
AI IN ADR: AN ANALYSIS

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INTRODUCTION

John McCarthy in the year 1956 has cast the word Artificial Intelligence (AI). He defined AI as "making a machine behave in ways that would be called intelligent if a human were so behaving".

Procedures for online dispute resolution (hence referred to as ODR) are similar to those for alternative dispute resolution (ADR) in person, with the exception that ODR makes use of information and communication technology, and the process may be completed wholly or in part online. In the Internet age of today, where disputing parties may be located thousands of miles apart, online conflict resolution will be helpful. The parties' cost of the dispute would be reduced thanks to ODR. It would be very advantageous for consumers and small businesses, both online and offline. Because ODR procedures can be conducted whenever it is convenient for the parties, they may prove to be even more effective than traditional ADR procedures.

According to academics, four parties must participate for an ADR process to be deemed ODR. The claimant, responder, neutral party, and technology-based middleman are the parties[1]. In a variety of situations, issues relating to the transactions are resolved online in a global setting using a variety of ADR techniques (Online Dispute Resolution). ADR processes that are changing have a lot to do with dynamic technologies. Technology has the ability to support and facilitate the operation of a variety of conflict resolution procedures.

FRAMEWORK FOR LEGISLATION

Although the government has been pushing AI and its subsequent uses, there are currently no particular laws in India that address AI, Big Data, or machine learning. The approach to describe its plans to maximise the benefits of being a late adopter in the field of artificial intelligence in its 2018 National Strategy of Artificial Intelligence by "providing quality home-grown

groundbreaking digital capabilities in AI as per its particular requirements to help breakthrough and capture with the rest of the world." The process of developing laws, rules, and policies with a focus on governing and regulating AI is already underway.

A paper titled "Designing the Future of Dispute Resolution, 2021" was just made public by NITI Aayog. The committee recognised that AI has a positive effect on online dispute resolution and its benefits. The Report recognised the importance of AI in developing India's electronic dispute settlement system. The use of AI in the creation of such a system can have a variety of advantages, such as the removal of human bias from the conflict settlement process. According to the paper, ODR's objective is to replace the current paradigm of conflict settlement, not to completely replace it.

The potential for integrating technology into the legal system is still enormous. Computer-coded smart contracts have the potential to automate enforceability through the transfer of rights and duties, facilitating the management of disputes based on blockchain arbitration. The main legal frameworks that support blockchain contracts are the in the year 1996 UNCITRAL Electronic Model Law on Electronic Commerce and in the year 2007 the UNCITRAL Convention on Electronic Communications in International Contracts. By permitting the use of electronic data records and transactions during the arbitration procedure, articles 6 and 18 of the 2007 Convention provide clarification on on-chain arbitration. In general, difficulties with justice and data protection arise during implementation.

Artificial intelligence working method in ADR

AI can function in two ways:

1. AI is a tool that can be used for benefit.
2. AI may even act as its own neutral.

The first way - AI can help with document analysis, research, and standard drafting. AI may also be used to identify lies, evaluate damages, estimate consequences, and suggest likely solutions. Thus, for a streamlined and quick ADR process, human decision-makers could contact the AI on an advising basis.

The second way - The algorithm would search its database to determine which offer is most

similar to its model solution, which allows both sides to submit their last, best offer. This would also encourage the parties to make logical offers in order for theirs to be chosen by the AI instead of the other party's. This design plays to the strengths of the algorithm and avoids questions that can trip it up.

Decision making and Advantages of AI in ADR

Three mental components make up the human mind: the conscious, subconscious, and unconscious. We make decisions with our conscious minds, but our subconscious and unconscious minds also contribute to the decision-making process. Although an arbitrator is expected to make decisions and awards using logic, there is a potential that the outside world will have an affect on their judgement and award.

When making decisions, all three areas of the mind are important. The human rational approach is hampered by this. The AI programmes are not influenced by such baseless causes. Algorithms are used to programme them to behave autonomously. AI-based decisions are far more logical than those made by humans.

1. No unconscious control and Cognitive biases

Humans are subject to cognitive biases. The arbitrator may occasionally be influenced by cases he decided earlier that day or the outside environment when making a decision in the evening.

Its method of decision-making may be impacted. The anchor effect is an illustration of cognitive biases, where people typically have a tendency to base decisions on the initial piece of information they learn. When making decisions, people have a propensity for such cognitive biases.

AI programmes are cognitively neutral and have no external influence.

2. Efficacy in Time-Based Arbitration

The main goal of arbitration is to appoint an impartial third party to settle disputes on an equal footing and without unnecessary expense or delay. Saving time and money is one of the main goals of the arbitration procedure.

The integration of artificial intelligence (AI) in the arbitration process will complement the

arbitration's goal. Due to AI's independent development of thought and reasoning, it can be utilised to lighten the strain on those taking part in arbitration processes. Artificial intelligence (AI) will automate time-consuming legal research and data processing.

3. Eliminating Errors

Human arbitrators are susceptible to errors in interpretation, translation, documentation, choice of authorities, and decision-making, among other things. The arbitral procedure can be made more efficient by using AI at different points or for distinct duties.

To make the process more effective, it can recognise blind areas and give suggestions for minimising them.

4. Predicted results

AI is used to select the suitable arbitrators and forecast the result based on the facts which ia provided by the parties having dispute.

5. Quick Award Formation

In the current situation, after passing the award, the parties must wait for its compliance.

An award can be implemented right away thanks to AI. For instance, if a court rules that one party (A) must pay another party (B) a specified amount of money, the money is quickly moved from one's bank account to another's bank account using artificial intelligence (AI). In order to verify that the award is being followed, AI can also issue a recall to the pertinent parties and authorities.

Obstacles to AI implementation in ADR

Data sets are operated and AI systems are taught. AI has the ability to undermine the Arbitration's objectives.

1. Massive investment

The initial integration of AI in arbitration will demand a significant financial commitment and amount of time due to the necessity for training with such a fast-evolving technology. The

development of AI systems is carried out to reduce the expense of proceedings, but this inevitably raises the cost of the system because it costs a lot of money to create these AI programmes and sophisticated algorithms. If included, this will turn out to be affordable for the parties to the arbitration.

2. Occupation

AI usage and development are done to make life easier for humans. But because just a small number of people are needed to make the AI system work, this directly affects the employment rate. Additionally, AI will be capable of performing human-led labour, which will result in a decrease in the workforce.

3. Privacy Principles

Confidentiality is one of the primary requirements for arbitration proceedings. Only a few people have full access to the intellectual processes and software programming that make up artificial intelligence (AI), which in this situation might deliver the final decision. Software programming is vulnerable to hacking. By hacking, the parties run the risk of compromising their private information. Every system update increases the risk of viruses and other difficult technical issues.

4. Ignoring the possibility of such a programme

Due to a lack of reason, the parties were unable to rely on the system's analysis using the algorithms, a lack of responsibility, a threat to secrecy, and other similar issues, therefore they lost faith in the system.

There is a chance that the programmers won't disclose the algorithms or the process used to reach a result. It can be challenging to leave all decision-making to a machine.

a) Lack of Flexibility

Every arbitration case is unique, and if decisions are made according to a normal operating procedure and a set protocol for deciding every case, then the lack of consistency is evident.

Each award comes with a statement of the factors that went into the decision. Only a limited number of fixed algorithms will allow for a limited number of judgement combinations, leading

to the creation of a rigid structure.

Conclusion

After weighing the advantages and disadvantages of combining ADR with AI, it can be said that AI is still in its infancy and has a long way to go before it can be fully integrated into the legal system. Technology, innovation, and invention have operated in isolation for aeons, making them specific to certain industries. However, as things change, there is an urgent need for greater public knowledge. As long as technology protects fundamental human rights, it can be completely adopted in the legal profession. It has the potential to be one of the most significant developments in legal technology with a carefully thought-out vision, flawless strategy, and responsible application of AI and ADR policies.