

Draft Regulations for Use of Artificial Intelligence In Courts, 2026

Background

On 3rd June 2026, the Supreme Court released the “Draft Regulations for Use of Artificial Intelligence in Courts, 2026” (“**Regulations**”).¹ The Regulations, grounded in the principles of human primacy, transparency, accountability, data protection, and judicial independence, aim to establish an institutional framework for responsible AI adoption. The Regulations are currently in draft form and open for public consultation until 20 June 2026. If finalized, the Chief Justice of India will notify the enforcement date for the Supreme Court, and the Chief Justice of each respective High Court will notify the enforcement date for courts under their jurisdiction.¹

This update succinctly outlines the potential impact of these Regulations for Indian businesses. For businesses, the Regulations create two layers of impact. *First*, where businesses permit lawyers who use AI in their workflow, The Regulations require disclosure in a prescribed format where AI-generated content is used before the Court, including

submissions and other materials filed before the Court, such as document, pleading or evidence and bear full responsibility for any inaccurate AI-generated content obligations that are likely to flow contractually to their litigation clients through their engagement terms with their advocates.

Second, businesses offering AI services to courts must obtain prior approval, accepting that courts retain IP ownership over tools produced/developed, which use court data, and ensure data residency within India through on-premises or sovereign cloud deployment, and further, refrain from retraining models on court data without express approval from the court.

What are key concerns for business engaging lawyers / law firms before Courts and those with a duty of care to detect hallucinated content?

Onerous Downstream Obligation for Mandatory Disclosure and Verification for Use of Generative AI (GenAI): The Regulations require a party or its representatives using GenAI-generated

¹ Regulation 1(2), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.



content before the court to make a disclosure regarding its origin.² As a downstream impact, businesses may need to maintain an auditable record of the creation and origin of the material, the AI system used by the advocate, the generation process of materials filed in court, and the source documents relied upon.³ The human verification undertaken before the material was submitted will also carry compliance obligations, particularly in relation to distinguishing materials which are non-AI-generated from those which are AI-generated or AI-assisted.

These records could encompass AI-generated or AI-assisted material prepared for use in litigation, regulatory proceedings, arbitration, or other contentious matters. The requirement to state what is based on personal knowledge, information, or submissions which could themselves be informed by legal advice with reference to both categories of documentation will necessitate careful recordkeeping. Furthermore, the disclosure and verification framework may make it increasingly important / mandatory for affidavits supporting pleadings to be verified by individuals who are in a position to confirm the provenance and accuracy of the underlying material. Taken together, these obligations place a significant burden of verification and disclosure costs on businesses.

Potential Liability for AI Generated Content: The Regulations make it clear that where any document, pleading or evidence submitted is found to be hallucinated owing to its AI generated character; the court may pass orders against the person submitting/or the person responsible for submitting such information.⁴ Crucially, litigants appearing before the court may not rely upon the AI system or the harm being generated as an outcome of the use of AI system as a defense. If an AI tool produces a hallucinated case citation, or fabricated facts, the duty of care to verify and evaluate such information lies with the person submitting/person responsible for submitting it before the court.

Businesses sharing AI-generated or AI-assisted material with external counsel or in-house legal teams or in-house advocates

may be asked to demonstrate that the material has been appropriately reviewed, that its provenance can be identified, and that it is not fabricated, misleading, or unsupported due to hallucination. Conversely, clients may seek protection where counsel independently uses AI tools in preparing other pleadings or submissions to the Court. Allocation of liability for fabricated or hallucinated material is likely to be a difficult negotiation point, particularly where both the business and its legal advisers contribute to the creation, review, and submission of the relevant material.

Cost of Unquantified Liability: The Regulations do not quantify the liability exposure at this stage. They do not specify the nature or monetary extent of the orders that may be passed by the Courts, which creates uncertainty over whether consequences would be limited to procedural directions, costs, rejection of material, or adverse evidentiary inferences, or whether more serious consequences may follow in appropriate cases.

Moreover, it remains unclear how one would quantify the damage arising from a judicial order made in reliance upon hallucinated or fabricated AI-generated documents - where the resulting prejudice to a party may be irremediable or exceedingly difficult to assess in monetary terms. This uncertainty may result in differentiated risk pricing: businesses that frequently generate or provide AI-assisted material, operate in evidence-heavy sectors, or lack clear verification controls may be treated as higher-risk clients by lawyers, further impacting terms of engagement and invoicing.

What are the key concerns for businesses providing AI services to courts⁵?

Stringent Mandatory Contractual Safeguards: The Regulations prescribe a list of mandatory provisions that must feature in any agreement with private entities/businesses when courts avail AI-related services. These include:

- a. **Intellectual Property Rights:** The agreement must clearly define ownership and access rights to court data and AI outputs. Important, if an AI tool is developed using court data or resources, the appropriate authority must ensure

2 Regulation 3(1)(y), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.

3 These obligations will additionally stack over any other obligations to provide affidavits that courts may impose under Order XIX of the Code of Civil Procedure, 1908 to prove the veracity of facts. Businesses must note this as an additional compliance criterion.

4 Regulation 43(6), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.

5 Courts are envisaged to be legal persons in a contracting capacity for AI-related services.



ownership of the tool or a perpetual royalty-free license to the tool and its outputs.⁶ Given the mandatory nature of these provisions, vendors will have limited capacity to negotiate IP clauses – stifling innovation in long-run.

- b. Restriction on Use of Court Data:** Sensitive judicial data, i.e. personal data and court process information whose disclosure may lead to harm, shall be used only for the purposes outlined as part of the agreement.⁷ Businesses must note that the use of such data may also be subject to compliance under the Digital Personal Data Protection Act 2023 and rules published thereunder (**DPDP Framework**). Further, prior approval of the AI Committee will be required for any fine-tuning, retraining, or modification of AI models using court data.
- c. Source and Model Transparency:** Agreements must include provisions governing technical documentation of model architecture and training data, along with explainability documentation for high-risk AI tools.⁸ There is no definition or parameter provided to classify high-risk AI tools, potentially introducing uncertainty for AI service providers. This is likely to pose compliance related challenges.
- d. Deployment Requirements:** For AI systems processing sensitive judicial data, the provision shall require on-premises or sovereign cloud deployment requirements.⁹ Vendors relying on offshore cloud infrastructure may have to look for India based infrastructure to ensure compliance for the requirements of domestic storage. Global AI companies may therefore need to establish or partner with cloud infrastructure providers in India.
- e. Audit Rights:** The AI Secretariat¹⁰ will have the right to audit and inspect the AI system and underlying data.¹¹ Additionally, provisions on disclosure and incident reporting will be required to be built into agreements. The

Regulations require any data breach, security incident, or AI incident to be reported to the Appropriate Authority without delay.¹² This means that in addition to reporting breaches under other laws in India, AI service providers/vendors will also have the onus to report breaches ‘without delay’.

- f. Allocation of Liability:** The Regulations stipulate that clear consequences for breach and liability for harm must be defined, with the contract demarcating liability between the vendor and the court for AI-related incidents, data breaches, or similar harm.

Moreover, the vendor must also indemnify the court from harm caused by the defects in the AI system.¹³ Vendors seem to be bearing primary liability for defects and incidents as part of the Regulations. This appears to contrast with the DPDP Framework, where court shall likely function as the data fiduciary. Accordingly, businesses must be mindful of their role under the DPDP Framework when the court is a procuring party.

Prohibited Use Cases: The Regulations provide a list of prohibited AI use cases across all court processes, including risk scoring, use of undisclosed, opaque, or unexplainable AI systems, prediction, profiling, surveillance, or AI systems compromising the confidentiality of judicial deliberations. Vendors, while designing their offerings for the courts, must be mindful of these prohibitions. However, “undisclosed” and “opaque” systems have not been clearly defined.

Implications for Cloud and Dataset Providers: Although the Regulations primarily apply to AI service providers, they may also affect cloud providers, dataset providers, and other entities in the AI value chain. Dataset providers may be

6 Regulation 46(4)(a) & 46(9), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.

7 Regulation 46(4)(b), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.

8 Regulation 46(4)(g) & (h), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.

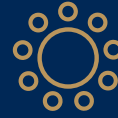
9 Regulation 46(4)(j), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.

10 Established under the Regulation 34 of the Regulations.

11 Regulation 46(4)(e), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.

12 Regulation 46(6), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.

13 Regulation 46(4)(i) & (l), Regulations for Use of Artificial Intelligence in Courts, 2026, <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2026/06/2026060342.pdf>.



required to contractually confirm that their data is accurate, lawfully obtained, representative, and free from discriminatory bias. Cloud providers supporting AI vendors for court-related use may also face indirect requirements relating to India-based or sovereign cloud infrastructure, cybersecurity audits, in-house audits, and restrictions on the transfer of sensitive judicial data.

Next Steps and Way Forward

As these are still Regulations and remain at a deliberative stage, their final form may yet change. However, if adopted in their current or a similarly restrictive form, they pose substantive compliance burdens and liability uncertainty for

legal businesses, AI vendors, and other participants in the legal services ecosystem.

Businesses should therefore not treat this only as a future compliance issue, but as a live policy development requiring timely engagement. Stakeholders who may be affected should consider making representations at the consultation stage to seek greater clarity on liability, verification standards, allocation of responsibility across the AI value chain, and workable safeguards.

A copy of the Draft Regulations may be found [here](#).

Please feel free to address any further questions or request for advice to:

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