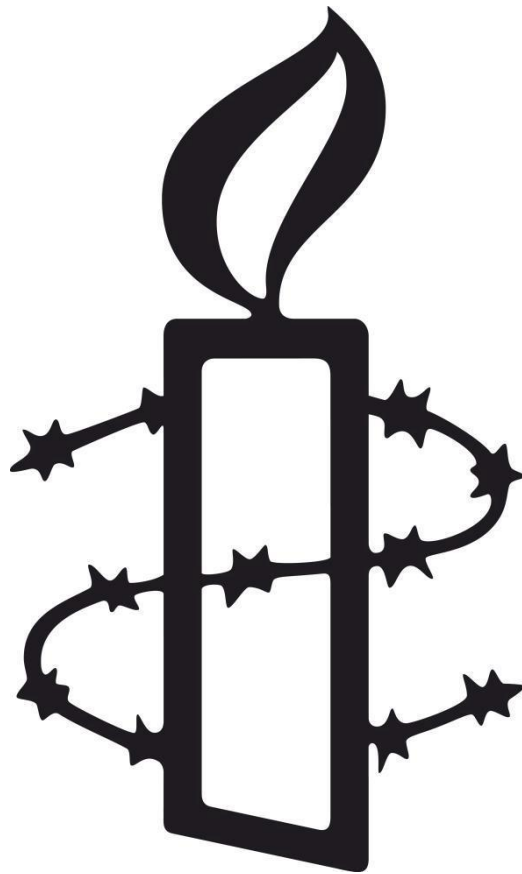


ARTIFICIAL INTELLIGENCE AND JUDICIAL SYSTEMS

SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON THE
INDEPENDENCE OF JUDGES AND LAWYERS



AMNESTY
INTERNATIONAL



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Amnesty International welcomes the upcoming thematic report of the Special Rapporteur on the independence of judges and lawyers on artificial Intelligence and judicial systems

This contribution is in response to the call for input to inform the upcoming report on artificial intelligence and judicial systems, to be presented at the 80th session of the UN General Assembly in October 2025.

1. INTRODUCTION

Amnesty International welcomes the forthcoming thematic report of the United Nations Special Rapporteur on the independence of judges and lawyers.

This contribution is in response to the call for input¹ to the Special Rapporteur's forthcoming report to the 80th session of the UN General Assembly in October 2025 on artificial Intelligence and judicial systems.

This submission has been structured to respond to specific questions of the request for input, particularly to question one under the heading *AI and judicial independence*, and questions one, two, and three under the heading *Regulation and risk reduction*. Some of the concerns related to issues covered under the heading *AI and access to justice* are addressed in answers to the above-mentioned responses. The submitted text draws on existing Amnesty International research and policy, as well as external resources.

2. HOW IS AI BEING USED BY JUDGES (WHETHER BY INDIVIDUALS, SPECIFIC TYPES OF JUDGES, OR JUDGES IN PARTICULAR COURTS OR REGIONS)? HOW IS DATA ABOUT THE USE OF AI BY JUDGES BEING GATHERED AND ANALYSED?²

The judicial system employs various artificial intelligence (AI) tools, particularly in criminal justice. This practice is not new, with many documented examples such as the notable investigation by ProPublica examining systems used in numerous US states to analyse and allocate a 'risk score' to inmates, determining their chance of reoffending.³ However, more recently, States such as Portugal have adopted AI in other areas of the judicial system, with the government announcing in early 2023, that "Artificial intelligence will be used to help citizens access justice, validate the authenticity of documents and anonymously disseminate judicial decisions".⁴ As of 2025, an inquiry has been opened into allegations that judges have improperly used AI tools to draft legal judgements and decisions.⁵ In Estonia, the judiciary is using two AI tools to support the everyday work of the courts, but neither of them makes judicial decisions.⁶ The United Arab Emirates has gone even further and aims to use artificial intelligence to help write new legislation and review and amend existing laws, which have already raised concerns regarding reliability and suitability among experts.⁷

The use of algorithms in sentencing decisions has become increasingly common across jurisdictions. These systems rely on predictive analytics, for which there is a documented history of unlawful and

¹ OHCHR | Call for input of the Special Rapporteur on the independence of judges and lawyers for her next thematic report on artificial Intelligence and judicial systems

² Question 1 under the heading *AI and judicial independence*

³ How We Analyzed the COMPAS Recidivism Algorithm — ProPublica

⁴ Portugal will be the first country to use ChatGPT technology in Justice - PPulse

⁵ Portugal Opens Inquiry into AI Use in Judicial Decisions (Portugal)

⁶ AI Systems' Impact on the Recognition of Foreign Judgements: The Case of Estonia

⁷ UAE set to use AI to write laws in world first – Financia Times

problematic use in law enforcement especially where it compounds discrimination in the criminal justice system or undermines fundamental human rights (more in the following section).⁸

In addition, as Large Language Models (LLMs) are increasingly used⁹ in the context of criminal justice and court systems at large, or by legal professions more broadly, to automate the process of documentation, summarisation, and compilation of legal cases, significant risks arise. These are machine learning models which rely on the availability of a corpus of vast amounts of content to produce, process, and machine-interpret human inputs, often towards the ends of producing other outputs.¹⁰

3. WHAT ARE SOME CONCERNS OR CHALLENGES THAT YOU ENCOUNTER RELATING TO AI USE JUDICIAL SYSTEMS AND BY JUSTICE OPERATORS? WHAT ARE THE KEY BEST PRACTICES FOR ADDRESSING THESE?¹¹

As judicial systems around the world operate come under increasing financial and time pressure, technology that assists with or even automates previously difficult or extremely time-consuming work can be an appealing way to enhance efficiency. Increasingly, as noted above, justice departments and law-enforcement agencies have turned to data-driven technologies which automate or add algorithmic and/or AI-driven components to the many functions which sit within their mandates. Predictive policing tools are of particular concern.

These systems inherently undermine the right to presumption of innocence¹² by shifting criminal justice focus from actual criminal behaviour to vague and discriminatory¹³ notions of risk and suspicion. AI tools may unduly influence judicial decision makers by presenting a pseudo-scientific “prediction” that a person poses a risk of unlawful behaviour. Their outputs are unreliable indicators of actual or potential criminal activity and should never justify law enforcement actions like arrests, much less be admitted in criminal proceedings. Moreover, these systems transfer crucial decisions about people's lives (in criminal justice and child protection) from judicial to administrative control, targeting individuals, groups, and locations by profiling them as criminal suspects, and severely compromising the right to non-discrimination,¹⁴ fair trial,¹⁵ personal liberty,¹⁶ and procedural protections.¹⁷

The ProPublica investigation noted for example discrimination against racialised communities.¹⁸ Law enforcement and criminal justice data inputted to create, train (where using predictive modelling approaches) and operate AI systems is often reflective of historical, systemic, institutional and societal discrimination which result in racialised people, communities and geographic areas being overpoliced and disproportionately surveilled. These discriminatory practices are so fundamental and ingrained in

⁸ Taylor, I. (2023). Justice by Algorithm: The Limits of AI in Criminal Sentencing. *Criminal Justice Ethics*, 42(3), 193–213. <https://doi.org/10.1080/0731129X.2023.2275967>

⁹ “Hey ChatGPT, Please Write My Plea”: AI’s Arrival in Dutch Courts - European Law Blog

¹⁰ They are a form of ‘foundation model’ (also referred to as ‘general purpose artificial intelligence’), which are broad AI models capable of carrying out a vast number of diverse functions beyond conventional ‘narrow’ AI system. For example, an LLM might be used to have a conversation (e.g. as a chatbot) but could also be used in the same instance to carry out immense calculations, interpret and re-organize databases, and/or generate and process artwork and imagery.

¹¹ Question 1 under the heading *Regulation and risk reduction*

¹² [Universal Declaration of Human Rights | United Nations](#) (Article 11); [International Covenant on Civil and Political Rights | OHCHR](#) (Article 14, paragraph 2)

¹³ [International Convention on the Elimination of All Forms of Racial Discrimination | OHCHR](#)

¹⁴ *Ibid.*

¹⁵ [Universal Declaration of Human Rights | United Nations](#) (Article 10); [International Covenant on Civil and Political Rights | OHCHR](#) (Article 14)

¹⁶ [Universal Declaration of Human Rights | United Nations](#) (Article 3); [International Covenant on Civil and Political Rights | OHCHR](#) (Article 9)

¹⁷ [International Covenant on Civil and Political Rights | OHCHR](#) (Article 9, Article 14)

¹⁸ [How We Analyzed the COMPAS Recidivism Algorithm — ProPublica](#)

both policing practice and data that predictive policing systems, which profile individuals based on identities/characteristics, present an unacceptable risk of reinforcing such outcomes and therefore must be banned.¹⁹

Opacity of government procurement of AI tools is another concern. Research from Amnesty International, other civil society organisations, and journalists has demonstrated how across the public sector, agencies commonly rely upon public-private collaborations or purchase off-the-shelf commercial offerings such as Predpol (in the law enforcement context).²⁰ Amnesty International's research into the Danish welfare agency UDK,²¹ alongside other examples from social security agencies around the world, has highlighted the challenges that arise from public-private sector collaborations. First, private sector collaboration can exacerbate opacity given commercial secrecy exemptions that commonly exist under Freedom of Information legislative acts. Further, the distributed responsibilities over the design, development and ownership of the AI systems can create a lack of clearly delineated responsibilities and obligations on conducting rigorous risk mitigation measures, as well as related to liability in case of harm.

The use of LLM tools within the judicial setting causes further concerns. Because generative AI products are created by distilling an “average” view from colossal tranches of data, absorbing whatever biases, stereotypes, and gaps in understanding they present, such systems can have the effect of glossing over minority views, critical contexts, uncritically parroting dominant narratives, and raising concerns around the right to equality and non-discrimination.²²

A 2024 UNESCO study on OpenAI's GPT, and Meta's Llama, demonstrated significant gender bias, homophobia and racial stereotyping; notably, women ‘were described as working in domestic roles far more often than men— four times as often in one model – and were frequently associated with words like “home”, “family” and “children”, while male names were linked to “business”, “executive”, “salary”, and “career”.²³ In the context of the judicial systems, such model-inherent biases can have devastating impacts on justice outcomes.

Further associated risks are related to data protection and privacy, as legal documents and case notes processed by AI tools deployed within the judiciary will contain personal and highly sensitive information on individuals. These concerns are most acute where such tools may be owned by a private sector entity and personal data could be misused for other purposes without the right safeguards in place.

AI is a technology that mimics human capabilities and therefore evidence suggests that human-computer interactions can be influenced by system deference: the (over)reliance of human decision-makers on the outputs of an AI system.²⁴ This is rooted in the phenomenon that Meredith Broussard has referred to as ‘techno-chauvinism’; the widely held idea that technology can solve complex social, political and economic issues better than human beings.²⁵ Due to this trust or belief in machine-driven systems, users of seemingly sophisticated technologies like generative AI may therefore be too readily willing to accept generated outputs as reliable, inhibiting their own critical faculties, or worse, be subject to deliberate manipulation, raising risks for the right to freedom of thought.²⁶

¹⁹ EU policymakers: regulate police technology – European Institutions Office

²⁰ Predictive Policing Software Terrible At Predicting Crimes – The Markup

²¹ Denmark: Coded Injustice: Surveillance and Discrimination in Denmark's automated welfare state - Amnesty International

²² Equality and Non-discrimination - United Nations and the Rule of Law

²³ <https://www.notion.so/1e3e163249298012a5bbdb0532a64ed9?pvs=21>; <https://www.unesco.org/en/articles/generative-ai-unesco-study-reveals-alarming-evidence-regressive-gender-stereotypes>

²⁴ Also known as “automation bias”, see for example, [Automation Bias in Intelligent Time Critical Decision Support Systems](#)

²⁵ [Artificial Unintelligence How Computers Misunderstand the World | Books Gateway | MIT Press](#)

²⁶ [Universal Declaration of Human Rights | United Nations](#) (Article 18); [International Covenant on Civil and Political Rights | OHCHR](#) (Article 18)

4. HOW DOES AI IMPACT INEQUALITY BETWEEN LITIGANTS, LEGAL PROFESSIONALS, OR MEMBER STATES, EITHER POSITIVELY OR NEGATIVELY?²⁷

AI tools in the criminal justice system can harm human rights at every stage of the process. In addition to the noted risks to non-discrimination, the right to be presumed innocent, the right to liberty, and the right to fair trial, the deployment of these systems raises broader concerns regarding public accountability, transparency, and access to redress and remedy by impacted individuals. This effectively puts impacted individuals and communities in an unequal position through the whole cycle of the judicial process, even before the stage of litigation.

AI systems used in law enforcement and criminal justice decision-making—through predictions, profiles, and risk assessments—often resist meaningful scrutiny due to technological barriers (black boxes, neural networks) or commercial restrictions (intellectual property, proprietary technology). This poses challenges for anyone subject to these tools in the judicial context to access remedy in the case of human rights harm. It also may put litigants at disadvantage when defending themselves, as the “reasoning” on which the prediction of risk is based is not made available to them or their legal representatives to interrogate, undermining the principle of equality of arms.²⁸

People affected by these systems' decisions must know when they are being used. Affected individuals need clear, effective ways to challenge these systems through criminal procedure. This ensures those whose liberty or fair trial rights are at stake can seek prompt and effective remedies.

5. WHAT LEGAL OR REGULATORY FRAMEWORKS IN PLACE TO GUIDE THE USE OF AI IN JUDICIAL SYSTEMS AND BY JUSTICE OPERATORS? WHO DESIGNED AND ISSUED THESE FRAMEWORKS AND WHAT WAS THE PROCESS BY WHICH THEY WERE PREPARED? DO THEY RESTRICT THE CATEGORIES OF CASES IN WHICH JUSTICE OPERATORS CAN MAKE USE OF AI?²⁹

Two legislative frameworks towards which Amnesty International has engaged in advocacy are the Council of Europe Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law (The Convention),³⁰ and the EU's Artificial Intelligence Regulation (AI Act).³¹ Both instruments have considerable shortcomings when it comes to regulating AI systems used in the administration of justice and its wider context.

The Convention addresses relevant AI systems under Article 5 – Integrity of democratic processes and respect for the rule of law. Rather than setting clear obligations to protect and promote human rights in this context, it delegates the adoption and maintenance of relevant measures to State Parties. Amnesty International has highlighted the lack of clear and enforceable obligations designated by the

²⁷ Question 2 under the heading *Regulation and risk reduction*

²⁸ [International Covenant on Civil and Political Rights | OHCHR](#) (Article 14); [Fair Trial Manual - Second Edition - Amnesty International](#) (Chapter 13.2); [Equality of arms » ICTR/ICTY/IRMCT Case Law Database](#)

²⁹ Question 3 under the heading *Regulation and risk reduction*

³⁰ [CETS 225 - Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law](#)

³¹ [Regulation - EU - 2024/1689 - EN - EUR-Lex](#)

Convention.³² It has further called for prohibitions on AI systems incompatible with human rights, including predictive policing, biometrics-based surveillance systems; regulating AI systems in the context of national security, defense and R&D; extending the Convention to private actors and all levels of public administration; stronger accountability and transparency, as well as redress and remedy measures, all of which have implications for access to justice and the right to fair trial.

The AI Act considers AI systems intended to be used by or on behalf of judicial authorities to assist with researching and interpreting facts and the law and in applying the law to a concrete set of facts, as well as similar uses in alternative dispute resolution which lead to legal effect for engaged parties as high-risk.³³ It notes that AI tools should support rather than substitute decision-making of judges and that the final decision must remain a “human-driven activity”. The Act does not adequately address the issue of automation bias in this or other high-risk contexts. It only mentions it in passing,³⁴ noting that AI systems should be provided to a deployer in a way that enables the designated oversight person to “remain aware of the possible tendency” towards automation bias.³⁵

The Act prescribes several technical and procedural requirements for providers of AI that are deemed to be high-risk. Deployers are in turn tasked with conducting fundamental rights impact assessment pre-deployment, publicly disclosing information regarding the use of the system, and informing affected individuals regarding AI-made or AI assisted decisions. Rights to lodge a complaint with a market surveillance authority, to explanation of individual decision-making, as well as whistleblower protections under EU law are further safeguards under the AI Act.

The Act clarifies that AI use for “purely ancillary administrative” activities such as anonymisation or pseudonymisation of judicial decisions, documents or data, communication between personnel, administrative tasks are not considered high-risk. The Act therefore does not require measures to mitigate human rights risks that could arise from these types of use.

Similarly to the Convention, the AI Act falls short of broader effective measures to ensure the protection and promotion of human rights,³⁶ which undermine access to justice, right to fair trial, judicial integrity and independence. Firstly, a legal loophole allows companies producing high-risk AI systems to free themselves from relevant obligations imposed by the Act to safeguard from these higher risks.³⁷ Furthermore, the Act systemically excludes law enforcement, migration, asylum and border control authorities,³⁸ as well as private actors developing relevant systems, from public accountability and transparency obligations. Migrants, refugees, and asylum seekers are generally denied the same level of protection that is granted to EU citizens under the Act.³⁹ For example, limited prohibitions on the use of facial recognition in public places, and the use of emotion recognition technologies do not extend to the context of migration and border control. The Act further lacks a meaningful prohibition on individual crime predictions by AI systems, and neglects similar event- and location-based systems. The Act also allows States to evoke national security to circumvent the regulation going against judicial precedent set by the European Court of Justice.⁴⁰

The pitfalls of the Act are largely a result of undue Member State and corporate influence. Amnesty International has for example called out France, Germany, and Italy for trying to water down obligations for foundation models.⁴¹ France has been infamous for its efforts to dilute the AI Act,

³² Council of Europe: Amnesty International's Recommendations on the Draft Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law – European Institutions Office

³³ Annex III, 8 (a), recital 61, [Regulation - EU - 2024/1689 - EN - EUR-Lex](#)

³⁴ Article 14, [Regulation - EU - 2024/1689 - EN - EUR-Lex](#)

³⁵ Saar Alon-Barkat and Madalina Busuioc, “Human–AI Interactions in Public Sector Decision Making: ‘Automation Bias’ and ‘Selective Adherence’ to Algorithmic Advice”, *Journal of Public Administration Research and Theory*, Volume 33, Issue 1, January 2023, <https://doi.org/10.1093/jopart/muac007>, pages 153–169. See also Algorithm Watch, “Poland: Government to scrap controversial unemployment scoring system”, 16 April 2019, <https://algorithmwatch.org/en/poland-government-to-scrap-controversial-unemploymentscoring-system/>; “Algorithm Watch”, Automating Society Report 2020, October 2020, <https://automatingsociety.algorithmwatch.org>

³⁶ EU’s AI Act fails to set gold standard for human rights – European Institutions Office

³⁷ EU legislators must close dangerous loophole in AI Act – European Institutions Office

³⁸ EU policymakers: regulate police technology – European Institutions Office

³⁹ EU: AI Act must protect all people, regardless of migration status – European Institutions Office

⁴⁰ CURIA - Documents

⁴¹ EU: France, Germany and Italy risk unravelling landmark AI Act negotiations – European Institutions Office

including introducing the national security exemption clause,⁴² campaigning to allow AI-based mass surveillance,⁴³ and facing conflict of interest allegations⁴⁴ while promoting its national AI industry. Big Tech lobbying has been another detrimental factor for the outcome of the negotiations for the AI Act.⁴⁵ The entanglement of European and Big Tech companies has also been highlighted as an issue undermining the AI Act.⁴⁶

⁴² [France spearheads member state campaign to dilute European AI regulation | Investigate Europe](#)

⁴³ [France: Allowing mass surveillance at Olympics undermines EU efforts to regulate AI - Amnesty International](#)

⁴⁴ [Trojan horses: how European startups teamed up with Big Tech to gut the AI Act | Corporate Europe Observatory](#)

⁴⁵ [Byte by byte | Corporate Europe Observatory](#)

⁴⁶ [Green MEPs ask EU to look into ethics of Mistral AI's Microsoft partnership | Euronews](#)

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