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Scope of AI in Alternative Dispute Resolution

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ABSTRACT

With the evolution of Artificial Intelligence in various sectors across the globe. The fact is that today, AI is permeating almost every field and the legal field is no exception. The use of AI in dispute resolution is a no-brainer. Given the immense number of cases that come up on a day-to-day basis having an automated system that consistently delivers the same, sound judgements for cases with similar facts, will help reduce the redundancy of proceedings and enable courts to focus the manpower of judges and lawyers on higher value cases that involve more complex issues. It is thus of utmost importance that the legal fraternity takes note of the growing developments in the sector and looks to implement this technology while trying to seamlessly integrate it into the existing framework. Efficacy without unnecessary disruption should be the theme of the general implementation. In pursuance of this, the following article aims to discuss the applicability and scope of Artificial Intelligence in the legal fraternity and the merits and demerits of the same, and aims to provide some suggestions as to the effective adoption and implementation of Artificial Intelligence in the legal domain.

I. INTRODUCTION

Artificial Intelligence (AI) is a new and upcoming area that although primarily was birthed in the computer industry, has now found its home in almost every field. No wonder today, there exists a definite scope for AI in Law, especially in the alternate dispute resolution sector, given that the court systems are well established, and have definite methods of operation, it is difficult for AI to make a home in those systems. However, the field of alternative dispute resolution is one that is always evolving and has always aimed to improve the speed and efficiency at which disputes are resolved. With the onset of the pandemic, ODR (online dispute resolution) began to take centre stage, and even influenced the courts with everything becoming an online affair. As a result, the boundaries between formal and informal litigation were significantly blurred and allowed for a more convenient way of resolving disputes. Similarly, AI also aims to provide an effective and efficient means to deal with disputes in a manner that is satisfactory and cost effective. With an absurd rise in disputes related to online payments, ecommerce and other

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small-scale disputes, AI provides a means to resolve smaller value claims quickly, and in a consistent manner, freeing up the time of the court and also obtaining an enforceable judgment at relatively lower costs.

II. ARTIFICIAL INTELLIGENCE AND THE LEGAL SYSTEM

The use of AI in dispute resolution is a no brainer. Given the immense number of cases that come up on a day-to-day basis having an automated system that consistently delivers the same, sound judgements for cases with similar facts, will help reduce redundancy of proceedings and enable courts to focus the man power of judges and lawyers on higher value cases that involve more complex issues. This is not to undermine the nature of disputes that low value cases present, but simply because many of these numerous cases can be simply resolved in a standardized manner given the similar nature of the facts they present. This would result in lowered costs for the applicants and would also ensure that they receive their decision in a speedy manner, reducing the need to prolong suits. Another key benefit of AI is the fact that it is a consistent tool, which means that at any given time, for a set of facts it would consistently give out the same decision, it would not have "off" days where it is tired or worn out after a long day of solving cases. The element of bias is almost completely eliminated allowing the AI to give out judgements in an almost perfectly objective manner.

On the flipside, there are many arguments against AI as well where people believe that in cases where the facts are not straightforward, and the judge needs to decide the truth, AI cannot compete with the existing systems. Since AI is essentially driven by mathematics, and unlike humans does not have the "intuition" to sense the difference between the truth and lies, and cannot independently discern the nature of certain issues. However, there have constantly been improvements in this respect, and integrating lie detectors with AI will enable it to significantly improve its capability to determining whether a witness is lying or not. Even though lie detectors are not a 100% consistent, neither are human beings. Many a times judges, and even lawyers miss out on minor physical expressions/cues that indicate if a person is telling the truth. This is not to say that humans can be replaced right off the bat, however with significant improvements a system can be placed that requires minimal manual intervention and allows the AI to quickly ascertain a result based on statements of witnesses and the facts fed to it.

But as conclusive, and certain and objective as it may be, this objectivity and lack of emotion and empathy turns out to be its greatest enemy when it comes to implementation of AI in dispute resolution scenarios, where parties are trying to reach an amicable settlement where there is no clear winner or loser. AI is generally unlikely to reach a settlement in cases where mediation is

a useful tool. This is because unlike arbitration and litigation, mediation is a means of facilitating dialogue that promotes amicable settlement of dispute amongst the parties themselves. However, in cases of litigation and arbitration that are low in value, and have clear cut facts, AI can be effectively implemented.

The other big issue with implementing AI judgements is the lack of “speaking orders”. A speaking order is basically a reasoned order, upon reading which the reader can understand the rationale behind the particular judgement. The problem with AI issued judgements is that they have no reasoning attached to it, which means that the litigants have no way of understanding how the AI came to a particular decision. There are no clear solutions to this problem yet. This is because, the program is pre-coded by statisticians and experts in the field who decide the weightage given to each piece of evidence based on past trends. Thus, the statistics could be swayed depending on the sample taken for creating the training data. Thus, the lack of a reasoned order is one of the key drawbacks of using AI to deliver judgements.

This lack of transparency gives rise to the next issue, i.e., the inability to build trust in the working of AI powered dispute resolution. Because AI is only as impartial as the data fed into it, the litigants who are unsatisfied would often refuse to opt for AI again because they wouldn't know why their case failed. This lack of transparency can deter early adopters of AI, and slow down its implementation in the industry. If somehow, it can be shown that the AI processes are programmed on fair and impartial data, and there is an improvement in transparency, it would significantly boost the rates at which litigant opt for AI powered dispute resolution. It is thus evident that although AI has a lot of scope to play an important role in resolving simple low value, there still exist some major bumps in its implementation in the industry. However, with time if these creases can be smoothed, then AI can effectively be implemented in the legal industry and can be used to resolve a multitude of disputes.

III. SUGGESTIONS AND CONCLUSION

AI is definitely a viable means of dispute resolution in the future. Although currently it is in a very nascent stage, it has lots of potential, is only improving day by day. One could have never imagined that one day courts would move online, but today it is the new normal. Similarly, even though AI cannot be directly implemented as it is currently, with a few developments to improve the transparency and essentially eliminate bias, we can ensure that small disputes can be resolved quickly without making the litigants feel deprived of justice. The entirety of the legal system is already under a great burden because of a multitude of cases, however the implementation of AI in dispute resolution systems will not only provide litigants with an

alternative means to resolve their disputes but it would also enable the courts to focus their man power on cases that require dealing with more complex questions of law and cases of more value.

Although AI has many pros and cons, by seriously considering some of the following suggestions, it can effectively convert its weaknesses into strengths and firmly establish itself in dispute resolution forums not only in India, but across the globe. Thus, in conclusion, AI in its current state is not the most optimal tool for dispute resolution, however, with the advancement of research, the use of lie detectors can be enhanced and the input data bias can almost wholly be eliminated. Improvement in transparency, would enable the litigants to be more confident when they choose AI and they can get their disputes resolved quickly, cheaply and consistently. Furthermore, another key way that AI can be integrated with the dispute resolution industry would be if they placed emphasis on minimum human intervention in the early stages of implementing AI. Although it seems counter intuitive, having a minimum level of human intervention to guide the AI and ensure that the general decisions are made in the right manner. This would greatly help in introducing AI into the system because people would be more comfortable if they see a human face in the room. Thus, if with time and adequate research, the main drawbacks of AI are resolved, then for the utility it offers, it most definitely will be adopted in the field of dispute resolution in the future, albeit not in mediation or in sectors where the primary goal is reaching an amicable settlement. Thus, in conclusion, Artificial Intelligence has immense scope in dispute resolution when there is a clear need to determine a winner and a loser. AI would also see greatly increased rates of adoption if it can just improve the level of transparency which will make it easier for litigants to put their trust in it.

IV. REFERENCES

- <https://www.tandfonline.com/doi/full/10.1080/13600834.2022.2088060>
- <https://www.osborneclarke.com/insights/ai-future-dispute-resolution-computer-says-no>
