79

ALTERNATIVE DISPUTE RESOLUTION SYSTEM

New Trends, Contemporary Challenges and Future

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80

Alternative Dispute Resolution System
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TABLE OF CONTENTS

<center>

31

The Future of Alternative Dispute Resolution Vis-À-Vis Artificial Intelligence in India

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Legal process and juristic acts are where the law in action is most evident. The legal process aims to resolve disputes through decisions to prevent further conflicts. The objective of the legal process is inhibiting conflict. However, some forms of Alternative Dispute Resolution (ADR), like arbitration, are not considered legal processes, even though they institutionalize a dispute.

The heart of the law is dispute resolution, and much discussion revolves around how to resolve disputes. One major weakness of resolving disputes through the judicial system is that it is time-consuming, leading to extensive costs. As a result, many parties are turning to Alternative Dispute Resolution (ADR) mechanisms. ADR is cheaper and allows parties to find creative solutions that benefit both sides.[1]

Traditionally, we think of disputes being resolved through lawsuits and heated courtroom exchanges. However, in the 21st century, there are now better alternatives for settling disputes. Alternative Dispute Resolution (ADR) is a popular mechanism, known as "out-of-court settlement," that is being chosen by more and more people. ADR provides a viable option for those who do not want to get involved in the complexities of a courtroom battle. As technology advances, ADR has been expanding its wings into the technological era, with the field of law adapting more than ever.[2]

ARTIFICIAL INTELLIGENCE

Artificial intelligence is becoming more prevalent in the fields of management science and operational research, as it involves the ability to collect and reason about knowledge to solve complex problems. Intelligent machines are expected to replace human capabilities in many areas soon. AI is focused on developing intelligent machines and software that can reason, learn, gather knowledge, communicate, manipulate, and perceive objects.

Artificial intelligence is a field of computer science concerned with making computers behave like humans, first coined by John McCarthy in 1956. It focuses on computation that makes it possible to perceive, reason, and act. AI differs from psychology in that it emphasizes computation and differs from
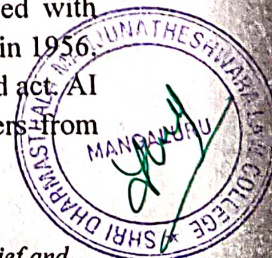
computer science in its emphasis on perception, reasoning, and action. AI technologies use artificial neural networks and logical theorems to make machines smarter and more useful. Major AI areas include natural language processing, speech understanding, robotics, computer vision, and neural computing. Expert systems are a rapidly growing technology with a significant impact on various fields of life.[3]

AI has become increasingly important in today's world, as it offers efficient solutions to complex problems across multiple industries. AI systems and programs can think and learn from their experiences, which has led to significant advancements in recent years. As a result, AI has found its way into almost every business sector, making it an essential tool for organizations looking to stay ahead of the curve.[4]

A few sectors which have adopted this technology are :
a) Healthcare diagnosis and treatment.
b) Autonomous vehicles
c) Fraud detection and prevention
d) Customer service
e) Recommendation systems
f) Financial analysis
g) Smart home devices
h) Cybersecurity
i) Agriculture
j) Education
k) Manufacturing.
l) Natural language processing
m) Social media analysis
n) Sports analytics.

ALTERNATIVE RESOLUTION DISPUTE

The current Judicial System is known for being expensive and causing long delays, leading to a decrease in people's faith in the Courts. As a result, alternative remedies for resolving disputes have become more popular, as they offer quicker and more affordable solutions. The use of Alternative Dispute Resolution (ADR) mechanisms is preferred by many parties as it provides a fast and inexpensive way to obtain justice.

Judges, lawyers, and parties worldwide are increasingly favouring the adoption of Alternative Dispute Resolution (ADR) over traditional court litigation. Arbitral institutions offer ADR services, providing a quicker, less costly, and more consensual means of resolving civil disputes outside of the crowded court system. ADR fosters communication between the parties, allowing them to address their underlying concerns beyond the dispute at hand.
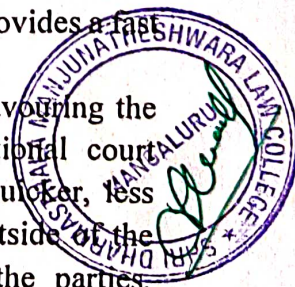
[3] Avneet Pannu, *Artificial Intelligence, and its Application in Different Areas*, 4 IJEIT (2015).
[4] Avijeet Biswal, *Top 14 Artificial Intelligence (AI) Applications in 2023*, SIMPLILEARN.COM, https://www.simplilearn.com/tutorials/artificial-intelligence-tutorial/artificial-intelligence-applications (last visited Jan 27, 2023).

Alternative Dispute Resolution (ADR) is an effective way to resolve a wide range of disputes, including consumer complaints, family disputes, construction disputes, and business disputes. ADR can be applied to almost any type of civil dispute that can be filed in court. In contrast to the formal and uncertain process of litigation, ADR provides a quicker and more certain solution to disputes. In a court of law, parties are often left waiting for the court's decision after a formal process managed by lawyers and the court. This can be followed by further delays and proceedings such as appeals, further slowing down the implementation of the decision.

Alternative Dispute Resolution (ADR) proceedings are highly flexible, as parties have the freedom to choose the applicable law, language, and way the dispute is resolved. ADR can be conducted in a manner agreed upon by the parties and may be settled in just a few meetings, thereby reducing expenses. Unlike in court litigation, no court fees are payable, and there are no expenses involved in obtaining copies of proceedings and reports. A neutral third party can offer services to the parties for an amicable resolution of the dispute, and the parties can choose the date and place of the meeting at their convenience. Additionally, parties can agree on the fee payable to the neutral third person, who is chosen by the parties' mutual consent.

The following are the main techniques of the Alternatives Dispute Resolution (ADR) Mechanism.

A. Arbitration

B. Conciliation

C. Mediation

D. Pre-Trial Conciliation/Mediation

E. Negotiation/Discussion

F. Lok Adalat

IMPORTANT PROVISIONS RELATED TO ADR

Section 89 of the Civil Procedure Code, 1908 provides that opportunity to the people, if it appears to the court there exist elements of settlement outside the court then the court formulates the terms of the possible settlement and refers the same for Arbitration, Conciliation, Mediation or Lok Adalat.

The Acts which deal with Alternative Dispute Resolution are:

- Arbitration and Conciliation Act, 1996 and,
- The Legal Services Authority Act, 1987.

BENEFITS OF NON-CONVENTIONAL DISPUTE RESOLUTION

a) Cost-effective: ADR procedures are generally less expensive than traditional litigation. The parties can save a significant amount of money on court fees, lawyers' fees, and other legal expenses.

b) Timesaving: ADR proceedings are often quicker than traditional court litigation. The parties can resolve their disputes within a few meetings, without having to wait for months or years for a court decision.
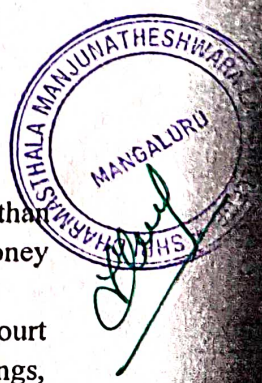
c) Flexibility: ADR procedures are highly flexible, and the parties have the freedom to choose the applicable law, language, and way the dispute is resolved.

d) Confidentiality: ADR proceedings are usually confidential, which means that the parties can keep their dispute private, and the outcome is not a matter of public record.

e) Control: The parties have more control over the outcome of their dispute in ADR proceedings than in traditional court litigation. They can agree on the terms of the settlement, rather than having a decision imposed on them by a judge.

f) Preserves relationships: ADR can help preserve relationships between the parties, as it promotes communication and cooperation, and is often less adversarial than traditional court litigation.[5]

AI AND INDIAN JUDICIARY

The Department of Justice and the e-committee of the Supreme Court of India are working together on the e-courts Mission Mode Project to computerize and enable ICT for all District & Subordinate Court complexes. The Supreme Court of India has formed an Artificial Intelligence Committee to explore the use of AI in the judicial sector, with a focus on translation, legal research assistance, and process automation. However, the second phase of the e-courts, which has been under development since 2015, has not yet incorporated AI technology.[6]

Today, in our judicial system we see the usage of AI in Translation of Judicial Documents, Legal Research Assistance and Contract Review tools. The possibilities of usage of this technology are wide which would include Automated Filing; Process Automation; Case Scheduling; Chat Bots; Administrative Effectiveness and Litigation Prediction.

Presently the Apex court has stated the usage of the following AI-based tools:

a) SUVAS (Supreme Court Vidhik Anuvaad Software): which helps to translate court decisions into regional language.

b) SUPACE (Supreme Court Portal for Assistance in Court Efficiency): This would help in improving efficiency and reducing the pendency of cases.

ARTIFICIAL INTELLIGENCE AND ADR

Human decision-making involves the conscious, subconscious, and unconscious mind, which can be influenced by external factors, potentially impacting the rational approach of decision-makers, including arbitrators. On the other hand, AI programs are not influenced by such external factors and

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[5] Prime Legal, *Alternative Dispute Resolution: Mechanism in India*, PRIME LEGAL (2022), https://primelegal.in2022/10/23/alternative-dispute-resolution-mechanism-in-india/ (last visited Jan 27, 2023).

[6] Khushboo Luthra & Mozammil Ahmad, *Assessing the Intelligence of The Artificial Intelligence in Law: Prospects in India*, https://www.mondaq.com/india/new-technology/1263638/assessing-the-intelligence-of-the-artificial-intelligence-in-law-prospects-in-india (last visited Jan 27, 2023).

operate autonomously using pre-programmed algorithms, resulting in more rational decision-making. [7]

Humans are susceptible to cognitive biases, which can affect their decision-making processes, such as being influenced by previous cases or external factors. The anchoring effect is an example of a cognitive bias where humans tend to rely on the first piece of information they receive when making decisions. In contrast, AI programs are not affected by external factors and do not suffer from cognitive biases, making their decision-making approach more objective.[8]

Benefits:

a) Arbitration is a dispute resolution process that aims to provide a fair and neutral decision by a third party, without undue costs or delays. The core objectives of arbitration are to save time and costs. AI can complement these objectives by automating legal research and data analysis, reducing the burden on individuals involved in arbitration proceedings. This use of AI can save time and make the arbitration process more efficient.[9]

b) Arbitrators, being human, are prone to errors in interpretation, documentation, decision-making, and other tasks. The use of AI in the arbitration process can help to identify and eliminate these inefficiencies. By automating certain tasks, AI can reduce the potential for human error, and by analyzing data, AI can identify blind spots in the arbitration process and recommend ways to mitigate them, making the process more efficient overall.[10]

c) AI can be leveraged to select appropriate arbitrators and predict the outcome of an arbitration case based on various factors such as information provided, documents submitted, and arbitrator's reasoning. By analyzing large amounts of data, AI can identify patterns and make accurate predictions about potential outcomes. This can help parties involved in the arbitration process to make informed decisions and prepare accordingly. Moreover, AI can be used to suggest the most suitable arbitrator for the case based on their previous rulings, expertise, and experience, ensuring a fair and just arbitration process.[11]

d) The use of AI in arbitration can facilitate the immediate implementation of an award. In cases where one party is required to transfer a sum of money to another, AI can be employed to transfer the funds directly from one bank account to another, eliminating the need for any additional steps. Additionally, AI can be used to send reminders to the parties involved and authorities at regular intervals to ensure compliance with the award. This
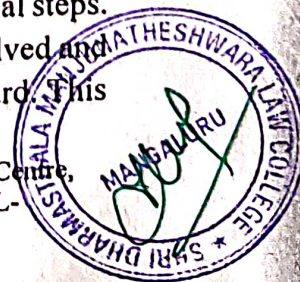
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[7] PROS AND CONS OF ARTIFICIAL INTELLIGENCE IN ADR | VIA Mediation Centre, https://viamediationcentre.org/readnews/NTE5/PROS-AND-CONS-OF-ARTIFICIAL-INTELLIGENCE-IN-ADR (last visited Jan 27, 2023).
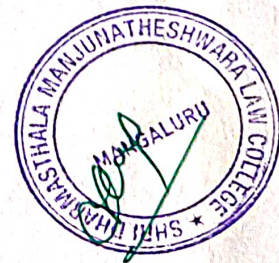
[8] Id.

[9] Id.

[10] Id.

[11] Id.

can help to expedite the arbitration process and ensure that the outcome is effectively implemented.[12]

DISADVANTAGES

Incorporating AI in arbitration requires significant investment and time for training. While AI can reduce costs, its development requires a substantial capital investment. AI's purpose is to reduce the burden on humans, but this could impact employment rates. Confidentiality is essential in arbitration, but AI algorithms are prone to hacking, and any system update can pose technical problems. Parties may lose confidence in the system's conclusion if there is a lack of logic, accountability, or a threat to confidentiality. A standardized process could lack flexibility and lead to a rigid structure, and human errors while developing the AI's algorithms could cause inaccuracies.[13]

CONCLUSION

The idea of a robot judge in a courtroom may seem like science fiction, but some believe it could become a reality. However, experts in the AI community warn against using AI in legal proceedings. Current AI technology does not have the necessary intelligence to handle complex legal issues, and ethical concerns also arise. Therefore, a need arises to keep checks at all levels of implementation of AI in the judicial system. There needs to be a comprehensive legal, regulatory, and ethical framework to establish trust in AI's integration into the justice system. This is required as there could be biases by the AI and these issues need to be addressed before we can consider the possibility of AI delivering justice.

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[12] Id.
[13] Id.