
AI-POWERED ARBITRATION: JUSTICE AT THE SPEED OF ALGORITHMS

Ms. Vishakha Periwai, BBA LLB (Hons.), School of Law, Christ University – Lavasa Campus, Lavasa

Mr. Aniket Agarwal, BBA LLB (Hons.), School of Law, Christ University – Lavasa Campus, Lavasa

Introduction:-

In this AI-progressive society, human nature remains the same, marked by disagreements and conflicts as an inherent aspect of coexistence. The idea of AI assisting in dispute resolution is not only fascinating but also profoundly intriguing, as it redefines the ambit of justice and conflict management. Resolving these disagreements and disputes is the purpose of the legal system in India. Primarily, there are two methods to resolve these disputes: one is by the traditional way of in-court proceedings, and the other is by using more efficient mechanisms like Alternate Dispute Resolution, which includes arbitration, mediation, conciliation, etc.

Arbitration and Dispute Resolution:-

One of the alternate methods is arbitration, which is a procedure for resolving disputes effectively and efficiently. Both parties try to settle the dispute outside the court with the help of an impartial arbitrator(s). Herein a third neutral person is chosen by the parties or various institutions to carry the judicial process including evidence examination, hearing arguments and providing an award in favor or against the claimant. The arbitration procedure in India is governed by the **Arbitration and Conciliation Act, 1996**¹, which provides a comprehensive legal framework for resolving disputes through arbitration. To facilitate the integration of alternative dispute resolution mechanisms into day-to-day legal and commercial practice, the procedural laws in India have been progressively amended to strengthen and promote arbitration and other forms of dispute resolution, reinforcing the country's pro-arbitration stance. One such amendment was the insertion of **Section 89**² by virtue of the 1999 amendment

¹ The Arbitration and Conciliation Act, 1996, NO 26.1996 Acts of Parliament, 1996(India)

² Code of Civil Procedure, 1908, § 89, No. 5, Acts of Parliament, 1908 (India).

in the Code of Civil Procedure, 1908, which states that the court can refer a case for outside court settlements, which is binding upon the parties. The settlement terms shall be formulated by the court only so that no bias is involved.

Artificial Intelligence:-

There have been significant developments in the technology, Artificial Intelligence also called as machine intelligence, such a platform uses available comprehensive data to synthesize and comprehend the data in such a way which otherwise typically involves human intelligence. John McCarthy, a computer scientist who coined the term 'AI' in 1956 defined it as; '*making a machine behave in ways that would be called intelligent if a human were so behaving*'. In the realm of legal proceedings, AI is revolutionizing case analysis, contract review, and even predictive dispute resolution. Artificial intelligence (AI) has recently developed, and the research process is easier with the wide range of available data. Therefore, it is an alternative to the human brain in many fields, for instance the Hon'ble Supreme Court of India has been using an AI-powered translation tool named as ***Supreme Court Vidhik Anuvad Software (SUVAS)*** which helps in translating complex English legal documents into nine regional languages and vice-versa. AI proved helpful in revolutionizing various fields like healthcare, industrial sector and legal field.

AI and Arbitration:-

AI has proved to play a crucial role in dispute resolution and arbitration, as the judiciary is already overburdened with many pending cases. Alternative dispute resolution methods, bolstered by AI, have significantly alleviated the burden on courts by expediting case settlements. The involvement of AI in arbitration has proved to increase efficiency and swift disposal of cases. AI has the mechanism to analyse case files and select arbitrators based on their expertise and availability. The impact on arbitration will be crucial as the arbitrator can use technology to review documents and other relevant filings. Still, it will be impossible for AI to replace humans as arbitrators in the current era.

The scope and complexities of AI are vast and are continuously evolving. As Artificial Intelligence becomes more involved in everyday proceedings, there are various dimensions to it which helps to unveil its advantages and challenges. Fusion of AI in arbitration can create a significant and positive impact by enhancing the efficiency of dispute resolution. By

automating legal research, analyzing case precedents, and assisting in decision-making, AI can significantly reduce the duration required for a case disposal, thereby easing the burden on the judiciary. Furthermore, AI-driven arbitration ensures consistency, minimizing human bias, and low costs, making justice more accessible. This integration of AI into arbitration not only streamlines legal proceedings but also enhances and ensures the principle of justice and equity in dispute resolution.

Firstly, AI helps in case review by analyzing various case files³, judicial precedents and landmark arbitration judgments and helps to provide valuable insights to parties interested, arbitrator(s) as well as advocates. Platforms such as *Brainspace* and *Relativity* expedite the process of analysing documents which reduces time, effort and cost which otherwise would have needed human assistance. AI platforms assist the parties to make more informed and well planned decisions as it can be used to evaluate prior rulings of the judiciary and the arbitrator(s), expertise of arbitrator in the specific field and other factors which can help them to predict the case outcomes or likelihood of potential awards. By analysing the previous rulings of arbitrators, parties can choose the arbitrator which aligns with their case strategy. By determining the arbitrators with similar expertise and experiences, a just and fair system of predicting case outcomes can be established.

AI can also help in determining estimated costs and time associated with a particular type of cases by examining prior rulings and data, which can be helpful for parties to make a rational decision about allocating resources and time efficiently alongside ascertaining which form of dispute resolution mechanism is more feasible.

Secondly, in the case of **Smart Contracts**⁴, that are computer driven agreements which helps in establishing the terms and conditions, which in turn reduces the manual intervention in the legal process, streamlining the work and making the agreement by the way of blockchain technology which is supported by the use of AI. In these types of agreements, AI continuously monitors the performance of the contracts to look for any potential breaches and in cases where parties do not comply with the obligations the arbitration clause is automatically invoked,

³<https://www.scconline.com/blog/post/2025/01/08/arbitration-in-the-era-of-ai-experts-corner/#:~:text=Integrating%20AI%20in%20arbitration%20can,backlogs%20in%20overburdened%20legal%20systems>

⁴<https://www.barandbench.com/law-firms/view-point/artificial-intelligence-arbitration-analysis-indian-jurisprudence>

which results in effective dispute resolution as there is no scope of judicial intervention and the procedure to refer to arbitration is very effortless, as compared to the complexities laid down in the **Arbitration and Conciliation Act, 1996** and the **Code of Civil Procedure, 1908**⁵. Blockchain technology which is used in smart contracts ensures a high level of transparency as it maintains a permanent record of the contract terms and available remedies. Furthermore, it minimizes the likelihood of frauds as it ensures that the contractual obligations are upheld.

Thirdly, the use of AI in arbitration has helped in the form of Online Dispute Resolution (ODR) that has evolved in the modern era leading to swift dispute resolution with the help of virtual hearings which reduces the travel time of the parties and also saves cost by allowing to resolve disputes by sitting anywhere in the world. The option of ODR also helps in inclusion of **Technology Assisted Review (TAR)** which ensures that there are no complexities in the award granted as it simplifies all the legalese which makes it easier for a normal person to comprehend. For instance, a platform such as *LexPredict* helps arbitrators to draft awards by perusing related documents, facts, legal issues which reduces the chance of human error and ensures stability and consistency. AI also ensures that all the necessary legal compliances are followed and there is no violation of the rights of the parties which in turn leads to a fair, just and binding award.

Challenges related to use of AI in Arbitration:

AI has both ethical and legal challenges. First and foremost is that most of the countries including India finding it challenging to develop a clear regulatory framework for the inclusion of AI in day to day proceedings. The current **Arbitration and Conciliation Act, 1996** is not inclusive of any clear guidance of usage of AI of arbitration which consequently decreases accountability and consistency. In India, the likelihood is really high that all the jurisdictions and parties do not possess the required infrastructure and literacy needed to make use of this technology, leading to discrepancies in the justice system.

Moreover, one of the major issues is that AI platforms may not be able to understand the complexities and nature of human conversation which might lead to biases in granting awards. For example “ChatGPT and other intelligent chatbots have no process to determine the

⁵The Code of Civil Procedure, 1908, NO 5.1908 Acts of Parliament, 1908(India)

difference between how the world is and how it is not.⁶

Using AI in arbitration also raises privacy concerns as it involves a lot of data sharing which can be sensitive. Complying with the existing privacy regulations such as **Information Technology Act, 2000**⁷ and **Digital Personal Data Protection Act, 2023**⁸ is necessary to ensure safeguarding personal data and proper disposal of cases.

Recommendations:-

The above discussion helps us understand the different perspectives in which AI in arbitration can be helpful as well as a challenge in the mechanism of dispute resolution. There can be certain recommendations which can be taken into consideration for enacting a regulation so that the use of AI is done vigilantly and meticulously so that it does not infringe the rights of parties. Some of the recommendations that can be incorporated while drafting a comprehensive regulation which has also been stated by NITI Aayog in its report titled ***Designing the Future of Dispute Resolution (the ODR Policy Plan for India), 2021***⁹ which states that certain technological challenges like that of the Indian laws are not very much stringent in case of data breach and the lack of infrastructure is also a main concern which poses challenges in trying these kinds of disputes. In the other parts of the world like the European Union and the United States there have enacted legislations like **Artificial Intelligence Act, 2024** and the **Federal Artificial Intelligence Risk Management Act, 2023** respectively, which has established a statutory framework which will help in the regulation of AI. Thereby, drawing inspiration from such robust statutory frameworks, the Indian Parliament should come up with similar legislations suitable for managing AI in arbitration proceedings which will help in upholding privacy of the parties¹⁰ and ensuring seamless and transparent conduct of the proceedings without violating the right of the parties.

⁶ Zafira Hudani, *The Benefits and Challenges to Having Artificial Intelligence in Alternative Dispute Resolution*, 78 DISPUTE RESOLUTION JOURNAL 205–211 (2024).

⁷ The Information Technology Act, 2000, NO 21 .2000 Acts of Parliament, 2000 (India)

⁸ The Digital Personal Data Protection Act, 2023, NO 22 .2023 Acts of Parliament, 2023 (India)

⁹<https://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf>

¹⁰<https://viamediationcentre.org/readnews/NjU5/CHANGES-IN-DOMESTIC-LEGISLATION-OF-INDIA-FOR-ADOPTING-AI-FOR-ARBITRATION>

Conclusion:-

The existing framework which governs arbitration procedures in India, with the advent of technological advancements, including the integration of artificial intelligence (AI) in arbitral proceedings. This necessitates the enactment of a comprehensive and adaptive regulatory mechanism. Such a regulation would effectively address contemporary legal complexities and facilitate the resolution of disputes through Alternative Dispute Resolution (ADR) mechanisms. With appropriate governmental intervention and policies, the establishment of a structured legal framework for regulating arbitration proceedings can be significantly increased. Moreover, with the growth of Online Dispute Resolution (ODR), it is the near future that AI may assume the role of arbitrators, thereby enhancing the effectiveness, accessibility, and quick resolution of disputes, ultimately ensuring access to justice for the citizens.