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# Artificial Intelligence in the Judiciary: Issues and Outlooks

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**Abstract**

Application of artificial intelligence in governance and in public, economic, and political life draws the attention of many researchers from various areas of science. They study how AI affects the development of economics, law, philosophy, and medicine. They also look at how AI introduction affects various industries from an ethical and moral point of view. E.g., there is a risk that robotic systems will replace humans and labour relations will transform completely, or that goods-money relations change as marketplaces and online platforms appear. In the era of rapidly developing technology and information processes, introducing digital products and algorithms into governance and into social and economic relations is an objective necessity, so these processes gain momentum. Legal science, the legal system and law in general have to adapt to changes in society, economy, science, technology, politics, and governance. The judicial system is no exception in this situation. By multitasking and speeding up production cycles, digital and electronic products simplify and optimise production processes. At the same time, there are risks to overuse artificial intelligence and minimise the human factor. Replacing skilled staff with robots and IT systems does not always optimise processes and can result in fatal errors. Technical progress fosters the growth of fraudulent and other criminal schemes that involve information technology because it helps perpetrators to abuse law, violate personal boundaries, and constitutional and legal guarantees. The author analyses various aspects of the introduction of AI into the judicial system, and examines the

reasons for and ramifications of the use of digital products and services for justice and society. The methodology of the study is based on general research ways like analysis, synthesis, generalisations and dialectical methods. Other methods include formal logical and comparative legal studies.

**Keywords**

AI; neural networks; justice; judicial system; justice digitalisation; information technology; judicial discretion; concept of judicial law.

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## Introduction

The research examines social relations pertaining to the use and application of new and emerging technologies in the judicial system, and analyses particular aspects concerning AI in the administration of justice. In particular, it draws attention to the establishment of objective truth by means of "pre-set algorithms."

AI use affects worldview, perception, consciousness and legal awareness, and changes the ways and mechanisms of performing familiar processes. In other words, it transforms objective reality in favour of virtual reality. This applies not only to socio-economic relations, but also to legal relations. Conventional approaches are receding into the background. The new millennium is the time for using new information, IT, and robotic processes in all spheres of human relations. This isn't just any latest trend, but logical incremental development of the society and production. In this connection, many questions arise that are awaiting their solutions. E.g., what areas and activities can be entrusted to robots? Can application of robots be accepted in the legal sphere? These questions, alongside many others, are still waiting to be answered.

In the past decades mankind has seen quick development of digital technologies that in everyday life is not perceived as a "new era" or a period of

paradigm shift in socio-economic and political relations. The issues related to full integration of various technical and digital products and resources into all spheres of life and public authorities have been gaining more and more relevance. At the same time, traditional and conservative approaches have increasingly been relegated to the background. Such technologies are not only IT, ICT, information modelling, virtual space, robots, machine-readable law, etc., but also artificial intelligence, which is increasingly being used in various fields. As these technologies evolve, more and more questions on their relation to the rights, freedoms and lawful interests of citizens arise.

And here, introducing IT in various spheres of public life and in socio-economic areas is one of the priorities of national policy in the Russian Federation [Khabrieva T.Y., Klishas A.A., 2020].

One may see digitalisation products developed, implemented and used everywhere: in the agro-industrial complex, educational process, judicial system, urban planning, housing and utilities sectors, as well as in ecology and environment protection and many other areas of human activity. It should be noted that despite their diverse nature, IT-related problems are equally important not only in the design phase but also in the implementation and utilisation phases.

Economy and public administration are developed to increase efficiency, improve the quality of functioning, and optimise and simplify individual tasks and processes. A number of problems should be noted here. They include peculiarities in practical implementation and in public administration (including legal regulation because the number of laws and regulations on particular issues in the area under consideration has been growing exponentially). Other aspects that have to be taken into account include the lack of specialists with cross-disciplinary experience, lack of coordination between the private and public interest, and the inability to organise interaction between practitioners and subjects of state regulation and administration. Another issue, which is just as serious, is insufficient funding and the lack of private investments, as well as the lack of a system of interaction between governmental entities that would take into account the interests of public at large, including entities engaged in entrepreneurial and other business activities in the said areas, and end product users.

In author's opinion, judicial system is facing the greatest risks here. As information technologies are adopted everywhere, the number of court cases may only grow than decrease because the technologies not only help optimise processes but also open up opportunities to abuse procedural rights and law in general.

Therefore the author is sure the questions raised in the article should be considered, together with a number of other aspects, from the perspective of the modern concept of judicial law. It, in turn, with a logical and structured approach, may help to form an adaptive judicial system in current realities.

## 1. From Digitalisation of Justice to Artificial Intelligence in the Judiciary

Digitalisation of various spheres of life is a worldwide trend. The aim is to provide the best organisational, technical, technological, production and industrial conditions for the development of society.

The use of digital products in professional relationships or in public administration can streamline individual processes, speed up data transfer, and help to aggregate and analyse large amounts of information. Thus, it is a unique form of optimising certain activities using specialised software, and the justice system is no exception here. This digital optimisation of professional activities is meant to make human work easier, reduce the time to complete the tasks at hand, and accelerate the achievement of goals. Here, the specialist (employee) coordinates and manages the process, and not the other way round. In other words, "whoever sets the search string is in charge." And in this case, it should be the human operator, not digital algorithms set by someone else.

E.g., in various spheres and areas, artificial intelligence is beginning to discredit itself, in terms of the quality of information provided[1] and work performed[2].

It is quite difficult to introduce digital products in the Russian Federation, for a number of reasons. Firstly, such services are not 100% accessible in Russia. Hence, to promote the society's digitalisation, maximum accessibility to advanced digital technologies must be ensured for state and municipal authorities, representatives of the business community, and for

[1] Global audiences suspicious of AI-powered newsrooms, report finds. Reuters, 18 June 2024. Available at: https://www.reuters.com/technology/artificial-intelligence/global-audiences-suspicious-ai-powered-newsrooms-report-finds-2024-06-16/ (accessed: 24.06. 2024)

[2] Amazon's next Big Bet on Cashless shopping is a smart grocery cart. Gismodo, 14 July 2020. Available at: https://gizmodo.com/amazons-next-big-bet-on-cashless-shopping-is-a-smart-gr-1844377270#:~:text=Meanwhile%2C%20for%20items of%20the%20item (accessed: 24.06. 2024)

individuals. To this end, it is necessary not only to increase funding the field, but also to ensure accessibility at all levels, and to create "adjacent", interdisciplinary specialities and areas that integrate IT with other fields. Without the development of an interdisciplinary approach, we do not believe it is possible to fully computerise and digitalise the processes involved in different areas of government regulation.

Secondly, the lack of software and information systems of a proper level and quality does not contribute to the development of digital infrastructure in this area either. It is of great importance to form a unified information space and unified databases, regularly updated and extended. Access to them would simplify interaction not only between government agencies (interdepartmental interaction), but also directly between agents active in various socio-economic areas of Russia. To achieve this, it is necessary not only to ensure that the data and information provided is updated regularly, but also to create: interdepartmental "cloud technologies" allowing stakeholders to quickly exchange information, to extend and correct it in real time; individual servers; software to ensure data protection, including protection of personal data. It is necessary to structure the information and data provided, to establish logical interrelationships, and to form a "complete cycle" of production and processes, including the stages of public administration.

All of the above are, in the author's opinion, organisational and technical reasons affecting difficulties in the development of digital and information services, including artificial intelligence in public administration. These reasons include the need to develop certain specialities and specialised education, as well as to build a logical and structural interaction in this area between society and the business sector, on the one hand, and government and municipal authorities and other stakeholders, on the other hand. So, a centralized approach needs to be developed at the federal level.

The legal reasons are there is no unified conceptual framework related to digitalisation. E.g., the terms used include expressions such as "digital technologies", "information and communication technologies", "electronic technologies", etc., which is not quite correct.

Issues of a similar nature fall within the scope of different legal acts. There is no uniform and consistent system of concepts and categories describing this most important issue; nor is there a structure and hierarchy in legal regulation. The basic regulatory legal act in the field is Federal Law No. 149-FZ of 27 July 2006 "On Information, Information Technologies, and

Information Protection."[3] Its content should be taken into account in further work in this area. Legal regulation in Russia is highly differentiated: general provisions are defined in the National Programme "Digital Economy of the Russian Federation"[4], the Strategy for the Development of Information Society in the Russian Federation for the years 2017-2030,[5] and many other programmes, strategic documents, local regulations and regulatory legal acts.

E.g., in the area of justice, digital services have been introduced in a stepwise manner. In 2013[6], Article 155.1 "Participation in a court session through the use of video-conferencing systems" was introduced into the Russian Federation Code of Civil Procedure. A similar provision is contained in Article 153.1 of the Russian Federation Arbitration Procedure Code; the article was enacted in 2010[7]. The Russian Federation Code of Administrative Proceedings contains a similar norm in its Article 142. These provisions are further elaborated in Clause 1.5 of the Regulations on the Organisation of Video-Conferencing in Federal Courts of General Jurisdiction approved by Order No. 401 of the Judicial Department of the Russian Federation Supreme Court of 28 December 2015. In the arbitration court system, they are elaborated in the ruling of the Plenum of the Supreme Arbitration Court of 25 December 2013 No. 100 (as amended 11 July 2014) "On Approval of the Instruction on Case Management in Arbitration Courts of the Russian Federation (first, appellate and cassation instances).[8]" The legal basis for the development of e-justice elements in Russia was established in the period of 2010–2013. However, due to the lack of technical equipment and sufficient funding for its development, the process remained uncompleted.

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[3] Collection of Laws of the Russian Federation No. 31 (part 1). 2006. July 31. P. 3448.

[4] Approved by the Presidium of the Presidential Council for Strategic Development and National Projects, Minutes No. 7 of 04 June 2019). // Consultant Plus Legal Information System.

[5] Presidential Decree No. 203 of 09 May 2017 on the Strategy for the Development of the Information Society in the Russian Federation for 2017–2030 // Collection of Laws of the Russian Federation No. 20. 2017. May 15. P. 2901.

[6] Federal Law of 26 April 2013 No. 66-FZ "On Amendments to RF Civil Procedures Code." Rossyiskaya Gazeta, 2013, 30 April.

[7] Federal Law of 27 July 2010 No. 228-FZ (as amended on 28 June 2014) "On Amendments to RF Civil Procedures Code." Rossyiskaya Gazeta. 2010, 2 August.

[8] Ruling of the Plenum of the Supreme Arbitration Court of 25 December 2013 No. 100 (as amended on 11 July 2014) "On Approval of the Instruction on Case Management in Arbitration Courts of the Russian Federation (first, appellate and cassation instances)" // Consultant Plus.

Further digitalisation of the justice system will be linked to the implementation of the federal target programme "Development of the Judicial System of Russia for 2013-2020."[9] The Concept of Computerization of the Supreme Court of the Russian Federation[10] regulating specifics of the development of digital technologies in the justice is already in force. To implement the above Programme, Order of the Judicial Department under the Supreme Court of the Russian Federation of 17 February 2017 No. 25 "On Approval of the Instruction on Case Management in the Judicial Department of the Supreme Court"[11] was issued to regulate a number of basic concepts of e-justice. Also, Order of the same Judicial Department No. 168 of 11 September 2017 "On Approval of the Procedure for Filing Documents to Justices of the Peace in Electronic Form Including in the Form of an Electronic Document"[12] was issued to regulate the peculiarities of filing documents of claim via the Internet.

On 27 December 2016 order of the Judicial Department of the Supreme Court No. 251 "On Approval of the Procedure for Filing Documents to Federal General Jurisdiction Courts in Electronic Form Including in the Form of an Electronic Document"[13] was issued that regulates the peculiarities of electronic justice in RF general jurisdiction courts.

In 2019, the "Concept of Information Policy of the Judiciary for 2020-2030" was approved[14]. A document of strategic informational value, it aims to develop and introduce information technology into the judicial system.

The digitalisation of justice is described in greater detail in the "Concept of Computerisation of the Supreme Court"[15], but this document is limited in scope: it applies only to the Supreme Court of Russia.

Pursuant to Federal Law No. 440-FZ of 30.12.2021 "On Amendments to Certain Legislative Acts of the Russian Federation" (entered into force 1

[9] Government Decree No. 1406 of 27 December 2012 No. 1406 (as amended 03 October 2018) "On the Federal Target Programme "Development of the Judicial System of Russia for 2013-2020."// Consultant Plus.

[10] Approved by Order of the Supreme Court of the Russian Federation of 10 December 2015 No. 67-P // Consultant Plus.

[11] Consultant Plus.

[12] Judicial Acts Bulletin, No. 10, 2017, October.

[13] Judicial Acts Bulletin, No. 2, 2017, February.

[14] Approved by the Council of Judges of the Russian Federation on 5 December 2019 (document is not published) // Consultant Plus.

[15] Approved by Order of the Chairman of the Supreme Court No. 9-P of 15 February 2021 (document is not published) // Consultant Plus.

January 2022), spot amendments and additions were made to the Code of Civil Procedure, Code of Arbitration Procedure, and Code of Administrative Procedure on the use of electronic documents in court proceedings, and on the possibility of remote participation in court hearings through video-conferencing.

Thus, the evolution of information and communication technologies has led to the formation of the "e-justice model", which is a fundamentally different way of justice.

The "Concept for the Development of Machine-Readable Law Technologies" of 2021[16] is also of interest with regard to the development of "machine-readable law technologies in court proceedings and electronic document management mechanisms used in court proceedings."

At the same time, there is still no legal act regulating the basics and the peculiarities of digitalisation of justice in the Russian Federation.

In practice, however, we can already speak about a trend to compel interested persons to submit applications "in electronic form only"[17] as there have been many such cases[18].

E.g., in case No. A43-17925/2015, the interested party submitted a petition to the court through the electronic filing system to authorise participation in the court session by video-conference, and, if such participation was not technically possible, to postpone consideration of the case. The court ignored the above petition and considered the claim in the applicant's absence, thereby violating the principles of access to justice, legal equality, equality of rights and adversarial proceedings enshrined in the procedural legislation of the Russian Federation[19].

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[16] Approved by the Government Commission on Digital Development, Use of Information Technologies for Improving the Quality of Life and Business Environment, Minutes No. 31. 15 September 2021 (document is not published) // Consultant Plus.

[17] Appellate ruling of the Appellate Collegium of the RF Supreme Court No. APL19-262 of 30 July 2019 // Consultant Plus.

[18] See: Decision of the RF Supreme Court No. ACPI19-79 of 23 April 2019 // Consultant Plus Legal Information System; Appellate ruling of the Appellate Collegium of the RF Supreme Court No. APL19-121 of 16 May 2019; Decision of the RF Supreme Court of No. ACPI18-1290 07 February 2019 // Consultant Plus.

[19] Ruling of the Arbitration Court of the Volgo-Vyatsky District No. F01-5281/2016 of 26 December 2016 in case No. A43-17925/2015 // Consultant Plus.

## 2. Artificial Intelligence in Court is Not a "Sci-Fi Future" but the Current Reality

Only a few years ago, the legal community actively discussed the introduction of certain elements of electronic (digital) justice into the national system of justice. Less than five years later, we are observing a new, more advanced phase of the introduction of digital algorithms into the national justice system and public administration. The sci-fi future has turned out to be a lot closer than we thought. At the same time, are things as straightforward as we would like them to be? We don't think so. The reason is that the widespread introduction of artificial intelligence into public life, including everyday life, will lead (and in some cases has already led) to changes in all its spheres.

Many questions still need to be answered. E.g., in national legal regulation AI is defined as "A set of technical solutions that allow imitating human cognitive functions (including search for solutions without a predetermined algorithm) and obtaining results at least comparable to or exceeding the results of human intellectual activity when performing specific tasks. The set of technical solutions includes information and communication infrastructure, software (that, among other tools, uses machine learning methods), and processes and services for data processing and solution search."

The concept was regulated in 2019 by the Presidential Decree "On the development of artificial intelligence in the Russian Federation." The Decree has approved the National Strategy for the Development of Artificial Intelligence until 2030,[20] which outlines further development in this area. This document, among other things, gives a definition and describes the tasks and methods of artificial intelligence; the criteria for project selection were approved in Order of the Ministry of Economic Development No. 392 of 29 June 2021 "On Approval of the Criteria for Determining Whether Projects Belong to Projects in the Sphere of Artificial Intelligence."[21] Chapter IV "Intelligent Decision Support Systems," which defines the spheres of interaction between social life and artificial intelligence, is of

[20] Decree of the President of the Russian Federation No. 490 of 10 October 2019 "On the Development of Artificial Intelligence in the Russian Federation" (together with the "National Strategy for the Development of Artificial Intelligence until 2030") // Collection of Laws of the Russian Federation No. 41. 2019. October 14. P. 5700.

[21] Available at: http://pravo.gov.ru (accessed: 29.07.2021)

interest. Item 43 "Decision development on the basis of open data sources and unstructured information, including for use in intelligent decision support systems for solving strategic issues and (or) adaptive dynamic control of complex objects" seems to us the most interesting in the context under review[22]. The present-day justice system finds it important to consider information processing and "interpretation of processed data" (Para. "c" of Chapter I "General Provisions" of the "Strategy for the Development of Artificial Intelligence" and Para 41, 43 and 46 of the "Order on Approval of the Criteria for Determining Ownership of AI Projects"), and legal scholars specialising in procedural law emphasise this. E.g., L.V. Borisova, in analysing the international experience of AI application, discusses the advantages of using AI in the professional activity of a judge [Borisova L.V., 2020].

Thus, it follows from the content of this paragraph that AI may be used in justice in decision-making by analysing publicly available and unstructured information. This raises the question, "How can a fair, legitimate, and informed decision be made if the digital algorithms used in the judicial system can be based on unverified and unreliable facts from publicly available sources?" In other words, we see that evaluations and expert data are levelled, notions are substituted, and the meaning of "high skills" and "professionalism" in a particular field is devalued—because AI used in various spheres of public life and public administration, one way or another, will be capable of performing analysis according to the parameters set by the developers.

The arguments a digital algorithm is devoid of feelings and emotions, is not subject to mood swings, and thus can make a weighted, objective and informed decision are questionable. The reason for this is objectivity, as a positive criterion of artificial intelligence, is a product of highly intellectual activities of a professional, or, in some cases, a group of professionals (developers) with certain personal convictions. And they can arbitrarily incorporate these convictions into the algorithm they develop. Any information products and digital products function according to strictly defined parameters and algorithms formed and set by customers and developers. This includes the parameters that AI should use to self-learn and the data it analyses and predicts. I.e., there will be elements of subjective

[22] Order of the Ministry of Economic Development of the Russian Federation No. 392 of 29 June 2021 "On Approval of the Criteria for Determining Whether Projects Belong to Projects in the Sphere of Artificial Intelligence." Registered in the Ministry of Justice of Russia on 28 July 2021 under No. 64430 // Consultant Plus.

evaluation in the numerical algorithm one way or another [Broussard M., 2020]; [Tsvetkov Yu. A., 2021][23].

As the theme of implementing AI in public administration is getting more and more popular, this raises a range of questions that modern society needs to address. First, is the quality level of the AI programmes that are being developed acceptable for making law-forming decisions? Second, have interdisciplinary programmes been developed to train specialists in AI and other areas of social life? Third, are both public authorities at all levels of government and stakeholders sufficiently equipped technically and technologically? There is no unambiguous answer to these questions, as modern society is fragmented and differentiated. It should also be noted that some districts and regions do not have proper and stable access to the Internet and that there is an uneven level of interest in the use of technical means in the Russian Federation[24].

However, what we are currently witnessing is just the initial adjustment of the national society and the technification of state administration, including the judiciary.

A substantial number of research studies have been conducted on the issue of computerisation, technification and digitalisation of social relations and all spheres of state regulation (where justice and the judiciary are no exception). A lot of authors are convinced technification and digitalisation will improve many processes, including the administration of justice. But the things are not that simple. The reason for this is not only that the information technologies that are being developed differ for certain social groups in terms of quality, accessibility and affordability, but also possible technological (production) shortcomings. This raises the question: is it possible to entitle AI to pass rulings on human fates in the administration of justice? I would venture to suggest that, for a number of reasons, this is extremely premature at this point in time.

In addressing this topic, it is necessary to consider the digitalisation of justice from the point of view of options that facilitate the administration

[23] The AI used in the US justice system to make parole decisions is a vivid illustration. This system predicted propensity for repeated offences twice as often for African Americans as for other individuals. Hence, this bias was embedded in the criteria that formed this algorithm. So there is a predisposition to make errors in data sampling.

[24] The Market in Russia and the CIS. Tadviser.ru, 2024, 20 June. Available at: https://www.tadviser.ru/index.php/:Интернет-доступ_(рынок_России)?ysclid=lnk28leuke21107550 (accessed: 24 June 2024)

of justice within the time limits established by law, to study the problems and outlooks for the use of information technology in justice, look at the execution of judicial acts and the judicial system as a whole, rather than as separate elements of one system [Tikhomirov Yu. A., Belyakova A.V., 2023]. It includes the need to research the promotion of AI in public administration from a predictive point of view, not from an idealistic one. E.g., doctrine studies the transformation of the economy in the context of global digitalisation [Kucherov I.I., Sinitsyn S.A., 2022] and in other legal relationships [Pashentsev D.A., 2022]; [Tereshenko L.K.,2023]; [Golovanova N.A., Gravina A.A., 2019]. The collective monograph edited by Professor Yu .A. Tikhomirov is a predictive research in this area [Tikhomirov Yu. A., 2019]. It tells about the main processes of robotization of social and economic relations from the point of view of transformation of legal relations.

The theme is also highly popular in procedural legal science. E.g., the team of authors under the guidance of Professor V.V. Yarkov studied the issues of civil and administrative proceedings, including the influence of IT on modern proceedings [Yarkov V.V. et al., 2021]. Representatives of the modern procedural school at the O.E. Kutafin University have also contributed to the development of this area. A team of authors led by E.G. Streltsova prepared a book on the possibilities of using digital technologies in civil and administrative proceedings [Streltsova E.G. et al., 2022].

Yu.A. Tsvetkov has written a very informative and relevant paper. It offers an analytical forecast of AI development in national justice, tells about the peculiarities of judicial activity in the modern information and communication society, and describes the issues of correlation between technical means and their application in judicial activity. The author of the present study shares the scholar's view that "justice is "human, all too human"" [Tsvetkov Yu. A., 2021]. In this regard, it is useful to draw attention to a number of key aspects in the use of AI in the judiciary. The point is that, despite a fair number of publications on this issue, there is still a need for research from a different angle, namely, in the context of the correlation of the content of jurisprudence, jurisprudence, justice, and artificial intelligence.

## 3. Artificial Intelligence in the Judiciary: Justice without a Face?

To answer the question whether AI can administer justice, we must refer to the essence of justice and clarify what exactly the court does when

interested persons go to law. According to conventional definitions, justice is interpreted as "the legally regulated activity of the court (at all levels and instances) to consider and resolve criminal and civil cases on the merits" [Ryzhakov A.P., 2015].

In particular, the views expressed in legal science that some of the functions should be transferred to a "robot judge" [Kovalenko K.E. et al., 2020: 171] are extremely controversial for a number of reasons.

The judiciary constitutes one of the three branches of state power. This implements the principle of separation of powers guaranteed in Article 10 of the RF Constitution. In pursuance of Article 118 of the Constitution, justice is administered only by the court: a particular judge performs legally established activities which involve consideration and resolution of cases (in the narrow sense) referred to as legal proceedings. Thus, justice is a special jurisdictional activity aimed at protecting the infringed rights, freedoms and legitimate interests of citizens. The special status of the judiciary consists in the fact that only persons with higher legal education are allowed to perform this professional activity; such persons must also meet other requirements established by federal law. In other words, to qualify for work in this area the person must meet stringent criteria, and a professional degree is the main criterion.

It is worth noting the work of a judge is based on knowledge of jurisprudence (in the Soviet period the term "legal science" was predominantly used)[25]. In addition, there is the moral and ethical significance of law and justice, which is explored by philosophy and sociology of law. Following ideas of the German philosopher of law Gustav Radbruch [Radbruch G., 2004], it is admissible to conclude "law is the pursuit of order, and justice is designed to ensure this order". In view of the above, to summarise, it is of use to raise the question of whether a robot judge can carry out one of the forms of state activity, namely justice? Also, can it search for objective truth and justice when considering and resolving a particular case on the merits? To feel and understand what is happening in the courtroom means to show empathy. Knowledge of the law, judicial practice, and other knowledge and skills are not enough to fully carry out professional activities; it is necessary to feel and understand, to predict and analyse details, to see and hear everything that is happening in its entirety.

[25] Jurisprudence (legal studies) is the science of law that includes body of practical knowledge of current legislation and judicial practice, in the narrow sense (The Great Soviet Encyclopaedia in 65 vols. Vol. 46. Moscow, 1940. P. 656.

There has been a devaluation of the professional and creative activity of lawyers (that includes all members of the legal profession). The activity of a lawyer consists, first of all, in interpreting the law, clarifying its meaning and content by specifying those concepts that are expressed in verbal form in the regulatory legal acts. Interpretation is the process of knowing the law as the law is formulated as a general abstract rule, as a behaviour. Its content is revealed through specific features and provisions that enable to know the meaning of the law and to apply it in a particular case, namely through factual circumstances. The fact is that the norm of law has a general character and covers a larger range of relations; at the same time is indirectly detailed by other norms of law, thereby formulating a system regulation of particular social relations [Bratus S.N., 1975].

Since the national judicial system is the only "available" way for the majority of interested parties to restore the violated rights, freedoms and legitimate interests, we deem it necessary to look at how fairness in decision-making and establishing of objective (judicial) truth correlate in a case when AI is used in the judicial system. Objective (judicial) truth in a case is of great importance in the present conditions of society's development because professional use of AI and digital services allows not only to draft any document, but also to conceal the true psycho-emotional attitude of the participants of the judicial process on a particular issue when a case is considered through online meetings. In this context, the role of the judge's discretion increases because the court's leadership in the judicial process must be strengthened in order to establish the truth of the case. Even the most state-of-the-art and efficient software or digital algorithm would not be able to fully establish the sufficiency and reliability of the evidence presented, identify cause-and-effect relationships, or determine the moral and ethical attitude of the parties to the case or to a particular question arising in the course of the trial.

Just like other digital services, AI functions according to the parameters set by the developers, so the question arises: is it possible at the stage of development of this software to predict the development and change of social relations, which, in turn, will be realised in a particular sphere of legal relations, and will subsequently influence the resolution of disputes in court? We expect not only the risks that the provided evidence base can be distorted or consciousness manipulated, but also that a new layer of litigation can arise, as interested parties will be forced to apply to the judicial authorities in order to protect their infringed rights. As an example, we can cite the

creation and dissemination of false and damaging information about the life and personality of certain citizens, and the creation of a negative image both online and offline through AI and other digital services and products [Kapitonova E.A., 2024]; [Sviridova E.A., 2024]).

Justice is one of the most common concepts used in the field of law, judiciary, and jurisprudence. At the same time, it is also in the plane of moral and philosophical judgements and is a starting point in the deliberation on the correlation between AI and justice, since national legislation defines this category, directly or indirectly, in codified legislative acts. Justice is an evaluative category, and it correlates with the judge's internal convictions (judicial discretion) in passing a judgement. The author would like to emphasise that the ubiquitous dominance of AI in the professional activities of legal specialists, including judges, may lead or has already led to the erosion of fundamental human values. Neural networks[26], that are at the basis of any AI, process queries and create certain selections; this shapes perceptions and, as a consequence, professional convictions on a particular issue. It is hard to believe it is possible to eliminate the use of AI. Therefore, we should note that such a legal phenomenon as technical (information) abuse may arise, which will provoke (and in some cases has already contributed to) the emergence of lawsuits for debt collection from individuals or legal entities, which will also subsequently lead to additional disputes about such payments. In this connection, the leadership of courts needs to be strengthened, as information systems and digital algorithms (products) cannot currently be made perfect.

Judicial discretion is exercised only in cases where there is no direct legal regulation on an issue, no uniform judicial practice on the category of cases in question, and no clarifications from higher courts. In such cases, the judge will have to exercise his or her professional, practical and life experience in resolving a particular dispute, and this will be the judge's discretion.

The most complete explanation of the judicial discretion concept is given in one of Professor V.V. Momotov's papers in relation to the consideration of cases arising in the field of digitalisation of substantive relations: "Using a variety of forms of interpretation of law and his or her judicial expertise, the judge creates a specific legal regulation for the litigants. We regard this

[26] Neural networks are computing systems or machines designed to simulate the analytical activities of the human brain. Neural networks belong to the area of artificial intelligence and are used for recognising hidden patterns in raw data, for grouping and classification, and for solving problems in the field of AI, machine and deep learning.

as already a complex fusion of regulatory, factual and moral judgements of the judge about the outcome of the dispute" [Momotov V.V., 2023].

Electronic document management (where the original documents are generated electronically and signed with an electronic signature)[27] has become ubiquitous. This in turn forms the ICT system for the administration of justice. On the one hand, as a result of the introduction of digital products and AI in the modern justice system, the automation of the judicial process simplifies the professional life of judges, but on the other hand, organisational and technical issues (e.g., the development of machine-readable documents) and the issues related to the protection of the rights, freedoms and legitimate interests of interested parties have not been fully resolved. (E.g., the issue of how abuse of the law by an unscrupulous participant in the process can be prevented).

So there is a fair question: is it possible to implement judicial discretion in software and digital algorithms? In discussions of the development of AI in the administration of justice, legal scientists have repeatedly expressed views on the prospects for the development of "machine-readable law" and "robot judge", namely, the use of automated systems that allow to consider the case materials and make decisions without the involvement of the interested parties and the judge. And it is the exercise of judge's discretion and inner convictions in the context of the implementation of digital algorithms that does not receive sufficient attention in such discussions.

The judge exercises his/her inner conviction at all stages of the consideration and resolution of the merits of the case. The conviction is based on the professional knowledge and skills, legal thinking, legal consciousness, life and professional experience and moral and ethical attitudes of each judge. Here we should not deny the interrelation of legal and psychological knowledge in the judge's professional activity, which, intertwined, enable the judge to determine the objective truth of the case. Based on his or her professional and life experience, the judge can objectively assess the substance of the dispute. In doing so, the judge will be guided not only by legal knowledge, but also by knowledge in the field of sociology and psychology, as the parties in some cases tend to distort the facts and interpret them inappropriately.

Judicial discretion, in turn, is a more complex legal category: it consists in analysing the particularities and formulating conclusions in each par-

[27] Federal Law No. 63-FZ of 06 April 2011 (as amended on 19 December 2022) "On Electronic Signature." Rossyiskaya Gazeta. 2011. 8 April.

ticular case, with account for the evidence presented and the legislation in force. The judge uses internal conviction to assess the situation and the behaviour of the parties, and uses discretion to adopt and issue a judicial act, which may subsequently be reviewed by a higher instance. The judge's discretion is reflected in the reasoning and operative part of the judgement, where the judge's perception of the evidence presented and the resulting judge's inner conviction on a particular case is justified.

The judge's inner conviction, which guides him or her in considering and deciding the merits of the case, including the judgement, must be, "fair discretion based on a firm conviction of conscience" and on "considerations of all the circumstances of the case." While digital technologies make it possible to make distances shorter and overcome time zones, in our times the issues of conscience and fairness of court decisions remain no less relevant [Tikhomirov Yu. A., Belyakova A.V., 2023].

Therefore, it is necessary to revive the concept of judicial law development. It should take into account the modern reality not only from the point of view of the actual implementation of legal relationships, but also from the point of view of the need to use the predictive function of modern legal science, since the list of aspects considered is truncated. It means more research needs to be done, and other not less important aspects of the use of digital products and their implications in justice need to be addressed

The author believes one of the sections of the modern concept of judicial law should focus specifically on the use of the latest technology in the administration of justice, with due regard to the whole range of issues, since the above arguments, conclusions and reasoning need to be considered in terms of their direct or indirect interrelationship. And the development of the concept of judicial law can contribute to this.

## Conclusion

The implications of introduction of AI and other new technologies in various areas of public life could be quite ambivalent, and the judiciary system is no exception here. An inconsistent, incomplete and haphazard introduction and use of individual digital products in the administration of justice can lead to fatal consequences that have cumulative and delayed effects. The slogan that AI can enable a reduction in the number of court cases is controversial. On the one hand, it's true. On the other hand, it may lead to the emergence of new categories of cases that will need to be

overcome by recourse to national jurisdictions, as the author, inter alia, has previously written.

Conservatism can be a drawback in some areas, and an advantage in others. The author believes that in this area, conservatism expressed in consistency, structure, logic, and systemic approaches, and accompanied by the use of predictive function, can help prevent falling into "digital chaos" because justice and the judicial system are particularly confronted with various kinds of "distortions" in the realisation of social relations.

Justice and the judicial system are associated with the implementation of a number of functions. One of them is government activity aimed to protect the violated rights, freedoms and legitimate interests of interested persons. In this regard, we deem it necessary to note that there is no digital algorithm that could take over the implementation of the state function of administering justice. This area of government activity is highly vulnerable because inconsistency in the implementation of digital services can lead to risks that can have fatal consequences. It is not only that digital algorithms are not capable of understanding questions of justice, objective truth, understanding and awareness of everything that is going on, forecasting, analysing, critical insight and critical legal thinking. At the moment, there is no software available to train neural networks in "three-dimensional perception." And legal science demands not only to have knowledge, skills and abilities, but also requires the ability to apply them in all areas of life, to be a whole and self-sufficient person both in personal and professional activities. In other words, it is about a holistic perception of the past, present and possible future. Only humans are capable of this, so far.

There are areas of legal field where a technical glitch can "deliver a deadly blow", and the judicial system is one of them. Consequently, the author proposes to address the conceptual aspects of the development of justice and the judicial system from the perspective of "judicial law."

Therefore, in view of all the aforesaid, it is necessary to "revive" the concept of judicial law with account for the latest trends and developments. This may help not only to bring about coordinated changes to the existing justice legislation, but also to overcome and anticipate the risks that may arise from the ubiquitous dominance of information technology in the present society.

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