

Digitization in Arbitration: Role of Artificial Intelligence (AI) in Indian Arbitration

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Abstract

Artificial Intelligence (AI) in arbitration offers a revolutionary chance to tackle structural issues in India's arbitration environment, such delays, exorbitant fees, and restricted accessibility. With an emphasis on applications, like document management, predictive analytics, virtual arbitration platforms, and bias detection, this article explores how AI is transforming arbitration procedures. India can increase decision-making uniformity, promote transparency, and expedite arbitration procedures by utilizing AI techniques like machine learning (ML) and natural language processing (NLP). However, the use of AI brings up important ethical, legal, and practical issues, such as algorithmic transparency, data privacy hazards, and opposition from legal experts. This study assesses India's preparedness for AI-driven arbitration through a qualitative examination of international trends, the country's legal system, and case studies. Key findings indicate that although India's current infrastructure and government programs, like Digital India, establish a basis for innovation, issues, such as regulatory shortcomings, the need for capacity-building, and cultural resistance, need to be tackled. Suggestions comprise policy changes to guarantee ethical AI application, partnerships between arbitration bodies and tech suppliers, as well as educational initiatives for involved parties. By responsibly adopting AI, India can establish itself as a worldwide centre for effective and inclusive arbitration, enhancing confidence in its dispute resolution systems and drawing international conflicts. This research enhances the conversation regarding AI's impact on legal frameworks, providing practical recommendations for policymakers, arbitrators, and legal practitioners at the crossroads of technology and fairness.

Keywords: Artificial intelligence, arbitration and conciliation, dispute resolution, arbitral institutions, algorithmic transparency

INTRODUCTION

Arbitration, now one of the most favoured methods of alternative dispute resolution (ADR) worldwide, offers parties the opportunity to settle their disagreements more quickly, flexibly, and cheaply than through conventional litigation. In India, arbitration has taken on a substantial share of

commercial disputes due to the common issues of backlog and delays in the judicial system. The Arbitration and Conciliation Act of 1996, modelled after UNCITRAL, is the primary law governing arbitration in India. It aims to establish a strong legal structure for arbitration at both national and international levels. However, despite arbitration being a compelling method for resolving disputes, it encounters various challenges in India, including delays, significant expenses, and a shortage of institutional backing. These obstacles have encouraged stakeholders to consider innovative solutions and seek alternative methods to enhance

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the accessibility and effectiveness of arbitration. One approach is the incorporation of “Artificial Intelligence (AI)” into arbitration processes.

Artificial intelligence (AI) is the ability of robots to learn, reason, solve problems, and make decisions – tasks that need human cognitive abilities. AI has recently made tremendous strides in several industries, including healthcare, finance, and education. AI is increasingly being employed in the legal industry for activities including contract analysis, legal research, and predictive analytics. AI has the potential to drastically alter the legal industry because of its capacity to handle enormous amounts of data fast and reliably, identify trends, and generate data that legal practitioners can rely on to make better judgments.

The integration of AI and arbitration fundamentally transforms the approach to conflict resolution. AI can be utilized at various phases of the arbitration process, such as in case management, document analysis, predictive analytics, and decision-making. For example, AI-driven tools can examine extensive collections of legal documents, recognize pertinent case law, and even forecast the probable resolution of a conflict based on historical information. In India, the use of AI in arbitration is still at an early stage, yet the enthusiasm for tapping into its possibilities is increasing. The efforts of the Indian government toward a digital transformation, exemplified by initiatives, such as Digital India and the e-Courts project, establishes favourable circumstances for the integration of AI within the legal system. Moreover, the increasing prevalence of technology in arbitration, such as virtual hearings and electronic filings, fosters an environment for the incorporation of more sophisticated AI-powered features. The embedding of AI in arbitration has the potential to revolutionize the process, addressing several challenges that plague the Indian arbitration landscape, including delays, excessive costs, and limited accessibility. Employing AI technology in this instance would enhance the efficiency and effectiveness of the arbitration process, making it a more attractive option for the parties involved in resolving disputes. Additionally, employing AI in arbitration aligns with global trends and positions India as a leader in innovation within the field of dispute resolution.

This study examines AI in arbitration using a qualitative research technique. The study is carried out by thoroughly reviewing the body of current literature, including scholarly publications, case studies, government reports, and the world’s finest practices. The following techniques are applied.

- An examination of scholarly publications, journals, and reports about arbitration and artificial intelligence.
- Examination of worldwide trends and case studies on the use of AI in arbitration.
- India’s arbitration system is contrasted with those of other countries that have included AI into arbitration. Finding lessons learned and best practices that work in the Indian setting [1].
- Analysing instances of AI tools and technology now in use in arbitration globally. Describe the initiatives or pilot projects in India that have tested the application of AI to arbitration.
- Including the opinions of attorneys, arbitrators, and IT specialists about the advantages and disadvantages of artificial intelligence in arbitration [2].

DOMESTIC AND INTERNATIONAL LEGAL FRAMEWORK

Arbitration in India

The use of AI in arbitration in India is still in its early stages. Although Indian arbitration professionals and institutions are starting to use and investigate AI tools on an individual basis, there is a lack of distinct legal or regulatory frameworks governing this field. The wider acceptance of technological innovations in arbitration practices is evidenced by the Supreme Court’s position on acknowledging the utilization of electronic methods for arbitration agreements and procedural matters. The Government of India has suggested the Draft Arbitration and Conciliation (Amendment) Bill, 2024, to revise the Arbitration and Conciliation Act, 1996, and bring India’s arbitration regulations and practices in line with current international standards. Although the proposed legislation contains clauses for carrying out arbitration procedures through audio–video electronic

methods, it does not [3] tackle the integration of AI into arbitration processes. The Mediation Act, 2023 offers direction for online mediation, yet it does not cover the use or control of AI technology in mediation.

Furthermore, no rules, regulations, or policies have been released in this area by Indian arbitration organizations like the Mumbai Centre for International Arbitration or the Indian Council of Arbitration. Thus, it is clear that the more general technology rules and data privacy legislation, such as the Information Technology (IT) Act of 2000 and the Digital Personal Data Protection Act of 2023, have sole authority to regulate the use of AI technology in ADR. In the proposed Digital India Act, the government has included AI-specific elements, such as regulating high-risk AI, for its ethical and safe usage and tackling other challenges like deepfakes. The only laws that tangentially address AI-related issues until the act is passed are changes to the IT Rules, 2021.

The Arbitration and Conciliation Act has been amended. To address the issues facing the arbitration ecosystem, the Indian government has proposed several amendments to the Arbitration and Conciliation Act.

- The 2015 Amendments limited the scope of judicial intervention and set time limits for arbitrators' final decisions to cut down on arbitration-related delays and expenses [4].
- 2019 Amendments: The focused efforts included the creation of the independent "Arbitration Council of India (ACI)" to advance institutional arbitration and raise the standard of arbitration in India [5].

Silicon Valley Arbitration & Mediation Centre Guidelines on the Use of AI in Arbitration

The SVAMC has established comprehensive guidelines regarding AI's implementation in arbitration, which could effectively enhance national arbitration laws to ensure fair and equitable utilization of AI in arbitration. These guidelines encompass all the stakeholders involved and tackle their concerns individually. Guideline 2 explicitly states that all individuals involved in the arbitration process are accountable for their use of AI and cautions them against sharing confidential data with unreliable and publicly accessible AI tools like ChatGPT. Only specific AI tools that effectively protect confidentiality should be utilized with sensitive information. Party representatives are also held accountable for any unrectified mistakes or inaccuracies in AI-generated or enhanced output that they have provided or utilized to advance arbitral proceedings. Moreover, to guarantee transparency and accountability from legal counsels, Guideline 3 authorizes the arbitral tribunal to request full disclosure of AI tools utilized in preparing the submission, including the name, version, and pertinent configuration of the tool employed, the manner of its usage, and the entire prompt utilized to receive the related output [6].

The European Union's AI Act

Certain AI systems are categorized under the EU Act according to their danger levels, which range from negligible to intolerable. Artificial intelligence (AI) systems employed in the administration of justice, such as arbitration, are categorized as "high-risk AI systems" and must adhere to strict regulations. These include the duties of guaranteeing operational openness, proving correctness and dependability, reducing the possibility of prejudice or discrimination, and offering unambiguous documentation to facilitate human monitoring. The legislation highlights the significance of AI literacy for suppliers and deployers of AI systems to enhance a legal practitioner's comprehension of the possibilities and hazards of AI technologies. Therefore, even though the EU AI Act does not specifically govern arbitration, its provisions on high-risk AI systems – such as risk assessments and the implementation of safeguards – offer a chance to responsibly incorporate AI into arbitration while striking a balance between innovation and the parties' fundamental rights. Although the Act is compliance-based and imposes requirements on AI developers and companies, a mechanism for determining responsibility for non-compliance with these obligations has not yet been established [7].

Australia's Principles for Responsible AI Use in Legal Proceedings

In May 2024, the Victorian Supreme Court published the “Guidelines for the Responsible Use of Artificial Intelligence in Litigation”. It states that whenever appropriate, the employment of AI tools for document creation must be revealed to other parties and the court. Additionally, self-represented litigants and witnesses employing generative AI for document preparation are urged to add a statement revealing the use of the AI tool to help the judicial officer evaluate those documents. The guidelines advise against utilizing commercial or publicly accessible programs, like ChatGPT and Google Gemini, for producing output and drafting legal documents. This is primarily due to the “black box” characteristic of AI, and it is advisable to verify the output to avoid being outdated, incomplete, inaccurate, irrelevant to the jurisdiction, or biased. In the end, a party or practitioner that depends on or endorses a document is still accountable for the correctness of the information. The creation of a document with generative AI does not justify mistakes or lack of originality in submissions [8].

CHALLENGES AND CONCERNS OF AI IN ARBITRATION IN INDIA

Legal and Ethical Concerns

The question of accountability is one of the main problems that come up when using AI in arbitration. Because AI systems, in contrast to human arbiters, rely on preset algorithms and data inputs, it is nearly difficult to verify who is responsible for these choices. It may be difficult to identify the person responsible for an unfair or biased judgment made by an AI system. It can be the organization that adopted the algorithm, the arbitrator who employed it, or the program's creator. An over-reliance on [9] AI might make it more difficult to maintain human oversight, which would raise ethical concerns about whether arbitral rulings were just and compliant with the law. Arbitration is a very human-centred procedure that occasionally calls for caution, discernment, and cross-cultural understanding. AI cannot display these qualities since it is a machine. Fairness and Impartiality: The possibility that AI systems would reintroduce the same prejudice that exists in the judicial system, particularly if the algorithms were trained on biased data. AI Algorithms' Bias The AI model was blatantly biased against African Americans, particularly when it came to predicting the frequency of repeat offenses, according to a study conducted by MIT researchers. Keep in mind that this is an example from the criminal justice system. However, it is a fair illustration of the potential for bias in AI systems employed in arbitration, particularly when historical prejudice is evident in the training data [10].

Data Security and Privacy Issues

Arbitration typically deals with extremely private and sensitive material, including financial records, trade secrets, and personal information. Concerns regarding data security and privacy are raised using AI in arbitration, particularly if the data is processed or kept on third-party platforms. Data Breach: Artificial intelligence (AI) products that use cloud processing or storage may not be sufficiently protected against data breaches, which might result in the disclosure of private information to unapproved parties. Third-Party Access: Since most AI technologies are developed and maintained by outside companies, there are questions over who has access to the data and how it is being used. The Digital Personal Data Protection Act, 2023 is the norm for protecting personal data in India. However, to ensure that data privacy regulations are upheld, the use of AI in arbitration is probably going to necessitate the creation of additional assurances.

Accountability and Transparency

The lack of transparency in AI systems' decision-making processes is one of their biggest issues. In reality, many AI algorithms – particularly those that employ deep learning technology – are identical to the black boxes. People find it difficult to understand their decisions as a result. This creates problems since people may want to know exactly how an AI system arrived at a conclusion, particularly if the choice results in the loss of rights or interests. Courts may be reluctant to enforce arbitral judgments if the rulings are not made public because they could be based on AI determinations [11].

Regulation and Policy-Related Difficulties

The use of AI in arbitration raises several regulatory and policy concerns, one of which is the lack of explicit rules. Transparency, accountability, and fairness are among the ethical standards that must be established to regulate the use of AI in arbitration. To ensure that AI systems used in arbitration adhere to the existing legal and ethical norms, regulators may need to develop evaluation procedures. Establish ethical standards for the use of AI in arbitration such as accountability, transparency, and impartiality. To identify the best practices for using AI in arbitration, arbitral institutions, attorneys, and equipment makers should work together. The Singapore International Arbitration Centre (SIAC) released Ethical Guidelines for the use of AI in arbitration that include requirements for accountability, openness, and equity. The Singaporean arbitral institutions have generally embraced the rules, which were drafted with assistance from legal experts and technology vendors.

ROLE OF ARBITRAL INSTITUTIONS IN INDIA

The primary causes behind the advancement of arbitration are India's many arbitral institutions. Among them are: The Mumbai Centre for International Arbitration (MCIA) is a premier arbitration organization that offers institutional assistance for both local and international arbitration. One important organization that supports arbitration in the Indian National Capital Region (NCR) is the Delhi International Arbitration Centre (DIAC). An older organization that offers arbitration services for business disputes is the Indian Council of Arbitration (ICA). Arbitral Institutions' Adoption of AI curiosity extends to their many opportunities, even though the institutions get AI and employees are in the first stages of the process. The Centre has started a campaign to encourage the use of technology in arbitration, including electronic filing and virtual hearings. Most arbitrators and legal experts lack knowledge about AI's benefits and how to use its capabilities effectively. It's possible that arbitral institutions lack the resources necessary to develop and use AI-powered solutions. Permit legal practitioners and arbitrators to participate in training courses on the topic of artificial intelligence in arbitration. Plan the creation of AI-powered tools by meeting with tech companies [12].

AI in Indian Arbitration Future Prospects

India has the potential to become a worldwide centre for AI-driven arbitration, which would attract disputes from both local and foreign parties. One of the greatest ways for the nation to emerge as a favoured site for peacekeeping might be the incorporation of AI into arbitration. This potential is being driven mostly by:

- *Growing Economy:* India's economy is expanding quickly, and as international trade grows, so does the need for quick and effective dispute settlement.
- *Technological Advancements:* India's innovative AI talent and the country's thriving tech ecosystem help to create a reliable benchmark for enhancing arbitration innovation.
- *Government Support:* The government's ongoing efforts to advance technology in the legal industry are shown by Digital India and the National Strategy for Artificial Intelligence (NSAI).

The following are some ways that artificial intelligence might alter Indian arbitration procedures [13]:

- *Streamlining Procedures:* Automate time-consuming jobs including case management, legal research, and document review.
- *Improving Decision-Making:* Using bias detection and predictive analytics to make data-driven judgments.
- *Enhancing Accessibility:* Lowering costs and enabling more people and small companies to participate in arbitration through virtual hearings.

With the advent of AI, India may become a worldwide leader in arbitration innovation [14].

CONCLUSION

This chapter serves as the paper's conclusion, summarizing the key findings and offering closing thoughts on how artificial intelligence (AI) has changed the Indian arbitration industry. It summarizes

the findings from the earlier chapters, reexamines the research goals, and offers an outlook on how India could use AI to improve its arbitration system. The chapter also focuses on the systematic changes that the legal profession, the economy, and society at large would experience because of the return of AI in arbitration. Applications of AI in Arbitration: The paper examined some of the implementation possibilities for AI in the arbitration field, such as:

Document Management and Review

The automation process of the review and organization of documents with AI will reduce the time and human efforts required for such tasks. The study demonstrates that the introduction of AI in their arbitration setup can help India deal with the major concerns such as delays, high costs, and limited accessibility. Control of AI equipment such as process automation, better functional, and external decision-making, in addition to improved overall arbitration efficiency.

Predictive Analytics

AI may examine historical data to forecast the outcomes of a dispute, assisting the parties in making informed decisions. Natural Language Processing (NLP): Artificial intelligence (AI) can assist with professional communication and legal document preparation, particularly in disputes involving parties who speak various languages.

Virtual Arbitration Platforms

AI-powered platforms can enable virtual hearings, increasing the affordability and accessibility of arbitration.

Bias Detection

By using AI to identify potentially biased arbitral rulings, a fair and unbiased procedure is ensured. Despite AI's numerous benefits, there are several issues and problems with it, including:

Legal and Ethical Issues

The use of AI in arbitration raises questions about impartiality, accountability, and the lack of human intervention.

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