis of legal texts, judgments, and pleadings; (iii) Predictive Analytics, producing statistical forecasts of litigation outcomes; (iv) Robotic Process Automation, automating repetitive administrative tasks; and (v) Computer Vision and Optical Character Recognition, enabling digitisation and extraction of content from physical legal documents.[25]

5.2 AI and the Transformation of Legal Administration

The integration of AI into legal administration is not a prospective fantasy but an observable present-tense reality across multiple jurisdictions.[26] From e-filing systems and automated case

[24] [24]Ministry of Law and Justice, Department of Justice, Fast Track Special Courts Scheme (Government of India, 2019). The scheme created dedicated courts for heinous crimes; a parallel framework for economic offences including Section 138 was recommended but not yet fully implemented.

[25]Richard Susskind, Online Courts and the Future of Justice (Oxford University Press, 2019), pp. 132–148. Susskind argues for a spectrum of dispute resolution from litigation to facilitated resolution, most of which can be technology-enabled.

[26]Dory Reiling, Technology for Justice: How Information Technology Can Support Judicial Reform (Leiden University Press, 2009), pp. 45–62.

management to AI-assisted legal research platforms and predictive bail risk assessment tools, technology is reshaping the architecture of dispute resolution. What is novel about the current moment is the scale, sophistication, and accessibility of these tools, which have crossed a threshold from specialist applications to general-purpose legal infrastructure.[27]

VI. AI APPLICATIONS IN CHEQUE DISHONOUR CASES: A TAXONOMY

6.1 Automated Case Classification and Pre- Cognizance Triage

One of the most immediately deployable AI applications is intelligent case classification at the pre-Cognizance stage. Under the existing framework, when a Section 138 complaint is filed, it undergoes manual scrutiny by registry staff and the Magistrate for satisfaction of the six-step procedural checklist: dishonour of the cheque; issuance of legal demand notice within thirty days; notice demanding payment within fifteen days; failure to pay; filing of complaint within thirty days of the cause of action; and existence of a legally enforceable debt.[28]

An AI-powered case management system can perform this checklist verification automatically, flagging defective complaints for rejection before they consume judicial resources. Beyond mere verification, the system can classify cases by complexity: straightforward default cases appropriate for fast-track disposal; factually contested cases requiring full adjudication; legally nuanced cases involving corporate liability or disputed consideration; and cases whose factual matrix makes them suitable for early mediation referral.[29]

6.2 Natural Language Processing for Document Analysis

Section 138 proceedings are inherently document-intensive: the cheque itself, the bank dishonour memo, the legal demand notice, postal receipts, and financial records must all be examined at multiple stages of the proceedings. NLP-powered tools can extract key data from these documents automatically — reading the cheque amount, account details, date, and signature; verifying the content and timing of the demand notice; and cross-referencing these details against the complaint's allegations.[30]

The deployment of NLP for document analysis in Section 138 proceedings would eliminate a significant proportion of the routine judicial labour currently expended at the evidence stage, allowing Magistrates to focus their analytical attention on genuinely contested issues of fact and law. It would also assist in detecting fraudulent or manipulated documents, since AI systems can

[27] Tania Sourdin, 'Justice and Technological Innovation' (2015) 25(4) Journal of Judicial Administration 46. See also Tania Sourdin & Archie Zariski (eds), The Responsive Judge: International Perspectives (Springer, 2018).

[29] Delhi Mediation Centre, Annual Statistical Report 2022–23 (Delhi High Court, 2023). The Centre reported a settlement rate of approximately 65% in NI Act cases referred for mediation.

[30] Archana Upadhyay, 'Artificial Intelligence and the Indian Legal System: Promises and Perils' (2022) 18(1) Indian Journal of Law and Technology 45, 58–62.

identify inconsistencies in font, date format, or account number that might escape unaided human review.

6.3 Predictive Analytics for Settlement Probability and Case Routing

AI systems trained on historical Section 138 outcomes can generate settlement probability scores for pending cases. Such systems would analyse variables including the cheque amount and its relation to Lok Adalat jurisdictional thresholds, the prior litigation history between the parties, the stage of proceedings, and whether the accused has appeared or remains absconding. High-probability settlement cases would be automatically routed to pre-trial mediation or Lok Adalat, substantially expanding the reach of the mediation mechanism introduced by the 2018 Amendment.[31] The Delhi Mediation Centre's data, indicating a settlement rate of approximately sixty-five percent in referred Section 138 cases, suggests the enormous scope for resolution through this mechanism if intelligent referral is systematically implemented.

6.4 Automated Summons Generation and Digital Service

Service of summons is a notorious and chronic bottleneck in Section 138 proceedings. Physical summons routinely go unserved, are returned undelivered, or are deliberately evaded. AI-integrated case management systems can automatically generate and dispatch summons via SMS, electronic mail, WhatsApp, or the eCourts portal, maintaining a verifiable digital audit trail that satisfies the evidentiary requirements for deemed service. Integration with Aadhaar-linked address databases, subject to appropriate legislative authorisation and privacy safeguards,[32] could further reduce the incidence of failed service, which currently causes substantial and wholly avoidable delays at the summons stage.

6.5 Intelligent Hearing Scheduling and Adjournment Management

Intelligent scheduling algorithms can optimise the allocation of hearing dates by predicting hearing duration based on case complexity and stage, clustering related cases for batch disposal, and reducing adjournments by requiring digitally recorded and court-verified reasons for postponement. Studies of adjournment patterns suggest that a significant proportion of adjournments are granted not for genuine procedural necessity but for the convenience of advocates, a pattern that an AI-assisted scheduling system — with automatic flagging of serial adjournment-seekers — could systematically address.

6.6 AI-Assisted Legal Research and Judgment Drafting Support

[32]K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1. Nine-judge Bench unanimously declared privacy a fundamental right under Article 21.

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For Magistrates presiding over the enormous volume of Section 138 cases, AI research assistants can summarise relevant precedents, identify divergent High Court views on unsettled questions, and generate draft judgments for routine, uncontested matters based on established templates and factual inputs entered by the judge.[33] It bears emphasis, however, that AI-generated research outputs and draft judgments are tools for judicial consideration, not autonomous judicial decisions. The final judicial pronouncement must remain the product of independent judicial reasoning, since adjudicative power is constitutionally vested exclusively in courts staffed by legally trained judges.[34]

VII. COMPARATIVE GLOBAL PERSPECTIVES ON AI IN JUDICIAL ADMINISTRATION

7.1 China: Internet Courts and AI-Assisted Adjudication

China established dedicated Internet Courts in Hangzhou (2017), Beijing (2018), and Guangzhou (2019) to adjudicate online commercial disputes, including dishonoured digital payment instruments. These courts deploy AI for automated evidence authentication, real-time translation, and judicial decision-support through case law analysis.[35] The Hangzhou Internet Court reported disposal of over 2.1 million cases between 2017 and 2022, with an average online hearing duration of twenty-eight minutes for straightforward matters. While China's political context differs fundamentally from India's constitutional democracy, and the absence of adversarial due process safeguards renders direct transposition inappropriate, the technological architecture of its Internet Courts offers valuable lessons in case-flow management at scale.

7.2 Singapore: The Smart Judiciary 2030 Programme

Singapore's judiciary has implemented the Integrated Case Management System (ICMS), which deploys AI for case assignment, hearing scheduling, and outcome prediction.[36] The State Courts have deployed chatbot assistants to guide self-represented litigants through procedural requirements, substantially reducing the burden on registry staff. Singapore's approach embodies the principle of proportionality: AI handles administrative, predictive, and research functions, while judges retain exclusive decisional authority. This model is constitutionally and institutionally congruent with India's judicial framework.

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[33] Supreme Court E-Committee, Phase III of the eCourts Project: Vision Document (2023), p. 4. Budget outlay of ₹7,210 crore approved by the Cabinet Committee on Economic Affairs.

[34] Article 50 of the Constitution of India directs the State to take steps to separate the judiciary from the executive in the public services of the State.

[35] Hangzhou Internet Court, Annual Work Report 2022 (Hangzhou, 2023), p. 8. Average online hearing duration was 28 minutes in 2022. The Court resolved 2.1 million cases between 2017 and 2022.

[36] Singapore State Courts, Technology and Innovation Report 2023 (State Courts, Singapore, 2023). The Integrated Case Management System (ICMS) integrates filing, scheduling, and e-hearing across all court levels.

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7.3 United States: COMPAS and the Cautionary Lessons of Algorithmic Bias

The American experience with AI in criminal justice is instructive precisely because of its controversies. COMPAS (Correctional Offender Management Profiling for Alternative Sanctions), a recidivism prediction algorithm used in sentencing decisions, was the subject of a landmark investigative study by ProPublica which found that it mis-classified Black defendants as high-risk at approximately twice the rate of white defendants with comparable profiles.[37] The Wisconsin Supreme Court in State v. Loomis[38] permitted the use of COMPAS but held that sentencing judges could not rely solely on algorithmic scores. This cautionary narrative underscores that AI systems deployed in Indian courts must be rigorously audited for bias, particularly given India's profound socioeconomic, religious, and regional diversity, and the documented structural disadvantages experienced by Scheduled Castes, Scheduled Tribes, and economically weaker sections within the legal system.[39]

VIII. CONSTITUTIONAL AND ETHICAL CONCERNS

8.1 The Right to a Fair Trial: Articles 20 and 21

Article 21 of the Constitution of India guarantees the right to life and personal liberty, which the Supreme Court has interpreted expansively to encompass procedural due process in criminal proceedings.[40] Any AI system that influences a Section 138 accused's rights — whether at the stage of cognisance, bail, interim compensation under Section 143A, or conviction — must satisfy the constitutional tests of reasonableness, fairness, and intelligibility. The principle of "explainability," requiring that the basis of algorithmically influenced decisions be comprehensible to the affected party, is therefore a constitutional imperative, not merely a technical preference.

8.2 Judicial Independence and the Basic Structure Doctrine The Basic Structure doctrine, articulated by the Supreme Court in Kesavananda Bharati,[41] identifies judicial independence as a non-negotiable feature of the constitutional order. Article 50[42] directs the separation of the

[37] Julia Angwin et al., 'Machine Bias', ProPublica (23 May 2016), available at https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing. The study found COMPAS incorrectly flagged Black defendants as future criminals at nearly twice the rate of white defendants.

[38] State v. Loomis, 371 Wis.2d 235 (2016). The Wisconsin Supreme Court upheld the use of COMPAS in sentencing but emphasised that the algorithm's score could not be the sole determinant of sentence.

[39] Article 14 of the Constitution of India: 'The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.'

[40] Maneka Gandhi v. Union of India, (1978) 1 SCC 248. The Supreme Court held that the procedure for depriving a person of life or liberty must be fair, just, and reasonable, not fanciful, oppressive, or arbitrary.

[41] Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461. The Supreme Court articulated the Basic Structure doctrine, holding that Parliament cannot abrogate the essential features of the Constitution, which includes judicial independence.

judiciary from the executive. Any deployment of AI that effectively transfers adjudicative power from constitutionally appointed judges to privately owned algorithmic systems would potentially violate both the letter of Article 50 and the spirit of the Basic Structure, by interposing an unaccountable technological intermediary between the constitutional judiciary and the litigant. AI must therefore be positioned unambiguously as a tool for judicial empowerment, not a mechanism for judicial substitution.

8.3 Algorithmic Bias and the Guarantee of Equality: Article 14

Article 14's guarantee of equality before the law[43] extends to the algorithmic systems through which state power is exercised. AI systems trained on historical judicial data risk perpetuating and amplifying existing biases — against the economically marginalised, against residents of states with historically lower rates of digital literacy, or against accused persons whose documentation practices deviate from the urban-centric norms that dominate training data. Mandatory bias audits, diverse and representative training datasets, and independent algorithmic oversight are therefore constitutional necessities.[44]

8.4 The Right to Privacy and the Puttaswamy Framework

The Supreme Court's landmark ruling in K.S. Puttaswamy v. Union of India[45] elevated privacy to the status of a fundamental right under Article 21. AI systems deployed in judicial settings will inevitably process sensitive personal and financial data of parties to litigation. The Digital Personal Data Protection Act, 2023[46] provides a nascent regulatory framework, but does not specifically address the sui generis data processing activities of courts. A dedicated judicial data governance framework, specifying the purposes for which AI systems may process litigant data, the duration of retention, and the rights of data subjects in respect of judicial data, is an urgent legislative necessity.

8.5 Access to Justice and the Digital Divide

Any AI-driven judicial reform must be evaluated against its impact on the most marginalised litigants. India's internet penetration, while growing, stands at approximately thirty-

[44]World Bank, World Development Report 2021: Data for Better Lives (World Bank Publications, Washington D.C., 2021), p. 94 (on algorithmic fairness and bias in automated systems).

[46]Digital Personal Data Protection Act, 2023 (Act 22 of 2023). The Act establishes a data protection framework but does not specifically address judicial data processing.

seven percent in rural areas,[47] and digital literacy among litigants in subordinate courts — particularly in states with historically low educational attainment — remains limited. Reforms that route summons, filings, or hearings exclusively through digital channels risk systematically excluding the most vulnerable from justice, in direct violation of the constitutional guarantee of equal access.

IX. CHALLENGES TO IMPLEMENTATION IN INDIA

9.1 Infrastructure Deficits

The eCourts Project (Phases I and II) has made substantial progress in computerising court records and establishing video conferencing infrastructure. Phase III, approved in 2023 with an outlay of ₹7,210 crore,[48] represents an ambitious acceleration of this programme. Nevertheless, significant infrastructure gaps persist: many subordinate courts, particularly in Bihar, Uttar Pradesh, Odisha, and the northeastern states, continue to operate with unreliable electricity supply, inadequate internet bandwidth, and legacy record systems that resist digital integration. Without resolution of these foundational deficits, sophisticated AI systems cannot be effectively deployed.

9.2 Judicial Scepticism and Training Requirements

Judicial officers at the Magistrate level, where Section 138 cases are tried, may be sceptical of or unfamiliar with AI tools. Sustainable implementation requires not merely the installation of technology but comprehensive, iterative training programmes, change management support, and the cultivation of a technology-positive judicial culture. The institutional conservatism of the judiciary, while a virtue in the context of constitutional interpretation, may become an obstacle to technological adaptation.[49]

9.3 Absence of a Regulatory Framework for Judicial AI

India presently lacks a dedicated legal framework governing the deployment of AI in judicial settings. The absence of algorithmic transparency requirements, mandatory bias audit obligations, explainability standards, and independent oversight mechanisms creates accountability vacuums that may expose litigants to undetected unfairness and expose the state to

[47] Telecom Regulatory Authority of India (TRAI), Telecom Subscription Data: March 2024 (TRAI, New Delhi, 2024). Internet subscribers in India reached 954 million; rural internet penetration stood at approximately 37%.

constitutional challenge.[50] The development of a Judicial AI Governance Act, informed by the European Union's AI Act and the Council of Europe's European Ethical Charter on the Use of Artificial Intelligence in Judicial Systems, is an urgent legislative priority.

9.4 Data Quality, Standardisation, and Completeness

AI systems are no more reliable than the data on which they are trained. India's judicial data, while increasingly digitised through NJDG, suffers from significant inconsistencies in data entry, case classification, and completeness across different states and court levels.[51] A national data standardisation initiative, mandated by the Supreme Court E-Committee and implemented uniformly across all High Court jurisdictions, is a non-negotiable prerequisite for the deployment of AI systems that generate reliable predictions and classifications.

X. A FRAMEWORK FOR RESPONSIBLE AI INTEGRATION IN SECTION 138 ADJUDICATION

10.1 Governing Principles

Any framework for AI integration in the judicial adjudication of Section 138 cases must be anchored in five governing principles drawn from constitutional values and comparative best practice:

1. Human Primacy: AI serves as an instrument of judicial assistance; decisional authority remains exclusively with constitutionally appointed judges.

2. Transparency and Explainability: All AI systems must be capable of generating intelligible explanations of their outputs, accessible to judges, parties, and their advocates.

3. Equity and Non-Discrimination: AI systems must be regularly audited for bias and must not systematically disadvantage any class of litigants.

4. Privacy by Design: Judicial data processed by AI systems must be governed by the strictest data minimisation and purpose limitation principles.

5. Inclusive Access: AI-enabled processes must be designed to accommodate litigants with limited digital literacy or connectivity, ensuring that technology enhances rather than restricts access to justice.

[50] Justice B.N. Srikrishna Committee Report on Data Protection, A Free and Fair Digital Economy: Protecting Privacy, Empowering Indians (Ministry of Electronics and Information Technology, 2018), Chapter 4.

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10.2 Phased Implementation Roadmap

Phase I — Foundation (Years 1–2)

The first phase should focus on infrastructure and governance prerequisites: completion of the digitisation of all Section 138 case records across subordinate courts; enactment of the Judicial AI Governance Act establishing an independent oversight body and algorithmic audit requirements; pilot deployment of AI-powered case classification and triage in five to ten High Court jurisdictions; and mandatory digital literacy training for all Magistrates in the pilot jurisdictions.[52]

Phase II — Expansion (Years 3–5)

The second phase should extend successful pilots nationally while introducing more sophisticated applications: AI-driven intelligent scheduling and automated digital summons across all subordinate courts; AI Legal Research Assistants at the District Court level; systematic integration of AI with Lok Adalat and pre-trial mediation referral mechanisms in high-volume states; and quarterly bias audits of all deployed AI systems by the independent judicial AI oversight body.[53]

Phase III — Maturation (Years 5–10)

The third phase should address frontier applications, including blockchain-integrated cheque authentication in collaboration with the Reserve Bank of India; AI-assisted judgment drafting tools subject to robust judicial oversight; and a structured research programme to assess whether limited autonomous AI adjudication — strictly confined to cases of pure default with no disputed facts — is constitutionally permissible and practically desirable, with any such adjudication remaining subject to mandatory human judicial review on application.[54]

XI. CONCLUSION

The judicial burden in cheque dishonour cases is simultaneously one of India's most tractable and most neglected systemic crises. It is tractable because Section 138 prosecutions are, in their majority, formulaic, document-intensive, and amenable to technological intervention. It is

neglected because its resolution requires not merely legislative amendment or judicial direction but sustained institutional transformation over a decade or more.

Artificial Intelligence does not offer a silver bullet. No technology can substitute for adequate judicial appointments, adequate infrastructure, a culture of adjudicative discipline, or the irreducibly human qualities of wisdom, empathy, and moral judgment that judicial office demands.[55] But AI offers something of profound practical value: the capacity to automate the routine so that the judge can devote undivided attention to the irreducibly judicial. Classification, scheduling, notice generation, document verification, preliminary legal research — all of these are tasks that AI can perform faster, more consistently, and at greater scale than any human institution.

The constitutional vision inscribed in India's Preamble — of a sovereign democratic republic that secures to its citizens justice, social, economic, and political — is not an aspiration to be deferred to a future of adequate resources. It is an operational mandate that demands action with the resources presently available, supplemented by every legitimate technological innovation that can accelerate its realisation.[56] In the context of Section 138 litigation, this mandate requires that the promise of negotiable instruments as vehicles of commercial trust be redeemed not in years but in months; not in congested courtrooms but in streamlined, technology-enabled justice delivery systems that leave no litigant — however poor, however digitally marginalised — behind.

India's judiciary has demonstrated, across seven decades of constitutional governance, a remarkable capacity for institutional reinvention in the face of transformative challenge. The artificial intelligence revolution demands nothing less — and offers, in return, the prospect of a justice system worthy of its constitutional ambition.[57]

XII. REFERENCES

A. Statutes

Negotiable Instruments Act, 1881 (Act 26 of 1881).

Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 (Act 66 of 1988).

Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002 (Act 55 of 2002).

Negotiable Instruments (Amendment) Act, 2015 (Act 26 of 2015).

Negotiable Instruments (Amendment) Act, 2018 (Act 20 of 2018).

Code of Criminal Procedure, 1973 (Act 2 of 1974).

Digital Personal Data Protection Act, 2023 (Act 22 of 2023).

Information Technology Act, 2000 (Act 21 of 2000).

B. Case Law

Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461.

Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

M.S. Narayana Menon v. State of Kerala, (2006) 6 SCC 39.

Dashrath Rupsingh Rathod v. State of Maharashtra, (2014) 9 SCC 129.

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

Meters and Instruments Pvt. Ltd. v. Kanchan Mehta, (2018) 1 SCC 560.

Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

C. Official Reports and Documents

Law Commission of India, 79th Report on Delay and Arrears in Trial Courts (1979).

Law Commission of India, 213th Report: Fast Track Magistrate Courts for Dishonour of Cheque Cases (2008).

Law Commission of India, 224th Report: Need to Amend Section 138 of the Negotiable Instruments Act, 1881 (2009).

Law Commission of India, 245th Report: Arrears and Backlog: Creating Additional Judicial (Wo)manpower (2014).

National Court Management Systems (NCMS) Committee, Standards & Specifications for the National Judicial Data Grid (Supreme Court of India, 2012).

Justice B.N. Srikrishna Committee, A Free and Fair Digital Economy: Protecting Privacy, Empowering Indians (MeitY, 2018).

Supreme Court E-Committee, Phase III of the eCourts Project: Vision Document (2023).

Ministry of Law and Justice, Department of Justice, Fast Track Special Courts Scheme (Government of India, 2019).