AI in Mediation: Ethical Issues and Inclusivity Challenges in Access to Justice

Ashish Kumar *
Assistant Professor, Law Centre-II, Faculty of Law, University of Delhi
Vikas Kumar
Assistant Professor, Campus Law Centre, Faculty of Law, University of Delhi
**Corresponding Author Email: akumar@law.du.ac.in*

Abstract: *Artificial Intelligence (AI) in mediation holds transformative potential to enhance the efficiency of dispute resolution processes; however, it brings complex ethical concerns and inclusivity problems that could undermine fair and equal access to justice. This article investigates how algorithmic biases and diminished human empathy counteract the principles of fairness and trust essential to mediation. In this context, it examines the digital divide that has adversely impacted vulnerable groups, particularly within diverse socio-legal settings such as India. An analysis of India's new Mediation Act, 2023, indicates legislative deficiencies in addressing the ethical concerns connected with AI's application in mediation processes. It argues that AI should support, not supplant, human mediators so that the essence of mediation is not compromised. It proposes a strong ethical framework and bias audits in connection with the application of AI in mediation, in line with the goals of inclusive justice (UN SDG 16).*

Keywords: AI in mediation, Ethical concerns, Inclusive justice, Human element in mediation, Online dispute resolution, Mediation Act 2023, Access to justice.

INTRODUCTION

An Ideation on AI-Powered Mediation

The contemporary world is marked by technological advancements at a scale and speed that are unparalleled in any previous period of human history. Similar to other fields, these rapid advancements are challenging the boundaries of conventional methods, including justice delivery mechanisms. The present technology-driven society reminds one of the 'Brave New World' (Aldous Huxley, 1932), where groundbreaking technologies were prophesied to redefine human lives and value systems.

Technological transformation is equally evident in the field of alternative dispute resolution mechanisms. More specifically, the promise of Artificial Intelligence (AI) in mediation is poised to bring forth a new era of expeditious and accessible 'mediated justice.' However, as the legal system embraces this unprecedented digital transformation, the current complexities highlight the need for a delicate balance and optimistic yet critical evaluations. This study probes the complex realm of AI in mediation, exploring core ethical questions and inclusivity concerns that often arise within this intersection and framework.

In the backdrop of the rapid proliferation of AI, it is worth mentioning the UN's Sustainable Development Goals (SDG 16), which seek to foster peaceful, inclusive societies with access to justice for all. However, achieving these aspirations requires careful consideration of several ethical and institutional issues. What measures can be taken to ensure that AI, despite its cold logic, does not reinforce human biases (as these biases may manifest in AI systems)? Are algorithms capable of fully understanding the legal complexities, human emotions, and subtle dynamics involved in the mediation process?

This study explores the transformative potential of AI in democratizing justice by bringing a mediated system of dispute resolution to the needy masses. However, it casts a critical eye on the digital divide, which could potentially exclude the most vulnerable. In the Indian context, given the vast disparities in terms of access to justice for the people, a fundamental question arises: how can AI-driven mediation (e-mediation) be made inclusive and accessible to all, beyond just tech-proficient users?

This paper critically analyses the position of the human mediator, in view of the principle that underlines

mediation to remain primarily a human-driven process. It argues for an integrated framework for e-mediation that balances technological efficiency with the fundamental human elements of mediation, ensuring that AI-influenced processes meet the requirements of the fundamental principles of justice. The findings will serve as a guide for policymakers, dispute resolution experts, and legal professionals to utilize AI's capacities while preserving the fundamental principles of justice: fairness, inclusivity, and human dignity.

CONTEXT SETTING

The wheels of justice in India are clogged by overwhelming caseloads and procedural hurdles. As of November 2024, the total number of pending cases across all levels of courts in India has recently reached 50 million (NJDG 2024). This is the highest figure in the world. These staggering numbers underscore the need for efficient solutions to address backlogs. Given the enormous, spiralling pendency issues, justice has long been frustratingly out of reach for countless litigants awaiting their due rights. Thus, the Indian legal system is under severe strain due to the mounting backlog of cases. Drastic as the situation is, it opens the gate for innovative measures such as ODR mechanisms and innovative AI solutions for case management and disposal. For this reason, mediation has been rapidly integrated and institutionalized within the legal system over the past two decades.

As traditional dispute resolution methods struggle to keep up, the legal community is turning to innovative, technology-driven solutions such as AI-powered mediation to bridge this gap. The integration of technology in mediation not only aims to streamline the process but also matches up with the larger ambitions outlined under the United Nations' Sustainable Development Goal 16 (SDG 16) of promoting peace, justice, and strong institutions of justice delivery. Crucially, this effort is in line with "Vision India @ 2047' (Arvind Virmani, 2047), which envisions a developed India by its centennial of independence, promoting justice, innovation, and overall national advancement. This grand vision relies on efficient and responsive justice delivery frameworks, which are critical for assessing the overall health of the legal system and enhancing the well-being and happiness of citizens and the nation.

The current evolving state of mediation in India is promising, yet it faces significant hurdles (NITI Aayog 2021, 60-64). While it is seen as an expeditious and less confrontational option in contrast to litigation or arbitration, it grapples with challenges such as limited public awareness, inconsistent practices, trust issues, privacy and confidentiality concerns, inadequate institutional and legal frameworks, and a scarcity of trained mediators (NITI Aayog 2021, 60-64). These challenges create difficulties in broader systemic integration and application, undermining its potential as an effective alternative dispute resolution mechanism. However, the drive towards technological integration, particularly AI, has the potential to transform mediation significantly. AI can improve dispute resolution by operating as a decision support system (Zeleznikow, J. 2017). It can do so by supplying predictive analytics for case outcomes, automating common tasks, and offering translation services to bridge language barriers, thereby making the mediation process more accessible, efficient, and effective in terms of cost and time.

Nonetheless, the integration of AI into mediation raises ethical concerns that require careful consideration. The possibility of bias in AI-led mediation is a significant concern. If the data used for training is biased, an AI system may perpetuate these biases, leading to unfair, discriminatory outcomes in disputes involving gender, racial and socio-economic issues (Christian, G. 2024; Ravanera, C. & Kaplan, S. 2023) Such potential biasness of the system opposes the core principles of justice and fairness central to the UN SDG 16. Therefore, ensuring that AI algorithms are transparent, accountable, and free from bias is crucial. Furthermore, maintaining human elements in mediation is challenging. It is often lamented that AI can handle data and predict trends much faster than humans can, but it falls short in empathy, social understanding, and assessing complex emotional states, which are crucial for resolving disputes amicably (DiMatteo, L.A. 2022).

In this regard, it is worth exploring the two latest official documents/instruments, namely, the UN's "Governing AI for Humanity Report," published in September 2024, and the EU AI Act, 2024, both of which, *inter alia*, critically address algorithmic bias in AI decision-making systems.

LITERATURE REVIEW

To pursue the research objectives and address the questions set forth above, several relevant studies have been reviewed. This review selectively examines key research works, exploring the intersection of Artificial Intelligence, Online Dispute Resolution (implicitly online or e-mediation), and justice systems in general.

The realm of legal technology has been significantly metamorphosed by revolutionary research exploring AI's potential of AI in the justice delivery system. Susskind's pioneering work on online courts (2019) explored the transformative potential of AI in justice systems, establishing a foundational understanding of digital justice mechanisms. Moreover, Zeleznikow (2021) and Lodder (2021) examine how AI applications in online mediation or dispute resolution are reshaping conflict management strategies and approaches.

In this context, Katsh and Rabinovich-Einy's (2017) study of digital justice underlines the role and impact of technological disruptions and how they radically restructure long-held methods of mediation and negotiation. Furthermore, Wahab et al. 's (2021) inquiry into emerging perspectives on online dispute resolution offers a deeper understanding of global trends and cutting-edge technological innovations.

Ashley (2017) enriches the conversation on legal analytics by probing how computational tools can improve legal decision-making processes. In addition, a detailed review by Surden (2020) synthesizes the existing scholarship, offering critical insights into AI's potential influence on legal systems.

Addressing the complex relationship between new algorithmic technologies and legal frameworks, a critical anthology by Deakin and Markou (2020; 2019) scrutinises the law's capacity to adapt to AI, delving into the

philosophical, ethical, and practical dimensions of using algorithms for decision-making within the judicial system.

On a promising trajectory, Lobel's study (2022) highlights how AI technology might be harnessed to achieve social equality. This research demonstrates how smart technology solutions can reduce structural barriers, fostering more inclusive organizational setups and institutional frameworks that enhance equitable social mobility for everyone.

However, Buolamwini (2023) cautions against algorithmic biases. In pioneering research, the author exposes how artificial intelligence might reinforce or perpetuate systemic bias and discrimination, urging a more inclusive, equitable, and fair approach in tech design that recognizes and rectifies historical marginalization in the digital ecosystem.

In addition, Li's (2023) reflective work presents a visionary perspective on the future trajectory of artificial intelligence. Based on the author's pioneering research and personal insights, this work offers a close-up view of groundbreaking technological evolution, underscoring the need for human-centric approaches to innovation and the immense potential of AI in solving complex global problems.

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The UN Report (2024, 31-33, 35-36) highlights the significant opportunities and risks associated with algorithmic decision-making. While recognizing the tremendous benefits, the report also cautions about the perpetuation of existing societal prejudices due to the likely presence of historical biases in training data that is fed into AI systems. This may further cause systemic biases against socially disadvantaged groups. Thus, the report calls for recognizing the current challenges and advocating for the creation of AI systems that are transparent, auditable, and accountable.

The official EU AI Act (2024) is the latest groundbreaking legislative milestone that pushes for regulatory oversight over the use of AI within member states. It addresses algorithmic bias, calling for strong regulatory mechanisms to identify and combat discriminatory practices in AI systems. To this end, it legally requires stringent testing and documentation of algorithms across key sectors, including criminal justice, financial services and employment. Thus, the EU Act seeks to build a responsible AI ecosystem.

Within the Indian context, the Delhi-based Vidhi Center for Legal Policy's Report (2020) on Online Dispute Resolution (ODR) stands out as a key resource. This showcases the potential of ODR to transform the judicial system in India, particularly in the post-COVID era. It notes that ODR innovations can mitigate court backlogs (NJDG) and facilitate access to justice. However, it also cautions that pressing challenges, viz., the mediator's neutral role and expertise, technological reliability, and inclusivity factors, remain critical issues that must be addressed.

In addition, India's official planning body, NITI Aayog's Report (2021) on ODR, calls for addressing structural challenges such as digital literacy and infrastructural issues. This points to the possibilities of cost-efficient ODR solutions while also flagging regulatory and data privacy risks that are crucial in India's diverse and complex sociocultural terrain.

The Mediation Act, 2023 (Act 2023) is a key legislative resource for advancing mediation as a preferred method of alternative dispute resolution in India. This Act introduced a structured framework aimed at resolving a variety of disputes (mostly civil/commercial) with the help of mediators. It also provides legislative recognition to online or e-mediation under Section 30 of the Act. However, its treatment of AI-led mediation is more implicit than explicit, suggesting a need for legislative clarity and measures to tackle ethical issues and inclusivity challenges that AI in mediation might present.

These scholarly works collectively illustrate a markedly changed trajectory, where technological innovations are increasingly influencing, reshaping, and even reimagining judicial processes, alternative dispute resolution mechanisms, and legal support systems. The emerging discourse suggests the inescapable integration of artificial intelligence with traditional legal frameworks, calling for ethical, legal, operational, and technological reviews of established structures.

Research Gaps

The existing literature reveals a dual narrative of optimism and caution concerning AI adoption across various sectors, particularly in the ongoing push for integrating AI into justice delivery and ADR/ODR mechanisms. While there is much research on what novel technologies such as AI can do, critical gaps remain in developing a complete, ethically and legally responsible system that reflects the essential ideals of justice and sustainable development goals. The lack of clear, specific, and context-aware legal and ethical frameworks for AI-enabled alternative dispute resolution methods, particularly mediation, within India's complex sociocultural setting, poses a significant research hurdle. As is evident, the bulk of existing scholarship predominantly emphasizes the efficiency and effectiveness of AI technology, overlooking the critical need to address questions of inclusivity, particularly concerning marginalized groups. These gaps in the existing research point to a critical demand for cross-disciplinary explorations that specifically link AI-powered mediation advancements to core legal and social justice values within the Indian context.

METHODOLOGY

This study employs doctrinal research methods to analyze the integration of AI in mediation, with a particular focus on ethical considerations and inclusivity challenges. The methodology involves a systematic examination of legal principles and scholarly literature to comprehend and assess the current legal framework alongside the emerging new norms concerning AI's integration into the mediation system. To this end, both primary sources, including statutes (e.g., Indian Mediation Act, 2023), and secondary sources, such as scholarly articles and expert perspectives on AI's growing

role in ADR/ODR mechanisms, particularly mediation, are thoroughly reviewed.

The doctrinal methodology applied in this context mainly adopts descriptive and analytical approaches to delineate the current legal framework concerning AI in mediation. It interprets how current laws and new norms might evolve to address the biases, ethical challenges, and inclusivity concerns that AI introduces. The interpretive method helps comprehend how AI might affect conventional mediation techniques and processes. By utilizing a doctrinal approach, this study examines how AI can be ethically and inclusively integrated into the mediation process, ensuring conformity with the fundamental principles of justice and equity.

CRITICAL DISCUSSION

The Promise of AI in Mediation

The terrain of alternative dispute resolution mechanisms has undergone significant transformation in India over the past two decades (Vidhi 2020, 6), particularly with the growing embrace of mediation. Amid the national drive for digitalization, the potential integration of AI in mediation processes presents both opportunities and challenges.

AI holds the promise of revolutionizing mediation practice (Weisheit, 2023). Through the use of algorithms and the analysis of large datasets, AI can streamline the process of settling disputes in mediation, predict potential outcomes, and make suggestions based on historical case information. For example, in a situation where two parties are at odds over a contract concerning the quality of goods supplied, an AI mediation assistant might review prior disputes with similar contexts to recommend fair outcomes. Such a prospect will not only expedite the mediation process but also significantly reduce the backlog of pending cases in Indian courts, which currently touches 50 million.

Beyond its utility in case prediction and streamlining mediation, AI offers a range of transformative applications. In this regard, the draft guidelines (IBA 2024) from the International Bar Association's Mediation Committee outline a wide array of AI applications in mediation. AI can aid in automating routine administrative tasks, such as scheduling appointments, selecting a mediator, fixing sessions, initial case screening, handling paperwork, and drafting procedural correspondence, thus significantly enhancing the efficiency of the process (IBA, 2024, 2). Furthermore, language barriers can be overcome with AI's real-time translation services, allowing participants from different linguistic backgrounds to fully participate in the mediation process. Moreover, AI tools can analyze communication patterns, which can help parties assess proposals, explore alternative solutions, and evaluate potential outcomes. (IBA 2024, 3). That is, it can break down communication styles to suggest improved negotiation approaches or enhance mediator education through simulating different mediation situations. Language-related services are particularly vital in a diverse country like India, where numerous languages are spoken. These variegated applications of AI not only streamline the mediation process but can also make it more accessible from the participants' perspectives (Zeleznikow 2021, 807; Weisheit2023). These potential applications can radically transform the way mediation is conducted globally.

The Potential Pitfalls

AI's role in mediation is situated at a complex junction where ongoing technological evolution critically intersects with established legal doctrines and ethical paradigms, further compounded by the subtleties of human interaction. Such complex interactions potentially give rise to several critical challenges in mediation practice. These are discussed below.

Bias Risks

The integration of AI in mediation is not without its own set of accompanying risks. One of the most significant concerns regarding AI-assisted mediation is algorithmic bias. AI systems learn from historical data, and should these datasets contain or harbor biases related to race, gender, caste, or socio-economic background, such biases (prejudices/discriminatory patterns) might be reflected in the tasks (analysis/assessment/strategy/approach/conclusion/decision/outcome) performed through the AI-assisted mediation.

Scenario I: Gender bias in employment mediation

X, a woman from a rural village in India, opts for an AI-powered mediation service to settle her dispute with Y, her employer, who runs a small factory in an urban area. Her grievance is that she has been unfairly dismissed from her job. Here, the AI system, trained primarily on urban male employment data, can interpret and assess X's claim using parameters (lens) that overlook the specific difficulties faced by rural women in the labor market. Consequently, the mediation process leans subtly towards Y, as the AI's algorithms fail to identify or recognize gender discrimination claims made by X due to its lack of understanding of rural (female) employment dynamics.

Scenario II: Bias against minorities in housing (*Arroyo* v. *CoreLogic*2018)

X, a tenant from a marginalized minority community in a city, turns to an AI-mediated platform to resolve his dispute with Y, his landlord, over an unfair eviction notice. The AI, having learned from data primarily sourced from wealthy areas inhabited solely by the majority community, fails to recognize discriminatory practices against minority tenants in housing mediation.

These two scenarios highlight the critical need to examine AI-driven mediation for implicit biases. AI might neglect the gender disparities between urban and rural areas or existing discriminatory practices against minority tenants in housing if it is not trained with a broad spectrum of data. This necessitates widening the range of data sources to include diverse demographic groups in future studies. However, there is often no simple and explicit manner to ensure that AI is free from biases related to gender, race, or other similar types. Social class and economic conditions significantly influence the choices made by AI systems; however, this influence is often not accurately represented. Furthermore, it is critically noted that AI, mostly trained on data from affluent societies (Western developed nations),

often fails to understand the subtleties of poorer communities, thereby perpetuating a digital divide where the socio-economic realities/contexts of poorer communities/ societies (developing or underdeveloped countries) are significantly underrepresented.

A recent seminal study in 2024 titled "Large Language Models Reflect the Ideology of their Creators" (Buyl, 2024) demonstrates that AI tools such as ChatGPT, Google Bard, Gemini and Claude are not neutral; they tend to mirror the ideological biases (may be inadvertently) of their creators in their responses. Researchers have found that these AI models depict historical figures differently, showing the ideological biases of those who created them. (Buyl, 2024, 1) The reason behind this is that LLMs (Large Language Models) gain their knowledge from the data they are trained on or fed into, which is curated and influenced by the biases and choices of their creators. When the training data embody a specific viewpoint, the AI's response reflects that view (bias). This can potentially breach anti-discrimination laws and the core principles of justice by reinforcing, magnifying, or even exacerbating existing societal prejudices in AI-driven decision-making.

Data Privacy and Security Concerns

Data privacy and security concerns pose another major hurdle in AI-mediated dispute resolution, as these systems handle confidential/personal information of the parties and the dispute at hand. If this data lacks adequate protection, it can be exposed to unauthorized access, leading to adverse implications for the parties involved in the dispute. For example, consider an AI system mediating a harassment issue; if the personal data shared in the process are disclosed, it might result in public shaming and additional distress to the victims, thus negating the mediation's fundamental aim to be a safe, secure, and confidential platform.

Heavy dependence on technology for mediation can intensify disparities in digital/tech access, especially in a developing country like India, where digital (tech) literacy is alarmingly low (NITI Aayog 2021, 61). Advocacy for AI-driven mediation must, therefore, first consider the need to build a sound digital infrastructure with stable Internet connectivity across rural India. Given the prevailing digital divide and lack of equal tech and digital access, marginalized groups might be excluded from the benefits of this innovative system, which is not only detrimental to the advancement of AI mediation, but also raises fairness concerns and risks reinforcing existing inequalities within the judicial system.

Lost Human Touch

Undeniably, the role of human mediators remains paramount in this process. AI can aid in the mediation process, but it must not replace the human element, which is critical for resolving disputes. The combination of expertise, experience, psychological subtleties, and empathy that human mediators bring is indispensable for comprehending the nature and essence of any conflict. For example, in an emotionally charged family dispute, a seasoned mediator can discern the nature of the underlying emotions, and unlike a machine's (robotic/automated) response, would respond with human empathy and compassion. The essence of mediation, which relies on human touch, faces disturbance when shifted to an online platform (Aggestam, & Hedling 2024). Nonverbal communication, such as facial expressions and body language, plays a key part in mediation, but these are often lost, misrepresented, or not deciphered in the usual manner on digital platforms. This can lead to confusion and misunderstanding because these cues are essential for fostering trust and empathy.

Digital platforms also struggle to capture the deep emotional engagement necessary for effective mediation. Establishing an emotional bond between the mediator and the parties can be difficult, which can hinder the effectiveness of mediation. Moreover, online privacy issues might cause parties to freely share personal details, fearing that their confidentiality could be at risk.

Furthermore, there is a pressing concern that too much reliance on AI could lead to the de-skilling of human mediators. In other words, if mediators rely too heavily on AI for guidance, their competency in handling and managing complex human interactions could diminish. The danger is that this could degrade the mediation profession, eroding the confidence and trust that parties place in mediation service providers.

Proponents of AI in mediation argue that it is intended to assist, not replace, human mediation. They claim that AI can simplify operations, manage routine administrative tasks, and offer analytical insights, thereby enhancing the efficiency of the mediation process. However, the critique points out that even as a helper, AI faces hurdles. The delicate aspects of human communication, digital/tech inequalities, and the danger of mediators becoming overly reliant on AI, thus risking their skill erosion, pose considerable concerns for the future.

Currently, the idea of AI fully replacing human mediators is merely a concept. However, with global companies like eBay experimenting with AI in ways that suggest this scenario, the concept may not remain theoretical for much longer (Beioley2019). However, the unique blend of empathy and insight that human mediators offer is a quality that AI cannot mimic, highlighting the irreplaceability of human mediators in the process.

Regulatory Needs

The potential pitfalls and risks associated with AI mediation necessitate the establishment of strong regulatory frameworks. We need clear rules and oversight to ensure that AI in mediation is clean, fair, and responsible (Bergman, 2024). AI developers should remain informed that the fundamental rules that govern ADR/mediation also apply to AI's use of AI in such alternative mechanisms (Abbott, 2023, p.699). Governments and other key stakeholders must set clear guidelines. These regulatory measures, *inter alia*, focus on regularly auditing AI systems for biases, ensuring that personal and confidential data are safeguarded, and training mediators to use AI without eroding their human approach to mediation.

In addition to mediation experts, it is important to bring in diverse voices from lawyers, technology experts, and community stakeholders. Their involvement is critical to

make AI-driven mediation inclusive, particularly for those typically sidelined (Rabinovich 2021, 233-254). Without robust regulatory measures, AI in mediation may amplify current disparities or generate new ones.

In essence, the regulatory framework must start from the recognition that AI in mediation has real fairness issues posed by algorithmic bias and the lack of transparency in how AI processes facts, concerns, positions, and interests of the parties and how it makes choices while doing so. Therefore, any regulatory design must consider these concerns and challenges.

Mitigating AI Biases

Let there be no second thought that, currently, AI biases are real, as these new tech systems inherit these biases from the humans who develop them (Manyika 2019). Recognizing AI biases is critical to comprehend the nature of risks, innovate further, and respond reasonably to fairness concerns. This must be the starting point of the study.

To mitigate these biases, stakeholders must develop a framework that systematically identifies and mitigates them. In this regard, Vakali and Tantalaki (2024) suggest multiple strategies: using diverse datasets to prevent AI from favoring any group; conducting regular bias checks akin to financial audits; promoting algorithmic transparency in AI's processes and decisions to make them as visible as glass; and maintaining human oversight for detailed analysis. The authors' multi-pronged strategy highlights that while correcting biases in AI is as challenging as desalinating the ocean, it is critically important for revolutionizing current data management practices. In the context of mediation, introducing these mitigating strategies will make it possible for AI to facilitate dispute resolution without reinforcing biases, ensuring a fair outcome for all involved.

AI Mediation under the New Indian Mediation Act, 2023

The much-anticipated Mediation Act of India (2023) introduces a groundbreaking, standalone legislative framework to promote mediation as an effective ADR mechanism. The Act marks a significant step forward by recognizing online mediation for the first time. Section 30 (2023) of the Act implicitly opens avenues for AI-assisted mediation. In other words, the section endorses mediation via digital platforms, potentially involving AI assistance, but without a clear mention. Such a non-explicit mandate raises questions regarding how inclusive, transparent, and ethically sound the process can be in an online setup.

Section 30(1) (2023) allows mediation through electronic means at any point, provided that all parties consent in writing. This provision theoretically allows AI to manage administrative tasks, analyze data, or predict outcomes to aid mediators. However, the specifics of AI's role and responsibility are not outlined, leaving much to interpretation and future regulatory measures to be determined.

While the Act emphasizes the need for confidentiality and integrity in online mediation sessions, it does not provide any guidance on how AI should be involved to maintain this.

As previously mentioned, mediation thrives on human touch, empathy, and understanding–areas where AI currently falls short. Section 30 (2023) fails to address how AI might boost or preserve the human elements of mediation, raising questions on whether AI can genuinely aid mediation or whether it might instead depersonalize the process. To reiterate, the importance of trust and human discretion cannot be overstated.

Section 30 (2) currently lacks clarity regarding the conduct of online mediation. Without specific rules and procedures, AI applications in mediation will not be uniform, leading to uneven mediation quality.

Online mediation can extend across international borders, bringing its own set of complexities and confusion. The Act does not specify how to manage these scenarios, particularly when AI deals with data from multiple jurisdictions. This can impact the enforceability of mediated agreements and their compliance with diverse legal systems.

Furthermore, the ethical use of AI in mediation requires a system that prevents discrimination or bias. The new Mediation Act alludes to AI integration but misses explicit engagement with its ethical implications. This omission risks undermining constitutional principles of equality and non-discrimination. Given India's immense diversity, AI's application of AI in mediation must be carefully designed and supervised to prevent it from reinforcing existing societal biases.

While the new Act sets the stage for online mediation, incorporating AI into this framework requires comprehensive and precise laws and regulatory oversight. To ensure that AI enhances mediation ethically, inclusively, and with a human touch, India must craft explicit guidelines, unlike the current implicit approach, which is prone to conflicting interpretations.

KEY FINDINGS

The research analysis reveals 5 significant findings regarding the integration of AI into mediation processes

(i) First, while AI demonstrates the potential for making mediation more streamlined and administratively efficient, it currently faces significant hurdles in matching the empathy and emotional intelligence that human mediators naturally possess. This limitation implies that AI should augment, not supplant, human mediators.

(ii) Data privacy is a major critical issue, especially when dealing with sensitive personal and confidential information concerning disputes and parties. It is underlined that existing tech-systems do not offer strong enough safeguards to prevent unauthorized access or data leaks in the mediation processes.

(iii) This study identifies a notable risk of algorithmic bias in AI-driven mediation processes. The training datasets often contain existing biases of society, such as those concerning gender, race, and socioeconomic status, which might

jeopardize the interests of marginalized groups. This underscores the need for inclusive and diverse training datasets and regular audits of bias.

(iv) An analysis of Section 30 of the 2023 Indian Mediation Act shows that while it implicitly endorses online mediation, it lacks specific legal ethical guidelines for AI integration into the mediation process. This gap in the legislation causes confusion and varied interpretations of AI's role, responsibilities, and limitations in the mediation process.

(v) The existing gap in digital access or AI/tech literacy presents a formidable challenge for AI-driven mediation in developing countries such as India, particularly in its vast rural areas. Given the large digital divide, coupled with low technological literacy and Internet connectivity issues, implementing AI in mediation will exclude marginalized communities from the prospects of AI-driven mediation services.

These results underline the importance of a strategy/approach that uses AI's strengths but also equally manages its shortcomings through laws, ethical standards, and ways to ensure that it is accessible to all.

CONCLUSION

At the crossroads of technology and humanity, the integration of AI in mediation constitutes a transformative moment in the dispute resolution arena. While the march of AI technology is inevitable and unstoppable, it must be shaped to uphold the cause of justice, not just efficiency alone.

This paper does not argue for abandoning AI in mediation but rather for pushing AI developers to tackle all the concerns, ensuring that AI systems are developed with ethics, inclusivity, and fairness in mind. Currently, AI-led technological innovations face minimal critical inquiries. Therefore, there is a widely felt need for strong AI transparency and accountability measures. For the foregoing reason, an AI-mediated dispute resolution system requires comprehensive ethical guidelines, regulatory oversight, and strategies for fair, transparent, accessible, and inclusive design, addressing training data biases, and thereby conforming to constitutional principles such as equality and non-discrimination. This is particularly critical in diverse contexts, such as India's ongoing push to integrate AI within the alternative dispute resolution system.

The Mediation Act, 2023, marks a significant step for India in addressing its gigantic backlog of pending cases. The Act recognizes the utility of AI in mediation. However, the lack of explicit legislative frameworks on AI's extent and role of AI in mediation processes exposes a troubling gap that could undermine the integrity, fairness, and accountability of AI-led mediation systems.

As stated earlier, algorithmic bias poses a significant challenge. Addressing this requires strategies and measures that instil public trust and confidence in the equity of AI-driven mediation processes. For AI to thrive in mediation, it must work in tandem with human mediators, supporting rather than supplanting their critical functions.

Lastly, in this era of unprecedented AI growth, all stakeholders must acknowledge that the true measure of advancement in dispute resolution systems lies not in the sophistication of AI technologies, but in their capacity to strengthen and facilitate access to justice for the most disadvantaged communities.

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