Law, AI and Responsible AI

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AI & Courts

- Technology Assisted Review & Discovery
- Automated Online Dispute Resolution
- Prediction of Litigation Outcomes
- Criminal Sentencing and Risk Assessment
- Automated Decision Support & Decision Making
- Automated E-filing Systems
- Allocation of Matters & Prioritizing

SC and Transcription

- https://indianexpress.com/article/explained/explained-law/ai-is-transcribing-sc-proceedings-how-is-it-happening-and-why-8458492/

- The SC transcription is using Teres, which is a platform used often for transcribing arbitration proceedings. The platform is run by Nomology Technology Private Limited, a Bengaluru based company.

- "If there are two or more voices at the same time that causes a little bit of a problem," CJI Chandrachud said. "But they have personnel who will clean up the errors by the evening," he added

SUPACE

- The Supreme Court of India has implemented an AI system, Supreme Court Portal for Assistance in Courts Efficiency (SUPACE) that will aid in the administration and delivery of justice through cataloguing huge numbers of earlier judicial decisions for better processing of case material, whether for comprehending the factual matrix of specific instances or conducting dynamic research into precedents. SUPACE will not be used in decision-making. The role of AI will be confined to data collecting and analysis.

- The SUPACE AI tool is being deployed on an experimental basis with judges in the Bombay and Delhi High Courts who handle criminal cases.

AI & Tech Revolution in Law

- AI is part of tech revolution in law and justice and is a key element

- As digitization in different forms is set to transform law and justice , there will be a paradigm shift in theory and pratice

- What's happening in India is part of this global trend.

- Pandemic in 2020-22 accelerated this in many ways such as online hearings, virtual courts, efiling and push towards digitization

- So many new products and services are on the anvil in India

Legal Tech Products

Product Landscape

Legal Service Delivery

Solutions that increase efficiency of service delivery to citizens, by legal service providers as well as judiciary

(29) Practice Management
(26) Research and Analytics
(25) Case Management
(01) Evidence Management
(01) Court Management

Process Efficiency

Solutions that impact existing practices and increase efficiency of everyday, usually time taking tasks

(58) Incorporation Management
(25) Compliance Management
(17) IP Management
(13) Contract Management
(09) Workflow Management
(03) Document Management
(01) Due Diligence Solutions

Access to Legal Recourse

Solutions that improve citizens' access to the justice system by means of network linkages, knowledge creation or dispute resolution

(48) Marketplace (Service provider)
(24) Knowledge Platform
(14) Online Dispute Resolution
(13) Marketplace (Documents)
(07) Succession Management

Do-It-Yourself (DIY) Tools

Tools that allow citizens to operate without intermediaries typically to meet compliance requirements

(11) e-Signing
(03) Document drafting
(03) e-Registration
(02) RTI filing
(01) Digital Signature

Digital Courts Vision & Roadmap

- "Intelligent Scheduling
- Co-ordinating the availability and schedules of different users: judges, lawyers and litigants is a critical part of the court administrative process. Leveraging technology to create an infrastructure that can optimise and coordinate their time, can unlock significant capacities for justice administration and overall bring greater efficiencies to the system. Over time, this will also increase reliability in the system by enabling all actors to manage their time better.
- Such a scheduling system must intelligently recommend (and not decide) appropriat e schedules by using AI"

- Digital Courts Vision & Roadmap
- Phase III of the eCourts Project

Overview

- In 2020 the then CJI S A Bobde formed a committee on AI
- This was followed by portal SUPACE Supreme Court Portal for Assistance in Court's Efficiency. The idea is to leverage machine learning to handle the huge amount of data received at the time of filing cases
- Current CJI D.Y. Chandrachud has stressed the need for better application of AI and its widespread impacts particularly providing greater access to justice
- Many legal-tech start ups are developing tools powered by AI
- So there is a consensus across stakeholders on deploying AI

Overview

- AI is increasingly used for legal research by law firms who use different data bases and software.

- Automating legal research by examining large volumes of legal data and extracting relevant information from them.

- AI-assisted software to automate the process of reviewing contracts and flag issues of concern. Use of software to automate the drafting of legal documents saves time, efforts and better use of human resources

- Use of e-discovery software to retrieve relevant information from volumes of documents

Overview

- Use of predictive analytics for data analysis and estimate probable outcomes. This can inform legal strategies and increase the chance of success.

- Proposals include AI-powered case management systems for automating routine tasks such as scheduling hearings and managing case files.

- eCommittee Supreme Court ofIndia's Integrated Decision Support System (IDSS) and the Delhi High Court'sJudicial Case Analytics and Research System (JCAR) use AI and natural language processing to analyse case law and provide judges with recommendations based on previous judgments and legal precedents

Overview

- In Alternative dispute resolution (ADR) and online dispute resolution (ODR), AI has the potential to enhance efficiency . With the use of virtual assistants, data analytics, predictive analytics and Natural Language Processing software these can be effectively used. Care should be taken that the processes are fair and user friendly without compromising in legal standards.

- AI powered ADR and ODR can enhance their credibility

Bots & Chat Bots

- AI Powered chat bots, virtual assistants can enhance access by guiding and giving legal information to litigants and ease the interaction with judicial system. This will reduce the burden on courts and need to physically visit courts.

- Law firms also can use these to service clients and address queries, enable preliminary enquiries and direct clients

- Virtual assistants can be multi-lingual and help in filling up forms, guiding in choosing the right forum/court, assist in checking and filing forms.

- This is preliminary level service but can be of great help given the volumes and quantity of mundane tasks

Bail Bots

- Bail Bots are potential applications that can ease a routine task before judges & quicken the process of bail review & decision

- But AI based bots should be free of bias & should assist in decision making rather than system leaving decision to them

- A human in the loop is important so that bots have accurate information & process is fair, transparent and credible

- Reliable & comprehensive data is needed to make them work effectively

- Bail bots should be based on explainable AI than function as black boxes

Chat GPT

- Although not officially recognized Chat GPT was used by a Judge in Punjab & Haryana High Court to decide in a case but judgement was not written by Chat GPT

- Justice Pratibha Singh refused to rely on chatGPT responses

  "Accuracy and reliability of AI generated data is still in the grey area. There is no doubt in the mind of the Court that, at the present stage of technological development, AI cannot substitute either the human intelligence or the humane element in the adjudicatory process. At best the tool could be utilised for a preliminary understanding or for preliminary research and nothing more"

  https://www.verdictum.in/court-updates/high-courts/imitation-by-shoe-boutique-was-an-attempt-to-pass-off-its-own-goods-as-goods-of-christian-louboutin-says-delhi-hc-1491966

Legal Applications

- Creating legal documents, such as contracts, briefs, and wills.

- Conducting legal research, by analyzing vast amounts of legal information and providing relevant summaries.

- Analyzing large data sets and making predictions about legal outcomes.

Cases on Using AI in Law & Justice

- In many countries AI & Algorithmic Decision Making is increasingly adopted in law and justice. There are also cases on firms developing LLMs and AI applications regarding IP rights.

- See for example

- https://blogs.gwu.edu/law-eti/ai-litigation-database/

- https://blogs.gwu.edu/law-eti/ai-litigation-database-search/

Loomis v. Wisconsin

- "Eric Loomis was charged with five crimes; he entered into a plea agreement under which he pled guilty to two crimes. Before sentencing, the court ordered a presentence report that included an algorithmic assessment using a tool called COMPAS, developed by Northpointe, Inc. The COMPAS risk assessment is based on data gathered from a defendant's criminal file and from an interview with defendant. The challenged assessment predicts the risk of pretrial recidivism, general recidivism, and violent recidivism. Loomis scored high on all three risk measures. In rejecting a sentence of probation, and sentencing Loomis to a prison term, the Circuit Court referenced the COMPAS risk assessment. Loomis filed a motion for post-conviction relief requesting a new sentencing hearing, arguing that the use of the COMPAS risk assessment violated his right to due process. All three levels of Wisconsin courts denied his motion, and the U.S. Supreme Court denied certiorari."

Loomis v. Wisconsin

- "COMPAS is a proprietary predictive algorithm used to assess the risk of recidivism. The Wisconsin Supreme Court held that the use of the proprietary algorithm does not violate a defendant's due process rights."

- https://blogs.gwu.edu/law-eti/ai-litigation-database-search/case-detail-page/?pid=1

HART

- The Harm Assessment Risk Tool ('HART') is used by Durham Constabulary in the United Kingdom. Using more than thirty characteristics that describe a person's criminal history and socioeconomic background, HART utilizes an ML algorithm to determine a suspect's probability of reoffending. The local police use the risk assessments completed by HART to decide whether to charge a person or divert them into a rehabilitation programme. HART does not decide whether a person is guilty or innocent, but its evaluation may start a series of actions that lead to a person being deprived of their freedom or being found guilty of a crime

Technology Driven Justice System

- GAI can enable judges to write judgments, do survey of literature, generate summaries and can even author judgements
- GAI can be applied in many functions which are now handled by humans and GAI can replace those doing mundane tasks or entry level jobs
- GAI can result in efficient use of resources, quicker decisions and better usage of capacity

But

- Question of Values
- Will judicial system be guided more by technical rationality than by human values
- Rule of Law by machines vs. Rule of law by humans
- GAI can result in new knowledge including concepts
- In science it has discovered new chemicals that were not discovered by humans, revealed structures of proteins
- Can such a thing happen in law and justice

GAI

- How do we treat and deal with GAI. Can GAI gain sentience or consciousness

- Can GAI replace judges partially if justice can be automated to some extent wherever possible

- What happens if GAI comes up judgements that were unanticipated by humans

Issues of Concern & for Reflection

- 1) Admissibility of AI generated evidence in Courts

- 2) AI and Constitutional Values

- 3) AI and Rule of Law

- 4) Justice and Generative AI

New Questions, New Answers

- Gen AI systems can enable those who lack access to use them effectively to make claims, draft pleadings and challenge fines

- DoNotPay- Challenging Parking Tickets, Producing Divorce Agreements – It is not a lawyer. But when it wanted to act as an advocate it was questioned & backtracked

- Will such bots and systems enable better access or should they be banned beyond a few applications

AI and Rule of Law

- Rule of Law –There are many definitions and approaches

- Accessibility to Law – Will AI make this more meaningful or constrain it

- DoNotPay- was challenged by lawyers who contended that it should not offer services which a lawyer does & should not enter into court cases involving hearing

AI and Rule of Law

- High Risk AI systems are to be registered in an EU database under the EU AI Act

- UK Law Commission recommended National Register of Algorithmic Systems in criminal justice system for checking and verification

- Proportionality vs. Built in bias in criminal systems . Punishment proportional to crime committed or potential vis a vis bias

Questions

- Who should be accountable for automated decisions and how should responsibility be fixed among the chain of actors when the final decision is facilitated by AI but decided by a human?

- What is a fair trial if the decisions have been facilitated by ADM? Can we develop criteria for fair trial if ADM is to be used

- Can we claim that accused is denied due process of law when AI systems are deployed at some stage of the criminal procedure. Can due process be facilitated by AI and be also fair?

AI and Rule of Law

- Citizens and Machines- What exactly is the contract among them.

- Human Agency vs Embodied Agency in AI

- Can AI enable flourishing of humans, affirming fundamental rights and rule of law

- Can AI work in harmony within legal system

Responsible AI in Law and Justice

- How to build AI systems that are compatible with constitutional values, fundamental legal principles including principles of natural justice, that are devoid of bias/discrimination and that enable justice and fair process?

- What is Responsible AI in law & justice

- How legal scholars can work with techies in developing them

Explainable AI and Responsible AI

- "As such, our project demonstrates how trustworthy [AI tools](#) can be built for a real world legal domain where critical needs of the end users are accounted for."

- https://www.sciencedirect.com/science/article/pii/S0004370223000073

Doing it Together

- Responsible AI in law demands we all doing it together pooling our expertise, use shared values and norms, abide by constitutional values and develop systems that are fair, just and are explainable

- Responsible AI should facilitate better access to justice, balance efficiency, ethics and aid in better deliver of justice and use of law.

Code as Law

Law 3.0

Law as machine

Thanks