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AI-powered Indian Courtroom: ChatGPT a boon or a bane?

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Artificial Intelligence or AI is the technologically induced ability of machines to perform tasks commonly associated with intelligent beings. In simple terms, a machine that can have and apply human-like intelligence in the tasks assigned to it. The scientific field of AI has been of global importance for decades, and its significance is rapidly advancing. The rise of AI today comes with several questions attached to it. These questions concern its merits, limitations, and applicability to fields where human intelligence primarily applies. One such field is the field of law. Law has historically been coded, applied, interpreted, and adjudicated by bodies comprising human beings. However, currently, there is a global academic discourse, around the question of whether it would be viable for AI to have a place in the courtroom. Countries like the UK, the Netherlands, and Latvia have either implemented AI in courts or are on the way to doing so.

Keywords: *artificial intelligence, chatgpt, judiciary, courtroom.*

INTRODUCTION: AI IN INDIAN SCENARIO

The Indian legal space has been largely fundamentalist in its response to change. To cite a prominent example, computers had become commonplace in the late 1990s, but they are just now entering the legal-judicial sphere. In contrast to this, AI has already begun to spark intellectual consideration among lawyers, and jurists alike. The erstwhile Chief Justice of India,

Justice SA Bobde, while addressing The Supreme Court Bar Association's Constitution Day Event in 2019 stated, "We propose to introduce, if possible, a system of artificial intelligence. There are many things that we need to look at before we introduce it. We do not want to give the impression that this is ever going to substitute the judges."¹

It seems likely that AI will become instrumental in the practice of law in India in the future when references like these are made by the CJI himself. At present, there are several shortfalls plaguing the Indian justice delivery system such as delays in deciding cases, lack of access to justice, and a hefty burden on judges and court officials. The effects of these drawbacks can undoubtedly be reduced by the introduction of AI-powered tools for organization, summarisation, scheduling, translation, etc. However, there are certain factors to be considered before its induction into the legal realm, to balance its advantages with the possible issues that it might create.

SAVING JUDICIAL TIME

The first, and probably the strongest contention in favor of AI is that it will save precious judicial time by undertaking administrative tasks, which do not necessarily require thorough consideration by the judges and court officials. The backlog of cases has been a huge concern for the judiciary. Recently, the number of pending cases in Indian courts has crossed the 5 Crore mark.² Tasks such as scheduling hearings, sending reminders to the litigants, reviewing existing documents, and organizing clerical documents can easily be assigned to an AI-based model, freeing up a considerable portion of the day, and thereby, providing more time to the judges which can be devoted to the actual hearings of cases where the sagacity of the judge is pertinent. This could considerably reduce the backlog of cases in Indian courts.

¹ 'CJI S.A. Bobde welcomes AI System to Assist Judges in Legal Research' (*Live Mint*, 06 April 2021) <<https://www.livemint.com/news/india/cji-s-a-bobde-welcomes-ai-system-to-assist-judges-in-legal-research-11617725127705.html>> accessed 22 September 2023

² Ashmita Saha, 'Cases Pending in Courts Cross 5 Crore Mark: Law Minister in Rajya Sabha' (*India Today*, 21 July 2023) <<https://www.indiatoday.in/law/story/cases-pending-in-courts-cross-rs-5-crore-mark-law-minister-in-rajya-sabha-2409541-2023-07-21>> accessed 23 September 2023

SIMPLIFIED LEGAL RESEARCH

Legal Research is a field where AI could prove most advantageous. In addition to textbooks and law journals, there are platforms like Online SCC, Manupatra, Lexis Nexis, LiveLaw, Bar and Bench etc. which have consistently been resorted to, by law students, lawyers, and judges alike. This method of legal research can further be enriched by a systematic introduction of AI-based tools for the production of personalized and summarised, well-rounded responses to specific research questions. The introduction of these tools can autonomously be done by these platforms or other technological innovators. In turn, these innovations would considerably transform the field of legal research and make it more efficient and accessible.

PRECEDENT ANALYSIS

Further, pattern recognition is another ability of AI that could prove useful in the courtroom, for precedent analysis. There may be instances where the judges, despite exercising due diligence, may overlook certain precedents that apply to a particular case. However, if the task of precedent finding, and application is given to AI, it might prove beneficial as it is enabled to go through all the similar cases which have been decided by the courts in a short period, thus, shrinking the possibility of error significantly.

IMPORTANCE OF HUMAN PERSPECTIVE

It is widely accepted, and rightly so, that AI can never replace a judge. The reason for this is the absence of human intelligence in a machine. It can gauge the case in mechanical terms; however, it has not yet been able to look at it from a complete perspective considering the context, emotional background, and humanitarian considerations. Nevertheless, Justice Bobde, as mentioned earlier, stated that it can be used to 'aid' a judge in decision-making. It can provide the judge with an all-around analysis of the case, and how cases of similar character have been decided by that court or higher courts to which that court may be subordinate, thus accelerating the efficiency of the judges, and thereby making delivery of justice a speedy affair. Most recently, Justice Chitkara of The High Court of Punjab and Haryana used the AI tool ChatGPT to gauge

the scope of bail jurisprudence.³ Instances like these signify a high likelihood of greater participation of intelligent machines in Indian courtrooms soon.

It has also been argued that drafting work could also be assigned to AI to save time and effort. However, in this regard, the responses of an AI-based tool can only be taken as supplementary assistance. Drafting of pleadings, contracts, and other such material is highly subjective to every case, and as of yet, only the human mind of a lawyer can formulate an effective document keeping in mind the facts and circumstances of each case.

SUPREME COURT PORTAL FOR ASSISTANCE IN COURT'S EFFICIENCY

SUPACE or 'Supreme Court Portal for Assistance in Court's Efficiency' is a portal launched in 2021 under the 'eCourts Project' to facilitate the availability of relevant data to the judge in an efficient manner. It aims to assist a judge while they come to a reasoned conclusion, thereby, not usurping their position, but aiding them to reduce judicial errors. Thus, there has been a steady increase in the usage of different forms of AI in courtrooms over recent years.

SUPREME COURT VIDHIK ANUVAAD SOFTWARE

In 2019, Justice Bobde launched the '*Supreme Court Vidhik Anuvaad Software*' or 'SUVAS' where SC's judgments and orders were to be translated into nine vernacular languages.⁴ This was seen as the first formal addition of AI into the field of law.

Initially, this software proved immensely productive and efficient, translating a large number of judgments. However, it was seen that mostly, the judgments and orders were being translated only into Hindi. Also, a major portion of cases being translated were criminal matters, while other matters were being overlooked. In its later stages, translation work became increasingly sluggish, seemingly coming to a halt. Over four years later, there have been great advancements

³ Shagun Suryam, 'Punjab and Haryana High Court Uses ChatGPT in Bail Order' (*Bar and Bench*, 27 March 2023) <<https://www.barandbench.com/news/litigation/punjab-haryana-high-court-uses-chatgpt-bailorder>> accessed 25 September 2023

⁴ Ajoy Karpuram, 'The Supreme Court's Translation Project is Slowing to a Halt' (*Supreme Court Observer*, 12 November 2021) <<https://www.scoobserver.in/journal/the-supreme-courts-translation-project-is-slowing-to-a-halt/>> accessed 23 September 2023

in the field of Artificial Intelligence such as the introduction of Natural Language Processing (NLP), and Generative Pre-Trained Transformer 4 (GPT-4), one of the largest language models of all time, which may be deployed to bring the translation technology of the Supreme Court up to date.

ACCESS TO JUSTICE

Access to justice is another sphere where the courts are time and again, found to be lacking. Law surrounds the common folk everywhere, yet justice seems to be far from their reach. One such conundrum is that the Apex court is obligated to give its judgments in the English language. India is a uniquely diverse nation, with several states completely different from each other. Owing to this, it was seen that the middle and lower strata of the Indian masses might not be adequately well-versed in English to understand the law being pronounced in these orders and judgments. To bridge this gap, the translation of judgments into vernacular languages was the need of the hour.

Another ailing concern of access to justice, i.e., physical distance, might be curbed by the introduction of virtual courtrooms. Necessity is the mother of invention. This was manifested in the pandemic era when courtrooms shifted to computer screens via Zoom or Google Meet Platforms. This shift was not seamless and several problems emerged during hearings. However, in present times, those problems can be systematically rooted out by a combination of rules introduced specifically for virtual courts. Live captioning and screen recording are some measures that can be utilized to facilitate the process of hearing cases.

TRANSCRIPTION OF PROCEEDINGS - RECENT EXAMPLE

Further, the transcription work in courts can also smoothly be taken over by AI-based models. This has already been seen in the Supreme Court, when CJI Chandrachud, while trying the case of Maharashtra Power Struggle used an AI tool called 'TERES,' developed in Bengaluru to

facilitate live transcription of pronouncements by the judge. This tool has also been used in various Alternative Dispute Resolution (ADR) matters as well.⁵

EXISTING TECHNOLOGICAL APPARATUS - A PREREQUISITE

Recently, the current Chief Justice of India, D.Y. Chandrachud stressed the need to reduce paper usage in courtrooms by relying more upon electronic gadgets such as laptops and iPads. While this contention is seemingly progressive, and would, if implemented, push the justice delivery system towards efficiency, it received mixed reactions from the legal fraternity. There may be a need for such a change, however, there is a lack of understanding, technological literacy, and resources for some leaders to operate a laptop or an iPad. This signifies that for AI to be successfully implemented in the Indian courts, an existing technological apparatus is an indispensable prerequisite. In the absence of such an apparatus, and adequate training for all concerned persons, successful implementation of AI seems to be impracticable.

CONCERNS REGARDING LOSS OF EMPLOYMENT OPPORTUNITIES

On one hand, if the introduction of AI seems to be a solution to many hindrances rooted in the Indian justice delivery system, on the other hand, it comes with a unique set of challenges and concerns as well. There is the obvious fear of loss of employment for persons handling the administrative tasks in the court, if these tasks are usurped by AI-based models. While being cost and time-efficient, this would create a consequential dearth of employment opportunities within the judiciary, which would be devastating for those persons, and their dependants.

DANGERS OF PRE-TRAINED ANSWERING MODELS

Artificial Intelligence gathers data from the selected questions and responses given to it by human beings. Several models are also trained to give specific answers by their parent software. This gives rise to a possibility of bias creeping into the judiciary, which could result in a

⁵ Aamir Khan, 'AI-powered Indian judiciary: A step forward or cause for concern?' (*Bar and Bench*, 06 June 2023) <<https://www.barandbench.com/columns/litigation-columns/ai-powered-indian-judiciary-a-step-forward-cause-concern>> accessed 25 September 2023

miscarriage of justice if responses by the AI tools are directly pronounced as judgments without necessary subjective alterations by a reasonable human.

SHIFT OF ACCOUNTABILITY FROM JUDGES TO AI

Further, the aid and assistance of AI might reduce the accountability of the judges, as the courts could easily shift the blame to Artificial Intelligence in instances of error. The confidence of Indian citizens in the courts is already dwindling. In this situation, the accountability of the judges cannot be compromised without destroying public trust in the judiciary. Thus, the application of AI comes bundled with a plethora of ethical concerns.

PRIVACY CONCERNS

Further, in certain cases, court proceedings are customarily or statutorily carried out in-camera for privacy concerns. Also, in cases relating to rape and harassment, the name of the victim is not disclosed. If Artificial Intelligence is allowed access to these sensitive matters, there is little to no guarantee of this data remaining private. By putting this data, on the World Wide Web, in one form or the other, its security becomes a huge question. Also, as there are no physical boundaries on the internet, confidential data relating to Indian matters may be disclosed internationally.

LEGISLATION TO REGULATE AI

To combat these challenges, there needs to be a legal framework introduced before a full-fledged induction of AI into Indian courts. As mentioned earlier, the UK and the Netherlands have implemented Artificial Intelligence in their legal spaces. However, before doing so, they had to pass various acts regulating its usage and defining its limits. Such procedure, specifically suited to the Indian needs, is to be followed by the legislature to make AI viable for courtrooms in this country. Unregulated use of AI in courtrooms, open to the whims and wishes of the judges and lawyers could prove cataclysmic.

CONCLUSION

Keeping the aforementioned concerns in mind, it would be advisable for stakeholders to be cautious in this regard. The roles of lawyers and judges can never be completely overtaken by AI, however, it can be introduced in a supplementary capacity, in a phased and systematic manner. The applicability of artificial intelligence is no longer limited to social networking sites or customer care platforms. Likely, courtrooms in India would soon be familiarised with the working of tools like ChatGPT and TERES.

One can say that though there may be huge obstacles in the path of AI, it has undoubtedly become an indispensable instrument in most walks of human life, including law. In this regard, the views of Justice Hima Kohli can be aptly reiterated, *“The bottom line is that AI can never replace human values that are deeply ingrained in the constitutions of countries, in institutions of excellence in the academia and governments and the civil society. So let us embrace technology and AI but with wisdom and a steadfast commitment to the rule of law.”*⁶

⁶ ‘AI should not be viewed as threat but as opportunity to enhance quality of legal practice: SC judge Hima Kohli’ (*Indian Express*, 12 February 2023) <<https://indianexpress.com/article/india/ai-legal-practice-sc-judge-hima-kohli-8440323/>> accessed 24 September 2023