Judging the Future: Artificial Intelligence and Response of Key Stakeholders from the Legal Industry in the UK and India

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BACKGROUND

Predictions and speculations abound about how fast and how far artificial intelligence (AI) can revolutionise many industries. The legal industry is no exception. Estimates from major developed countries predict a sharp increase in the use of AI-based legal tools. However, there is little data on how legal professionals in developing countries might respond to AI, leaving unanswered questions about how AI may create or exacerbate digital divides.

Digital divide, which represents disparities in access to and utilisation of innovative digital technologies, has major ramifications for justice delivery. It can widen existing disparities in access to justice, particularly for marginalized communities when their lawyers do not have the technological tools and skills to participate in a tech-driven legal landscape. The gap between a lawyer who is tech-equipped and one who is not shows up in every aspect of legal work, be it legal research, case management, document preparation, or court presentations.

Governments worldwide, especially in developed countries like the UK, are investing heavily in AI research and development. This gives them a competitive edge over developing countries, like India, that are lagging due to absence of significant investments in digital transformation and an existing burden of digital divide. In such a scenario, unequal AI adoption could further widen the gap at an accelerated speed given the relentless pace of innovations in AI. For India, with its staggering backlog of court cases (approximately 50.2 million pending cases as of July 2023), low AI adoption could represent a missed opportunity to revolutionize the country's legal sector.

Understanding the differences in adoption of AI by stakeholders of different legal systems is thus crucial to avoid a one-size-fits-all approach to AI policy and development. There seems to be a dearth of research on the possible barriers and enablers of AI adoption in countries like India, which is yet to implement an official AI policy. This study attempted to bridge the knowledge gap by understanding the differences in acceptance of AI by legal industry stakeholders of a developed country (the UK) and a developing country (India). Insights from the research hope to inform the approach that developers, marketers, and implementers of AI take to make the technology more accessible and inclusive.

METHODOLOGY

The research adopted a mixed-methods approach, integrating a comprehensive literature review with qualitative interviews conducted over a six-week period during June and July 2023. The review examined a range of existing literature and materials related to the use of AI in the legal sector, including research papers, articles, government and industry reports, as well as media coverage. The primary objective of the literature review was to identify key concepts, theoretical frameworks, and gaps in existing knowledge, and inform the development of a questionnaire for the subsequent in-depth interviews with stakeholders.

The qualitative interviews were conducted with legal practitioners situated in London, UK and New Delhi, India. The purpose of these in-depth interviews was to gain insights into the perceptions and attitudes of legal professionals towards the role AI could play in legal practice and their willingness and ability to adopt it. A total of 16 interviews were conducted, eight with barristers in the UK and eight with advocates in India; the interviewees represented diverse legal practice areas. The interviews were conducted both in-person and online via Zoom.

Meticulous attention went towards adherence to ethical principles. The research secured ethical approval before its commencement, prior consent was obtained from all the participants, and confidentiality and anonymity were scrupulously maintained throughout the research process. The challenges and limitations of the study were also acknowledged and noted, including the time and resource constraints, which meant that the sample size had to be kept small, and the potential for subjectivity and bias in the participants' responses. The study's focus on specific urban centres, namely, London and New Delhi, also constrains the generalizability of findings. The potential cultural and institutional differences between the UK and India may not have been comprehensively accounted for. Further, given the rapidly evolving nature of AI technology, the study cannot be considered to have captured the most up-to-date developments in AI and changes in legal practitioners' attitudes over time.

CONCLUSIONS

Insights from the Literature Review

The literature review brought forth several interesting points, one of them being that lawyers may unknowingly already be using AI. The lack of awareness could be due to AI-powered features often being seamlessly integrated into existing tools, making AI less apparent to users. AI adoption in the legal field has generally been sluggish. Lack of awareness and understanding of AI-based legal tools remains a significant hurdle. Cost considerations also impede adoption, particularly for smaller businesses. Legal professionals often display indifference and lack confidence in engaging with legal technology despite recognizing its potential for the organization. Generational differences also play a part, with younger lawyers more open to adopting AI-driven tools. Legal services firms' existing structures and cultures often hinder innovation in business processes, a hinderance that is further complicated by skill deficiencies and apprehensions regarding data security and management. The resistance to AI may also in part be driven by alarmist headlines in the legal press. Media coverage often portrays AI as a threat to human lawyers, contributing to negative perceptions about AI and its disruptive potential.

Even as barriers to adoption remain, a favourable attitude towards AI adoption is emerging in large and mid-sized firms in developed countries, as indicated by a recent Thomson Reuters survey. The technology has made fast inroads into legal practice. AI has automated time-consuming legal research and e-discovery, making document searches for litigation more efficient. Predictive coding and technology-aided review (TAR) have replaced manual document reviews, saving time and costs. AI tools like semantic search are enabling natural language queries for legal research. AI-driven chatbots are being used to provide early legal consultations and answer client inquiries, which is improve efficiency and lowering costs. Various systems assist in drafting legal documents, streamlining the process. Predictive analytics tools are being used to forecast case outcomes, identify favourable judges, and provide insights about opposing parties.

Courts across the globe also appear to be embracing the use of AI. In the US, data analytics is already being utilized, among others, for settlement negotiations and risk-based calculations for bail, sentencing, and parole decisions. AI-based risk assessment tools like COMPAS and Public Safety Assessment (PSA) are being used to provide risk scores for defendants, aiding judges in their decisions about parole. The US Sentencing Commission is also employing AI for sentencing guidelines. Meanwhile China is building a 'smart court' system that connects to the desktop of every working judge in China and uses AI to assist judges with case management and decision-making. It is leveraging big data, blockchain, and AI to analyze data from past cases to help judges identify relevant laws and precedents and even suggest sentences; notably, concerns are raised about the algorithmic decision-making's impact on judicial independence and digital divide.

In the UK, the House of Lords supports the use of AI in the criminal justice system, albeit with concerns about potential risk to fundamental human rights and civil liberties; it is on account of these concerns that the EU has enacted a legislation (EU AI Act 2023) to govern AI's use in criminal law. Demonstrating its tech-pro approach, the UK's Ministry of Justice had earlier introduced the Digital Case System (DCS) to manage cases in the Crown Court digitally, enabling real-time access, remote proceedings, and digital evidence submission. In India too, technology is being welcomed by the courts. The Supreme Court of India launched

an AI portal (SUPACE) in 2021 to collect and analyze data for quicker decision-making and case backlog reduction. The Supreme Court had earlier also introduced the SUVAS neural translation tool to translate judicial orders into vernacular languages. Other Indian courts and tribunals, like the National Company Law Tribunal (NCLT), are also looking to implement AI-based solutions.

Experiments in the adjudication process have also yielded interesting results. AI has shown promise in predicting court decisions, with studies showing 70% accuracy in predicting U.S. Supreme Court decisions and 79% accuracy in predicting outcomes of the European Court of Human Rights. Chatbots like 'DoNotPay' have successfully handled minor infractions, appealing numerous parking tickets. ChatGPT, an AI chatbot, has also made its courtroom debut. In a first for India, the Punjab and Haryana High Court used ChatGPT for a bail decision in March 2023; a Colombian judge used it for a medical funding ruling in February 2023. There are cases of lawyers also using ChatGPT, though not always successfully. This bring to light the issue of AI 'hallucinations,' which result from the AI models prioritizing correctness over reasoning.

Notwithstanding the ongoing concerns and the slow pace of adoption, AI is transforming the face of legal practice. Legal professionals are recognizing that AI is not futuristic but already a part of the legal landscape. Legal scholar Richard Susskind advocates for a change in approach, by distinguishing between bespoke legal tasks that a human lawyer should focus his/her creative energies on and replicable tasks that can be handled by technology. The delegation of mundane entry-level tasks to AI tools is expected to reduce the demand for junior lawyers. This necessitates changes in legal education to prepare future lawyers for an evolving profession that requires legal expertise, AI proficiency, and emotional intelligence to address potential biases in data. Some law schools are already incorporating AI into their curricula, emphasizing ethical and practical AI use. Additionally, the integration of technology in law is giving rise to new job roles and innovative legal firms, prompting some jurisdictions to expand opportunities for non-lawyers to work with clients and inspiring the creation of specialized degree programs to meet the evolving demands of the legal profession, ultimately redefining the legal profession and the practice of law.

Insights from Stakeholders Interviews

The findings from stakeholder interviews largely concur with the findings of the literature review. Foremost among the findings is that a digital divide does exist and it is pervasive and at multiple levels. Practitioners from India reported lower awareness of lower purchasing power for, and lower willingness to adopt AI than their counterparts in the UK. Disparities in AI usage were even seen to exist between different regions of India, with the metropolitan cities and well-developed regions more likely to adopt AI than rural areas plagued by insufficient infrastructure and lack of resources. Unlike for India, interviewees felt that AI adoption would be uniform across the UK; this perception runs contrary to the observations made in a House of Lords report that raised concerns about the digital divide in the UK.

This divide between countries and regions was attributed to differing infrastructural capacity to support the use of new technologies. The high costs of integrating AI technology was of particular concern. In fact, the high initial cost of implementing AI may be among the key factors inhibiting AI adoption in a resource-constrained country like India. Differing legal cultures in India and the UK were also noted as a factor that could impact the pace of AI adoption. In India, AI adoption is predicted to be predominantly top-down and court-led, while the UK will likely take a more decentralized approach, with AI adoption occurring

chamber by chamber. This divergence may also be attributed to the absence of institutions like chambers in India, leaving individual lawyers to decide on usage, potentially causing hesitancy among those lacking confidence or resources.

Another divide was visible in the differing adoption of AI by different practice sets. Most interviewees held that commercial law practitioners will adopt AI faster than their counterparts in publicly funded practice sets or practices that operate on leaner revenues, such as criminal law. This divide was found to not have been examined in depth by the existing literature and represents an area for possible future research. Another divide the study highlighted was intergenerational, with older practitioners more resistant to and even discouraging of AI adoption. This reluctance of senior advocates, coupled with the deference to hierarchy and tradition in the legal sector, may also stifle AI usage among younger practitioners.

Overall, the interviewees who were eager to use AI were drawn by its promise of increased efficiency, while those opposed to it cited concerns about AI's reliability, ethical issues, fears of redundancy, high capital investment, and automation replacing important human elements. The interviewees cited several barriers that could slow the pace AI adoption, particularly in India and other low- and middle-income countries. Factors such as relative lack of awareness about AI tools, lack of legislation, hesitancy among practitioners due to lack of technical competence, lack of infrastructure, and lack of capital to invest in AI integration were frequently mentioned. Limited purchasing power was seen to most gravely impact individual users and impair the establishment of the required infrastructure (computers, Internet, subscriptions to AI tools). Ethical concerns included issues of AI's reliability, transparency, and accuracy, embedded biases, and competence in ethical AI use. Concerns were also expressed about the lack of appropriate legislation or guidance from regulatory bodies on proper AI usage. However, while some interviewees said that a code of conduct on AI usage would assist uptake, others felt that excessive regulation may do more harm than good by suffocating innovation.

Along with voicing their concerns, interviewees also made suggestions to policymakers and AI developers. Lawyers from both India and the UK urged authorities to deliberate on and issue guidelines on AI usage, define liability for AI-driven decision-making, secure data privacy and ethics, make disclosure of AI usage mandatory, and address the risk of systemic biases being exacerbated by AI. They also advised AI developers to tailor AI tools to users' needs, uphold ethical values, and ensure high accuracy. Additionally, participants stressed on elimination of language barriers, advocating for multilingual access in developing nations like India, where many lawyers and litigants do not speak English. Use of regional scripts in AI interfaces was proposed to enhance usage in these regions.

To conclude, the research has revealed wide awareness of the big promise AI technologies hold in terms of increased efficiency, accuracy, and access to justice. However, the technology currently finds itself mired in questions of ethics, accuracy, and the digital divide that already exists between and within nations. Although the sample size for this research is small, the importance of this finding cannot be overstated. Lower acceptance for a technology that could potentially help India address its staggering levels of case pendency, will have a bearing on India's plans to revolutionize its legal sector.

The study also emphasises the need for a proactive approach to policymaking and regulation of AI. As AI continues to transform the legal landscape, policymakers, legal practitioners,

and industry leaders must work together to develop guidelines that ensure responsible, equitable, and ethical AI deployment and use. Furthermore, the findings highlight the need for investments in education and training of today's and tomorrow's lawyers so that knowledge gaps do not slow down the pace at which the legal industry is able to assimilate and benefit from technological innovation.

REFLECTIONS

I am extremely pleased to have had the opportunity to pursue research on a topic that is not only of pressing importance today but increasingly so in the time to come. The research has enormously expanded the initially rudimentary understanding of AI and its application in law that I had when I began the research. The learning has gone beyond the topic to also teach me about the process of conducting research, particularly qualitative research. Now that I know how difficult it is to identify study participants, match time schedules, and arrange logistics, I have developed enormous appreciation for those who conduct extended and intensive research on the ground. I have also discovered how challenging comparative research can be; scheduling for logistics in two countries was quite a task. I have learnt how meticulous research must be and why. I am deeply grateful to my supervisors, Dr. Niamh Connolly and Mr. Divij Joshi, for guiding me and encouraging me to be as thorough as I have been in searching for answers to the questions I began with. I also appreciate how much this exercise will help me with my future studies. I have been introduced to the rigours of academic legal research, and have come to understand and appreciate the nuanced effort it requires.

The research I conducted has exposed me to some truly incredible literature and unique perspectives that have challenged the biases I held as I entered this project. I have learnt things that have worried me and delighted me. I leave this research feeling cautiously optimistic about a future with AI, knowing much about its inherent risks as well as what we can do to use it responsibly. I also had an opportunity to reflect on why I applied to the Laidlaw scholarship, and why I picked this research subject. The conclusions from the project reiterate to me how much work has yet to be done to ensure everyone everywhere gets equal, fair, and easy access to technological tools and systems that will aid them in building better lives for themselves and those around them.