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ISSN: 2582-6433

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Avinash Kumar

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship.He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi.Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi.He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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ISSN: 2582-6433

ARTIFICIAL INTELLIGENCE AND ITS IMPACT ON THE INDIAN JUDICIAL STRUCTURE

AUTHORED BY - NILAY KUMAR MANI
LL.M from GUJARAT NATIONAL LAW UNIVERSITY

Introduction:

In the globalized world, the emergence of Artificial Intelligence (hereinafter referred to as AI) has become very crucial and essential in finance, medicine, and also in the field of legal.

The AI models start from the mid-20th century and take place in the COVID-19 period when every judicial court shifts from traditional court proceedings to virtual court proceedings.

Mainly, the use of AI was done in the translation of language from English to the regional language, process automation, and assistance in legal research. This makes the judiciary process easy and efficient.

The recognition of AI and Machine learning was introduced by the ecomittee, Supreme Court of India with a vision and mission to transform the Indian Judiciary into an Information and Communication Technology. The project named as e-courts Integrated Mission Mode Project with the aim of:

- To deliver citizen-centric services in an efficient and timely manner following the e-Court Project Litigant's Charter.
- To create, set up, and execute courtroom decision support systems.
- To automate procedures to give stakeholders transparency and information accessibility.
- The aim is to improve the quality and quantity of judicial productivity while maintaining the affordability, accessibility, cost-effectiveness, predictability, reliability, and transparency of the justice delivery system.

We agree to accept that AI will bring a revolution for the legal domain as it provides a fast solution for any legal problem, it easily translates the languages, it become cost-effective, and many more. We can see in the various cases where the various High Courts as well as the

ISSN: 2582-6433

Supreme Court recognize AI in the court proceedings. For instance in the case of Sri C. Shiva S/O Chikka Chowdappa vs. the State of Karnataka[1] "in this case, Karnataka High Court took the help of AI in the face recognition of individuals to assist the Bangalore city Police then again in the year 2018 in the case of Re Prajwala[2], before the Supreme Court the social media Companies argued that they use AI to recognize the material that contains the Child Sexual Images in advance and finally in the 2019 Tata Sky Ltd. Vs. National Internet Exchange of India[3], The Delhi High Court recommended against registering domain names that are confusingly similar or identical by using artificial intelligence. The Supreme Court unveiled the SUPACE (Supreme Court Portal for Assistance in Courts Efficiency) platform in April 2021. This AI platform employs machine learning (ML) to facilitate case inspection and remove persistent obstacles. But AI also brings some drawbacks or takes time to indulge in the court proceedings because India as a country believes in family relations and emotions which are completely absent in the process of AI.

Some examples from the other countries that are using AI in their judicial structure:

- US: COMPAS as Correctional Offender Management Profiling for Alternative Sanctions.
- EU: HART as Harm Assessment Risk Tool.
- Switzerland: Transcribing Court hearing in real-time.
- Malaysia: Supporting sentencing decisions.

That's why it becomes important for us to learn about the impact of AI on the judicial structure of the country.

The emergence of AI in the judicial structure:

The implementation of AI in the judicial structure takes place in the form of Phases and until now a total of 3 phases have been implemented. We summarize the phases in this topic to understand the evolution of AI in the judicial structure.

To transform the Indian judiciary through the ICT enablement of courts, the eCourt Project was conceived based on the "National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary – 2005" submitted by the

[1] 2007 (3) KARLJI48,
[2] SMW (Cri.) No(s). 3/2015
[3] CS (COMM) 1202/2016

ISSN: 2582-6433

committee, Supreme Court of India.

- **Phase-1[4]:**

The project's first time takes place in the year 2007. This phase focused mainly on the District and Taluka Court where the courts are computerized with the installation of Case Information Software (CIS), installation of hardware, and LAN to aid the advocates with basic case-related services.

In this phase, the District courts started to formulate their website where the court judgments Next Hearing Dates, and many more basic details of the court functioning were uploaded. The CIS masters were appointed to train the Judicial officers. Also, the CIS masters trained the District System Administrators (DSAs) to train the further court members.

The result of phase 1 was the fresh process, systems, and Court Rules established. This phase is completed in the year 2005.

- **Phase-2:**

The action plan for phase 2 was approved by the CJI on 4th August 2015. The mission of this phase is to make more computerized the courts and also cover the remaining courts of Phase 1. This phase was participated by the various Government departments like the Department of Justice, NIC, Department of Electronics and Information Technology, and Ministry of Finance. It designates High Courts as the Project's Implementing Agency, falling under their purview. With the Infrastructure Model, it is possible to implement an efficient and economical Cloud Computing Architecture while keeping the current Server Rooms as Network Rooms and Judicial Service Centres as Centralized Filing Centres. For effective service and training delivery, provisions have been made for the computerization of the District Legal Services Authority office, the Taluka Legal Services Committee, the National Judicial Academy, and the State Judicial Academies.

As part of Phase II's implementation of Free and Open Source Solutions (FOSS), Case Information Software has adopted the Core-Periphery model, with the National Core serving as the unifying core and the periphery developing by each High Court's requirements. NIC, Pune remains the Centre for Software Development and related applications, ensuring software

[4] E-committee Supreme Court of India, HTTPS://ECOMMITTEESCI.GOV.IN/PROJECT/BRIEF-OVERVIEW-OF-E-COURTS-PROJECT/, (last visited on 10th February,2024)

ISSN: 2582-6433

compatibility and interoperability on both a horizontal and vertical level and unified and standardized data, including metadata.

The project's Phase II places a strong focus on providing services to litigants, attorneys, and other stakeholders. The websites will comply with accessibility standards, and the content will be provided in the native tongues where feasible. Emails, SMS, and mobile phone applications are widely used as platforms for information sharing. There will be a kiosk available in each court complex. Online certified copies of the documentation will be available, and ePayment gateways for deposits, court costs, fines, and other payments will be offered. To enable courts, the government, and the public to access more qualitative information, the National Judicial Data Grid (NJDG) will be further improved.

The eCourts National Portal, ecourts.gov.in, was launched on August 7, 2013, by the Hon'ble Chief Justice of India. In addition to providing online Case Status and Cause lists, over 2852 Districts and Taluka Court Complexes have established their online presence on the NJDG portal ecourts.gov.in. Many of them have also uploaded orders and judgments. Currently, NJDG provides information on over 7 Crore cases that have been filed, and resolved, and over 3.3 Crore orders and judgments from Indian district courts.

- **Phase-3[5]:**

The eCourt Project Phase III has been approved by the Union Cabinet, which is led by Prime Minister Shri Narendra Modi. It is a Central Sector Scheme that will cost Rs. 7210 Crore and run for four years starting in 2023. In keeping with the "Sabka Sath, Sabka Vikas and Sabka Vishwas" vision of Hon'ble Prime Minister Shri Narendra Modi ji, the eCourts Mission Mode Project is leading the way in enhancing technology-enabled access to justice. The e-Courts Project, which is a component of the National eGovernance Plan, has been in phase II since 2023 and has been implemented since 2007 with the goal of ICT enabling the Indian judiciary. The "access and inclusion" concept is at the heart of Phase III of the Indian e-Courts Project.
To develop a judicial system that would promote ease of justice by making the system more accessible, affordable, reliable, predictable, and transparent for all stakeholders, the Central Sector Scheme of eCourt Phase III is being implemented in a decentralized manner through the respective High Courts. This partnership is between the Department of Justice, Ministry of Law

[5] Department of Justice, https://doj.gov.in/phase-iii/,(last visited on 10th February, 2024)

ISSN: 2582-6433

& Justice, Government of India, and eCommittee, Supreme Court of India.

These are the anticipated results of the plan:

- By bridging the digital divide, eSewa Kendras provides judicial services to citizens without access to technology.
- Court record digitization serves as the project's cornerstone for all other digital services. Decreasing paper-based filings and the physical movement of documents makes processes more environmentally friendly.
- By virtually participating in the court proceedings, costs related to the proceedings—such as travel.
- Expenses for judges, witnesses, and other stakeholders are reduced.
- Court costs, fines, and penalties can be paid at any time, from any location.
- Expansion of virtual courts beyond the resolution of traffic infraction cases, doing away with the need for a litigant or attorney to appear in person.
- Increased precision and openness in legal proceedings
- A focus on automating the delivery of court summonses through the expansion of NSTEP (National Serving and Tracking of Electronic Processes), will significantly cut down on trial delays.
- Court procedures will become more effective and efficient with the use of emerging technologies, greatly reducing the number of cases that are pending.

By analysing the phases we can ascertain the impact of AI on the judicial structure. We can further ascertain the impacts by summarising the advantages of AI in the field of legal as follows:

1. Ease in Legal Research: The AI model streamlines the legal research process for the judicial officers as well as for the advocates. By lessening their workload, this can free up legal professionals to concentrate on more intricate facets of the practice of law.
2. Legal Analytics: Artificial intelligence (AI) tools can offer predictive analytics based on past case data, assisting judges and attorneys in identifying patterns, projecting case outcomes, and making better decisions. This may help ensure that decisions are made fairly and consistently.
3. Easy translation of languages: AI models made it easy for judges to translate their order into regional languages. This makes the order available to every linguistic person.

ISSN: 2582-6433

4. E-Courts or Online Dispute Resolution: AI can help with the implementation of online dispute resolution and remote hearing systems, as well as virtual courts. This can shorten the backlog of cases and improve access to justice.
5. Data Collection: AI is capable of automating repetitive and routine tasks like data entry, document filing, and scheduling. This can improve productivity and lessen the judicial system's administrative workload.

Although there are various benefits of AI in the legal domain still every invention has some drawbacks which limit the potential of that.

However, the AI model has some drawbacks as follows:

1. Privacy or Security of Data: Security and privacy concerns must be carefully considered before implementing AI in the legal system. Ensuring the ethical application of AI technologies and safeguarding private legal data from unwanted access are important issues that require consideration.
2. Bias Consideration: Biases from past legal data may unintentionally be inherited by AI systems. To guarantee equitable and just results, it is imperative to confront and reduce these biases. Maintaining accountability and transparency requires regular oversight and audits.
3. Gaining Trust: The public's acceptance and trust are essential for the successful integration of AI into the legal system. To keep the public confident in the justice system's fairness, transparency in AI algorithms and procedures is essential.

AI and the Indian Constitution:

When considering the integration of AI systems into legal processes, it is necessary to consider the implications for the parties' fundamental rights. Cesare Becarria posits that criminal trials in modern constitutional democracies are governed by four fundamental values: due process, equal treatment, fairness, and transparency. These values are enshrined in Articles 14, 19 and 21 of the Indian Constitution.

Vision of Article 14[6]:

In the context of India, Article 14 of the Constitution, interpreted in conjunction with Articles

[6] *Centre for Comparative Constitutional Law and Administrative Law, HTTPS://WWW.CALJ.IN/POST/AI-JUDGES-THE-QUESTION-OF-AI-S-ROLE-IN-INDIAN-JUDICIAL-DECISION-MAKING, (last visited on 10th February, 2024)*

ISSN: 2582-6433

15, 16, and 17, as species, addresses the eradication of prejudice and discrimination as well as the advancement of equity and justice. The Indian Constitution was amended to include these articles in an effort to promote individualism and equality in society.[ix] The detrimental bias that is regularly noted in AI-based systems is in direct opposition to the goals of Indian constitutionalism. Certain implications for Article 14 arise when it comes to bias entering the criminal justice system as a result of AI's application in cases like the previously mentioned bail order. For instance in the various bail application the cognizance by the judges on the cases are mostly different which makes biasness in the AI model complicated.

In the case of Shyam Singh v. State of Rajasthan[7], the Rajasthan High Court stated that prejudice on the part of the judiciary in criminal cases violates Article 14 of the Indian Constitution and is contrary to the fundamental values of justice and equal treatment for all accused parties. This is a very worrying implication for a nation like India where societal biases and prejudices are deeply ingrained. According to a study by the University of Pennsylvania's Centre for the Advanced Study of India, there is a lot of in-group bias in both law enforcement and lower magistracies that handle criminal cases, particularly when the accused are members of scheduled castes or tribes.

It is concerning that in cases where judges are predisposed to favor technology from the start because of the anchoring effect and where the decisions made are biased because of the garbage-in and garbage-out principle, there is no longer the intermediate check that would have been offered by a careful assessment of the AI's actual decision.

Vision of Article 19[8]:

The Indian Constitution's Article 19 guarantees the protection of rights related to liberties. The freedom of expression is restricted and the right to privacy is violated when artificial intelligence is used for surveillance. Citizens who live under constant surveillance are more likely to fear being watched and to refrain from exercising their basic rights, like the right to free speech and expression.

Digital robots powered by artificial intelligence are the new tool for harassing dissident and

[7] 1973 CriLJ 441
[8] Legal Service India, https://legalserviceindia.com/legal/article-8831-the-debate-between-artificial-intelligence-and-human-rights.html, (last visited on 10th February,2024)

ISSN: 2582-6433

marginalized voices online. The right to free speech is violated by digital bot accounts that are difficult to identify. These accounts pose as real users and send automated responses to known accounts or to anyone who shares a particular opinion. It has been claimed that political parties have exploited artificial intelligence in multiple recent international elections to fabricate and disseminate untrue information about their rivals, jeopardizing democratic principles and calling for the idea of free elections.

Numerous people have already lost their jobs due to COVID 19, and new developments in AI will only make matters worse. These corporations are violating human rights and interfering more and more with the lives of citizens in the absence of regulation or accountability. Artificial intelligence (AI) has demonstrated that it poses a risk to equal protection, economic rights, and fundamental liberties by inciting discrimination and engaging in invasive surveillance.

Vision of Article 21:

From an Indian standpoint, these due process rights have been acknowledged as essential pillars of Indian criminal and constitutional jurisprudence since the scope of Article 21 was expanded in Maneka Gandhi v. Union of India[9].

Decisions made by AI seem to be made in a "black-box," which has major ramifications for justice and the rule of law. Situations known as "black box AI" occur when an AI system's actual decision-making process is concealed from the user. In the event that AI is used in the judicial decision-making process, such a lack of essential information regarding the justifications for reaching a decision raises concerns for all parties, including the judge. The Black Box phenomenon challenges the fundamental principles of due process and transparency.

Therefore, the application of AI may obscure certain crucial due process rights, such as transparency and natural justice, which are guaranteed by Article 21 and necessary for a just criminal trial.

As a result, we can determine how AI affects the Indian Constitution, particularly Articles 14, 19, and 21. The impact of AI, both positive and negative, on bias, freedom of speech, privacy

[9] AIR 1978 SC 597

ISSN: 2582-6433

rights, and life liberty.

Way Forward:

Globally, artificial intelligence systems are changing how governments and corporations run their operations, and this change has the potential to seriously violate human rights. While some of the worst uses of AI technology that are currently known may be mitigated by data protection laws and measures that promote accountability and transparency, more work will be needed to safeguard human rights as AI technology develops and spreads into new industries. Also, After taking into account the objections raised by rights advocates against AI-based technologies, it is possible that additional precautions could be taken to guarantee that these flaws are fixed. Adopting a model akin to the Article 22(1) mechanism found in the European Union's General Data Protection Regulation ("GDPR") is one potential resolution.[xx]This gives the accused the option to refuse to use AI-enabled technologies for things like bail, sentencing, and pre-trial release. The GDPR's opt-out provision safeguards informed consent, which is a fundamental component of Article 21 of the Indian Constitution. Similarly, as described in Article 5 of the GDPR, a verification mechanism for the accuracy of the data sets used can be established. The strict verification process, which takes place at every stage of the decision-making and profiling process, upholds Article 14's principles of justice and equal treatment for all accused parties. To guarantee that there is a check and balance system between the application of human and non-human intelligence, the Supreme Court must issue guidelines in addition to a verification mechanism to ensure that human intervention is present to lessen these AI biases.

The use of AI in judicial decision-making appears risky, even with these warnings. It becomes difficult to argue in favour of such an inclusion when one considers the serious rights violations that it appears to entail. Despite the speed these systems provide and the benefits that follow for an overworked Indian judiciary, the introduction of AI into judicial decision-making nonetheless opens a can of worms.