

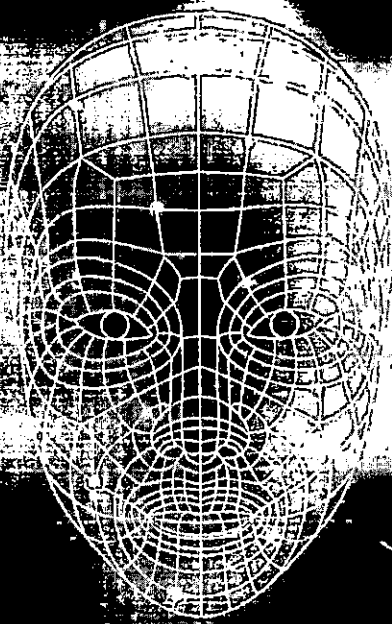
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Department of Labour Law, Saveetha School of Law

Artificial Intelligence and Justice Delivery: Opportunities and Challenges



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**ARTIFICIAL INTELLIGENCE AND JUSTICE
DELIVERY: OPPORTUNITIES AND CHALLENGES**

SAVEETHA SCHOOL OF LAW

DEPARTMENT OF LABOUR LAW

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POTENTIAL USE OF ARTIFICIAL INTELLIGENCE IN JUSTICE DELIVERY SYSTEM IN DIFFERENT COUNTRIES: A COMPARATIVE ANALYSIS

Dr.Nalini Ambad¹

Abstract:

Artificial Intelligence (AI) expedites humans in different ways and spheres of life. Recently Supreme Court of India set up an Artificial Intelligent Committee to evaluate its utility in Judicial System. AI tools like SUVADC (Supreme Court Vidhi Anuvad Software) for translation and AI based legal research assistance tool, SUPACE (Supreme Court Portal for assistance in Court Efficiency) are introduced as a step forward for integrating AI tools in Judicial system. Different countries like US, UK and China are using AI in judicial realm for different purposes. China also claims to use AI in justice delivery system in the form of Smart Court System resulting into reduction of workload of judiciary. Revolutionary use of AI in Judicial System also raises many concerns like its regulation, transparency, accountability and possibility of bias and prejudices due to algorithm which has been alleged in countries using AI in their judicial system.

This research study aims to provide the comparative study of in integration of AI in Judicial systems in different countries. This doctrinal research study will also discuss the issues and challenges in incorporating AI in judicial domain and provide possible solutions.

KEYWORDS: Artificial Intelligent, Comparative Study, Justice Delivery System, Regulation.

Introduction:

Intelligence, reasonableness and human conscience makes human species different from other animal species. Human Intelligence has been used by humans to develop Artificial Intelligence (AI). Today, Artificial Intelligence is used in different sphere of life by human beings for different spares to make life more efficient and expedite like human voice assistance, chatGPT, social media, and smart home appliances. AI is used in different sectors like Health Care,

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Automobile, engineering and many more. Justice Delivery system in different countries is currently overburdened resulting into delay in justice delivery which necessitates the discourse on use of Artificial Intelligence in Justice Delivery System to find out if its use will result into reduction of case load , ensures efficient access to justice and speedy disposal, brings more transparency , accountability and efficiency in justice delivery system. Supreme Court of India set up an Artificial Intelligent Committee to evaluate its utility in Judicial System. AI tools like SUVADC (Supreme Court Vidhi Anuvad Software) for translation and AI based legal research assistance tool, SUPACE (Supreme Court Portal for assistance in Court Efficiency) are introduced as a step forward for integrating AI tools in Judicial system. Different legal system like US, UK China already incorporated few AI tools in their Justice Delivery System. This Research Article also discusses the potential threats in use of AI in justice delivery system and necessity of regulations on it. This comparative study also records the use of AI tool in different judicial systems, identify issues challenges and give possible solutions.

Artificial Intelligence: Definition and concept

Intelligence has been defined by Merriam-Webster's dictionary as 'ability to learn or understand or to deal with new or trying situations².' This definition means and includes human ability to learn and reason in a given situation to reach at particular conclusion. Artificial Intelligence, in layman's language, means the machines ability to learn, understand, analyze and reason which can be summarized as intelligence. Artificial Intelligence is a technology which used mathematics and computer science to build the intelligent machines using algorithms and mathematics. The word 'Artificial Intelligence' was first used by John McCarthy in the first AI Conference held at New Hampshire in the year 1956 who has defined AI as 'science and engineering of making intelligent machines'³ Artificial intelligence is "a technical and scientific field devoted to the engineered system that generates outputs such as content, forecasts, recommendations or decisions for a given set of human-defined objectives" [ISO/IEC 22989:2022].⁴

In simple words it means machines are equipped with huge amount of data in particular subject along with specific mathematical models (algorithm) and some computer programs which enable the machines to understand, analyze, reason and reach at decision using its own intellect.

² Available at <https://www.merriam-webster.com/dictionary/intelligence> (Jul. 23th 2024, 11.26pm. .

³ Prof.(Dr.) Vijay Khare, Col Amit Sinha, ARTIFICIAL INTELLIGEMCE AND NATIONAL SECURITY, PENTAGON PRESS LLP , 2024 , Pg 3.

⁴ Definition, Artificial Intelligence <https://www.iso.org/artificial-intelligence/what-is-ai> visited on (July 23rd 2024 12.55 pm.).

This process includes certain subsets like machine learning which includes deep learning and algorithm.

Justice Delivery System: Need of Artificial Intelligence

Justice Delivery System in broader perspective includes right from Police administration to all aspects of judicial process. However for the purpose of this research article the scope of this terminology is restricted to judiciary. In this process of justice delivery varied aspects are involved like few are concerning directly to the constitutional guarantee of doing justice to the people and others concerning the process of achieving justice like access to justice , record keeping , administration, speedy disposal etc and both are intermingled and interdependent. Pendency of litigation is the major challenge faced by judiciary worldwide particularly in India. Fewer no of judges, delay in disposal of cases, inadequate infrastructure, lethargic bureaucratic tendencies largely affecting administration of justice system. To deal with these problems many countries incorporating technologies like Artificial Intelligent. Artificial Intelligent may be useful in following ways in justice delivery system.

- a. **Legal Research and Due diligence by Lawyers and Judges:** Immense increase in litigation leads to lot of pressure on judiciary to constantly engage in research. Moreover there is a tremendous increase of Laws, case laws, precedents. In such a scenario AI tools helps the judiciary by providing assistance in legal research intelligently. This also ensures the due diligence in the current development in that respective legal arena.
- b. **Legal Analysis:** AI tools can be used for speedy and comprehensive legal analysis from the loads of legal data which definitely help in speedy disposal of matters through the machine learning and Language processing algorithms. In case of *Jaswinder Singh V. State of Punjab*⁵ , Punjab & Hariyana High Court Judge had used chatGPT for getting summary of bail jurisprudence under specific circumstances of cruelty.⁶ However this type of use cannot be said to be used for analysis, interpretation and its application in judicial decision making. The US has employed AI-powered tools such as COMPAS

⁵ CRM-M-22496-2022 , order dated 27-3-2023

⁶ Available at, <https://www.sccoonline.com/blog/post/2023/11/14/chatgpt-fiction-of-the-judicial-process/> (Jul. 24th , 2024 at 10.52 pm).

(Correctional Offender Management Profiling for Alternative Solutions) for data collection, risk assessment and decision support.⁷

- c. **Automation of Documents:** AI tools can be effectively used for smart documentation which is already started in many countries. India has already started E-filing which is more tending to digitalization.
- d. **Technical Execution:** In the Justice Delivery System, administrative works also need to be carried out speedily for effective justice delivery system for example case management, Allocation of matters to courts, organizing information, paperwork, budgeting and other administrative works.
- e. **Ensuring Judicial Transparency and Accessibility:** AI tools can be used to ensure judicial transparency. The US system has also developed *chatbots* that provide information to the public.⁸ Access to justice is another concern in many judicial systems. Access to Justice can be possible in two ways, firstly getting legal advice using AI tools in huge repository of legal information and use of Machine learning algorithm in bringing justice within the reach of people speedily.
- f. **Decision making/problem solving:** Legal Systems of few develop countries like US, China has incorporated AI tool in decision making process. COMPAS (Correctional Offender Management Profiling for Alternative Solutions) used in US and concept of 'Smart Courts' in China are the glaring examples of this. Machine Learning Algorithm is incorporated in these AI to understand, analyze, interprets and reach at the particular conclusion which helps in decision making. China also claims to have reduced the workload of judges by speedy disposal of matters using AI. However these tools are subject to criticism as data input may lead to algorithmic bias.
- g. **Language processing & Translation :** Supreme Court of India has introduced SUVAS (Supreme Court Vidhik Anuvad Software) which is an AI tool developed with the help of IT department of Government of India for translation of English documents , judgments, orders into 10 vernacular languages. It is also an important initiative to bring the legal information within the reach of people who are more proficient in vernacular language.

⁷ Available at , <https://www.newindianexpress.com/opinions/2023/Nov/02/ai-powered-courts-can-rewrite-future-of-judiciary-2629474.html> (Jul.24th 2024 ,11.22pm).

⁸ <https://www.newindianexpress.com/opinions/2023/Nov/02/ai-powered-courts-can-rewrite-future-of-judiciary-2629474.html> (Jul.24th 2024).

Apart from the above mentioned advantages of AI it provides vast assistance to Lawyers in legal advice, drafting research and pro bono lawyers also.

Artificial Intelligence in Indian Justice Delivery system:

Before embarking upon use of AI in Justice Delivery System, it is important to discuss Government of India's initiative for integrating AI in different Sectors. Government of India in budget 2018-19 mandated NITI Ayog to establish National Program for AI. Accordingly NITI Ayog has introduced National Strategy for Artificial Intelligence through this NITI Ayog has identified five sectors for integration of AI, which includes Healthcare, Agriculture, Smart Cities, Education, Smart Mobility and Transportation. The main focus of this initiative is to integrating AI in these sectors to solve societal needs as well as research and development in this area. However Judiciary is not included in it.

Then Chief Justice of India Mr. S A Bobde on 26th November, 2019 while addressing the Constitutional Day Function organized by Supreme Court Bar associated has discussed about introducing AI in Judiciary. A step forward is taken towards AI integration in Judiciary on 6th April 2021, through launch of SUPACE (Supreme Court Portal for Assistance in Court's Efficiency), by then Chief Justice of India SA Bobde. It is an AI research tool to make legal information available for judges to assist them in the matters before them. The primary purpose of the same is to provide research assistance and summarization of legal information to improve courts efficiency which ultimately may lead to reduction in pendency of litigation. However, Hon'ble then CJI Bobde has specifically emphasized that SUPACE would not spill over into judicial decision making and its functioning would be restricted to data collection and analysis.⁹It was also emphasized by Hon'ble Justice Bobde that artificial intelligence cannot replace human intelligence specifically knowledge and wisdom of judges. To summaries, we can say the SUPACE is launched to provide research assistance and analysis only.

Another initiative is the SUVAS (**Supreme Court Vidhik Anuvad Software**),an AI tool developed with the help of IT department of Government of India for translation of English documents , judgments, orders into 10 vernacular languages. However, these efforts can be described as seldom initiatives towards integrative AI in Judicial System. Unlike US and China India has not yet integrated AI into actual decision making process.

⁹ Artificial Intelligence and Courts (Jul. 24th 2024,3.30 pm)
<https://clpr.org.in/blog/artificial-intelligence-and-the-courts/>.

Apart from it Indian judiciary has Supreme Court also uses Multilingual Mobile application for Supreme Court, E Courts, AI via Natural Language Processing to extract information from written or oral statement and summarizing information.

Hon'ble Chief Justice Of India D.Y.Chandrachud ,while addressing the Indo Singapore Judicial Conference on "Technology and Judicial Dialogue" described AI as double edged sword and further said that it raises ethical, legal and Practical Consideration. Further he said '*We cannot avoid the question of using AI in court adjudication. The integration of AI in modern processes, including court proceedings, raises complex ethical, legal, and practical considerations that demand a thorough examination. The use of AI in court adjudication presents both opportunities and challenges that warrant nuanced deliberation.*'¹⁰ This shows that Indian Judiciary is very cautious towards integrating AI into judicial decision making process as this may improve or defy the justice delivery system. Traditional jurisprudential approach put reliance on judge's discretion, morality, ethical consideration, spirit of law which may not get reflected in AI generated decision making process.

Artificial Intelligence in US Justice Delivery system

US Judicial System has integrated AI tool in its decision making process. One of the AI tool used by few states in US is COMPAS. This is primarily a case management and decision support tool used in criminal case. It is also described as criminal justice risk assessment tool. It is developed by private company Northpointe.¹¹ This Ai tool helps the judges in decision making process to assess the likelihood of defendant becoming recidivists in criminal cases. Recidivism is one of the most fundamental concepts in criminal justice. It refers to a person's relapse into criminal behavior, often after the person receives sanctions or undergoes intervention for a previous crime.¹² This system is criticized as biased and subject to inequalities.

COMPAS actually created with an algorithm which determines criminal defendant's likelihood of reoffend. This assessment is based on data fed based on different factors like age, sex, previous criminal recorded etc. According to Authors of a report 'An Introduction Intelligence for Federal Judges' COMPAS system is controversial predictive algorithm as trial courts are

¹⁰ The Hindu, 14th April 2024, 8.00am (Jul. 25th 2024 .12.36 pm) <https://www.thehindu.com/news/national/ai-presents-both-challenges-and-opportunities-for-courts-says-cji/article68062517.ece> .

¹¹ An Introduction to Artificial Intelligence(24th Jul 25th ,4.26 pm), https://www.actl.com/docs/default-source/default-document-library/2024-spring-meeting-phoenix/an-introduction-to-artificial-intelligence-for-federal-judges.pdf?sfvrsn=b0f7a33c_ .

¹² Recidivism (Jul. 25th 2024, 4.35 pm.) <https://nij.ojp.gov/topics/corrections/recidivism>.

using it for sentencing when trial court need to use it assess the parole risk or treatment needs for which tool is designed.¹³

Wisconsin Supreme Court Decision is important to understand use of COMPAS as AI tool in sentencing process as its use is challenged by offender as against due process clause, The Supreme Court mentioned that COMPAS provides a prediction based on a comparison of information about the individual to a similar data group and in the same observation court also recorded that 'A recent analysis of COMPAS's recidivism scores based upon data from 10,000 criminal defendants from Broward County, Florida, concluded that Black defendants 'were far more likely than white defendants to be incorrectly judged to be at a higher risk of recidivism.' Likewise, white defendants were more likely than Black defendants to be incorrectly flagged as low risk. Although Northpointe disputes this analysis, this study and others raise concerns regarding how a COMPAS assessment's risk factors correlate with race. [Citations omitted.] (Para. 63).'¹⁴

Thus it is argued that AI is not free from bias. Algorithms may predict or conclude in such manner due to certain patterns of information available in huge data which may not be true prediction. It is also argued that Artificial Intelligence predict and cannot conclude hence it should not be relied in its totality in decision making process. It is more useful as research assistance tool and not for sentencing or decision making. According to the US Supreme Court's Annual Report 2023 use of AI requires caution and humility.¹⁵

Artificial Intelligence in UK Justice Delivery System:

UK legal System has recently made a cautious welcome of Use of Artificial Intelligence by its judiciary. It can be termed as a revolutionary move in traditional ancient English Legal System to permit to use AI while crafting judicial opinion.

¹³ AN INTRODUCTION TO ARTIFICIAL INTELLIGENCE FOR FEDERAL JUDGES , James E. Baker Laurie N. Hobart Matthew Mittelsteadt , (Jul 25th 2024 , 4.57 pm.) <https://www.actl.com/docs/default-source/default-document-library/2024-spring-meeting-phoenix/an-introduction-to-artificial-intelligence-for-federal-judges.pdf?>

¹⁴ AN INTRODUCTION TO ARTIFICIAL INTELLIGENCE FOR FEDERAL JUDGES , James E. Baker Laurie N. Hobart Matthew Mittelsteadt , (Jul. 25th ,2024,4.57 pm.), <https://www.actl.com/docs/default-source/default-document-library/2024-spring-meeting-phoenix/an-introduction-to-artificial-intelligence-for-federal-judges.pdf?>

¹⁵ 2023 Year-End Report on the Federal Judiciary (Jul.25th 2024 ,5.37 pm.) , <https://www.supremecourt.gov/publicinfo/year-end/2023year-endreport.pdf> .

The English Judiciary has issued ‘Guidance for Judicial Officer Holders’,¹⁶ on 12th Dec,2023 which focused primarily upon two things, firstly , responsible use of Ai in courts and Tribunals and Secondly guidelines described the potential uses and risks in using AI in Courts and Tribunals. These guidelines permits judges to use AI tools with certain cautions like ensuring accountability and transparency, to be aware of bias, to maintain security and take responsibility.

It is also emphasized in recommendations that AI tools are to be used to summaries the big data of legal information, written presentation and administrative tasks only and avoid its use for legal research and analysis. Thus Use of AI in UK judiciary is also in evolving stage and these guidelines also mentioned about steps to develop separate AI tool for Judiciary. Considering the probable risks of bias, security, privacy and confidentiality, even UK judicial system restricted its use to summarizing information and administrative use rather than decision making process.

Artificial Intelligence in Chinese Justice Delivery System:

China can be said to be the first legal system which has claimed to have integrated Artificial Intelligent in its justice delivery system. China has introduced the concept of ‘internet courts’ or ‘smart court’ where parties can register their disputes online and the AI powered smart courts decide these disputes online.¹⁷ Likewise, smart courts in China have incorporated AI systems to improve the consistency of their judgments by comparing cases with similar facts, which raises concerns on their accuracy due to the use of general language processing instead of advanced ML and the unavailability of sufficient data inputs.¹⁸

As discussed earlier china’s intuitive of integration of AI in judicial system is different and distinct from other countries as its started actually using AI powered smart courts for actual decision making while other countries are just at initial stage of evolving AI tools, and using it for purposes other than decision making like summarizing of legal data. China’s first Internet court was established in the eastern city of Hangzhou in 2017 and in 2019, it was reported that

¹⁶ Artificial Intelligence (AI) Guidance for Judicial Office Holders <https://www.judiciary.uk/wp-content/uploads/2023/12/AI-Judicial-Guidance.pdf> (Jul. 25th2024, 8.14pm.) .

¹⁷Robot justice: China’s use of Internet courts ,by Tara Vasdani <https://www.lexisnexis.ca/en-ca/ihc/2020-02/robot-justice-chinas-use-of-internet-courts.page> (July 25th 2024, 11.22pm.) .

¹⁸ Cited from Kalliopi Terzidou, The Use of Artificial Intelligence in the Judiciary and its Compliance with the Right to a Fair Trial, (2022) 31 JJA 154 , (July 25th 2024, 11.22pm.)

.original citation, Lauren Kirchner et al, “Machine Bias”, *ProPublica*, 23 May 2016 <https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing?token=pB6i06lYoO0LwmE2vfYUQBGscZmS8U0E> .

users completed more than 3.1 million legal activities using the court system from March through to October.¹⁹

However, Algorithm used in china smart courts decide the disputes on the basis of similarity in case facts on the basis of data which is criticized on the basis of its correctness of decision making.

Issues and Challenges in Integrating AI in judicial system

There are many issued and challenges in integrating AI in Judicial system like data privacy, Liability, Legal personality of AI, bias and Cyber attacks. Algorithm designs used in many AI Used by designs contains lots of data which raises the concerns like data privacy. Personal information of parties to dispute may be disclosed violating their privacy. Ai being a machine and design legal personality and liability arising out of wrong data generated are the new legal issues need to be addressed through legal regulations. Large data input in algorithm design may create different biases which may be unintentional but hampers the principle of equality and justice which is evidenced in US.

Conclusion:

Use of AI in justice Delivery system is in its evolving stage in different countries. Many of the countries are taking baby steps towards using AI in their Decision making system. Responsible Use of AI is necessary while integrating it in new judicial system. Intense legal analysis is required while developing AI tools useful for judiciary taking into consideration principle of Law and justice as well as jurisprudential necessities. AI assistance can be taken in judicial process but complete reliance on AI tools for decision making is not desirable as AI can not replace and surpass the human intelligence.

¹⁹ Supra Note, Note 16.