



“ ARTIFICIAL INTELLIGENCE (AI) AND ITS ROLE IN THE PROCESS OF RESOLVING INTERNATIONAL COMMERCIAL DISPUTES THROUGH ARBITRATION COURTS ”

Asatullaev Nigmatilla Ziyodulla

Tashkent State University of Law

asatullaevnigmatilla8@gmail.com

+99899 819-04-35

Article history:	Abstract:
<p>Received: 14th January 2024 Accepted: 10th March 2024</p>	<p>This article mainly covers the aspects of Artificial Intelligence (AI) and its significance in the process of finding resolutions between parties in terms of international commercial disputes through arbitration courts. As pivotal as it sounds, this article additionally includes some data about advantages and disadvantages of Artificial Intelligence (AI). The writer discussed an abundance of prevalent topics in terms of Artificial Intelligence as a form of arbitrator in international arbitration courtrooms. Our readers could find an array of utilitarian information about the role of AI in the process of document review, fact-finding and award production. This article mostly provides a host of database regarding decision-making and provision of legal awards towards disputes occurred between parties from international agreements. The writer also included real life experiences of parties (countries, legal entities or individuals) and its effectiveness comparing to human-based court processes. By reading the article thoroughly, the readers are rewarded of getting many pertinent information regarding the legal consequences of utilization of AI in accordance with both international and national legislation of different countries.</p>

Keywords: *Artificial intelligence (AI), e-commerce, international arbitration courts, arbitrators, arbitration awards, arbitration platforms, AI machines, arbitration clauses, ICC (International Chamber of Commerce), videoconferencing, electronic records, dispute resolution, Westlaw, Lexisnexis.*

1.0 THE CORRELATION BETWEEN MACHINE AND ARBITRATION

The unprecedented development of technologies, modern devices and state-of-art machines have made the way of technology practitioners to produce different



types of artificial intelligence throughout the world. AI or artificial intelligence is intelligence demonstrated by machine, digital computers, controlled robots and coded machines to perform tasks that are commonly associated with intelligent beings. The terms is frequently described as projects of developing systems, ability to reason, discovering meaning, learning from past experience or creating based on data included within machines. The terms was firstly used by Jonh Maccarthy, a late computer scientist and arguably one of those who coined the term “AI” in 1956 defined as “making a machine that would behave in the same If a human were so behaving”. Artificial Intelligence, modified digital computer and machines, especially machines that are providing natural language processing, are already impacting and gaining traction within the legal sector. The advancement of information technologies, digitization and analitical processing are changing the way legal representatives think, the way they do business and the path they interact with clients.



The lawyers have been using modern technologies such as Westlaw, LexisNexis and Goodle and there is serious demand for the usage of artificial intelligence (AI) in the courtrooms in order to enhance efficiency.

As pivotal as it sounds, many practitioners and legal scholars typically believe that the impact of artificial intelligence will be exactly limited. However, the significance of AI has been growing steadily in many sectors of jurisprudence such as contract law, legal research, e-discovery or international agreement processes. Take the prime example of particular computer programs such as LexisNexis, are assisting lawyers to analyze the written submissions and provide relevant legislation to regulate the obligations and duties of both contracting parties.¹ This article specifically discusses the main aspects of artificial intelligence in the sector of jurisprudence.

2.0 THE USE OF MACHINES IN ARBITRATION

The improvement of use AI has been phenomenal over the last two decades. Many people in the western countries are claiming about potential risks of AI machines in the field of employment and saying: - **"AI is stealing the job and taking the curb over the humanity"**. Time is now proving that no one's job is safe from taken over by AI – not even arbitrator. AI has been showcasing some potential threatens to disrupt the international arbitration industry by creating programs and applications capable of computing information and analyzing cases in the same manner as arbitrators.

The practitioners of artificial intelligence promises to render awards in lighting quick time as in comparison to arbitrators who usually take months or years to render an arbitration award. These computer-based machines are also able to learn independently

from past cases to produce better awards towards commercial, contractual or investment disputes than humans. There are many ways that technology can improve and support international arbitration, albeit AI is far away from taking whole control over arbitration entirely. Mainly, it is because there is still demand that seems to be a fundamentally human aspect of dispute resolution.²

The utilization of technology in arbitration evolves efficiency, reduce costs and permit the expansion of arbitration into new market segments. Although there are conventional and traditional resistance mostly caused by lawyers' conservativeness to embrace new technologies, technologies is slowly creeping into legal practice and even international arbitration. The occurrence of videoconferencing, electronic records, digital document production tools and unprecedently intelligent legal research databases are pervasive. These days, parties exchange dispute-related documents via e-mails and the most communication between arbitrators are electronic. Technology is also provided extensively to handle and submit documents to each other, for instance, the NetCase initiative at the ICC which is a virtual case room that presents a secure online environments for case filings for those who agree to use it. Another beneficial innovation has been the draft of memorials with hyperlinks to exhibits.

The most interesting thing is that AI could also help the parties to choose their arbitrators by examining thousands of candidates' track record in similar cases.



¹ Judy Sobowale, 'How artificial intelligence is transforming the legal profession' available at <http://www.abajournal.com/magazine/article/how_artificial_intelligence_is_transforming_the_legal_profession> accessed on 13th February, 2020

² Christine Sim, 'Will Artificial Intelligence take over arbitration' available at <<http://www.kluwerarbitration.com/document/kli-aij-140101?q=artificial%20intelligence>>



Mainly, it could offer drafting suggestions for arbitration clauses, helping clients and lawyers avoid pathological errors and ensure that the interests of contracting parties are legally protected. Another useful aspect of AI is the ability streamline administrative tasks while freeing up arbitrators and lawyers to allocate their effort on the parts of the process that ironically require the greatest amount of human judgment, including assessing the facts, constructing arguments and determining outcomes. Some practitioners have supported for the use of AI in arbitration to help massively in the management of excessive amounts of documentation due to an ever-growing demand for speed and efficiency in interantional arbitration courts.

The most importantly, international arbitration is a document intensive field. The process requires counsel and arbitrators to spend countless hours on legal research and document review. This means that arbitrators read through innumerable pages, mainly containing irrelevant text. In that case, the use of AI will cut the time necessary for such exercises from hours/days/months/years just to seconds.³ Instead of choosing an arbitrator based on nationality, legal expertise, or technical know-how parties might choose a software program that is capable of dealing with international arbitration cases more effectively than human-interacted processes. It remains independent and impartial in terms of determining applicable law, ascertaining facts or understanding arguments.

3.0 MACHINES AS ARBITRATORS

The brutal truth is that computer-based tools can deal more quickly, efficiently and accurately than any human with large quantities of documents. Many practitioners discussed that arbitration users claimed about time efficiency and cost of proceedings in the arbitrations. There are suggestions that can offer some options in using AI computers as replacing human arbitrators with AI dealing with the entire tribunal, appointing human arbitrators in combination with AI serving as a member on the tribunal or human arbitrators using AI for consulting as a check of their decisions. For instance, *Dispute Resolution Expert Manager*, in Egypt, has been used AI formed software to find the most appropriate dispute resolution

technique, depending on the soft nature of the dispute,



the evidence and the condition in relations between the contracting parties⁴.

However, national and international legislation, today, neither exactly prohibit the use of AI in courtrooms nor explicitly permit parties to use them in order to consult in certain situations. So, there is an alternative for this issue that parties should include either the use of AI machines for consulting or both an arbitrator with AI machine as the composition of a tribunal would be valid.

³ Hogan Lovells, “The future of arbitration: New technologies are making a big impact — and AI robots may take on “human” roles,” available at accessed on 13th February, 2020.

⁴ See <https://www.sciencedirect.com/science/article/pii/S2090447915000684>



Nevertheless, the Arbitration Acts of Brazil, Ecuador, Peru and Colombia prescribed specific rules when it comes to the references of arbitrators as “humans” or demand from them to act on the tribunal by themselves.⁵ In contrast, the legislation of Colombia and Mexico, as well as the Model Law, do not specifically contain any reference to arbitrators as humans. Arguably, the legislation of these countries allow users to appoint a computer as an arbitrator in these countries. There is an ongoing discussion in terms of an artificial arbitrator. The robots would be less vulnerable compared to humans in conflict of interest or bias. The reason is that the decision-making process will not be influenced by third parties, the weakness of bias, illogicality or just having a bad day.



The parties would benefit from reducing the time and cost of hearings. The another barrier comes with robot arbitrators into use is that machine do not have normally feelings, emotions, empathy or justice that go beyond the processed data and precedents. Mainly this may influence the correctness of arbitration awards, although the awards would not be fair enough. We should not forget that the justice is not just a simple formula, it is a real human trait which should be considered and taken into account when it comes to aggravating and mitigating factors. Indeed, this is viewed negatively in implementing AI robots in international arbitration processes and resolving commercial, investment or contractual disputes between parties. Ultimately, adjudicating rights and equity in international arbitration is perceived as a fundamentally

human quality – one which cannot so easily be replaced by robots.⁶

4.0 CONCLUSION

Mulling over the topic, AI is predominantly in a disruption phase where many legal practitioners are bombarding with questions and grappling with how AI can be



implemented in the practice of law. There is a number of aspects of the legal process that can be replaced by AI, albeit the tendency of technologies in replacing wholly counsel, experts and arbitrators with AI machines is not discovered entirely yet. To support this idea, arbitration practitioners are advising to prepare for potential displacement of humans and embrace the changes that AI will be brought to the arbitration scene. Artificial intelligence is now a reality. AI has already stepped into international arbitration with positive moves, with the aim to lighten workloads and assist the various functions of players in the arbitration arena. Cases can be solved efficiently and fast by digital computers and AI machines, especially costly and timely effective process will be in the practice thanks to the state-of-the-art technologies and devices. Every country should modify their legislation and adopt their legal system by considering significant advantages and drawbacks of the international court of arbitration. Allowing the hearing can be carried out in more interactive and useful ways.

Paisley and Sussman give their opinion about potential influence of AI in imminent future:

“Whether we like it or not, artificial intelligence is increasingly being popular to play a major role in international arbitration in the

⁵ Paulius Docka, ‘How Hot-Tubbing Might Affect Technology Related Arbitration’ available at accessed on 14th February, 2020.

⁶ Philippe Billiet, Filip Nordlund, ‘A new beginning – artificial intelligence and arbitration’ available



near future. The issues are at high amount and the benefits mainly overweight some potential risks of AI: including high unemployment rate. AI has important benefits for international arbitration, especially cutting the time of processes and mitigating workload.”⁷

REFERENCES:

1. Kathleen Paisley and Edna Sussman, 'Artificial Intelligence Challenges and Opportunities for International Arbitration' available at accessed on 17th February, 2020.
2. Paulius Docka, 'How Hot-Tubbing Might Affect Technology Related Arbitration' available at accessed on 14th February, 2020.
3. Philippe Billiet, Filip Nordlund, 'A new beginning – artificial intelligence and arbitration' available
4. Hogan Lovells, **“The future of arbitration: New technologies are making a big impact — and AI robots may take on “human” roles,”** available at accessed on 13th February, 2020.
5. <https://www.sciencedirect.com/science/article/pii/S2090447915000684>
6. Judy Sobowale, 'How artificial intelligence is transforming the legal profession' available
7. http://www.abajournal.com/magazine/article/how_artificial_intelligence_is_transforming_the_legal_profession> accessed on 13th February, 2020
8. Christine Sim, 'Will Artificial Intelligence take over arbitration' available at http://www.kluwarbitration.com/document/klia-aiaj_140101?q=artificial%20intelligence

⁷ Kathleen Paisley and Edna Sussman, 'Artificial Intelligence Challenges and Opportunities for International Arbitration' available at accessed on 17th February, 2020.