The Democratic Reform Project and Ors.
Vs
The Union of Bharat Nadu Facts

1. The state of Bharat Nadu is a diverse and populous nation with a complex legal system that seeks to balance the rights and interests of its citizens. As Bharat Nadu continues to develop technologically and economically, the integration of advanced technologies, such as AI algorithms, into various sectors has become increasingly common.

2. Bharat Nadu has been experiencing a rise in crime rates in recent years. This has led to concerns about public safety and the effectiveness of the criminal justice system in addressing the issue.

3. Bharat Nadu has limited resources to devote to law enforcement and criminal justice, and traditional methods of crime prevention and detection have been insufficient to address the problem.

4. The use of an AI algorithm to predict criminal behaviour was seen as a way to improve the efficiency and effectiveness of the criminal justice system, by identifying high-risk individuals and intervening before they commit a crime.

5. The development and implementation of the AI algorithm was supported by the Government of Bharat Nadu, who argued that it would help to reduce crime rates and improve public safety, while also saving resources and improving decision-making in the criminal justice system.

6. The Government of Bharat Nadu, in collaboration with the Bharat Nadu Institute for Advanced Machine Learning (BNIML) developed an AI algorithm called “Yuga Drishti" that is used to predict the likelihood of a person committing a crime in the future. The algorithm employed machine learning techniques such as logistic regression, which predicts the probability of an individual reoffending or committing a crime in the future; random forests, which is capable of capturing complex relationships within the data; support vector machines for classifying

individuals into different risk categories; neural networks for modelling intricate patterns and relationships; and natural language processing for analysing textual data like court documents and police reports.

7. The development of Yuga Drishti involved a team of data scientists, machine learning engineers, and criminal justice experts. These experts came from a range of specialised backgrounds, including legal scholars and practitioners such as judges, lawyers, and legal researchers. Additionally, the team included law enforcement professionals, such as police officers and investigators, as well as experts in criminology and forensic science.

8. The algorithm was trained on historical criminal justice data from Bharat Nadu including arrest records, court documents, and other public data sources.

9. The AI algorithm was rigorously tested and validated using a large dataset of historical criminal justice data from Bharat Nadu. The results of the tests were used to refine and optimise the algorithm to ensure that it was highly accurate and reliable.

10. A pilot program using the Yuga Drishti was run in three provinces of Bharat Nadu for a period of one year prior to the implementation of the algorithm in Bharat Nadu. The results of the pilot program were generally positive, but concerns were raised about the potential biases and errors in the data used to train the Yuga Drishti.

11. Bharat Nadu passed a law mandating the use of the Yuga Drishti in pre-trial detention decisions, bail hearings, and sentencing, despite concerns raised by civil rights activists and legal scholars.

12. A separate law was passed to allow the collection of data from any individual who has either been convicted of a crime, instructed to provide security for good behaviour or maintaining peace, or arrested in connection with an offence or detained under any preventive detention law. This 'data' includes criminal history records such as prior criminal convictions, charges, and arrests; demographic

information such as age, gender, race, and socio-economic background; social media and online activity, including social media posts and digital communications; psychological and behavioural assessments, such as an individual's psychological evaluations and mental health history; financial records such as income, assets, and liabilities; education and employment history; and substance abuse history. The task of collecting, processing, preserving, storing, destroying, sharing, and disseminating the data was entrusted to the Crime Records Bureau of Bharat Nadu.

13. The abovementioned law allowed for extensive data collection, which became a vital resource for improving AI models to better understand patterns and behaviours, making their predictions more accurate.

14. Yuga Drishti's source code and training data are not publicly available due to concerns relating to national security, protecting sensitive information, and to prevent misuse of the system. This has made it difficult for independent experts to audit its decision-making process.

15. Yuga Drishti has been statistically proven to be more accurate in predicting recidivism than traditional methods used by judges.

16. Following the implementation of Yuga Drishti, there was a substantial reduction in administrative costs. The new system streamlined various facets of the justice process, from case management to data analysis, resulting in significant financial savings. This has allowed law enforcement agencies and courts to allocate resources more efficiently, redirecting funds towards crucial areas such as improved legal aid and welfare programs.

17. Bharat Nadu has taken steps to minimise the potential for bias and error in the AI algorithm, including providing regular updates and improvements based on feedback from legal experts and data scientists.

18. There have been cases where the Yuga Drishti's recommendations for sentencing, and detention were observed to potentially lead to unjust results (refer

to articles in the Annexure). In such cases, the law maintains that the judge has the final say and must explain why they disagree with the AI's recommendation.

19. A group of civil rights activists ("the Democratic Reform Project") and legal scholars have challenged the constitutionality of the use of the AI algorithm, arguing that it violates several fundamental rights guaranteed under the Constitution of Bharat Nadu. The petitioners argue that the algorithm may perpetuate existing biases and injustices in the criminal justice system and violate the right to privacy, the right to a fair trial, the right to equality, and the right to human dignity guaranteed under the Constitution of Bharat Nadu.

Issues

1. Does the use of an AI algorithm in pre-trial detention decisions, bail hearings, and sentencing violate the right to a fair trial guaranteed under Article 21 of the Constitution of Bharat Nadu ?
2. Does the use of an AI algorithm to predict criminal behaviour violate the right to equality guaranteed under Article 14 of the Constitution of Bharat Nadu by disproportionately affecting certain communities?
3. Does the use of an AI algorithm in criminal justice decision-making raise concerns about transparency, accountability, and due process, as guaranteed under the Constitution of Bharat Nadu?
4. Does the use of an AI algorithm to predict criminal behaviour violate the right to privacy guaranteed under Article 21 of the Constitution of Bharat Nadu?

Note: Laws and Constitution of Bharat Nadu are similar to India. The Supreme Court of Bharat Nadu considers the precedents of the Supreme Court of India as binding.

Annexure: Articles

Article 1 - AI Algorithm Predicts Recidivism, Influences Legal Decision in Recent Theft Case

In a recent legal case, a young man with no prior criminal record was arrested for theft, and the subsequent use of the AI algorithm, YugaDrishti, played a pivotal role in influencing the legal proceedings.

The person, identified as Rajesh Kumar, was apprehended on charges of theft in his local community. Mr. Kumar, a 22-year-old student with no previous criminal history, applied for bail following his arrest. However, the court's decision took an unexpected turn after the introduction of YugaDrishti's analysis.

YugaDrishti, an AI algorithm designed to predict the likelihood of recidivism, was used to assess Mr. Kumar's case. The algorithm considered various factors, including his age, educational background, and the crime rate in his neighbourhood. Based on its analysis, YugaDrishti predicted a high likelihood of Mr. Kumar reoffending if released on bail. As a result of the algorithm's prediction, the court denied Mr. Kumar's bail application.

Article 2 - AI YugaDrishti's Assessment Questioned in Marginalised Woman's Drug Offence Case

A woman hailing from a marginalised community found herself at the centre of a controversy surrounding the use of AI in the justice system when she was arrested for a non-violent drug offence. The AI algorithm, YugaDrishti, predicted a low likelihood of recidivism in her case. However, the presiding judge expressed doubts regarding the accuracy of the algorithm's assessment.

The defendant, whose identity has been kept confidential, was apprehended on charges related to the possession of a controlled substance. YugaDrishti, the AI algorithm recently introduced into the judicial process to assess the likelihood of an individual reoffending, indicated a low risk of the defendant repeating the offence.

Despite the algorithm's prediction, the judge assigned to the case raised concerns about its reliability, pointing to the high crime rate within the defendant's

community and expressing scepticism about her perceived lack of remorse. As a result, a harsher sentence was imposed on the defendant than initially anticipated.

Note to the Mooters

Dear Participants,

We are pleased to present you with the moot problem for this year's Surana and Surana and KLE Law College National Constitutional Law Moot Court Competition, centred around the topical issue of 'the Use of Artificial Intelligence (AI) in judicial decision-making'. In crafting this problem, we have intentionally omitted specific legal language or specifics of the changes made to existing laws to allow the use of AI. Our aim is to encourage you to engage deeply with the abstract questions surrounding AI's role in criminal justice and judicial decision-making, emphasising constitutional law and jurisprudential arguments. Our primary objective is for you to explore the broader implications and principles related to AI in judicial decision-making. We encourage you to delve into the constitutional aspects of AI in the judiciary. Consider how the use of AI may impact fundamental rights, due process, equal protection, and other constitutional principles. Think deeply about the philosophical and ethical dimensions of AI in judicial proceedings. Reflect on questions of justice, fairness, accountability, and the role of human judgement in the legal system. We look forward to hearing your well-reasoned arguments and witnessing your prowess in constitutional law and jurisprudence.

Sincerely,
Organising Committee