

Case 4: Lots of Rules and No Mercy

Would you rather be judged by a human or by a machine? That is the question dividing proponents and critics of China's new system of "smart courts," designed—according to China's chief justice—to improve the "fairness, efficiency, and credibility" of the country's judicial system.

What started six years ago as merely a database has become an elaborate artificial intelligence (AI) system attached to the desk of every working judge in the country. The smart court "system of systems" (SoS) automatically screens court cases for references, recommends laws and regulations, and drafts legal documents, according to the *South China Morning Post*. The system is also designed to correct perceived human errors in verdicts, and China's Supreme People's Court requires judges to consult the AI on every case. Should the judge reject the system's judicial recommendation, that person must submit a written explanation to the machine for purposes of recordkeeping and auditing.

Prior to 2016, local Chinese courts maintained their own information systems and rarely shared cases with other institutions. The SoS forced local courts to convert documents to a uniform format and connect their databases to a central hub in Beijing, in turn allowing the Supreme People's Court to uniformly enforce the rule of law. Today, the SoS scans and learns from nearly 100,000 new cases every day.

While the AI system has not been universally welcomed by Chinese judges, it does come with useful features. The *Strategic Study of CAE*, an official journal run by the Chinese Academy of Engineering, reported that the smart court system has saved Chinese citizens more than 300 billion yuan (about \$45 billion) and cut judges' workloads by over a third. In addition to detecting indications of malpractice and corruption, the system also solves a longstanding issue for Chinese courts—verdict enforcement. Almost instantly after handing down the verdict, the AI finds and seizes the property of the convicted party and puts it up for online auction.

As the last point suggests, the influence of the smart court system extends far beyond the courtroom. The SoS interfaces with large databases maintained by police, prosecutors, and government agencies. It is also linked with China's controversial social credit system, which dictates Chinese citizens' ability to use services and transportation according to their social behaviors.

Critics of the SoS say judges adhere to verdict recommendations from the AI to save time and effort, even though the system may make decisions based on materials and laws that are unfitting for the case. Others argue that the SoS grants too much power to the technical experts who write the system's codes and maintain its databases.

While reducing judicial discretion could improve fairness in the court system, it also means humans could “gradually lose free will with an increasing dependency on technology,” according to Zhang Linghan, professor of law at the China University of Political Science and Law in Beijing. Is it best, after all, to limit the human judge’s power to make decisions based on experience and training?