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EXAMINING THE ETHICAL AND PRACTICAL IMPLICATIONS OF AI IN JUDICIAL DECISION-MAKING

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ABSTRACT:

This research investigates artificial intelligence and the role of the judiciary in the justice delivery system. In justice delivery, human conscience is more important than artificial intelligence. This study employed empirical methods and also used surveys and comparative charts. Results revealed that artificial intelligence cannot replace human minds because AI can understand facts but cannot grasp emotions and real-life circumstances. The implications of these findings are discussed in relation to the fact that judgments made by AI will be practical rather than ethical. While providing judgments, a judge should consider both practical and ethical aspects. Despite certain limitations, this study contributes to the judicial field, which requires faster judgments but also proper judgments, which is challenging to achieve simultaneously. Future research directions are suggested to focus on providing solutions for quicker judgments in an ethical way. Overall, this research provides valuable insights into justice delivery, suggesting that human intervention is superior to artificial intelligence because human judges can incorporate empathy, moral reasoning, and a nuanced understanding of complex human behaviour's and societal norms into their decisions.

KEYWORDS *- Artificial intelligence-Judiciary-Justice delivery-Human conscience-Replacing humans-Practical-Ethical-Faster justice-Human emotions.*

[1]INTRODUCTION:

With the growing technological interference in various fields, artificial intelligence has also made its way into the judiciary. Judges use AI tools for reference as it helps in providing judgments, with AI being a valuable tool for referring to precedents relevant to current cases. Judgments by judges may be biased, but AI cannot be influenced by anyone. However, with deep research, judgments by artificial intelligence can be hacked at any time. Like major fields facing cybercrimes, if the judiciary also becomes vulnerable, the situation may worsen. The administration of justice is not a game; it involves the lives of people, and their trust and hope must be kept safe by providing proper judgments without flaws. As a famous saying goes, "Even a thousand criminals can escape, but not a single innocent should be punished." Hence, this paper studies both perspectives and suggests whether the judiciary is best with AI or judges. There are also flaws with artificial intelligence, such as technological issues and potential data loss, with recovery processes that can take much time. Until these technological issues are resolved, both people and the judiciary would have to wait. Human intervention is necessary for the recovery process. On the other hand, anyone can delete or include anything in previous or present case or trial details and can edit or steal information from the main system. However, in the case of judges' judgments, there is only a minimal chance of bias, and no other flaws than bias and delayed judgments, which can be mitigated by enrolling more judges in the field.

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[2]REVIEW OF LITERATURE:

The review of literature supports the view that judge-made law is better compared to AI in the judiciary. Considering ethical values is not possible for AI. Additionally, judges can recognize historical contexts while providing judgments, but AI cannot. Some views of experts and researchers are considered relevant to these perspectives:

[2.1]Biases on judgements of Judges and AI:

I.AI, judges and judgment: Settling the scene

Robert Buckland , M-RCBG Associate Working Paper Series, 2023

Artificial intelligence (AI) is rapidly advancing in the justice sector, offering notable benefits despite potential risks to legal system integrity. AI can reduce the administrative burden by handling large volumes of information, ensuring adherence to legal precedents, and minimizing personal biases. Proponents argue that AI's ability to follow precedents, restrict judicial discretion, and analyze extensive data could enhance fairness in judgments. AI tools can also assist human judges by improving their access to relevant legal information and reducing the risk of biased data. Additionally, AI supports administrative tasks such as case allocation, resource management, and anonymization of documents, which, while not directly affecting case outcomes, can subtly influence the judicial process by shaping how cases are assigned and managed.

[2.2]Domination of AI overruling administration of justice:

II. Artificial wisdom: A potential limit on AI in law (and elsewhere)

Joshua P.Davis, Okla.L, Rev. 72,51, 2019

This essay proposes three key arguments that support the continued, possibly permanent, role of humans in legal and judicial practice: (1) moral judgment is essential for legal decisions; (2) moral judgment requires a first-person perspective or subjectivity; and (3) AI cannot achieve this first-person perspective. It examines how current scientific understanding of consciousness, free will, and the unified self may not align with the internal experience of the first-person perspective, particularly in decision-making. Since AI, being a product of science, may lack this subjective experience, it suggests that while AI has immense potential, it cannot offer artificial wisdom. Therefore, the necessity of wisdom, which involves moral judgment, maintains the need for human involvement in legal decision-making.

[2.3]Human involvement in shaping AI:

III.The judicial demand for explainable artificial intelligence

Ashley Deeks, Columbia Law Review 119 (7), 1829-1850, 2019

A major issue with machine learning algorithms is their "black box" nature, which obscures how they make decisions. As judges increasingly encounter these algorithms in various types of cases, this essay argues that they should require explanations for algorithmic outcomes. Designing systems that clarify how algorithms reach their conclusions can address this issue. By demanding such explanations, judges can significantly influence the development of "explainable AI" (xAI), using common law tools to define what xAI should entail in different legal contexts. Courts can offer nuanced, case-by-case insights that help create effective xAI solutions tailored to diverse legal needs. Involving public actors, such as judges, in shaping xAI is preferable to leaving it solely in the hands of private entities.

[2.4]Hacking judiciary with AI:

[2.5]Chief justice robots

Eugene Volokh, Duke LJ 68, 1135, 2018

If an AI program were to pass a Turing test, convincingly mimicking human conversation, and were then trained to write persuasive legal arguments indistinguishable from those of a human lawyer, it could excel in brief-writing competitions against human attorneys. This essay suggests that if such technology were

developed to the point where it could also produce persuasive judicial opinions and win competitions against human judges, and if it were safeguarded against hacking, it could be considered a viable alternative to human judges. Even If the opinions are generated by AI rather than human judgment, such technology might be accepted as reliable and cost-effective in the role of a judge.

[2.6]Issues in delegation of powers and responsibilities with AI:

V. Artificial intelligence in the courtroom: The delivery of justice in the age of machine learning

Ray Worthy Campbell, Revista Forumul Judecatorilor, 15, 2023

To realistically assess the role AI can play in the judicial process, we need to understand its current capabilities and the functions it is expected to perform in the near to intermediate future. This involves examining the full scope of judicial responsibilities, which extend beyond merely resolving individual cases. A balanced view requires matching AI's real potential with the broad range of judicial functions. In the near term, AI is likely to support rather than replace human judges, as it may predict case outcomes but cannot fully replicate the diverse duties of judges. AI is currently suited for specialized tasks but lacks the generalist abilities needed to handle complex, high-stakes cases. Even if future developments enable AI to perform more general functions, we must consider whether we are ready to entrust the creation and application of legal rights and responsibilities to an impersonal system.

[3]RESEARCH GAP:

Considering previous research on artificial intelligence and judges in judgments, ethical and moral values should be notable points. Even if AI is used in delivering judgments, it needs human assistance for better and proper judgments, as humans consider previous histories, data, and texts, while AI only considers precedents. Although judges may be biased, AI can also be hacked. Hence, a judiciary without human intervention is not possible.

[4]STATEMENT OF PROBLEM:

While providing quicker judgments for faster trials, some proofs and evidence may not receive enough time for proper consideration, increasing the chance of being overlooked. AI does not understand the ethical and moral values of humans while providing judgments; hence, AI cannot fully comprehend the facts of a case. This can lead to improper investigations and flawed judgments. In the case of human judgments, the primary issue is 'delayed judgments.' However, compared to AI, human judgments are more adaptable. AI relies on previous judgments, which may become outdated over time. Humans possess ethical values and the ability to deeply analyze the facts of a case. Additionally, while referring to previous precedents, AI might struggle to find references for new issues in the field. In certain cases, AI cannot make its own judgments based on its capacity. Ultimately, AI is prone to errors and requires constant backup, which is not easy to maintain. If errors occur, trials must wait until the system is recovered, causing delayed judgments. Referring to the well-known saying, "Justice delayed is justice denied," which applies to both AI and human judgments, the most adaptable system for our country remains a judiciary with human judgments.

[5]OBJECTIVES OF THE STUDY :

- To examine the ethical and practical implications of AI in judicial decision making.
- To investigate how effective AI is in justice delivery.
- To determine if decisions made by AI judges are superior to those made by human judges.
- To ascertain whether AI can administer justice more effectively than people.
- To ascertain whether AI is capable of displacing human minds.

[6]RESEARCH METHODOLOGY:

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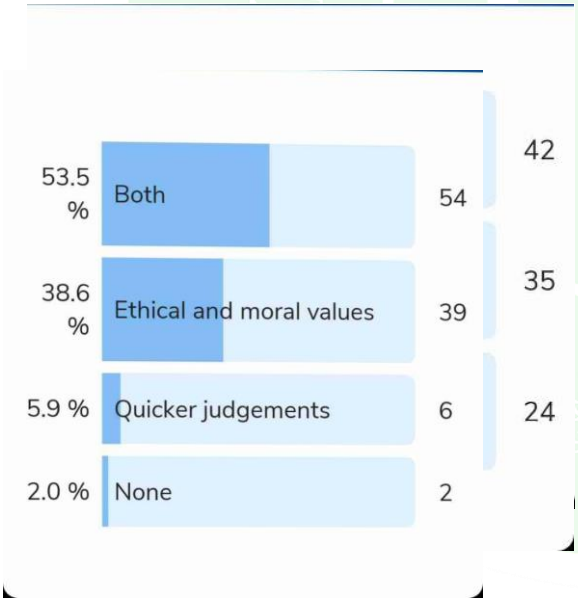
- This research paper is purely based on descriptive analysis.
- This study employed empirical methods and also used surveys and comparative charts.
- Primary and secondary sources of data form the basis of this research.
- The data for this research was gathered through surveys, interviews, literature reviews, books, journals, articles and websites.
- The gathered data is analysed using statistical analysis and thematic analysis.
- It includes both quantitative and qualitative research.

[7]COLLECTED DATA :

We have used empirical method to collect both primary and secondary data. Using these data collected, findings and results are obtained in our study.

[7.1] AGE



Interpretation: Majority of the responders are between 19-38 age group with 73.3% and 15.8% are below 18, 8.9% are 29-50 and very few are above 50 age group with just 3% rate.

[7.2] LOCALITY

Interpretation: While looking-into locality of the people, 41.6% are from rural areas and 34.7% are from urban areas, only 23.8% are from semi-urban areas which clearly shows that majority of the responders are from rural areas.

[7.3] GENDER

Interpretation : Majority of the people are females which is 70.3% are responded, and 29.7% are male but, not a single person is from others option.

[7.4] EDUCATIONAL QUALIFICATION

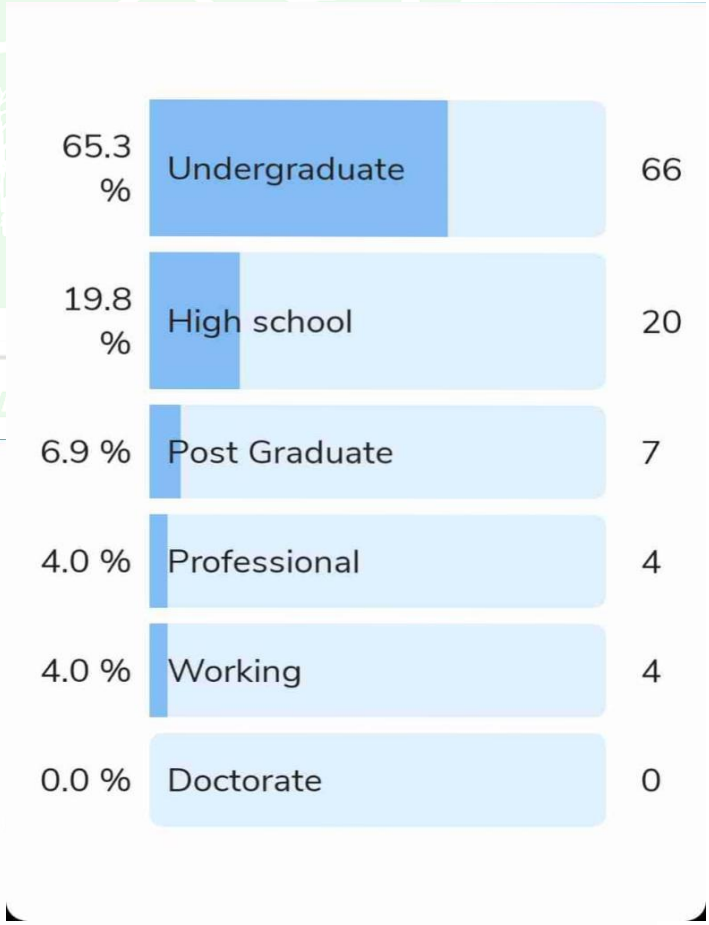
Interpretation: 65.3% of the responders are undergraduates which is the majority, 19.8% are doing high school, 6.9% are post graduates, 4% are professionals, 4% are working and there is no doctorate's.

[7.5] WHAT IS MORE IMPORTANTLY CONSIDERED WHILE PROVIDING JUDGEMENTS?

Interpretation: The major suggestion is 'considering both ethical & moral values and quicker judgements are important' is provided by the responders with 53.5%, and 38.6% are suggested to consider ethical and moral values, 5.9% are suggesting for quicker judgements and only a 2% suggested non.

[7.6] AI OR JUDGES, WHO GIVE PROPER JUDGEMENTS?

Interpretation: 45.5% people consider that, judges give proper judgements. 32.7% considers



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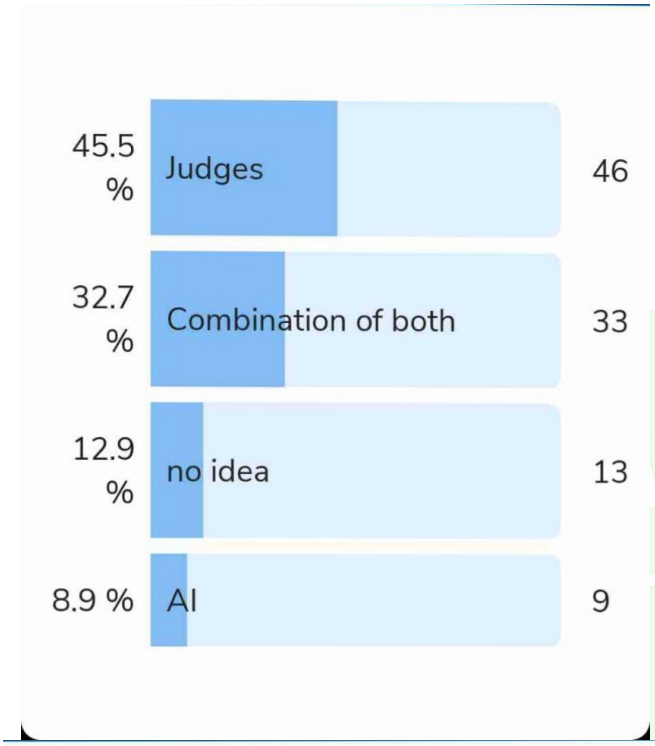
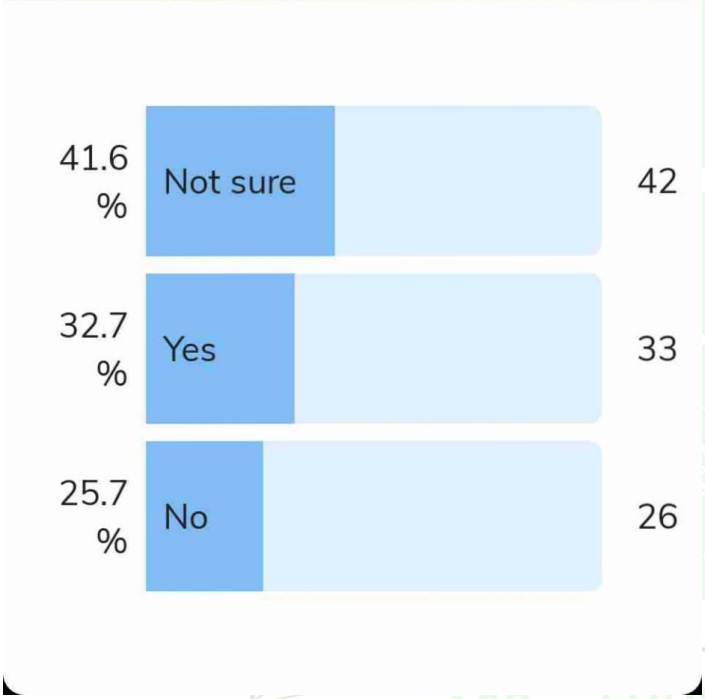




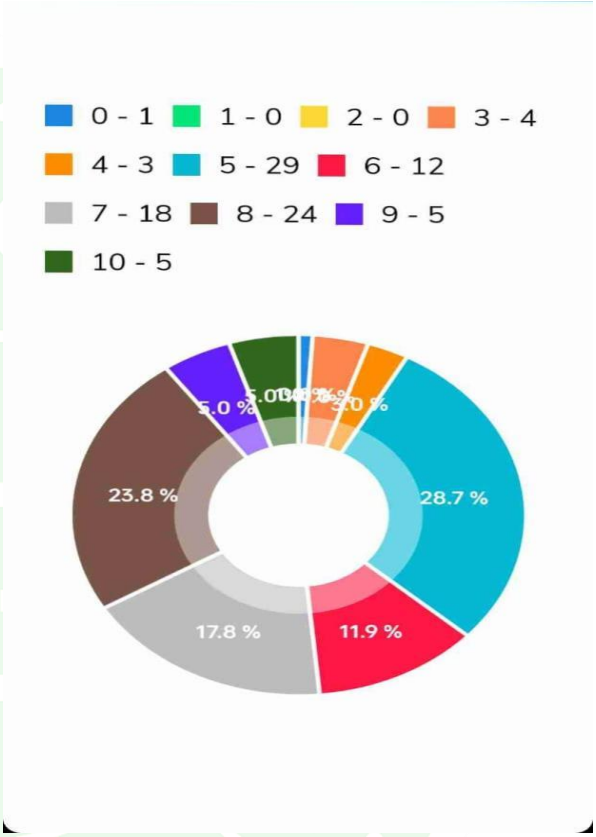
that, combination of both judges and AI can help but 8.9% suggesting AI gives proper judgement . But 12.9% of the people have no idea on this.

[7.7] DO YOU THINK JUDGES ARE BIASED IN PROVIDING JUDGEMENTS?

Interpretation: 32.7% people think that judges are biased in providing judgements and 25.7% said, they didn't think that judges are biased. But majority of the 41.6% of the people are not sure about this view.

[7.8] RATE YOUR VIEW ON JUDGE MADE LAW

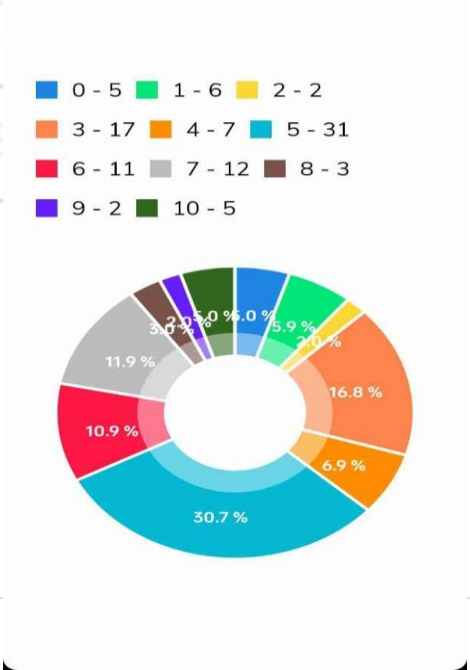
Interpretation: Majority of the people rated 5 with 28.7% which is neutral or average for



judgements by judges and 23.8% rated 8 and only 1% voted negative.

[7.9] RATE YOUR VIEW ON JUDGEMENTS BY ARTIFICIAL INTELLIGENCE

Interpretation: AI also got neutral rating most



with 30.7% but 16.8% rated negative views gave 3 rating. Hence, majority of the view is negative in the case of AI's judgements.

[8] CASE STUDY:

[8.1] Estonia's "Robot Judge" Pilot Program:

Estonia did an experiment on a small claims dispute using AI. The AI system suggests outcomes, evaluates submissions and provides worthwhile recommendations. Human judges can then examine it further and can alter it or reject them. This AI aims to reduce pendency of minor cases.

[8.2] United States v. Johnson (2020) – United States District Court for the District of Columbia

The court used the Public Safety Assessment (PSA) tool for predictive risk assessment during sentencing. It predicts the defendant's probability of re offence .

This case's final decision remained with human judges unlike AI. They just used AI for assistance but didn't totally rely on it.

[8.3] Bail Reform Act Cases (Various Courts in the United States):

Throughout the United States, judges in the court have utilised PSA (AI) tool in bail decisions. These tools assist judges by analysing whether to grant bail to the offender or to keep in custody by considering various factors such as criminal history, prior court appearance and age. AI is just used by the judges to support their decision making process therefore human judges makes the final judgements.

[8.4] Shanghai Courts (China):

In Shanghai, the judges seem to use AI tools as their routine tasks for minor cases by analysing, summarising and sentencing recommendations to the cases.

Even though AI does analyse, summarise and sentence recommendations it is further evaluated by the judges and the final decision is decided and made by the human judges.

[8.5] Hangzhou Internet Court (China):

In China, The Hangzhou Internet Court uses AI tools to resolve issues related to e-commerce, copyright infringement, and internet disputes. AI is used by the courts to assess precedent and to provide case review.

Although AI assists in managing the large number of cases and aids in evaluating the evidence and legal reasoning the human judges makes the final judgements.

[8.6] Jharkhand High Court – Use of AI for Bail Applications:

Jharkhand High Court has been using AI for examining bail applications. It analyses the defendant's records of criminal history, offences and relevant data to aid decisions. The use of AI here is just used as an advisory tool and the final judgements are made by the human judges to grant bail or not.

[8.7] State v. Loomis (2016) – Wisconsin Supreme Court, United States:

The COMPAS (Correctional Offender Management Profiling for Alternative Sanctions) algorithm was utilised by the judges to aid in the sentencing of Eric Loomis. COMPAS created a risk assessment score for the measurement of defendants re offence.

Issue: Loomis contended that usage of the COMPAS algorithm infringed his due process rights because its risk indicators were confidential and were not adequately revealed.

Outcome: The court allowed the utilisation of the COMPAS but ruled that while giving judgements it could not be the sole factor. This decision has addressed the importance of human supervision while AI justice delivery.

[8.8] AI-based Legal Translation and Legal Assistance:

In various Courts in India, AI tools have been used for legal translation and legal assistance. These AI tools translates judgements and legal documents into regional languages to improve the justice 's easy access, as it helps non-

English speaking residents in India. The Supreme Court's e-committee is working on AI tools which assists and aids in the translation and legal documentation. However, after translation human judges recheck the documents to ensure the accuracy.

[9] LIMITATIONS OF THE STUDY:

Despite the advantages of human judges over AI in delivering judgments, the judicial system faces significant challenges, particularly concerning the backlog of pending cases. As of 2024, the total number of pending cases across all levels and types of courts has surged to over 51 million, or 5.1 crores. This staggering figure includes more than 180,000 cases that have been unresolved for over 30 years, highlighting a deep-rooted issue in the judicial system. The district courts, in particular, are overwhelmed, with 4.5 crore cases, representing more than 87% of the total backlog, remaining unresolved. This immense volume of pending cases indicates a critical strain on the judicial system's capacity to handle and process cases in a timely manner. The delay in case resolution not only impacts the efficiency of the legal system but also undermines public confidence in justice. Addressing this backlog is essential for improving the judicial process. While human judges are crucial for nuanced decision-making, exploring technological solutions like AI could offer potential pathways to alleviating the burden on the courts.

[10] FINDING AND SUGGESTIONS:

This study demonstrates that a sizable percentage of people would rather have human judges render justice since humans are able to comprehend emotions and feelings, whereas AI cannot. In accordance with this analysis, some suggest that judges' viewpoints are best because only humans can understand both sides of a case. Though AI can be more reliable in some aspects, it also has its drawbacks. Quick disposal of cases involving moral and ethical values with the help of AI could be beneficial, but AI is important only as a support tool and should not overrule human judgement. AI can assist judges but cannot replace them. While AI might help with quicker decisions, judges are likely to perform better as they take morals and ethics into account. AI can assist judges in handling cases but cannot fully replace their role. AI systems can process vast amounts of data and make decisions quickly, but they lack human judgement. Judgments should be based on loyalty and honesty. Therefore, human-monitored and controlled AI judgments are needed to ensure a human touch. AI can provide valuable data and consistently result in accurate and unbiased outcomes, but it must be used in conjunction with human oversight to achieve the best results.

[11] CONCLUSION:

In conclusion, this study set out to investigate the ethical and practical implications of AI in judicial decision-making. The research offers insightful perspectives on the administration of justice, arguing that human intervention, as opposed to artificial intelligence, is preferable because human judges are able to integrate moral reasoning, empathy, and a sophisticated understanding of complex human behaviour and societal norms into their rulings. Through qualitative and quantitative methods, we have uncovered several key findings. The data reveal that a sizable portion of people prefer human judges to make judicial decisions, suggesting that AI lacks an understanding of human emotions. To mitigate potential challenges and improve legal outcomes, it is recommended to use AI solely as a reference rather than for making judicial decisions. Additionally, ongoing evaluation and adjustment are essential to ensure that people understand the drawbacks of AI, particularly its potential for unjust outcomes. Future research is needed to address how to achieve quicker judgments while maintaining ethical standards. In order to properly comprehend and solve these complicated challenges, more research will be necessary. This study is a critical step forward in understanding the ethical and practical consequences of AI in judicial decision-making.

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