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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

PREDICTIVE ANALYTICS IN LEGAL DECISION MAKING

AUTHORED BY - KSHAMA DESAI

ABSTRACT

This abstract seeks to critically analyse the impact of Predictive Analytics and its accurate usage in Legal Decision Making, while considering the growing influence and usage of artificial intelligence in today's world. The concept of predictive analytics and its influence in the current world has a potential to revolutionize the process of Legal Decision Making. The landscape of legal decision-making has been transformed by the integration of artificial intelligence (AI) into predictive analytics using AI tools such as data mining, machine learning algorithms, and natural language processing (NLP). Forecasting court decisions and the probable associated outcome is a predictable analysis. Here, it can be noted that AI helps us to comprehend complex or complicated bylaws. Firstly, AI is a very different and magnificent computer science field technology which develops smart machines having human intelligence and can perform similarly to the human brain. AI and predictive analysis are linked as AI becomes serving technology in the predictive analysis. AI tries to follow patterns, recognize and learn data. It examines past data to predict future occurrences. Predictive analytics can help pinpoint cases suitable for settlement outside of court, which assists in managing resources more efficiently and refining litigation strategies. However, some AI models are unclear on how they come to the judgement. There is a lack of transparency which can undermine a legal professional's ability to uphold their arguments and reasonings. Also, we need to understand who should be held accountable when the AI system causes errors. Putting AI in sensitive legal matters is very demanding of ethics and care, there is always a risk of data privacy and security which can be misused in sensitive legal data. Regardless of the negativity of AI, most importantly we should realize that AI, unlike humans, is fair to all with a wide range of benefits predicting case outcomes, enhancing justice to a wider range of population. It is also accessible legal service to all. To gain more accurate insights and legal advice, lawyers can utilize predictive analytics, quickly scan documents for relevant details, and identify patterns and trends.

Keywords- Artificial intelligence, machine learning, technology, predictive analytics, privacy.

I. Introduction-

“AI is not a replacement for humans, it’s about amplifying human potential.” Said by Amir Husain, a technological entrepreneur.

The digital era has been an unmatched ability to store information about every single individual protecting the history’s of the individuals of the future generations.¹ Hence, the data allows us to simplify the patterns of humans and societal behaviour. In the activity of law, the quest for justice, meticulous inquiry, and challenging choices have long been the pillars of the legal field. However, the seeing the rapid advancement of technology, especially in artificial intelligence (AI) and predictive analytics, is reforming the legal world. These innovations are revolutionizing the legal system, offering novel tools and abilities that could enhance legal research, inform decisions, and potentially reshape legal proceedings.² We can observe that AI and Predictive analytics are revolutionary forces with the capacity to change various sectors, like law. When they are inculcated into the legal system, they have the ability to reshape legal proceedings and accelerate the legal process by improving decision making and have emerged as revolutionary force. These technologies identify trends and inconsistencies and give or provide valuable insights that helps the lawyers to make more informed decisions. One of the key benefits of AI and predictive analytics is a capacity to process Natural Language by the use of NLP algorithms. AI driven tools for legal research offer more than data retrieval as they can conduct advanced analysis by identifying connections between different cases, emerging legal trends, may even predict the outcome of legal disputes. These kind of analysis by the AI empowers legal practitioner to make more strategic and more informed decisions and saves their time. AI systems have the capability to predict court case outcomes, assess the probability of a successful lawsuit, and even suggest potential legal strategies by analysing historical data and trends.³ This predictive capability allows attorneys to evaluate the strengths and weaknesses of their cases, enabling them to make more informed decisions regarding settlement offers, trial strategies, and legal precedents. These tools can efficiently analyse large datasets, extract relevant information, and generate comprehensive summaries or citations. This capability enables legal practitioners to stay updated on recent legal developments and make

¹ A Review to Artificial Intelligence in Education

² <https://www.starttribune.com/law-left-behind-as-hands-free-cars-cruise/302322781/?refresh=true>

³ <https://medium.com/nerd-for-tech/ai-in-law-redefining-legal-research-analysis-and-decision-making-84977e78e389>

informed decisions based on a thorough understanding of the legal environment.⁴ The outcome of prediction in legal system is always crucial to the law practice. Compared to the traditional tools used by lawyers, judges in their professional experience, AI gives much more sophisticated approach.

II. What is AI-

Without becoming computer scientists it is important for lawyers to understand the features of AI to assess its potential implication on the legal profession and legal thinking. One way to define artificial intelligence is to make a machine behave in a manner that would be considered intelligent if done by a human. This definition was proposed by John Mccarthy.⁵ As the above defines show, human intelligence is a benchmark for AI. At a basic level, one can relate intelligence as the ability to learn, understand and make judgements or form opinions that are reasons based. These ability distinguishes human beings from other forms of non-intelligent or less intelligent life. The reference to learning does not refer to cognitive process thought to be involved in human learning. The process of machine learning has allowed to achieve surprising results in many area for example- language learning, computer translation programs are remarkably accurate these days. Machine learning at its core relies on the hidden factors or patterns from observed data. Using large amount of sample data and sufficient computing power the computer extracts the needed algorithms, to perform the task. The ability of pattern recognition relies on statistics and probability calculation. In simple terms, the AI program calculates for each factor, or combination of factors, it observes the probability to lead to a certain outcome. As a result, AI models are able to produce intelligent outcomes when performed by humans are thought to involve high level cognitive processes. The most significant and most noticeable advantage of AI application is saving time as they can examine more information in detail in a tiny fraction of time unlike humans who spend a lot of time and energy on such works. For example- if you take an hour or two to proofread a document and then run a original document through the Artificial Intelligence tool to test the file, in more or less than a minute all the errors will be fixed without any pain. The key thing for inhouse lawyers who draft and prepare contracts for the clients often needs customization which contains standard terms and conditions. The AI generated contracts are heavy time savers and help law firms to produce consistent set of agreements. There are artificial intelligence (AI)

⁴ <https://www.legalserviceindia.com/legal/article-13543-ai-and-predictive-analytics-in-law-revolutionizing-the-justice-system.html>

⁵ Harvard Journal of Law & Technology Volume 29, Number 2 Spring 2016

tools available that can generate contracts based on specific criteria identified by the legal department as important. For instance, AI contract analysis tools or software that have been trained through repeated analysis can identify terms or definitions that are missing from various contract templates. Legal document review, proofreading of drafts and contracts and legal research sometimes can be boring while they have to be completed with an ethical and professional representation, in this era of technology it is not essential that the attorneys have to do them by hand. Allowing AI enabled tools to do at least the first round of work reduces a lot of stress and tiredness minimizing the lawyers time on introductive reviews which helps the lawyers to dive into creative intellectual study that they are paid to do what computers cannot copy

How is predictive analytics applied in the legal field-

Predictive analytics is based on statistical models, machine learning algorithms, and historical data to predict future events or actions. By analysing trends, correlations, and patterns in the data, it can generate insights and forecasts necessary scenarios. Key concepts in predictive analytics include data preprocessing, feature selection, model training and validation, and predicting or classifying future events. Legal professionals can apply these concepts to analyse historical legal data, develop data-driven predictions, and inform their decision-making process.⁶

Predictive analytics is one of the most important and valuable tool for forecasting the most likely outcomes from the legal disputes which are based on the previous data. When an historical case data is analysed like court ruling and relevant factors such as jurisdiction, legal arguments and judge precedents, predictive models can help to provide or assist in the predictions of case outcomes. Such information can assist or help the legal practitioners in making strong cases, negotiating settlements and devising successful litigation strategies.

Risk assessment and management: the legal team of professionals can use or can take use of predictive analytics to mitigate risks associated with their cases. They can also use Predictive models of AI to access historical data and identify trends and the likelihood of risks associated with the cases. To name a few risks such as non-compliance, contract breaches, or regulatory

⁶ <https://www.lawcrossing.com/article/900054549/Harnessing-the-Power-of-Predictive-Analytics-in-Legal-Decision-Making/>

violations. This enables legal practitioners to proactively mitigate risks, develop compliance strategies, and optimize resource allocation.

Budgeting and resource allocation: Predictive analytics can assist in these areas by providing insights into expected costs and timeframes for legal cases. By analysing historical data and case specifics, predictive models can forecast the resources and time required for different types of legal cases. This information enables legal professionals to set realistic expectations, estimate expenses for clients, and allocate resources efficiently.

Using predictive analytics in legal decision-making provides numerous advantages:

Data-driven insights: By taking help of predictive analytics, the legal team of professionals can extensively analyse datasets to extract valuable insights that inform their decision-making processes. This approach allows legal practitioners to make informed predictions and strategic decisions supported by empirical evidence, moving beyond reliance solely on personal experience or intuition.

Enhanced efficiency and precision: Making predictive analytics an integrated part of the legal decision making analytics enhances both accuracy and efficiency. By leveraging models and algorithms, legal professionals can quickly assess case probabilities, identify potential risks, and optimize resource allocation. This enables them to concentrate on more strategic tasks, delivering superior outcomes while saving time and reducing effort.

Competitive edge: The legal sector by using predictive analytics provides a strategic advantage. Legal professionals can forecast emerging trends, stay ahead of competitors, and adapt their strategies to evolving conditions by incorporating data-driven insights into their decision-making processes and legal strategies.

In summary, predictive analytics plays a crucial role in the legal field for predicting case results, assessing risks, and optimizing resource allocation. It offers various benefits for legal decision-making, such as data-driven insights, enhanced efficiency and precision, improved client services, and a competitive advantage⁷. Legal professionals can enhance their decision-making processes by leveraging predictive analytics to make more strategic, efficient, and well-informed choices for their clients.

⁷ <https://www.b12.io/resource-center/ai-how-to-guides/is-ai-used-in-predictive-analytics-for-law-firms.html>

Legal decision making and Artificial Intelligence-

Many of the times as we are not open to adapt to new things and new technologies likewise, many lawyers are sceptical about the idea that AI-powered computers could predict the outcome of a court decision. They believe that making legal decisions requires mental processes such as understanding the arguments presented by parties and using reasoning to reach a conclusion—tasks they think computer systems are incapable of performing. However, as discussed earlier, computer models can generate "intelligent" outputs, which are often associated with sophisticated cognitive processes in humans. Research suggests that computer systems may be able to predict legal decision outcomes more accurately than humans.⁸

The primary reason for the apparent success of AI development is that computer programs can easily surpass the "hardware" limitations of human brains.⁹

In the coming years, consumer-level computers are expected to have storage capacities of several petabytes. Just fifty petabytes are sufficient to store all the written works produced by humans in every language since the beginning of recorded history.¹⁰ As a result, computers can store enormous amounts of data and process it, or learn from it, much faster and more efficiently than humans ever could.

As a starting point, one might think or assume that AI models have the advantage of algorithms and infallibility over humans who inevitably make mistakes and are influenced by subjective non-rational factors. The areas of research in psychology, cognitive science and economy have shown that humans often fail to act rationally.

There is always a debate about ethics in AI. As far as justice system is concerned one cannot debate on it. The Indian constitutional courts have started integrating technology into their day-to-day functions. They have certainly demonstrated how technology can be beneficial to society. For example, a recent bail decision by Anoop Chitkara of the Punjab and Haryana High Court has garnered criticism from both the legal and technological sectors. The use of much talked open AI platform Chat GPT, in a bail order would surely make Justice Chitkara, the first

⁸ Queen Mary University of London, School of Law Legal Studies Research Paper No. 318/2019

⁹ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3392669, Tegmark, supra n. 15, at 27-28,

¹⁰ How Much Is a Petabyte?, Mozy BLOG (2009), <http://mozy.com/blog/misc/how-much-is-a-petabyte>, cited in Daniel M. Katz, Quantitative Legal Prediction, 62 Emory L.J. 909, 917 (2013).

Indian Judicial Officer to take the aid of an AI for a sensitive judicial decision on a bail order.

Making use of this emergent technology is absolutely necessary to move forward in the right direction and be measured incredibly and not a leap inside.

III. How does Artificial Intelligence contribute to the Law Firms-

In the recent years there is a noticeable change in the legal industry as one of the many sectors experiencing a transformation due to artificial intelligence. Law firms have started integrating AI to enhance their predictive analytics capabilities in the upcoming years. AI enables these firms to analyse large volumes of legal data more accurately and efficiently than ever before.

One of the primary roles of AI in law firms is to assist lawyers in making decisions based on data. AI-powered predictive analytics systems can analyse vast amounts of legal data, including statutes, court cases, and legal texts. These AI systems use machine learning and natural language processing techniques to understand complex legal material and extract valuable insights. This enables lawyers to gain deeper insights into cases, identify patterns, and make more accurate predictions about case outcomes. By leveraging AI predictive analytics, law firms can enhance their decision-making processes and provide clients with more informed legal advice.¹¹

AI-driven predictive analytics has basically come to transform the many operations of law firms, offering innumerable advantages and revolutionizing the legal industry as a whole.

One of the most important benefits of using AI predictive analytics for legal professionals is the enhancement of decision-making processes. AI systems can detect patterns and trends in vast amounts of data that human lawyers might overlook, providing valuable insights that can inform legal strategies. This increases the chances of success in cases and improves client satisfaction by enabling legal professionals to make more informed and data-driven decisions.

Law firms can take a leverage of AI predictive analytics to make the resource management and

¹¹ <https://www.lexisnexis.com/community/insights/legal/b/thought-leadership/posts/how-can-ai-help-lawyers>

streamline their operations. AI aids in prioritizing tasks, allocating resources, and boosting productivity within the firm by predicting case outcomes and identifying potential conflicts of interest. This improves client service and increases revenue by saving time and effort, allowing attorneys to focus on more complex and high-value work.¹²

How is AI reshaping decision making in the Judiciary-

The incorporation of AI into the legal system has heralded a revolution in decision making and justice administration. AI is not just a sci-fi idea but today's reality that is drastically changing the legal environment with the development of technology and its use which offers of unheard. The use of predictive analytics can enhance accuracy and effectiveness across various aspects, including legal research and court decisions¹³. It is also very important to note that the influence of Artificial Intelligence on judiciary helps lawyers by bringing up the moral issues and the prospects for an AI assisted legal system. It is noticeable that the AI has an impact on the judiciary which goes beyond the legal research and decision making in improving administrative efficiency. We can observe that the court employees will have less administrative work when the basic activities like record keeping, scheduling cases and sorting out documents are automated. By doing so, the human mistakes while expediting the legal process is drastically reduced. Also, the AI enabled chatbots can quickly respond to the innumerable questions thrown by the public to access legal information. It reduces the lawyers time to concentrate more on other important elements rather than menial jobs. The judicial system's increased responsiveness and accessibility could be further improved by significantly reducing case backlogs through AI's enhanced efficiency. AI has a enormous potential in the court system. As the development of AI happens in the legal system, will find more uses providing more complex and sophisticated assistance. It has the potential to improve the efficiency of legal procedures and the knowledge level. The AI enhanced judiciary that sticks to the strictest fairness and justice requirement maintains a partnership between legal experts and technologists.¹⁴

Implications and recommendations-

Preparing data and getting together data for the machine learning model, the court judgements form the raw data. Legally important factors which are used to make a decision are marked in

¹² <https://www.b12.io/resource-center/ai-how-to-guides/is-ai-used-in-predictive-analytics-for-law-firms.html>

¹³ <https://www.unesco.org/en/artificial-intelligence/rule-law/mooc-judges>

¹⁴ <https://indiaai.gov.in/article/is-using-ai-leading-us-to-judgment-day-exploring-the-dark-side-of-ai>

the raw data for making the processed data. Thus, the processed data is the parent material for the preparation of database. Also, it is very important to select a predictive AI model to be trained which uses the processed data. Finally adjusting of the parameters determine level of accuracy is attained by the AI.

IV. AI technology and Bias-

A very thin balance between the amount of human control to be exercised over AI while still enabling it to perform in full capacity is an eminent inquiry which becomes complicated due to anchoring effect which makes supplementation futile. Here the anchoring effects means peoples bias towards computer generated numbers and data a tendency which is proven to be harmful in many context.¹⁵ Evaluating algorithmic outputs and determining their acceptance or rejection as a judicial officer based on research findings poses several challenges. Apart from this there is also a garbage- in, garbage- out principle which leads to quality of the decision more biased and unpalatable. This principle in machine learning determines the quality of results through the quality of data. In the Indian context, Article 14 of the constitution as genus, read with article 15,16 & 17 as species concerns the mitigation of bias, discrimination and the promotion of equality and fairness. These articles were incorporated into the Indian Constitution to make the society individualistic. With regards to such bias getting into the justice system, due to the incorporation of AI in cases like aforementioned bail order, sent repercussions on Article 14 came into the picture. Moreover, the anchoring effect which also let to the bias where the judges stopped indulging in a fair trial. The tool layered bias in the AI system inclusion in the justice system has chilling repercussions on fundamental rights of equal protection amongst others.

Limitations on Legal Decision Making with AI-

The AI programs that are any data driven require access to data. The machine learning model that are based on probable inferences are always data hungry, the larger the sample data the more accurate is the models predictive value. In the legal sector, the data volume require leads to two fold limitations of the AI programs.

¹⁵ <https://www.calj.in/post/ai-judges-the-question-of-ai-s-role-in-indian-judicial-decision-making#:~:text=Moreover%2C%20the%20anchoring%20effect%20also.of%20equal%20protection%2C%20amongst%20others.>

Firstly, the case data is not easily available and not always accessible. In many areas of law there is a confidentiality of decisions not available for non-parties. The confidentiality can be based on protecting the affective parties rights. Secondly, when the case data is accessible the size of the sample is important where there is no hard rule for the sample size, the more data and accurate the extracted model. In addition to the necessary data volume there is always a question of the kind of input data. The data research terminology refers to the facts that it comes from different sources and maybe structured or unstructured like photos, social media, videos etc. Coming to the legal context, the variety question is likely framed in a different manner. This variety will not always come from different sources or formats as the data input is likely to be limited to previous limitation.¹⁶

While it is observed and true in many legal questions of fact or law can be reduces to 0/1 or yes or no binary task, the problem is that there will always be multitude of such binary task ineach case to determine all of them to be case specific. Now coming to the AI model to be ableto extract the required patterns and algorithms from the input data, having one clear output question facilitates the model building process. This raises the question on how AI models by definition are based on information extracted from previous data may deal with policy changes. It is also true that the essence of machine learning is the ability to improve the algorithm over time. Nevertheless, such improvements is always based on past data. The policy changes regularly in case laws required to depart from past data. For these reasons mentioned, the AI models are likely to become conservative and have a conservative approach that are in line with previous cases.

With the growing of artificial intelligence in the legal field has brought a major shift in the operation of the legal professionals. As we already know the remarkable advancements of technologies, it is also very important to understand its limitations and the unique strengths that human brains bring to the table. Let's look into the boundaries of AI in law and benefits of human expertise-¹⁷

One of the most important primary limitations of the AI is its struggle to comprehend the nuanced context accompanied by legal matters. We already know that legal cases are basically

¹⁶ artificial Intelligence and Legal Decision-Making: The Wide Open? Study on the Example of International Arbitration

¹⁷ <https://indiaai.gov.in/article/is-using-ai-leading-us-to-judgment-day-exploring-the-dark-side-of-ai>

not black and white but are infused with the emotions of humans intricate details and culture. Here comes a solicitor's abilities to empathise and understand the clients, taking into consideration their personal circumstances, hence tailoring legal strategies accordingly which is a skill absent in the AI. We may also make a note that the AI struggles to master the legal interpretation involving understanding the intentions behind laws and contracts. There is also a demand for personal touch in the complexities of language, historical content and legislative intent, which is seen in the solicitors as a capacity to dissect the legal texts, identify subtle nuances and navigate the intricacies on interpretation, often making the difference between a successful argument and a misinterpretation. It is often noticed that though the AI offers efficiency incredibly, it is also human roles in the legal field that brings unique strengths and moral support to its clients. The realm of law involves dealing the clients who are many a time in stressful situations. Human attorneys and solicitors can empathize, provide comfort, and compassionately guide clients through the legal process.

In negotiation and courtroom advocacy it is always important to read the rooms, adapt to shifting dynamics and craft compelling arguments which is a distinct human skill that can sway the outcomes missing in the AI.

Conclusion-

AI being a powerful tool which can enhance and augment the capabilities of a lawyer, but cannot replace the skills, expertise and judgement that the human lawyers can bring in legal profession. As many advances are happening to improve the functioning of AI, we have to bear in mind that it is always the AI that remains function of human activity. If AI can learn to self-replicate it self and thus becoming a new life form. We also notice that the AI has taken the world by storm and is constantly changing the way we live, work and need based. It also does automating task to improve the legal decisions taken up, hence bringing down the loads of files and paperwork of the lawyers and the court. As AI is going to significantly impact the society we live in like health care, transportation etc, it is always good to have a helping hand like AI which makes things easier and more precise in the legal system. Let us conclude by saying that the future of law is AI which will shape the world and is a new face of the future technology.

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