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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

AI AND PROCEDURAL HARMONIZATION: CAN TECHNOLOGY BRIDGE THE GAPS IN DIVERGENT ARBITRATION RULES?

AUTHORED BY - LEMUELA MARY J

The adoption of AI in international arbitration is speeding up the procedures' standardization and underlining the tension between efficiency and moral supervision. The flexibility of international arbitration is often admired and deserves it, but at the same time, it brings the inconsistency of the procedural rules. Because each arbitral procedure is shaped by different institutional rules and regulations, national laws, and party agreements, its consistency is still between the hammer and the anvil.

I. CAN AI STANDARDIZE CASE OUTCOMES WITHOUT COMPROMISING JUDICIAL DISCRETION?

AI, with its potential to fine-tune and make a fairer, more effective legal system, could reduce inefficiencies and inequalities and increase transparency. However, it should not replace human judgment, which is always necessary for justice.

Synergistic ways are the future when judges are enabled by AI not restricted by it. We can establish an effective and fair legal system by combining the analytical power of artificial intelligence with the compassion, moral judgment and intuition of human judges. In this way, humanity and technology can work together to maintain the values of justice in an increasingly complex world.

The year 2024 saw the ICC's AI-award drafting tool standardize boilerplate provisions. Standardizing was achieved without sacrificing substantive reasoning. As a result, procedural order time was cut by 30%. The AAA now requires human verification of all AI outputs. This came after ChatGPT-generated citations to nonexistent case law were revealed. The danger of unrestrained AI reliance in the Mata v. Avianca, Inc. 678 F. Supp. 3d 443 (S.D.N.Y. 2023) was highlighted.

“AI can standardize the scaffolding of arbitration, but its soul must remain human”
(freshfields.us)

II. THE “BLACK BOX” DILEMMA: TRANSPARENCY AS A BARRIER TO AI ADOPTION

The term Black Box talks about AI algorithms, which frequently yield results without a clear explanation of how they were arrived at. The danger of producing fabricated evidence using AI is displayed in the SVAMC Guidelines (svamc.org). To avoid the possibility of manipulation, arbitrators have to examine the transparency of AI that has been submitted. These rules reveal the use of AI in items submitted in the arbitration or mediation proceedings or results. Mandatory disclosure may result in disagreements in tactics and delays of procedure according to the people who do not support this idea in general.

III. PARTY AUTONOMY IN THE AI ERA: CUSTOMIZATION OR CHAOS?

The selection of arbitration provisions, including the law governing the arbitration agreement, the location of arbitration and procedural rules forms the core of party autonomy. This concept is supported by the Arbitration Act 2025 (legislation.gov.uk), which allows the parties to expressly choose the law governing the arbitration agreement to apply, irrespective of the seat of arbitration, unless otherwise agreed. In international arbitration, where the parties are often from different legal backgrounds and persuasions, such flexibility is key.

The personalization of procedural alternatives is a form of improving party autonomy in the legal process using various AI solutions. For example, automated document review, or the prediction of case outcomes is a way of making the process more personalized. However, if the personalization is not counterbalanced by a uniform ethical framework, it could result in procedural irregularities.

The Indian Supreme Court in the CORE verdict ([Central Organisation For Railway ... vs M/S Eci Spic Smo Mcml \(Jv\) A Joint Venture ... on 17 December 2019; AIRONLINE 2019 SC 1904](#)) discusses the necessity to balance party autonomy with the independence and impartiality requirements when forming tribunals. To prevent the possibility of unilateral nominations by a specific party that could put the fairness of the arbitration process at risk, it is necessary to observe this balance.

By looking into possible biases in choosing arbitrators and providing data to help create a fair tribunal artificial intelligence (AI) can make sure that it is impartial. Nevertheless, to avoid introducing any new biases into the system, AI itself should be transparent and auditable.

IV. GLOBAL PUBLIC POLICY VS. AI UNIFORMITY: AN UNSOLVABLE CONFLICT?

General AI usage is considered in the EU Artificial Intelligence Act (artificialintelligenceact.eu) and SVAMC Guidelines, but enforcement is subject to public policy problems because these laws do not actually provide specific rules for arbitration situations. Risks may be minimized by modifying agreements like the New York Convention to include clauses on AI accountability and transparency. AI systems like Jus Mundi's Conflict Checker have been criticized for possibly not following these regulations because of their small data sets, which may not include relevant arbiter biases or cultural peculiarities.

AI could be a potential game changer in terms of making the international arbitration system more reliable and cohesive by levelling the grounds. It could manage the procedural aspects such as setting deadlines, establishing rules for the admissibility of evidence, and award enforcement.

Yet, arbitration doesn't function in a vacuum; it's governed by prevailing major public policy issues, which vary by nation. States are allowed to refuse to enforce arbitral awards under public policy exceptions, such as illegality, fraud, corruption, abuses of human rights or national security concerns. Thus, AI will find it extremely difficult to develop uniform arbitration norms.

AI should be used only for secondary activities such as legal research and document review under human supervision. This way, public policy goals are not violated, and procedural efficiency is not compromised.

V. ALGORITHMIC BIAS IN CROSS-BORDER DISPUTES: REINVENTING FAIRNESS

When AI systems systematically favor certain groups or outcomes, this is an algorithmic bias. Arbitral awards can be unjust, particularly in cross-border disputes. The most common biases

affecting impartiality are the following: aggregation bias, confirmation bias, and selection bias. UNCITRAL could give guidance on reducing bias in the use of AI for international arbitration. Artificial intelligence might make decisions that are too naïve or inappropriate.

Failure to tune AI systems for the legal ideas and practices of various regions may reinforce biases. Amidst all these dramas occurring the settlement process is already being greatly accelerated by the use of AI-powered systems such as ROSS Intelligence and Luminance, which analyze legal papers and find pertinent precedents. To assist parties in making well-informed decisions, predictive analytics technologies such as Premonition AI examine past case data to predict the probability of success for particular arguments. Communication between people with different linguistic origins is becoming easier because of AI-driven translation systems like DeepL and Google Translate.

VI. CONCLUSION: AI AS A BLUEPRINT FOR STANDARDIZATION OR A BAND-AID?

Ultimately, artificial intelligence is a sophisticated instrument that can potentially be an effective way to make arbitration more predictable and effective with adequate regulation, rather than a panacea for procedural fragmentation. The question is not whether AI may improve various procedural processes without violating the principles of arbitration, but rather how this improvement can be achieved. This may be done, for instance, through the use of AI as a hybrid model, in which the arbitrators would make the final decision, as well as employ AI to detect procedural irregularities or forecast the results. Arbitration is a domain in which human judgment is indispensable for solving complex cross-border conflicts. It is an art and a science at the same time. AI may provide accuracy and consistency, but it does not have intuition, empathy, and moral judgment which are unique to human arbitrators.

Regular observation and evaluation are essential to ensure that AI systems do not deepen or even create prejudices in arbitration and thus avoid erroneous decisions. This is the responsibility of legislators, arbitrators, lawyers, and information technology experts.

The AI in Arbitration debate is a plea for a future rethinking of dispute resolution methods, not an argument for or against sticking with Band-Aid solutions and standardization. AI could take arbitration to new levels of accessibility, uniformity, and efficiency. At the same time, it is

impossible not to see that AI has its faults in the form of bias in the algorithm, the lack of transparency, and ethical issues. AI can only be involved in arbitration if it prioritizes fairness, transparency, and discretion and is not just a template for standardization. We can create a system that is effective, fair, just, and flexible enough to cope with the challenges of globalization if we use a hybrid version of arbitration that combines AI's advantages with human arbitrators' knowledge.

