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The Extent of Integration of Artificial Intelligence in Alternative Dispute Resolution

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ABSTRACT

Artificial Intelligence (hereinafter referred to as 'AI') is one of the most influential developments in recent times. Alternative Dispute Resolution (hereinafter referred to as 'ADR') has come to become a quintessential component of the legal system, almost akin to Judicial Components. While the object of both is to ultimately provide an amicable resolution to a given dispute and to render equitable justice, people and companies are increasingly askew towards ADR as it is more flexible, faster, in most instances more affordable, and more approachable; I.e. in a way it is inherently less mechanical and robotic. The question of the hour, or rather of this document, is whether the implementation of Artificial Intelligence in ADR is counter-intuitive to the fundamental characteristics of ADR?

I. INTRODUCTION

Artificial Intelligence (hereinafter referred to as 'AI') is one of the most influential developments in recent times. Initially its revolutionary implications were limited to the world of computing and problem solving, but by virtue of development and application, it has now found a place in virtually any and every aspect of life, even if not currently, at least in the conceptional or incubatory stage.

Alternative Dispute Resolution (hereinafter referred to as 'ADR') has come to become a quintessential component of the legal system, almost akin to Judicial Components. While the object of both is to ultimately provide an amicable resolution to a given dispute and to render equitable justice, people and companies are increasingly askew towards ADR as it is more flexible, faster, in most instances more affordable and more approachable; I.e., in a way it is inherently less mechanical and robotic. Keeping this in mind, the scope of A.I. integration in the ADR systems and the scope of the same are nevertheless being constantly evaluated not merely from an obstinate lens but with the intent to extract as many benefits as possible in

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regards to the efficiency and efficacy of ADR.

II. WORKING OF ARTIFICIAL INTELLIGENCE

As the name suggests AI, the goal of AI is to emulate human thought processes and sentience in as far as the solving of problems is concerned. Let us look at a simplified, layman's breakdown of how AI works. AI works by virtue of Machine Learning which can be categorized broadly into three types, namely, Unsupervised Learning, Supervised Learning and Reinforcement Learning. Unsupervised Learning is general in its approach. The computer considers a vast set or sets of data and converts it into useful information such as statistics, patterns, etc., Supervised learning is more specific in nature. It does not merely assimilate data but rather uses information fed to it by the programmers to identify the specific and relevant data that best fits the object of the program it is meant for. Reinforcement learning is much more dynamic in nature. It constantly takes in data available to evolve itself over time. However, the more advanced this process is the less transparent it becomes; Meaning that the programmers have less control over what the algorithm is teaching itself and the direction in which it proceeds with the same. This would mean that the machine might not only be converting data into information, but might be using this information, but it might be making decisions based on this information in an undesirable and obscure manner.

III. PRIMACY OF THE JUDICIARY SYSTEM

As mentioned before, Litigation and Court procedures are bound, for better or for worse by much more stringent cords in their procedures and processes like the Codes of Civil and Criminal Procedure, the stages that each case must go through, the manner of representation, the necessity of an attorney, the mammoth pendency burdening the forums, the process of getting one's cause listed, the painstaking delays, the costs, etc.,.

Each judgment is a piece of art, and each judge is an artist. Though two judgements may be similar, might even give the exact same relief, and may be based on a para-similar set of facts, there are no two cases that are completely similar. This is because no two humans, though consisting of a similar species-specific biological structure, are completely similar. They are inherently unique, and when two or more humans interact at a given time and space, the outcome is one of the infinite possibilities.

However, much akin to the generalized demand and acclaim of custom-handmade objects, Courts still have paramount superiority when it comes to dispute resolution owing to the application of a seasoned, specifically educated, and experienced human mind which is subject

to certain restraints such as statutes and their interpretations, precedents etc., so as to get outcomes that are of an ideal balance between human intelligence and reasonable restraints. This prevents arbitrariness and streamlines the delivery of justice while also ensuring that justice is served.

IV. INTEGRATION OF AI INTO ADR

In today's day and age where AI has found a place in almost all fields and aspects of life and is proving to have more substantially beneficial than not, the question is not whether AI must be incorporated into AI but as to what extent it must be incorporated.

a) Integration in proceedings

At a preliminary level, the initiation of proceedings can be handled and validated by AI by virtue of analyzing the date and time of acceptance, checking for valid ADR agreements, whether the relevant documents necessary to initiate the process have been duly furnished etc.,. At a more rudimentary level, AI can be used to skim through voluminous documents submitted by the parties to as to assimilate them and create a substantial report containing not merely the data, but the information is relevant and that can be used to substantially in the process of resolving the issue. One of ADR's widest and most common applications has come to be in commercial matters. Such matters often contain extremely large quantities of data and documents that need to be looked into with varying degrees of scrutiny and attention. Often parties might even submit unnecessary documents or intentionally complex versions of the same so as to delay or strain the process. Unlike Courts with better manpower and human infrastructure dedicated to deal with the same, ADR often finds itself lacking such a luxury. In such instances it definitely makes sense to let the AI do the basic ground work of identification and presentation which would normally be very taxing and draining for a person or even an adjudicator but fairly simple and straight for a computer.

Another example for the integration of AI is that it can also be used to as to compute an ideal middle ground for parties that is most mutually beneficial in an objective manner. This will prove especially useful in more tangible issues such as commercial issues or issues regarding various kinds of property as the subject matter can be fed as data so as to arrive at a utilitarian and objective decision as opposed to one where the emotional weightage attached often impedes the parties from reaching a sound and viable agreement.

b) Integration in Decisions

A popular and recurring proposition under the overarching theme of AI in ADR is to have AI

come up with the decisions to resolve the issue(s) at hand. However, we have to remember that identifying and putting together data is one thing, but using that to make a reasoned decision is another thing. If AI were to independently give out judgements, they would utilize machine learning in such cases and the same would work on the principle of Feedback based learning. Even if we feed the computer every existing dispute resolution decision that we can get a hold off, we can at best set the parameters for observance and absorption but not what it teaches itself. Because, bias is inherent and indivisible in the sense that no person is an island and everyone is but a product of their experiences and exposures. This can be best noticed when in decisions where there is more than one adjudicator. Even though they may concur and pronounce a unanimous decision, their individualistic reasoning by virtue of which they arrived at the same is never completely the same. Often nowadays we can find instances of news outlets reporting a sentence or two from the Orbiter Dictum that often comes off as controversial and irrational. However, the often the actual Ratio and the context is conveniently left out. An undeniable truth is that all judges no matter how evolved or erudite, are biased, at the very least at a perceptional level. Yet, the system still stands, functions and thrives as they are able to isolate be as objective as possible while subjectivity and fine uniqueness of each and every case.

Further, each ideal decision, as per the quintessential Principles of Natural Justice must not be a decision or order but one that speaks and stands for itself. The danger with allocating this set of affairs to AI is that in order for it to be able to give a profound and tailor-made decision, it will have to be able to correlate the reasoning of each decision with the relief propounded by it. However, never have full control over the manner in which this is done which means that the AI could potentially develop its own biases but not have the human intelligence to rationalize the same. Further the AI might only see every case only as a set of data and not as a unique set of people subjected to a unique set of circumstances to which the possibility of having a completely similar previous frame of reference is virtually impossible.

V. DEVELOPMENT OF AI FOR ADR

One of the best ways to address the integration of AI in ADR is not merely to integrate one another at the stage of application but to integrate one into the other far before that. One of the most common streams of contemporary education is computer sciences and applications and one of the most rapidly growing streams of education in terms of students and subscribers at least is law and legal studies. Institutions can offer courses that consist of both of these streams so that more legally potent and cogent AI can be developed so as to curtail the trappings identified in either realm.

VI. CONCLUSION

Just like most instances wherein the word 'artificial' is used, where the ultimate goal is to emulate as much as possible something original, here too, at least as of now, AI will cannot comprehensively replace human intelligence completely. However, that does not mean it cannot be utilized to a great extent. While the ideal goal is to be as less robotic as possible, there are parts of every ADR procedure that could benefit from lessening the burden and mechanical work of humans with the power and speed of AI. Now that we are arguably at the cusp of AI-driven ADR, we must be robust while not letting the system become robotic. Going forward, we must try to utilize the immense potential of AI while also addressing its subjective downfalls with respect to not merely solving a problem but resolving a dispute as the issues brought to ADR are not just sets of data, numbers, and letters, they each represent the lives of people.

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