International Workshop: "Accountability of the Supreme Court and Constitutional Court in Digital Justice and AI Analysis of Judgment Databases"
Ritsumeikan University, March 11, 2026

Comments on Prof. Dr. Sheng-Lin JAN's Paper:
"Digitalization and the Use of AI in the Taiwanese Judiciary"

By Tsukasa MIHIRA (Kyoto University, Japan)

Professor Shen-Lin Jan's paper explains and analyzes the history of digitalization, specific examples of the use of AI, and core AI policies in the Taiwanese judiciary in an extremely clear and elaborate way, providing valuable information and insights on the theme. While each section of his paper is rich in content, I wish to focus my comments here on Sections III and V of the paper.

I.   Differences in the Background for Introducing the Citizen Judge System and the Significance of the Accompanying Sentencing Information System between Taiwan and Japan

According to Professor Jan's paper, Taiwan introduced the citizen judge system in 2023 and, in conjunction with this, fully implemented the AI Sentencing Information System. Similarly, Japan introduced the citizen judge system in 2009 and launched a sentencing database for citizen judge trials. While both Taiwan and Japan saw the introduction of sentencing information system for citizen participation in trials, the situation in Taiwan which Professor Jan's paper describes suggests some differences exist between the two countries.

The first point concerns the background of introducing the citizen judge system and the significance of the accompanying sentencing information system. In Japan, despite broad statutory sentencing ranges, sentencing decisions among career judges have shown relatively little variation and considerable consistency. This has been attributed to the existence of unwritten "sentencing benchmarks" formed over years under the career judge system, which individual judges acquire through experience[1]. As a consequence, while

---

[1] For the situation before the introduction of citizen judge system, *see* 大阪刑事実務研究会

career judges' sentencing decisions have sometimes been criticized for diverging from public sentiments, they have not been criticized for inconsistency. The citizen judge system was not introduced to address inconsistencies in sentencing judgments by career judges; its aim was to establish a democratic foundation for the judiciary and to reflect sound public common sense in criminal justice system[2]. Consequently, while a sentencing database was ultimately decided to be used to ensure sentencing fairness and provide guidance for judgments, there were discussions about whether showing sentencing trends made by career judges to citizen judges was appropriate, considering the purpose of citizen participation[3]. Furthermore, the view emerged that a certain degree of variation in sentencing due to the citizen participation was not problematic under the system's purpose, but rather desirable[4].

In contrast, according to Professor Jan's paper, there were significant disparities in sentencing by career judges in Taiwan, and the introduction of the citizen judge system was partly aimed at mitigating this issue. As Taiwan, like Japan, operates a career judge system, it is intriguing from a comparative law perspective why such significant disparities in sentencing emerged and why such disparities became visible to the public. Furthermore, against this backdrop, the use of AI sentencing information system in Taiwanese citizen judge system seems to be positioned more proactively than the use of sentencing database in Japanese citizen judge system. It would be interesting to know whether the full implementation of the citizen judge system and the AI sentencing information system in Taiwan has actually narrowed or broadened sentencing as intended.

The differences outlined above between Taiwan and Japan demonstrate that even similar supporting systems could have different significance depending on the underlying judicial

---

『量刑実務体系1 量刑総論』（判例タイムズ社、2011 年）63-67 頁（OSAKA RESEARCH GROUP ON SENTENCING PRACTICE, A TREATISE ON SENTENCING LAW AND PRACTICE IN JAPANESE CRIMINAL CASES I 63-67 (2011)）．

[2] *See* 司法制度改革審議会『司法制度改革審議会意見書』（2001 年）IV（JUSTICE REFORM COUNCIL, RECOMMENDATIONS OF THE JUSTICE SYSTEM REFORM COUNCIL Chap. IV (2001)）．

[3] *See* 日本弁護士連合会裁判員本部編『裁判員裁判の量刑』（現代人文社、2012 年）4 頁 （COMMITTEE ON CITIZEN JUDGE SYSTEM, JAPAN FEDERATION OF BAR ASSOCIATIONS, SENTENCING IN THE CITIZEN JUDGE TRIALS 4 (2012)）．

[4] *See* 飯田高ほか編『法社会学』（有斐閣、2025 年）195 頁（TAKASHI IIDA ET AL. EDS., SOCIOLOGY OF LAW 195 (2025)）．

context. These differences could also lead to subtle variations in how the risks inherent in such systems, some of which discussed later, are addressed.

The second point concerns the transparency of sentencing information systems. In Japan, ordinary citizens cannot access the sentencing database, while in Taiwan the database is publicly accessible online. Taiwan judiciary attempts to ensure transparency of sentencing information, likely reflecting its recognition that ensuring the transparency and objectivity of judicial decisions is crucial for securing public trust in the judiciary — a prerequisite for citizens' use of the judicial system, respect for judicial rulings, and the realization of the rule of law.

However, on the other hand, making the sentencing information system publicly available might increase the likelihood that judges will be or feel pressed to provide added explanations for deviations from the average sentencing shown by the system. While this could, on one hand, enhance judicial accountability, on the other hand, it could also increase the likelihood that judges refrain from making judgments tailored to the individuality and particularities of each case — including elements not covered by the system's search criteria. More directly, it might also heighten the possibility that judges feel pressured to make judgments closer to the average, leading to their reluctance to make nuanced judgments based on the case's unique characteristics. Given that the information provided by supporting systems could inherently exert anchoring effects on judges, and that sentencing "carries "grave responsibility" for judges, making it unsurprising that judges might escape that responsibility and rely on AI's judgments"[5], making that information public could amplify the tendency to rely on it too readily. Furthermore, if this leads to a narrowing of sentencing ranges, such tendencies could accelerate further.

Therefore, it seems important to consider how to address these risks. It might be necessary to repeatedly confirm, both to judges and to society, that information provided by supporting systems is reference material and is not binding, and above all, that the principle of respect for individual dignity demands judgments that consider the individuality and particularities of each case and its parties[6]. Under a career judge system, it will also be

---

[5] 駒村圭吾「「法の支配」vs「AI の支配」」法学教室 443 号（2017 年）66 頁（Keigo Komamura, "Rule of Law" vs "Rule of AI", 443 HOGAKU KYOSHITSU 61, 66 (2017)）。

[6] For the discussion about what the principle of respect for the individual under Article 13 of the Constitution of Japan requires in the context of judicial use of AI, *see, e.g.,* 山本龍彦

necessary to guarantee that deviations from the outcome of supporting systems do not affect judicial personnel decisions. I am interested in how the Taiwanese judiciary addresses the above risks.

II. Similarities and Differences Between AI Assisting Systems and Law Clerks

The above points also relate to the discussion in the final section of Professor Jan's paper. It asks, "Will AI eventually replace the judge?", and points out that it is a general consensus in Taiwan that AI can only serve as an assisting tool and the final judgment should still be made by human judges.

Like many other presenters in this symposium, I fully agree with this view. However, even if judges make final decisions, there are several points to be noted. Specifically, we need first to pay attention to issues similar to those raised regarding the use of law clerks.

For example, there have been some criticisms toward the Supreme Court of Japan that law clerks ("research officers"), who conduct legal research, propose case handling directions, and write draft opinions for the Justices, are taking the place of the Justices or exerting excessive influences on the Justices. In response to these criticisms, the Supreme Court Justices have emphasized that they themselves make final decisions[7]. However, information and proposals from law clerks could have anchoring effects on judges, and the same can be said for those from AI supporting systems. Furthermore, since Japanese Supreme Court law clerks are selected from veteran lower court judges, their research reports have often been said to exhibit a strong tendency to adhere to precedents. This observation may also apply to AI supporting systems operating based on case law databases. Relying too readily on the information and proposals from those systems risks hindering the ability to shape law responsive to societal changes. Judges must be aware of the anchoring effect of the AI' outputs as well as their tendencies and limitations and must consciously examine them in a multifaceted and critical manner.

However, merely encouraging judges' awareness might be insufficient. Institutional channels

---

編『AI と憲法』（日本経済新聞社、2018 年）序章・第 8 章（TATSUHIKO YAMAMOTO, AI AND THE CONSTITUTION Introduction and Chap. 8 (2018)）．

[7] *See, e.g.,* 滝井繁男『最高裁判所は変わったか』（岩波書店、2009 年）34 頁（SHIGEO TAKII, HAS THE SUPREME COURT CHANGED, 34 (2009)）．

which allow them to obtain information and opinions from sources beyond AI supporting systems need to be established to enable judges to actually conduct multifaceted and critical examinations. Specific measures may include assigning law clerks with diverse backgrounds and introducing amicus curiae system, in addition to AI supporting systems.

On the other hand, judges must also be mindful of the differences between human law clerks and AI supporting systems. First, AI supporting systems can make errors that human clerks do not, such as presenting non-existent precedents—a phenomenon known as hallucination. Second, AI supporting systems operating based on case law databases do not surmise or empathize with the lives of the parties involved, the concrete realities of citizens' lives, or the impact a judgment will have on them. Imagination and empathy regarding the specific lives and circumstances of litigants and citizens, along with the aforementioned law formation, would be treated as foreign elements within a strictly syllogistic judicial model. However, in actual judicial decision making, these elements frequently play a crucial role in ensuring the societal acceptance of judgments and are functions that only human law clerks and judges can fulfill. Third, AI supporting systems, constructed on vast amounts of case law information uncollectable by law clerks, risk exerting strong pressure on judges to follow their output. To address this third risk, as mentioned earlier, it might be necessary to repeatedly confirm that judges not only have discretion in the handling of the systems' output but are also expected to critically examine them.

According to Professor Jan, the Taiwanese judiciary considers further expanding the scope of AI utilization. I wish to learn how the Taiwanese judiciary will address the risks and issues outlined above.

The Taiwanese judiciary is far more advanced in digitalization and AI utilization than the Japanese judiciary. I wish to express my gratitude to Professor Jan for sharing its latest developments and his invaluable insights on them.