

JUDICIAL INTEGRITY NETWORK ASEAN

# EMERGING TECHNOLOGIES AND JUDICIAL INTEGRITY TOOLKIT FOR JUDGES

**JIN**  
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ASEAN



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# Emerging Technologies and Judicial Integrity Toolkit for Judges

The Judicial Integrity Network ASEAN (JIN ASEAN) published a report on the impact of emerging technologies on judicial excellence based on a survey of judges about their experiences with new technology. The Report made nine recommendations about areas where judges can bring their leadership and expertise on rights protection, rule of law and equality to the introduction of new technologies into court processes and operations.

These nine recommendations include strategies to build the capacities of individual judges to understand the impact of new technologies on rights in the courtroom and strategies to shift in the role of the judiciary in the planning and implementation of new technologies.

## RECOMMENDATIONS

Ask questions about the data being used to train the algorithms	Identify gender, racial and identity-based bias in machine learning processes	Receive detailed briefings about the training of AI systems
Prepare litigants & witnesses for the virtual court process, decorum & technology use	Raise rule of law and trial fairness criteria when new technology is proposed	Scrutinize evidence and witness testimony presented through new technologies
Promote understanding of the court processes with litigants and witnesses	Support judicial colleagues to build the skills & understanding of the new technologies	Maintain rigorous attention to avenues for corruption

This set of tools is designed to respond to these nine recommendations. Each tool can be used by a judge for self-study or management of their courtroom, whether in-person or virtual or can be used by judiciaries or judges sitting on planning committees to bring judicial excellence priorities into the design, procurement, implementation and evaluation of emerging court technologies.

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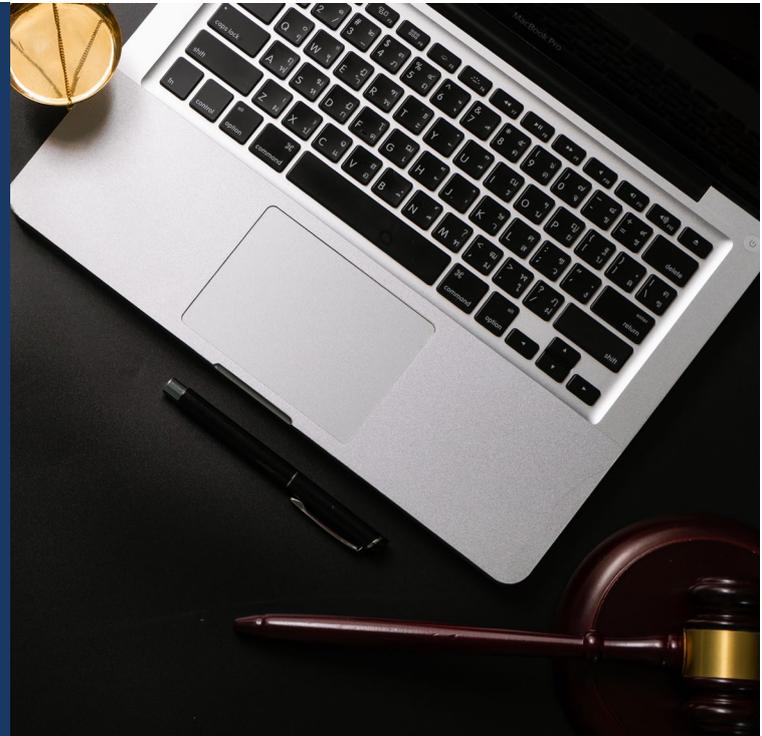
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# How is Technology Being Used in Court?



## PURPOSES OF THIS TOOL

- To build judicial understanding of how emerging technologies are affecting court processes
- To create a common understanding of new court technologies

The [International Consortium on Court Excellence](#) has published its third edition of its Framework for Court Excellence. It drafted an Annex making specific recommendations on the use of Technology that also addresses these issues.

You can read the Annex at [page 39 of the Framework, found here](#).

Stage in a Legal Process	Technologies in use	Public User Needs	Judicial Needs
Avoid legal issues	Automated contract reviewers Blockchain	Easy access Affordable	
Learning about legal issues	Legal education Apps WhatsApp and other communication platforms	Multi-lingual Free	
Reporting legal issues	Apps to record experiences Police reporting tools Portals	Private Secure Trauma-informed Admissible in court	Secure Admissible in court Compatible with evidentiary standards

Stage in a Legal Process	Technologies in use	Public User Needs	Judicial Needs
Starting a legal case	E-filing Forms wizards Guided pathways	Easy to use Secure	Secure Different levels of access
Progression of the case	Online Dispute Resolutions Case management platforms AI predictions of case progress	Quick Secure Transparent	Secure Transparent Allow for judicial discretion
Disclosure, discovery, evidence submission	Police reporting apps Case management platforms e-filing	Secure Admissible in court Simple	Secure Admissible in court Different levels of access
Hearings	Video platforms Language interpretation Accessibility tools	Secure Free	Secure Free
Decision writing	AI recommendations on decisions Auto-generated decisions	Transparent algorithms	Allow for judicial discretion Transparent algorithms
Delivery of decisions	Video platforms Automated media distribution WhatsApp and other direct to public platforms	Secure Free	Secure Free
Enforcement	Blockchain and e-garnishment tools	Secure Effective	Secure Different levels of access
Appeals	Case Management platforms	Quick Secure Transparent	Secure Transparent Allow for judicial discretion

# Understanding Emerging Court Technologies



## PURPOSES OF THIS TOOL:

- To build judicial understanding of specific emerging technologies and their use in court processes and operations
- To create a common understanding of new court technologies

## DEFINITIONS OF COMMON TERMS

**Digitization:** converting existing processes and content from analog into digital formats. This includes developing online forms, portals to submit documents or access decisions that reflect the same court processes but are now available online.

**Digitalization** – use of digital technologies to change justice processes and business models. This captures the way that technologies allow for new ways of delivering or administering justice.

**Digital Transformation** – the cultural change in systems and institutions through digital technology. This includes user-centred design, technologies that allow employers and users to work differently. Digital transformation can facilitate shifts in legal and judicial culture towards more accountability, transparency and accessibility.

**Leave No One Behind** - general principle of inclusion and access that runs through all UNDP strategic priorities. Development framework is premised on using the UNDP as a conduit to donors, expertise and credibility to insist on development that meets everyone's needs. LNOB is often raised as an objection to fast technology rollouts, technology aimed at efficiency and cost savings and gaps in infrastructure or capacity building.

**Access to Justice (A2J)** - widely used term to capture all accessibility concepts – access to legal services, access to fair legislation, geographic and linguistic access, accessibility adaptations to meet user needs.

## COMMON CATEGORIES OF TECHNOLOGIES AND HOW THEY ARE USED IN COURTS

This list identifies some of the automated or online court processes that are in common use in courts around the world.

Each technology category is expanded on in more detail in its own info brief as part of this Toolkit for Judges.

### Case Management

- Digital case files
- Multi-user access to single set of forms, evidence, documents
- Case progression templates / deadlines
- Case storage and retrieval
- Differentiated levels of access (court staff, judges, lawyers, public)
- Transparency of case progress
- Accuracy of personal data and evidence
- Generates case data

### Virtual / Remote Courts

- Video hearings
- Online dispute resolution by human decision-makers
- Video access to in-person courts (for incarcerated litigants, vulnerable witnesses, experts, etc.)

### Public Access

- E-filing
- Online forms

### AI / Machine learning

- AI integrated into court operations
- Online dispute resolution by automated decision-makers

- Pre-drafted judgement templates
- Bail, sentencing and calculation predictors for judges / lawyers
- Judgement (result) predictors for public users

### Justice data / statistics

- Court data (time to trial, resolution rates)
- User data (inquiries, types of cases, case complexity, demographics)
- Justice needs (access to justice, unmet needs, civil society data, human rights defenders)

### Legal Information

- Access to legal information and education
- Online referrals, chat-bots
- Online, public-access decisions

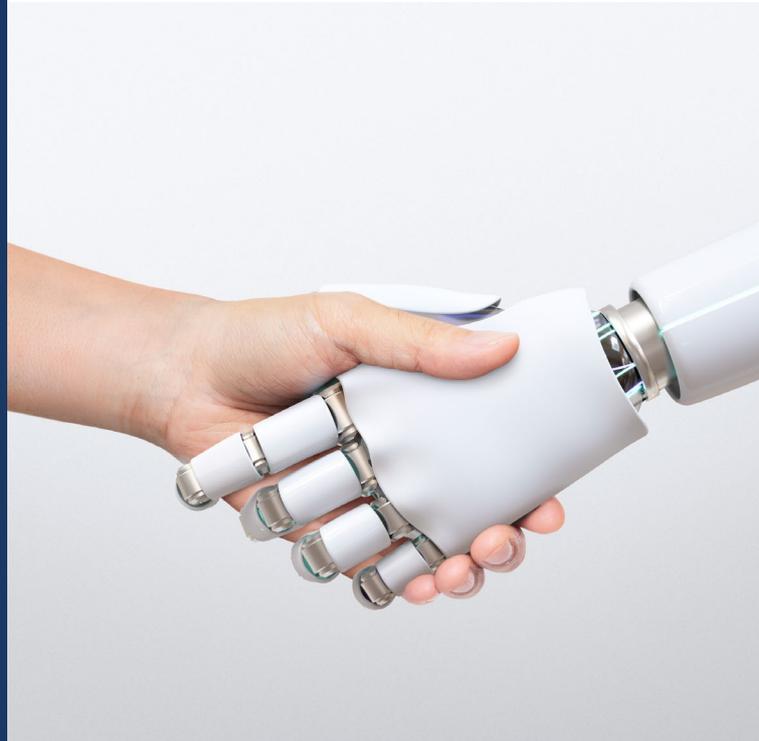
### Communicating justice

- Direct publishing of plain language decisions through email, WhatsApp, websites, etc.
- Broadcast tools for decisions or process changes (ex. WhatsApp)

### Vulnerable users

- Apps to track rights issues (GBV, LGBTI+, ethnic minorities)
- Accessibility tools for people with disabilities
- Linguistic interpretation / translation tools
- Monitoring access to justice processes by human rights defenders
- Corrections / penal case monitoring (sentence length, appeals, services, reporting abuses)

# Understanding Artificial Intelligence/ Machine Learning



## PURPOSES OF THIS TOOL:

- To build judicial understanding of specific emerging technologies and their use in court processes and operations
- To create a common understanding of new court technologies

## DEFINITIONS:

**Algorithm:** mathematical logic / formula that uses data to perform tasks or draft decisions

**Automated decision-making:** decisions made using a predictive algorithm

**Artificial Intelligence or AI:** umbrella term for a wide range of methods and tools, including machine learning, facial recognition and natural language processing that use data, algorithms, and automated process to perform tasks

**Machine learning:** computer systems that learn and adapt without following explicit instructions by using algorithms, data patterns and statistical models

Artificial Intelligence systems are trained using existing data, often from past decisions. AI systems are only as reliable as the data they are based on. If the system is trained on biased or partial data, it will produce biased results.

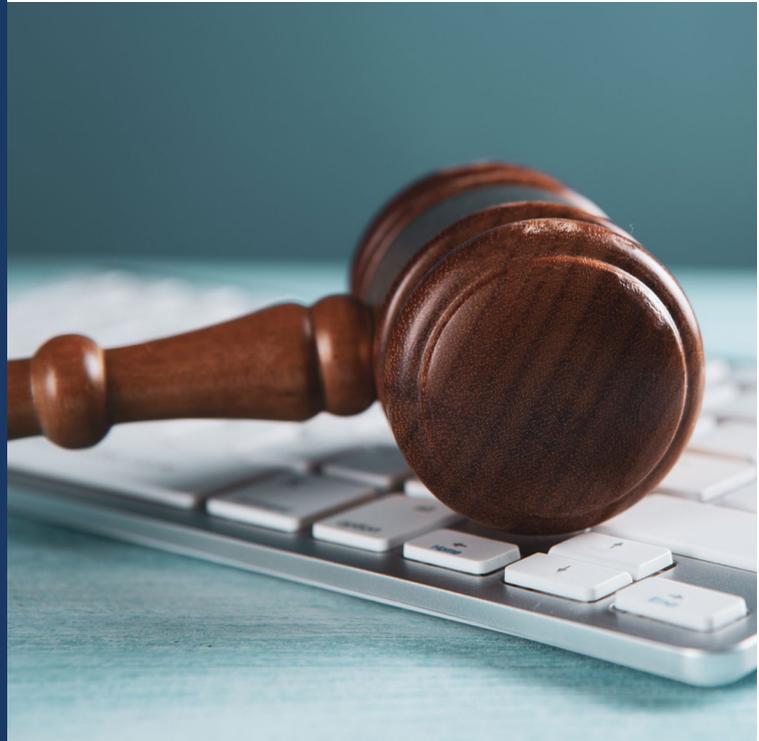
AI is a promising tool to support judges but must be developed transparently with continual judicial scrutiny of the sufficiency of the process and the accuracy and equity of the results.

## EXAMPLES OF USE IN COURTS:

- Determining eligibility for government benefits
- Assessing the risk of harm to a child
- Assessing the risk of future domestic abuse
- Predicting whether students are at high risk for school-related violence
- Predicting where crime will occur or who will be involved
- Predicting case speed and outcomes
- Recommending immigration eligibility
- Assessing the suitability of releasing a criminal accused on bail
- Recommending sentences or parole eligibility including recidivism risks
- Online dispute resolution for private matters
- Assessing court efficiency
- Generating decision texts for judges
- Mass decisions, clustering similar decisions
- Triaging high risk cases
- Assessing the performance of lawyers, prosecutors and judges

	Positive Implications	Negative Implications
Judicial Excellence	<p>Insulates judges from allegations of bias</p> <p>Gives judges a quick analysis or range of cases and factors</p> <p>Speeds up research and drafting</p>	<p>Replicates and obscures gender, racial and other biases</p> <p>Reduces judicial discretion and human element in decision making</p> <p>Ease of use for judges</p>
Privacy and Security	<p>Automatic security protocols and scrubbing of data</p> <p>Protects files from fire, flood risks</p>	<p>Security of data storage is evolving and susceptible to hacking</p>
Data Ownership	<p>Aggregated data can be used to identify trends, service gaps and innovations</p> <p>Private sector innovation continues to improve these technologies</p>	<p>Private sector partners have access to personal data</p> <p>Aggregated data can be used to target individuals or groups</p> <p>Limited regulation of data ownership</p> <p>Risk of data being sold</p>
Rule of Law	<p>Prevents powerful people from influencing staff in the legal system</p>	<p>More difficult to identify and call out bias in the legal system</p> <p>Difficult for public to understand/ trust</p>
Access to Justice	<p>Can identify patterns of bias against vulnerable groups in decision making and services</p> <p>Makes court timelines faster and more predictable</p>	<p>Not uniformly available to parties to analyze data or support their case</p> <p>Infrastructure (electricity, internet, hardware) is not universal</p>

# Understanding Online Dispute Resolution



## PURPOSES OF THIS TOOL:

- To build judicial understanding of specific emerging technologies and their use in court processes and operations
- To create a common understanding of new court technologies

## DEFINITIONS:

**Online dispute resolution:** a way to resolve legal disputes in a digital space, sharing documents, arguments and getting a decision online.

Online dispute resolution may include:

- algorithmic decision-making,
- human decision-makers working with parties through an online structure,
- chat-based mediation, or
- guided Pathways for litigants.

## EXAMPLES OF USE IN COURTS:

- Private sector arbitration systems
- Consumer disputes with retail stores
- Transactional disputes for online purchases (eBay, PayPal)
- Disputing traffic ticket
- Small claims court
- Neighbour disputes
- Negotiating debt payments
- Landlord-tenant disputes
- Child custody and support agreements
- Trading platform

	Positive Implications	Negative Implications
Judicial Excellence	In hybrid models, gives judges a quick analysis or range of cases and factors	Replicates and obscures gender, racial and other biases Reduces human element in decision making Ease of use for judges
Privacy and Security	Automatic security protocols and scrubbing of data	Security of data storage is evolving and susceptible to hacking
Data Ownership	Aggregated data can be used to identify trends, service gaps and innovations Private sector innovation continues to improve these technologies	Private sector partners have access to personal data Aggregated data can be used to target individuals or groups Limited regulation of data ownership Risk of data being sold
Rule of Law	Prevents powerful people from influencing staff in the legal system Predictable timelines and results	More difficult to identify and call out bias in the legal system Difficult for public to understand/ trust
Access to Justice	Cheaper, faster process Can identify patterns of bias against vulnerable groups in decision making and services	Fee for services leaves some people out Infrastructure (electricity, internet, hardware) is not universal Requires personal device to use Lack of gender analysis about the impact on women May not be available to all based on linguistic literacy, digital literacy, and economic barriers

# Understanding Blockchain



## PURPOSES OF THIS TOOL:

- To build judicial understanding of specific emerging technologies and their use in court processes and operations
- To create a common understanding of new court technologies

## DEFINITIONS:

**Blockchain:** a specific type of database that structures data in groups (blocks). Each validated block is chained to another block forming a chain of data – the ‘blockchain’. The block chain is time stamped and cannot be modified. Blockchain allows digital information to be recorded and distributed but not edited.

Blockchains can be used to automate processes like payments or title transfers.

## EXAMPLES OF USE IN COURTS:

- Reducing fraudulent voting in democratic elections
- Foundation for cryptocurrencies
- Reducing the time money is in transit in banking and investing transactions
- Recording and executing corporate contracts
- Recording and executing wills
- Tracking and verifying supply chains
- Securely storing medical records
- Storage and access to property ownership records
- Accurate record of criminal records
- Self-executing remedies when contracts are breached

	Positive Implications	Negative Implications
Judicial Excellence	<p>Facilitates enforcement of court decisions</p> <p>Reliable evidence of contracts and wills</p>	<p>Reduces judicial discretion to address inequities</p> <p>Legal geographic jurisdiction is unclear</p>
Privacy and Security	<p>Limited personal data is required</p> <p>Protects against hacking or data manipulation</p> <p>Protects records from fire, flood risks</p>	
Data Ownership	<p>No private or centralized ownership</p> <p>Immune to private or authoritarian control</p>	<p>No single entity responsible</p> <p>Limited regulation</p>
Rule of Law	<p>Records are protected from manipulation</p> <p>Contracts, wills and judgements can be automatically enforced, without relying on agencies</p>	<p>Limited scrutiny or accountability of automated transactions can be used to hide identities of actors</p> <p>Used to launder criminal profits</p> <p>Difficult for public to understand/trust</p>
Access to Justice	<p>Access to personal records for refugees and displaced persons</p> <p>Enforcement of contracts, wills and title transactions without additional costs</p> <p>Independence of personal records and property for women, vulnerable groups</p>	<p>Blockchain system costs (energy) may be passed on to users, limiting access</p> <p>Infrastructure (electricity, internet, hardware) is not universal</p> <p>May not be available to all based on linguistic literacy, digital literacy, and economic barriers</p>

# Understanding Virtual or Remote Courts



## PURPOSES OF THIS TOOL:

- To build judicial understanding of specific emerging technologies and their use in court processes and operations
- To create a common understanding of new court technologies

## DEFINITIONS:

**Virtual court proceedings:** also referred to as remote courts or remote hearings include video hearings and video-access to in-person courts, such as for incarcerated litigants, vulnerable witnesses and experts. Virtual appearances can be by video or by telephone.

The COVID-19 pandemic accelerated the use of virtual courts. Entirely virtual courts, in which no one, including the judge is present in the courthouse, became necessary to continue court operations.

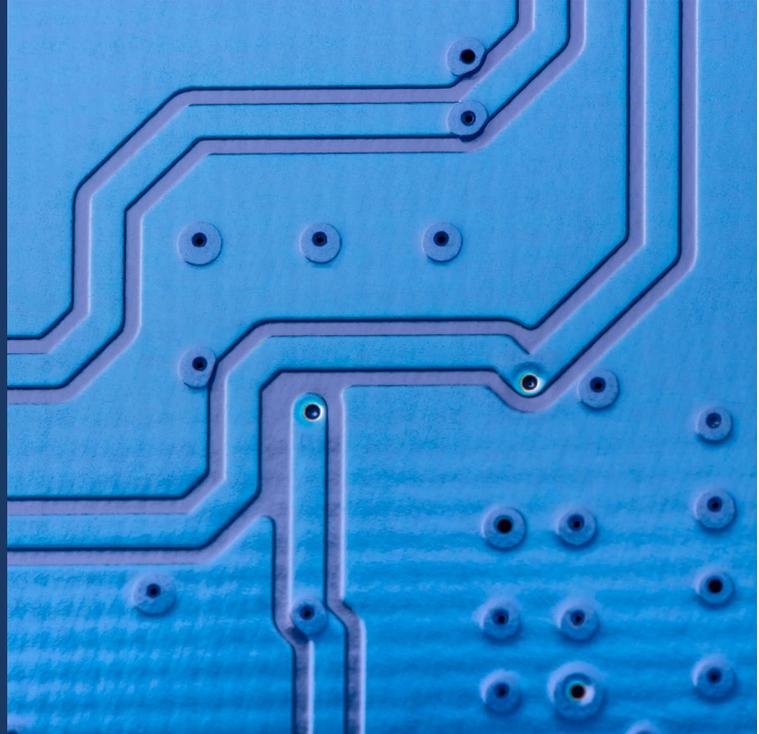
The rapid adoption of virtual hearing technology has raised significant questions about virtual hearings as a replacement for in-person matters, including the implications of this process on vulnerable participants.

## EXAMPLES OF USE IN COURTS:

- Remote or virtual appearances of expert or incarcerated witnesses into courtrooms
- Public and media viewing of courtroom proceedings
- Telephone or video appearances for procedural matters like scheduling
- Hearings involving parties and judicial officers in different locations or jurisdictions
- Completely virtual courtrooms with all parties and staff participating from different locations
- Crisis-based temporary capacity to hold court virtually (pandemic, earthquake, etc.)
- Virtual appearances from remote / rural areas
- Virtual hearings for multi-country disputes

	Positive Implications	Negative Implications
Judicial Excellence	Increases scope of evidence heard in a case	<p>Inconsistent quality of video</p> <p>Inconsistent or limited ability to assess witness credibility or inspect evidence</p> <p>Difficult to assess the veracity, vulnerability or safety of a participant</p>
Privacy and Security	Witnesses can testify from a safe location	<p>Security of video platforms to prevent unauthorized viewing, recording or storage</p> <p>Minimal scrutiny of privacy protections when adopted in a crisis</p>
Data Ownership		<p>Private sector partners have access to personal data, recordings</p> <p>Limited regulation of platforms</p>
Rule of Law	<p>Keeps courts operating in periods of crisis or instability</p> <p>Facilitates participation of parties and witnesses who cannot get to court</p> <p>Ensures evidence can be presented, regardless of geography or resources</p>	
Access to Justice	<p>Allows for court appearances regardless of location or ability</p> <p>More accessible to some young people, people with disabilities, isolated people</p> <p>Integrated translation features</p> <p>Integrated accessibility features (closed captioning etc.)</p>	<p>Not uniformly available to parties</p> <p>Infrastructure (electricity, internet, hardware) is not universal</p>

# Understanding Electronic Case Management



## PURPOSES OF THIS TOOL:

- To build judicial understanding of specific emerging technologies and their use in court processes and operations
- To create a common understanding of new court technologies

## DEFINITIONS:

**Electronic Case Management:** a system to standardize and automate the court processes. Electronic case management systems automate predictable steps in the process, receive, validate, and disseminate documents, store evidence, schedule hearings and monitor deadlines.

Electronic case management reduces the opportunities for human error or delays by coordinating administration, logistics, processes and document management.

Electronic Case Management systems can have differentiated access to allow lawyers, parties or the media to monitor or access some parts of the case file.

## EXAMPLES OF USE IN COURTS:

- Case management systems
- Electronic storage of documents and evidence
- Asynchronous communication between litigants and with the court
- Electronic scheduling
- Collection of case management data including timing, results, enforcement

	Positive Implications	Negative Implications
Judicial Excellence	<ul style="list-style-type: none"> <li>Insulates judges from allegations of bias based on delay</li> <li>Protects against manipulation of court files</li> <li>Provides safeguards against corruption</li> </ul>	
Privacy and Security	<ul style="list-style-type: none"> <li>Automatic security protocols and scrubbing of data</li> <li>Protects files from fire, flood risks</li> <li>Limits number of people who have access to court files</li> </ul>	Security of data storage is evolving and susceptible to hacking
Data Ownership	<ul style="list-style-type: none"> <li>Aggregated data can be used to identify trends, service gaps and innovations</li> <li>Data about case progress can be used to improve accessibility</li> </ul>	<ul style="list-style-type: none"> <li>Private sector partners have access to personal data</li> <li>Aggregated data can be used to target groups</li> <li>Limited regulation of data ownership</li> </ul>
Rule of Law	<ul style="list-style-type: none"> <li>Decreases incidents of human error</li> <li>Prevent powerful people from influencing staff in the legal system</li> <li>Provides public access to starting court processes</li> </ul>	
Access to Justice	<ul style="list-style-type: none"> <li>Can identify patterns of bias against vulnerable groups in decision making and services</li> <li>Provides access to court forms from rural and remote areas</li> <li>Provides access to court filing outside of business hours</li> <li>Makes court timelines faster and more predictable</li> </ul>	<ul style="list-style-type: none"> <li>May not be available to all based on linguistic literacy, digital literacy, and economic barriers</li> <li>Infrastructure (electricity, internet, hardware) is not universal</li> </ul>

# Understanding E-Filing and Online Forms



## PURPOSES OF THIS TOOL:

- To build judicial understanding of specific emerging technologies and their use in court processes and operations
- To create a common understanding of new court technologies

## DEFINITIONS:

E-filing and online court forms allow people to start court cases, apply for interim motions, submit documentary evidence digitally, from their own homes or from a lawyer's office. E-filing systems have secure alternatives to signatures.

E-filing systems involve a portal that allows people to input their data into the portal. Online forms can include fillable fields or forms assistants or wizards to help people complete the data before submitting it either through a portal or by email.

## EXAMPLES OF USE IN COURTS:

- Court applications starting a court case
- Interim motions or applications for interim relief
- Forms to request changes to child custody and support
- Forms for submitting financial records
- Divorce applications
- Portals to receive complaints about landlords or employers
- Use of encrypted networks to allow for file uploads

	Positive Implications	Negative Implications
Judicial Excellence	<p>Insulates judges from allegations of bias because of the security of the filing process</p> <p>Reduce human error and delays from paper forms</p>	
Privacy and Security	<p>Automatic security protocols and scrubbing of data</p> <p>Protects files from fire, flood risks</p> <p>Differentiated access for parties, lawyers, police, judges and court staff</p>	<p>Security of data storage is evolving and susceptible to hacking</p>
Data Ownership	<p>Aggregated data can be used to identify trends, service gaps and innovations</p>	<p>Private sector partners have access to personal data</p> <p>Aggregated data can be used to target individuals or groups</p> <p>Limited regulation of data ownership</p>
Rule of Law	<p>Decreases incidents of human error</p> <p>Prevent powerful people from influencing staff in the legal system</p> <p>Provides public access to starting court processes</p>	
Access to Justice	<p>Provides access to court forms from rural and remote areas</p> <p>Provides access to court forms outside of business hours</p> <p>Makes court timelines faster and more predictable</p>	<p>May not be available to all based on linguistic literacy and economic barriers</p> <p>Infrastructure (electricity, internet, hardware) is not universal</p>

# Understanding Guided Pathways and Public Education Apps



## PURPOSES OF THIS TOOL:

- To build judicial understanding of specific emerging technologies and their use in court processes and operations
- To create a common understanding of new court technologies

## DEFINITIONS:

**Guided pathways:** online public legal information that is structured around people's typical questions. A computer interface poses questions to the user and suggests forms, processes and avenues of legal help based on their answers.

**Public legal education apps:** legal information available on mobile or personal computer apps are tailored to specific audiences or types of cases. These apps typically blend general information, suggestions about next steps and referrals to supports and legal help.

These approaches to public legal education use technology to reorganize typical court information to make it user-centric and easy to understand.

## EXAMPLES OF USE IN COURTS:

- Domestic violence and sexual harassment reporting tools
- Direct-to-reader broadcast of decisions
- Self-help apps for parties representing themselves
- Evidence recording and submission apps
- Guided pathways with forms assistants
- Native language legal information tools
- Help and coaching for self-represented litigants
- Avatars and chat-bots that respond to user's questions

	Positive Implications	Negative Implications
Judicial Excellence	Improves parties' understanding of the legal process	
Privacy and Security	Basic legal information is available anonymously, allowing people to learn about their rights without drawing the attention of an abuser	
Data Ownership	Aggregated data can be used to identify trends, service gaps and innovations	Aggregated data can be used to target individuals or groups
Rule of Law	Increase public understanding and confidence in the legal system Make legal rights and process more transparent	Requires careful scrutiny to ensure that apps are reliable and kept up-to-date
Access to Justice	Increase people's access to legal information regardless of economic status, personal circumstances or access to a lawyer	Not uniformly available to parties to analyze data or support their case Infrastructure (electricity, internet, hardware) is not universal

# Judicial Role in Design and Procurement Criteria



## PURPOSES OF THIS TOOL:

- To build understanding of the appropriate role for judges in the procurement process
- To create a common understanding of how well-designed procurement can protect judicial excellence

Procurement is often thought of as completely separate from the role of the judge. However, when deciding how to integrate new technologies into court processes, judges bring a unique expertise. Judges should be involved in setting the procurement criteria and raising questions about the impact of technologies on the rights of the people appearing in their court.

## PROCUREMENT MODELS

**Tender or Proposal:** Issuing a call or a tender for work, soliciting bids and selecting a winner to provide the goods or service

**Long-term Agreements:** Standing offers and supply arrangements such as a vendor of record list

**Non-competitive processes:** small or urgent short-term contracts issued when there is insufficient time for a full procurement review

**Private sector partnerships:** often with large technology companies, public-private partnerships are signed to develop large-scale, long-term government infrastructure projects



**International private sector partnerships:** international agencies and donor organizations partner with courts, national entities and private companies on technology projects in donor-supported countries.

## JUDICIAL PARTICIPATION

Public confidence in the legal system is undermined when judges are, or appear to be, part of the selection process. Consequently, judges should not be involved in the decision about which company to award a contract to. Participation in the financial decisions related to court administration can lead to issues of bias, or perception of bias, and make individual judges susceptible to corruption allegations.

However, judicial perspectives are critical to designing technologies that protect individual rights and the rule of law. Without judicial input, these technologies projects may focus only on efficiency or cost savings at the expense of judicial excellence, equality, and rule of law.

Judges can participate in the design of a project and can insist on criteria in the procurement process that reflect judicial requirements of new technologies. By ensuring that these criteria are listed as project requirements and that the protection of the rule of law is one of the basis on which companies will be assessed, judges can promote judicial excellence without being inappropriately involved in procurement.

# Judicial Excellence: Procurement Checklist



## PURPOSES OF THIS TOOL:

- To build understanding of the appropriate role for judges in the procurement process
- To create a common understanding of how well-designed procurement can protect judicial excellence

This checklist can be used by judges who are participating in the design of court technology projects to raise key questions of judicial excellence.

Not every question will apply in every context. Asking these questions can help to keep court staff, technology companies and procurement staff focused on judicial excellence as well as court efficiency or cost savings.

## PRIVACY AND DATA SECURITY

- Does the tender require safeguards against hacking and unauthorized access?
- Does the tender require differentiated levels of access?
- Does the tender require data segregation from other public or private data repositories?
- Does the tender require protections against and consequences for the sale of data, in any form, including disaggregated data?
- Does the tender require that all court data is owned by the court?
- Does the tender require that all court forms and interfaces remain the property of the court?

- Does the tender require that there is a backup storage system, with equivalent security, in the event of technology, power or operational disruption?
- Does the tender require a client HTTPS protocol to ensure encrypted uploads?
- Does the tender require emergency planning for physical and data security?
- Does the tender process facilitate contracts that meet confidentiality, integrity and availability standards?

## ACCESS TO JUSTICE

- Does the tender require that the platform is available to the public at no cost?
- Does the tender require that the technology is accessible from a range of devices?
- Does the tender require technologies and platforms that integrate with existing and commonly used technologies?
- Does the tender require that the technology and services can be offered in different languages?
- Does the tender require that the technology will interface with adaptive technologies for people with disabilities?
- Does the tender require gender inclusive language in the design and interface?
- Does the tender require a design team that includes women, ethnic and cultural minorities and people with disabilities?

- Does the tender require inclusive implementation and user testing of the technology including women, ethnic and cultural minorities and people with disabilities?

## RULE OF LAW

- Does the tender require the technology provider to be transparent about ownership and data protections to support public confidence in the justice system?
- Will the technology or software be updated and maintained regularly to ensure continuity of court operations?
- Is long-term sustainability build into the technology initiative?

## JUDICIAL INTEGRITY FACTORS

- Does the tender require that any AI or machine learning processes must be disclosed and explained to both system users and the public?
- Does the tender require that the technology provider must disclose the data set that any AI or machine learning components are based on to, among others, a judicial review group?
- Does the tender make clear that private sector partners cannot ask for or expect differential treatment by judges?
- Does the tender or ensuing contract require that the technology partner must have all descriptions of the project pre-approved to prevent any perception of judicial bias?

# Evaluating New Technologies



## PURPOSES OF THIS TOOL:

- To build understanding of the appropriate role for judges in the procurement process
- To ensure that judicial excellence is a key priority in court technology design and implementation

These project evaluation criteria can be used as part of assessing new technologies. Judges or court staff might raise these questions in the planning process or when asked to rate different proposals for new technology.

Judges might share this set of evaluation criteria with the department developing new technology. If a proposal does not address these criteria, the technology company can be required to revise their approach to build safeguards in to protect judicial excellence.

Judicial Concern	Project Evaluation Criteria
Protecting Rule of Law	<p>Does it protect user privacy?</p> <p>Is data secure from both hacking and unauthorized viewing?</p> <p>Does it facilitate cross profession information sharing (including protection of solicitor-client privilege)?</p> <p>Does it help to identify and eliminate corruption?</p> <p>Is the algorithm source data transparent and available for scrutiny?</p>

Judicial Concern	Project Evaluation Criteria
Equality of Access	<p>Does it support or enhance equality?</p> <p>Does it support broader understanding of justice?</p> <p>Is it built on a widely used or accessible technology or platform?</p> <p>Does it integrate with used-centered devices or platforms?</p> <p>Does it use the most accessible, or most adaptable platforms (disability, poverty, literacy, aging, gender)?</p> <p>Does it meet the needs of historically underserved communities?</p> <p>Does it address geographic and technological barriers to access?</p> <p>Does it protect against bias?</p>
Modernize infrastructure	<p>Does it anticipate or plan for future changes in tech usage?</p> <p>Is it multi-platform, open source?</p> <p>Is migration, support, renewal built into the platform?</p>
Support for a more open and transparent court system	<p>Does it integrate with tools of the profession?</p> <p>Does it reflect rules of professional conduct?</p> <p>Does it facilitate cross profession information sharing (including protection of solicitor-client privilege)?</p> <p>Does it improve media and public access to court processes?</p>
Increase tech capacity & comfort	<p>Is it user friendly?</p> <p>Is training and support available?</p>
Protection of court users' privacy and security	<p>Does it have adequate security protections?</p> <p>Is the data retention process clear?</p> <p>Are there protections against manipulation or unauthorized access to and use of court data?</p> <p>Are there provisions for crisis events that jeopardize court operations or put user data at risk?</p>
Increase access to data	<p>Does it collect data aligned to domestic &amp; international standards?</p> <p>Is there a built-in process for sharing system data without breaching user privacy?</p>

# A2J and Rule of Law Implications of Courtroom Technologies: Judicial Excellence Checklist

## PURPOSES OF THIS TOOL:

- To build understanding of how judges can scrutinize the technology in use in their courtroom
- To develop common expectations of technology in the courtroom, whether in-person or online

Judges often find themselves using new technologies or receiving evidence presented by lawyers or experts on new platforms both in-person and in virtual hearings. A judge cannot be expert on each kind of technology, but they can ask critical questions about whether the use of technology supports judicial excellence and public confidence.

This set of questions identifies some of the common implications of new technologies on access to justice (A2J), rule of law, and judicial excellence. Asking these questions as part of managing the courtroom can help a judge to identify the consequences of new technologies. Asking lawyers, experts or court staff to address these issues is part of a judge's obligations to maintain a fair and transparent court process.

## BEFORE THE HEARING

### A2J

- Have all the parties had equal access to this technology?
- Does the technology require a subscription or software that is only available for a fee?
- Does the technology require internet access or devices that exclude some of the parties?
- Is the technology inaccessible to the parties because of language or literacy?
- Does the technology rely on biased data or gendered assumptions?

## Rule of Law

- Does the technology positively advance the rule of law?
- Who owns or is benefiting from this technology? Are they involved in this case?
- Is the technology secure?
- Is the technology easy to use?

## Judicial Excellence

- Is this technology susceptible to hacking or manipulation?
- Is the technology transparent?
- Is there information or support for the parties as they prepare to use the technology?

## DURING THE HEARING

### A2J

- Do any of the parties or witnesses require assistance to use the technology?
- Does the technology allow for language translation or interface with adaptive technologies for people with disabilities?

### Rule of Law

- Can the evidence presented using the technology be entered into the transcript or court record?
- Can the evidence presented using the technology be securely stored?

## Judicial Excellence

- Can the court staff and judge confidently access and use the technology without relying on one of the parties or, to avoid any perception of bias?
- Can the court staff assist the parties to access and use the technology?
- Can the identity or testimony of vulnerable witnesses be protected within this technology?

## AFTER THE HEARING

### A2J

- Are court transcripts easily available without additional fees related to the technology?

### Rule of Law

- Is the record of the proceedings, using the technology, sufficient for further appeals?
- Is there media access to the decision and any public aspects of the hearing or evidence?
- Is the evidentiary record and court proceeding data stored securely indefinitely in a manner controlled by the court?

### Judicial Excellence

- Is the decision easy to understand by public readers, including any reference to the technology if required?
- Do the judiciary and court staff have indefinite access to the technological record of the proceeding?



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