

Possibility for AI Arbitrators to Replace Human Arbitrators: Legal and Social Perspective¹

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Abstract

The rapid advancement of technology and the increasing adoption of Artificial Intelligence (AI) have prompted significant debate within international arbitration. This study examines whether AI arbitrators could replace human decision-makers or if their role is more appropriately understood as supportive tools within the arbitral process. Although previous scholarship has explored the potential of AI in arbitration, persistent uncertainties remain concerning enforceability, conceptual clarity, and compatibility with existing legal frameworks. The primary objective of this research is to critically assess these challenges while addressing the broader implications of integrating AI into arbitral practice. To achieve this, the study employs a mixed-method approach. It combines a normative legal analysis of current arbitral laws and principles with empirical insights drawn from an original survey conducted by the author. In addition, the study incorporates statistical data from a recent practitioner-based survey to provide comparative context and enrich the analysis. The findings reveal that while AI offers considerable promise in enhancing efficiency, consistency, and accessibility in arbitration, practitioners express caution regarding its ability to fully replace human arbitrators. Concerns related to procedural fairness, transparency, and enforceability of awards remain central, with respondents emphasizing that AI is better suited to complement human decision-making rather than replace it. This study contributes originality by merging legal theory with practitioner perspectives, thereby bridging the gap between abstract legal debates and practical realities.

Keywords: International arbitration; Human arbitrators; AI arbitrators; Technology; Artificial intelligence; AI tools

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إمكانية استبدال المحكمين البشريين بمحكمين من الذكاء الاصطناعي: منظور قانوني واجتماعي

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ملخص

يشهد العالم اليوم تطوراً متسارعاً في التكنولوجيا وتزايداً ملحوظاً في استخدام تقنيات الذكاء الاصطناعي، وهو ما أثار جدلاً واسعاً في مجال التحكيم الدولي. وتبحث هذه الدراسة فيما إذا كان بإمكان المحكمين القائمين على الذكاء الاصطناعي أن يحلوا محل المحكمين البشريين، أم أن دورهم يقتصر على أن يكونوا أدوات مساندة ضمن العملية التحكيمية. ورغم أن الأدبيات القانونية السابقة ناقشت هذا الموضوع بشكل موسّع، فإن العديد من الإشكاليات ما زالت قائمة، لاسيما ما يتعلق بقبالية التنفيذ، والوضوح المفاهيمي، ومدى انسجام الذكاء الاصطناعي مع الأطر القانونية الحالية. ويهدف هذا البحث بالدرجة الأولى إلى تقييم هذه التحديات بشكل نقدي، مع التطرق إلى الآثار الأوسع لدمج الذكاء الاصطناعي في ممارسات التحكيم.

تعتمد الدراسة منهجاً مزدوجاً يجمع بين التحليل القانوني المعياري للأحكام والمبادئ المنظمة للتحكيم، وبين النتائج المستخلصة من استبيان ميداني حديث أعدّه الباحث. كما تستند أيضاً إلى بيانات إحصائية حديثة من استبيانات سابقة لممارسين في المجال، بما يوفر سياقاً مقارناً يدعم التحليل. وتُظهر النتائج أن الذكاء الاصطناعي يقدم فرصاً واعدة في تعزيز الكفاءة والاتساق وسهولة الوصول ضمن إجراءات التحكيم، غير أن غالبية الممارسين أبدوا تحفظات بشأن قدرته على الحلول الكامل محل المحكمين البشريين. وتبقى المخاوف المتعلقة بالعدالة الإجرائية، والشفافية، وقبالية تنفيذ الأحكام في صدارة هذه التحفظات، مع تأكيد المشاركين أن الذكاء الاصطناعي يصلح أكثر كأداة مكملة لعمل الإنسان لا بديلاً عنه. وتكمن أصالة هذه الدراسة في الجمع بين التحليل القانوني والرؤية العملية للممارسين، بما يسهم في ردم الفجوة بين النقاشات النظرية والتطبيق العملي.

الكلمات المفتاحية: التحكيم الدولي، المحكمون البشريون، محكمو الذكاء الاصطناعي، التكنولوجيا، الذكاء الاصطناعي، أدوات الذكاء الاصطناعي

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Introduction

Artificial Intelligence (AI) has several definitions due to its developing nature. AI, as defined by Professor John McCarthy, the computer scientist who defined AI tools in 1955, is “the science and engineering of making intelligent machines”. Also, AI is defined by the EU Artificial Intelligence Act, proposed on 21 April 2021 and adopted in 2024 (the “AI Act”), refers to systems that, for a given set of objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with. Over the last few decades, there have been phenomenal advancements in the use of AI in the legal field, especially in International Arbitration. The inclusion of AI tools in Arbitration is increasing and taking several forms and tasks, especially in today’s modern society, which has been accelerated by the COVID-19 pandemic. There are AI systems, for example, used to analyze arbitration clauses, along with systems used to draft an arbitration clause. The online “Clause-Builder” tool from the American Arbitration Association (AAA), a known AI tool, was created to help draft arbitration provisions based on the facts of disputes as well as the user preferences for the arbitration agreement’s components. Moreover, there are AI tools used for choosing suitable experts, arbitrators, and counsel, a best-known example is Arbitrator Intelligence, which provides AI reports on arbitrators’ track records enabling parties and counsels to make more predictable arbitrator selections.

Time has shown, especially after the COVID-19 pandemic, that no profession is immune to AI taking control, not even an arbitrator role. By enabling computer programs to process material similarly to arbitrators, AI poses a challenge to the international arbitration field. The development of technology and the rapid use of new technological tools have led to several questions in International Arbitration. One of the most challenging questions is whether Artificial Intelligence Arbitrators (defined as AI Arbitrators) can take the role of human arbitrators or are they just used to support arbitrators and increase efficiency? The subject of whether AI arbitrators can take the place of human arbitrators is complex. In reality, it pertains to a larger debate over whether AI can serve as a decision-making authority.

Scholars such as Marrow, Karol, and Kuyan framed the essential debate early by asking whether computers could truly serve as arbitrators, a question they summarized as ‘Are we there yet?’ Their work illustrates the long-standing uncertainty about when, or if, AI can function as a decision-maker in arbitration.¹ Similarly, the scholar Colorado emphasizes that AI’s influence is not limited to efficiency gains; it could reshape the very structure of international arbitration in the long run, raising fundamental questions about legitimacy and trust.²

The usage of AI technological tools in International Arbitration and its impact on the future of

1 Paul Bennett Marrow, Mansi Karol and Steven Kuyan, ‘Artificial Intelligence and Arbitration: The Computer as an Arbitrator—Are We There Yet?’ (2020) 74(4) *Dispute Resolution Journal* <<https://www.marrowslaw.com/wp-content/uploads/2021/02/Marrow-et-al.-AI-and-Arbitration.pdf>> accessed 24 January 2024.

2 Orlando Federico Cabrera Colorado, ‘The Future of International Arbitration in the Age of Artificial Intelligence’ (2023) 40(3) *Journal of International Arbitration* 301 <<https://kluwerlawonline.com/JournalArticle/Journal+of+International+Arbitration/40.3/JOIA2023014>> accessed 24 January 2024.

international arbitration make this question crucial, even though there isn't yet a system created for an AI arbitrator to replace human arbitrators and serve as the adjudicatory authority. As a result of this ongoing debate, it is necessary to answer this question by analyzing the increased use of AI in arbitration, along with the legal documents and instruments, to determine what criteria arbitrators must meet. In other words, to analyze and assess the applicable instruments, conventions, regulations, and public policies on the criteria needed to be met by an arbitrator and the recognition and validity of the arbitral awards issued by the arbitrator from a legal-normative perspective.

This will include the analysis and assessment of several legislations, conventions, and instruments used by arbitration organizations, including the UNCITRAL Model Law on International Commercial Arbitration and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, along with the EU Artificial Intelligence Act, enacted in 2024.

Moreover, this study will also follow a social-empirical perspective, by analyzing the available statistical studies along with analyzing a survey conducted by the author to conclude whether AI tools are used in a way that will allow them to take the role of human arbitrators or are just used to support arbitrators and increase efficiency. In other words, to conclude whether AI Arbitrators can replace human arbitrators from a legal and social perspective.

Methodology

This study adopts a mixed-methods approach, integrating normative legal analysis with empirical data obtained from a targeted survey. The survey was designed for arbitration practitioners from multiple jurisdictions, identified through sampling based on professional networks, conference participation, and membership in recognized arbitration bodies. A total of 29 practitioners provided complete responses and took part in the study, representing diverse legal systems and professional roles. The analysis focused on six main survey questions, exploring the frequency of AI tool usage, the types of AI applications employed, the perceived advantages of these tools, and opinions on whether AI could replace human arbitrators. The survey questions analyzed in this study are available in the Data and Information section of this article. Quantitative data were analyzed using descriptive statistics, while qualitative responses were thematically coded to reveal common patterns and points of divergence. Ethical standards were strictly observed, with all participants providing informed consent, responses anonymized for confidentiality, and no personally identifying information collected or stored.

1. The Framework of the Study

1.1 The Legal Context

The significant benefit of international arbitration is the party autonomy concept. Party autonomy in international arbitration, across Interstate, International Investment, and International Commercial Arbitration, enables the parties' option to decide on several parts of the arbitral process, one of which is the selection of arbitrators. This concept is what makes arbitration unique and different than national courts, since in arbitration, parties may choose the arbitrators to hear their cases based on their

qualifications, experience, and areas of practice.

However, the main question is whether this autonomy extends to allow parties to choose AI arbitrators instead of human arbitrators. In other words, we should check if AI arbitrators are permitted to be appointed as arbitrators. This ongoing question requires the analysis of the relevant applicable regulations and laws at both national and international levels.

At the national level³, there are several countries, for example, the Scottish Arbitration Rules (Rule 3)⁴, and the Swedish Arbitration Act (Section 7)⁵, that expressly provide that arbitrators must be natural persons. In addition to that, the French Code of Civil Procedure states that arbitrators should be natural persons capable of carrying out responsibilities.⁶

Similarly, some national regulations refer to arbitrators using gender pronouns. A known example is the United States Federal Act (Section 5).⁷ From such use of pronouns, we can deduce that the arbitrators they are referring to are natural persons, although it is not stated clearly that AI arbitrators can't be appointed as arbitrators, giving the possibility for AI arbitrators to take the role of human arbitrators unless new regulations are issued in this regard.

In the Arab world, arbitration laws also reflect a strong preference for human arbitrators. For instance, in the United Arab Emirates (UAE), while the Federal Arbitration Law No. 6 of 2018 concerning arbitration was enacted to align domestic arbitration with international best practices, it remains firmly grounded in the notion that arbitrators must be natural persons, as mentioned in Article 10 (1)(a). Moreover, Article 1 defines an 'arbitral tribunal' as a sole arbitrator or a panel of arbitrators, with no recognition of the possibility that a machine or algorithm could fulfill this role. Further, Article 10 (2), which governs the appointment of arbitrators, uses terminology such as 'nationality,' a concept that can only apply to natural persons, thereby excluding AI systems. The requirements for issuing arbitral awards also reinforce this interpretation: Section 41 mandates that awards must be in writing, signed by the members of the arbitral tribunal, and supported by reasons. These obligations presuppose human reasoning and signature, which AI systems currently cannot provide under UAE law.⁸ In the same instance, in Lebanon, the legal framework governing arbitration remains ill-equipped to accommodate electronic or AI processes. Under domestic arbitration rules, Lebanese Code of Civil Procedure (LCCP) (LCCP, arts. 762–808), arbitration clauses must be in writing and signed to be valid, which excludes electronically concluded or AI-generated agreements from recognition. Even arbitral

3 Gülüm Bayraktaroğlu-Özçelik and Ş Barış Özçelik, 'Use of AI-Based Technologies in International Commercial Arbitration' (2021) 12(1) *European Journal of Law and Technology* <<https://ejlt.org/index.php/ejlt/article/view/814>> accessed 30 January 2024.

4 Arbitration (Scotland) Act 2010 asp 1, sch 1 r 3.

5 Swedish Arbitration Act (SFS 1999:116) s 7.

6 Sandli Srivastava, Implementation of Artificial Intelligence in Arbitration (Master's thesis, University of Oslo, 2021).

7 9 USC § 5.

8 Inas Alkhalidi, 'Artificial Intelligence in the UAE Arbitration Law: Fact or Fiction?' (2025) 17 *Pakistan Journal of Criminology* 55, 63 <https://www.pjcriminology.com/wp-content/uploads/2025/01/4_Artificial-Intelligence-in-the-UAE-Arbitration-Law-Fact-or-Fiction.pdf> accessed 30 January 2024.

awards require production in hard copy, further restricting reliance on digital or AI-based procedures. While the LCCP adopts a more flexible stance towards international arbitration (arts. 809–821) by not expressly requiring written agreements, recognition and enforcement of international awards in Lebanon still depends on submission of original or certified copies of both the arbitration agreement and award. This insistence on material documentation, coupled with a conservative business culture favoring face-to-face dealings, creates significant obstacles to the integration of AI technologies into arbitration practice.⁹ On the other hand, Qatar has taken notable institutional steps to modernize its arbitration framework and integrate digital technologies that pave the way for artificial intelligence in dispute resolution. A key development was the 2024 Memorandum of Understanding between the Qatar International Court and Dispute Resolution Centre (QICDRC) and Jus Mundi, an AI-powered arbitration knowledge platform. This cooperation enhances access to case law, arbitral awards, and legal materials through AI-driven search and summarization.¹⁰ Complementing this, the Qatar International Centre for Conciliation and Arbitration (QICCA) introduced its revised arbitration rules in 2024, which came into effect in early 2025. These rules expressly provide for electronic communication, digital filings, and the electronic signature of awards under defined safeguards. The modernization of QICCA's rules, combined with electronic services such as online claim submissions and case management, creates a legal infrastructure conducive to the deployment of AI tools for tasks such as document review, predictive analytics, or drafting assistance.¹¹

Furthermore, regarding international laws and regulations, we refer to the New York Convention's provisions on arbitrators. The phrase "arbitral award" is used in the New York Convention under Article I (2)¹² to refer to decisions made by permanent arbitral bodies as well as decisions made by arbitrators selected to handle specific disputes. Due to this, we can deduce that the New York Convention empowers both natural legal persons to issue international arbitral awards that are recognized and enforceable.

Moreover, most legislation, along with the New York Convention, requires the rendered arbitral award to be issued in a written form and have the signature of the concerned arbitrators. Article IV(1)(a) of the New York Convention mandates submission of the 'duly authenticated original award, or a duly certified copy thereof', signaling that signed awards are presumed essential for enforceability.¹³ Felipe

9 Mira Fayad and Habib Kazzi, 'Electronic Arbitration in Lebanon – Overview and Trends' (2015) 11(7) *European Scientific Journal* 39 <<https://eujournal.org/index.php/esj/article/view/5304>> accessed 06 September 2025.

10 Qatar News Agency, 'Qatar International Court, Jus Mundi Sign Memorandum of Understanding' (27 February 2024) <<https://qna.org.qa/en/news/news-details?id=0061-qatar-international-court%2C-jus-mundi-sign-memorandum-of-understanding&date=27/02/2024>> accessed 06 September 2025.

11 Pinsent Masons, 'New Digital Services and Legal Developments Boost International Arbitration Usage in Qatar' (Out-Law, 19 March 2025) <<https://www.pinsentmasons.com/out-law/analysis/digital-services-legal-developments-boost-international-arbitration-usage>> accessed 06 September 2025.

12 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) (adopted 10 June 1958, entered into force 7 June 1959) 330 UNTS 3 art I(2).

13 Felipe Volio Soley, 'Signing the Arbitral Award in Wet Ink: Resistance to Technological Change or a Reasonable Precaution?' (Kluwer Arbitration Blog, 6 November 2020) <<https://arbitrationblog.kluwerarbitration.com/2020/11/06/signing-the-arbitral-award-in-wet-ink-resistance-to-technological-change-or-a-reasonable-precaution/>> accessed 30 January 2024.

Volio Soley has pointed out that although electronic signatures are now common, e-signatures were not envisioned in the Convention and may still raise concerns about formality in some jurisdictions.¹⁴ Meanwhile, the LCIA Rules 2020 (Art. 26.2) explicitly permit electronic signatures by arbitrators—provided parties or the tribunal do not object—but this applies solely to human arbitrators.¹⁵ Finally, a recent commentary raises the question of whether an AI-only award, lacking any human authentication, would meet the enforceability and public-policy thresholds under the Convention.

On the other hand, this clause is not included in the UNCITRAL Model Law. However, Article 11(1)¹⁶ of the Model Law provides that no person can be prohibited from serving as an arbitrator due to his or her nationality. We can deduce that this provision refers to human arbitrators.

Moreover, in a similar context, nationality and the arbitrators' domicile are included in the ICC Arbitration Rules¹⁷ under Article 13(1)¹⁸, (5)¹⁹, and concerning Article 6.1²⁰ of the Arbitration Rules of the London Court of International Arbitration (LCIA)²¹, there are specific guidelines on the nationality of the arbitrators that consider dual nationality.

Yet, on the other hand, we should note that despite the analysis made above, the New York Convention states nothing regarding whether AI arbitrators can function as arbitrators and replace human arbitrators. Some believe that the convention was approved in 1958, and it is evident that the idea of choosing AI arbitrators was not taken into consideration at that time. Also, others believe that such an omission might mean that the Convention does not contain any limitations on awards issued by AI arbitrators and therefore there are no limitations on the validity and enforcement of awards by AI arbitrators or even on the ability for AI arbitrators to replace human arbitrators.²² Legal experts believe that this interpretation can be made similar to the interpretation that was made in 2006 when UNCITRAL expanded the scope of Art. II(2) of the Convention to include arbitration agreements

¹⁴ Id.

¹⁵ Eliana Tornese, 'LCIA Arbitration—What You Need to Know' (UNCITRAL Colloquium, Panel 11, 1 October 2024) <<https://www.lcia.org/adr-services/guidance-note.aspx>> accessed 13 December 2024

¹⁶ UNCITRAL Model Law on International Commercial Arbitration (1985) ch III art 11(1) UN Doc A/40/17, annex I <https://digitallibrary.un.org/record/622718/files/UNCITRAL_Model_Law.pdf> accessed 30 January 2024.

¹⁷ David Salton, 'Recent Trends in International Arbitration and 2021 International Rule Changes' (2021) 17 Construction Law Journal 81.

¹⁸ International Chamber of Commerce, ICC Rules of Arbitration (2021) art 13(1) <<https://iccwbo.org/dispute-resolution-services/arbitration/rules-of-arbitration>> accessed 30 January 2024.

¹⁹ International Chamber of Commerce, ICC Rules of Arbitration (2021) art 13(5) <<https://iccwbo.org/dispute-resolution-services/arbitration/rules-of-arbitration>> accessed 30 January 2024.

²⁰ London Court of International Arbitration, LCIA Arbitration Rules (2020) art 6.1 <https://www.lcia.org/Dispute_Resolution_Services/lcia-arbitration-rules-2020.aspx> accessed 30 January 2024.

²¹ Maxi Scherer, Lisa Richman and Remy Gerbay, *Arbitrating Under the 2020 LCIA Rules: A User's Guide* (Kluwer Law International 2021).

²² Gülüm Bayraktaroğlu-Özçelik and Ş Barış Özçelik, 'Use of AI-Based Technologies in International Commercial Arbitration' (2021) 12(1) *European Journal of Law and Technology* <<https://ejlt.org/index.php/ejlt/article/view/814>> accessed 30 January 2025.

reached via email or other instantaneous modes of communication.²³

Moreover, as for the legal requirement relating to the legal personality of AI systems and tools, it should be referred to and noted that although the European Parliament adopted in 2017 the Resolution on Civil Law Rules on Robotics, these conversations are still ongoing and have not yet been the subject of legislation, especially in the field of arbitration.

In addition to that, reference to the EU Artificial Intelligence Act, enacted in 2024 (the “AI Act”), published on 21 April 2021, that set out regulations and rules on artificial intelligence should be made. This AI Act followed the publication of the European Strategy on Artificial Intelligence in 2018, and the publication of the Guidelines for Trustworthy AI in 2019 by the High-Level Expert Group on Artificial Intelligence, established by the European Commission to make sure AI is created and deployed in a manner that is secure, transparent, upholds ethical standards, encourages innovation, and boosts the economy.

This AI Act, besides defining artificial intelligence and categorizing AI systems, has addressed in Title III the high-risk AI systems. The AI Act has stated the types of high-risk AI systems in Annex 3; some of these high-risk systems are the AI systems used for law enforcement and for assisting judicial authorities in researching and interpreting facts and the law, and in applying the law to a concrete set of facts²⁴ which the use of such systems in the legal field is subject to strict requirements.

We can summarize that the AI Act includes provisions related to the use of AI systems in law, and it acknowledges that applying AI to the legal industry has the potential to increase decision-making support, increase access to justice, and boost process efficiency. It also recognizes that using AI in law may give rise to issues with morality that need to be resolved and addressed.

The AI Act distinguishes between different categories of AI systems, based on their potential risk to individuals, society, and the environment. For example, AI systems that are used to make decisions with legal effects, such as in court proceedings, are likely to be classified as high-risk systems and subject to strict requirements.

The AI Act mandates that AI systems used in areas of the law be created and built in a way that guarantees transparency, accountability, and fairness. This means that users of AI systems must be informed about how the system works and the data used to train it. Additionally, the AI Act requires that AI systems used in legal contexts are subject to human oversight, meaning that there must always be a person responsible for the final decision.

Overall, the AI Act recognizes the potential benefits of AI in the legal field but emphasizes the need for responsible use and adequate safeguards. The regulation aims to ensure that AI systems used in law respect fundamental rights and ethical principles and contribute to the promotion of human well-being.

23 Horst Eidenmueller and Faidon Varesis, ‘What Is an Arbitration? Artificial Intelligence and the Vanishing Human Arbitrator’ (SSRN, 17 June 2020) <<https://ssrn.com/abstract=3629145>> accessed 30 January 2025.

24 European Commission, Proposal for a Regulation of the European Parliament and of the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) COM(2021) 206 final (21 April 2021).

Adding to the above, as the scholars Marrow, Karol, and Kuyan point out, much of the difficulty lies in whether current legal instruments even permit arbitrators who are not natural persons. Their findings underscore the uncertainty of enforcing AI-issued awards.²⁵ Scholar Horton further warns that meaningful consent is at stake: even if parties appear to consent to an AI arbitrator, the fairness of such consent may be questioned under mandatory arbitration law.²⁶ In my opinion, the current debate should focus less on whether AI could theoretically serve as an arbitrator and more on whether existing arbitration laws and international conventions are capable of accommodating such a development. Until there is explicit recognition of non-human arbitrators, the enforceability of AI-issued awards will remain uncertain. Thus, the issue is not simply one of party autonomy, but also one of institutional legitimacy and legal certainty.

Yet, besides the legal normative approach, the question of the possibility of AI taking the role of human arbitrators highlights the important role that public policy could have in answering this ongoing debate.

1.2 The Social Context

An important factor in international arbitration, across Inter-State, International Investment, and International Commercial Arbitration, is public policy. It has been known as a blanket term in international arbitration since it includes violations of due process to violations of the fundamental applicable laws and regulations.²⁷ The New York Convention and the UNCITRAL Model Law both consider the forum's public policy. This is why there is no unified and universal definition for public policy since its definition may change depending on the forum state. As a result, it's crucial to consider the public policy of the state wherever procedures are being challenged or where a request is being made for the recognition or enforcement of an award. A state's legal, economic, and social order, as well as the fundamental rights and liberties of its inhabitants, as well as social norms and moral standards, may all be defended by certain principles, which are referred to as public policy ideals. Empirical data from the author's survey underscores that practitioners value enforceability and public trust over full automation, reflecting why public policy exceptions may remain robust in resisting AI-only awards.

However, when answering the question of the possibility of AI replacing human arbitrators, several issues regarding public policy can arise when arbitral awards are rendered and issued by AI arbitrators. One of the issues is when the law of the forum requires the arbitral award to be issued by a natural arbitrator. In this case, the arbitral awards issued by AI arbitrators can be placed aside and rejected as a

25 Paul Bennett Marrow, Mansi Karol and Steven Kuyan, 'Artificial Intelligence and Arbitration: The Computer as an Arbitrator—Are We There Yet?' (2020) 74(4) *Dispute Resolution Journal* <<https://www.marrowlaw.com/wp-content/uploads/2021/02/Marrow-et-al.-AI-and-Arbitration.pdf>> accessed 24 January 2024.

26 David Horton, 'Forced Robot Arbitration' (2024) 109 *Cornell Law Review* 679 <<https://publications.lawschool.cornell.edu/lawreview/wp-content/uploads/sites/2/2024/04/Horton-final-4-11-24.pdf>> accessed 16 February 2025.

27 Gizem Halis Kasap, 'Can Artificial Intelligence ("AI") Replace Human Arbitrators? Technological Concerns and Legal Implications' (2021) 2021(2) *Journal of Dispute Resolution* <<https://scholarship.law.missouri.edu/jdr/vol2021/iss2/5>> accessed 20 February 2025.

result of the laws and public policy of the forum. The New York Convention has reflected this position in Article V(2)(b)²⁸, where it is stated clearly that the recognition and enforcement of arbitral awards are rejected and refused if the competent authority finds that this recognition and enforcement of the award is contrary to the applicable public policy.²⁹ Therefore, we can deduce that the interpretation of whether the breach of public policy took place should be determined. These legal interpretations can be tested against the survey results in Section 2, where the overwhelming majority of practitioners indicated that AI is currently used to support, rather than replace, human arbitrators. This alignment suggests that current legal constraints reflect prevailing professional attitudes. This concern is reinforced by the survey's finding that 93.1% of respondents believe AI tools should support, not replace, arbitrators—indicating a strong alignment between professional sentiment and public policy caution. Empirical data from the author's survey underscores that practitioners value enforceability and public trust over full automation, reflecting why public policy exceptions may remain robust in resisting AI-only awards.

Another issue that could arise is related to the impartiality and independence of AI arbitrators. This issue can be raised since AI arbitrators are considered data machines that function based on the collected data. Therefore, the data inserted and collected by the AI arbitrator can be discriminatory, which would lead to the arbitral award issued by them being discriminatory, causing impartiality issues. It should be stated that although impartiality and discriminatory problems can also occur in human arbitrators' situations, having AI machine arbitrators functioning on the data collected and without emotional intelligence may increase the possibility of discrimination.

In addition to what has been stated above, another issue could be related to the reasoning of arbitral awards, since the lack of reason in the arbitral awards issued by AI arbitrators may also be considered a violation of public policy. According to Article 31 (2) of the UNCITRAL Law Model³⁰, unless the parties have agreed that there are no grounds to express, the arbitral award must include the reasons upon which it was given. Several pieces of legislation in multiple jurisdictions require any decision or arbitral award issued to include reasons as a requirement of justice to help parties understand why and how this decision was taken. As a result, in these nations, if AI arbitrators make arbitral rulings without sufficient justification, it is viewed as a breach of public policy and will result in the arbitral award being invalidated since the parties' entitlement to a just and reasoned award was not honored. Finally, according to several experts' opinions, the idea of AI arbitrators replacing human arbitrators is itself a violation of public policy due to the fear of the unknown.³¹ In other words, several jurisdictions

28 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) (adopted 10 June 1958, entered into force 7 June 1959) 330 UNTS 3 art V(2)(b) <https://treaties.un.org/doc/Treaties/1959/06/19590607%2009-35%20PM/Ch_XXII_01p.pdf> accessed 30 January 2024.

29 Mohammad Sadegh Sotoudeh, 'Investigating Employment of AI Arbitrators in International Commercial Arbitration According to UNCITRAL Model Law (1985)' (2024) 4 *SN Social Sciences* 187 <<https://doi.org/10.1007/s43545-024-00985-8>> accessed 03 March 2025.

30 Id.

31 José María de la Jara, Daniela Palma and Alejandra Infantes, 'Machine Arbitrator: Are We Ready?' (Kluwer Arbitration Blog, 4 May 2017) <<https://arbitrationblog.kluwerarbitration.com/2017/05/04/machine-arbitrator-are-we-ready/>> accessed 03 March 2025.

and international frameworks require arbitral awards to include clear reasons; this requirement ensures fairness, transparency, and the parties' understanding of the decision. Courts may view an AI arbitrator's unexplained "black box" decision-making as a breach of these fundamental values, particularly if it compromises impartiality or justice. Indeed, scholars have highlighted that an award rendered without transparent reasoning conflicts with parties' rights to a fair trial. For instance, under the Korean Arbitration Act, courts may set aside awards that violate public policy or "good morals".³² This concern is reinforced by the survey's finding that 93.1% of respondents believe AI tools should support, not replace, arbitrators, indicating a strong alignment between professional sentiment and public policy caution.

To conclude, assessing whether AI-issued arbitral awards violate public policy requires a nuanced analysis of how such awards align with a state's legal framework and societal values. Ultimately, the way national courts respond to the growing integration of technology in arbitration will shape the application of public policy exceptions.

2. Data and Information

In the current era of technological advancement that has been accelerated by the COVID-19 pandemic (which was classified by the World Health Organization as a global pandemic), the legal field, especially international arbitration, has been facing a technological transformation in every aspect. The core of such transformation is the increased use of AI technological tools. AI technological tools have progressed to a level that these tools are being used to predict the result of disputes, analyze arbitration clauses, and even draft arbitration clauses, in addition to several other tasks performed, that raised the question of the possibility of AI arbitrators taking the role of human arbitrators. This ongoing debate and concern are because some countries have already applied the use of AI judges and arbitrators in the decision-making process. For example, China has developed digital courts that are handled by AI judges.³³

Moreover, this ongoing debate is also a result of the arbitration community's desire to apply technological tools that increase the efficiency and modernization of international arbitration. The survey and study conducted by the School of International Arbitration at Queen Mary University of London, in partnership with White & Case LLP, in 2021 titled "2021 International Arbitration Survey: Adapting Arbitration to a Changing World" has examined how international arbitration has managed to adapt to the ongoing changes. This survey was considered to be the survey with the largest number of respondents, with 1218 questionnaire responses received and 198 interviews conducted.³⁴ The

32 Guillermo Argerich, María Blanca Noodt Taquela and Juan Jorge, 'Could an Arbitral Award Rendered by AI Systems be Recognized or Enforced? Analysis from the Perspective of Public Policy' (Kluwer Arbitration Blog, 6 February 2020) <<https://legalblogs.wolterskluwer.com/arbitration-blog/could-an-arbitral-award-rendered-by-ai-systems-be-recognized-or-enforced-analysis-from-the-perspective-of-public-policy/>> accessed 28 February 2025.

33 Id.

34 White & Case LLP, 2021 International Arbitration Survey: Adapting Arbitration to a Changing World (Queen Mary University of London, 6 May 2021) chart 13 <<https://www.whitecase.com/insight-our-thinking/use-technology-virtual-reality>> accessed 30 January 2026.

respondents were from diverse backgrounds, including in-house counsel from both public and private sectors, arbitrators, private practitioners, representatives of arbitral institutions and trade associations, academics, experts, and third-party funders.³⁵ One of the chapters of this survey, titled “Use of Technology: The Virtual Reality,” investigates the usage of technological tools in 2021 in comparison to the results that were gathered in 2018. This study was conducted by inquiring about of often certain technological tools are used, one of which is AI. As seen from the survey, when we compare the results of 2021 with the results recorded in 2018, we can deduce that the use of technological tools such as videoconferencing, hearing room technologies, and cloud-based storage remained the same without any increase or decrease in their percentage of usage. However, it shows a significant increase in the use of AI tools.

According to the result chart, 35% of the respondent group stated that they have ‘never’ used AI, while 24% stated that they have used AI rarely. Only 15% have used AI ‘frequently’ or ‘always’.³⁶

It should be stated that, according to this study and the interviews with respondents, it has been shown that the increased use of AI tools refers to the tools used for data analysis and document review. It has been discussed that AI technologies are considered to be expensive and mostly unaffordable. Even if parties were able to afford their price, they are not always convinced that the value produced by these AI technologies will outweigh the hefty expenditures they involve. Moreover, interviews also found that there is a persistent fear of new technology and a general lack of familiarity with it, whether from a practical or legal aspect. All of the interviewees indicated some skepticism about the possible application of AI tools and algorithms for predictive justice. They brought up moral questions and questioned how much such instruments should or may obstruct the adjudicative process. The overwhelming majority of participants believed that human arbitrators and counsels cannot be replaced by AI arbitrators.

In addition to the above-mentioned date and as part of the author’s research into the field of arbitration and the use of AI tools, the author conducted a survey tackling a small group of professional and experienced arbitration practitioners from diverse nationalities and backgrounds. Although the author’s survey did not gather as many respondents as the School of International Arbitration’s survey conducted in partnership with White & Case LLP at Queen Mary University of London, the results were similar and supported those obtained by the latter survey. The purpose of the survey conducted by the author was to gain insights through the experiences and perspectives of the respondents on whether AI tools are used in a manner that will allow them to replace human arbitrators or if AI tools are just used to provide support to arbitrators and the arbitration field. Through this small survey, the author hopes to contribute to the broader conversation on arbitration and the use of AI tools and provide

³⁵ Id.

³⁶ Id.

valuable insights for those involved in this field. Noting that the survey was conducted on a small but diverse group of arbitration practitioners with various backgrounds and nationalities. This original survey, designed and implemented by the author, serves as an empirical contribution to the debate.

According to Figure (1) below, the first question posed to the respondents was about the frequency of their use of AI tools in the arbitration field. The results indicate that most respondents use AI tools in their profession, but at different levels and frequencies. Specifically, 13.80% of the respondents use AI tools frequently, while 20.70% use them occasionally. Additionally, 27.60% use AI tools somewhat rarely, while another 27.60% reported using them very rarely. Finally, 10.30% of respondents declared that they do not use AI tools in their arbitration field.

We can deduce that a small percentage of respondents do not use AI tools in their arbitration field compared to the other percentages. This finding supports a study conducted by the School of International Arbitration at Queen Mary University of London, in partnership with White & Case LLP in 2021, which investigated the usage of technological tools in arbitration. Both studies indicate an increase in the use of AI tools in the arbitration field.

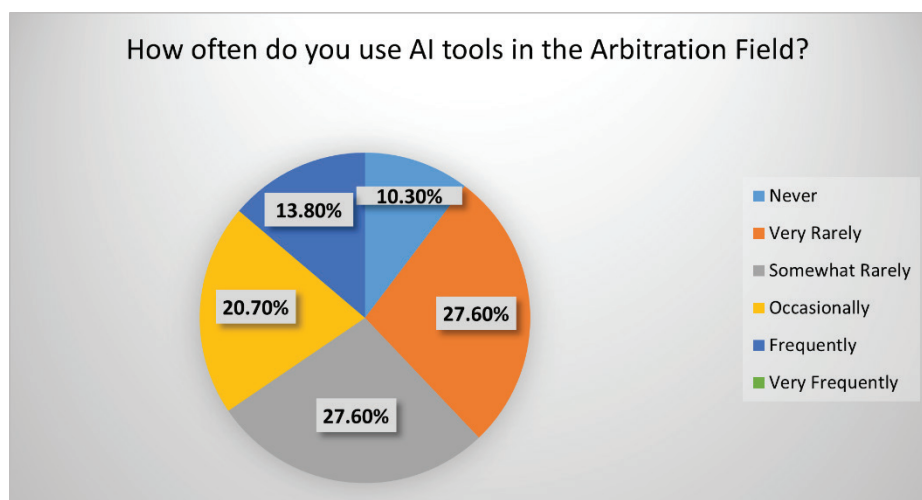


Figure 1: The Use of AI Tools in Arbitration

In addition, the second question shown in Figure 2 below was about the types of AI tools arbitrators use in their arbitration field. The results indicate that 62.10% of respondents use AI tools that support legal research and analysis, while 20.70% use AI tools for document review and analysis. Furthermore, only 6.90% of respondents use AI tools that provide predictive analytics software and e-discovery tools. Surprisingly, none of the respondents reported using AI tools that provide decision support systems. Therefore, based on the results in Figures 1 and 2, we can deduce that most arbitrators use AI tools at different frequencies; however, they tend to limit their use to tools that support legal research, document review, and predictive analysis, without the use of decision-making support systems which support the results of the study conducted by the School of International Arbitration at Queen Mary

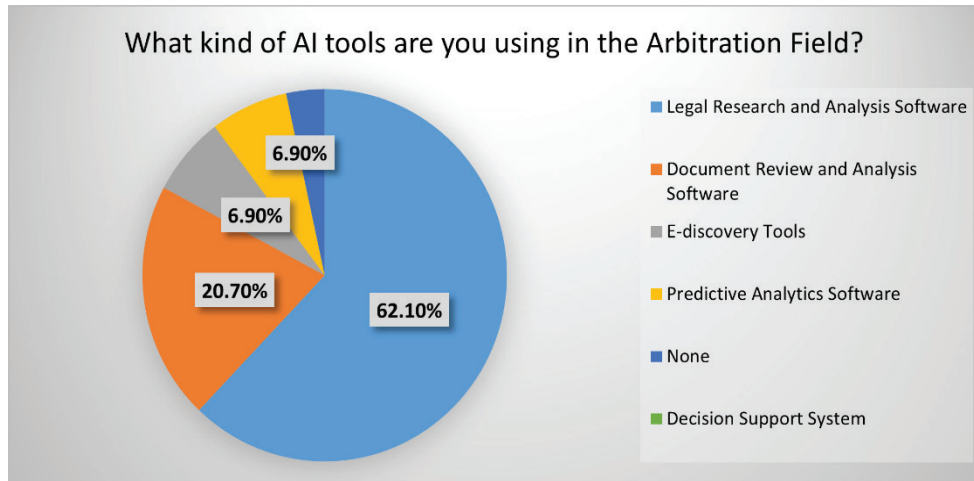


Figure 2: The Type of AI Tools used in Arbitration

University of London and in partnership with White & Case LLP in 2021 (mentioned above). Moreover, Figure 3 below shows whether respondents believe that AI tools are used in a manner that allows them to replace human arbitrators or if they are used in a way that provides support to arbitrators. The results

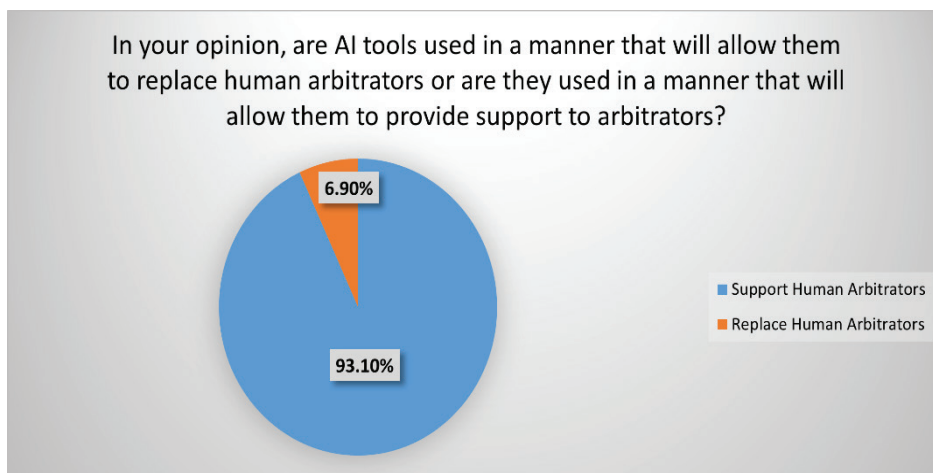


Figure 3: The Manner of the Use of AI Tools

that 93.10% of respondents believe that AI tools are used in a manner that provides support to human arbitrators, while only 6.90% of respondents believe that AI tools are used in a manner that would replace human arbitrators. Also, the results in Figure 4 below, along with the respondents' short answers on their beliefs regarding the aspects in which AI will assist or replace human arbitrators, show that 51.70% of the respondents believe that AI will partially replace human arbitrators. They believe that AI will replace human arbitrators in aspects related to data collection, analysis software, summarizing evidence, legal research, and document review, since the use of AI tools in these aspects will assist arbitrators and help them save time and solve disputes more efficiently. On the other hand, 44.80% of the respondents believe that AI will not replace human arbitrators. According to their short answers on the aspects in which AI will assist or replace human arbitrators, some stated that although AI could assist in having a quick and efficient arbitration process, it will not replace human arbitrators.

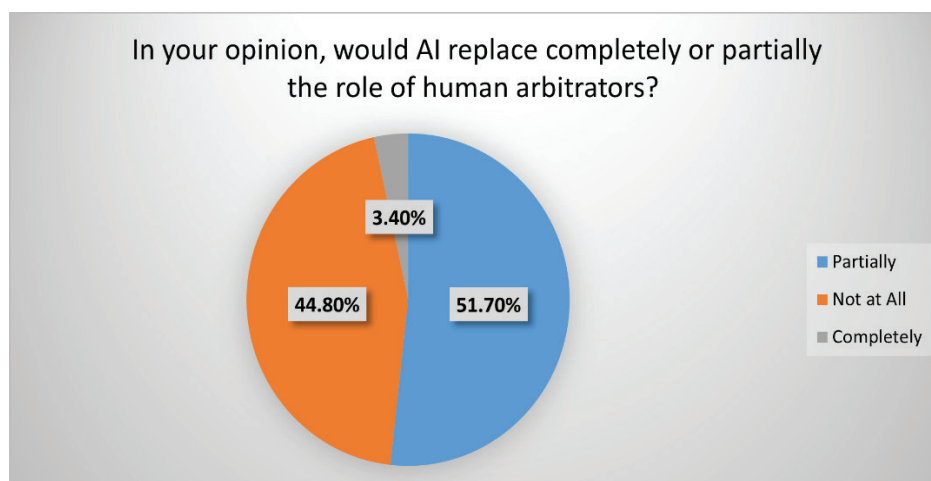


Figure 4: Would AI Replace Human Arbitrators?

It should be noted that only 3.40% of the respondents believe that AI would completely replace the role of human arbitrators. Therefore, we can deduce that the percentage of respondents who believe that AI would completely replace human arbitrators is very low compared to the percentage of respondents who believe that AI would not or would partially replace human arbitrators by providing support for a faster and more efficient process. Moreover, these results support and are in line with the findings of the study conducted by the School of International Arbitration at Queen Mary University of London and in partnership with White & Case LLP in 2021, which showed that the majority of participants believed that human arbitrators and counsels cannot be replaced by AI arbitrators.

Moreover, Figure 5 below shows the results regarding whether AI arbitrators could provide faster and more accurate decisions than human arbitrators. The results indicate that 58.60% of respondents believe that AI arbitrators could not provide faster and more accurate decisions compared to the 6.90% of respondents who believe that they could. It is also significant to mention that 34.50% of respondents answered “maybe” to this question.

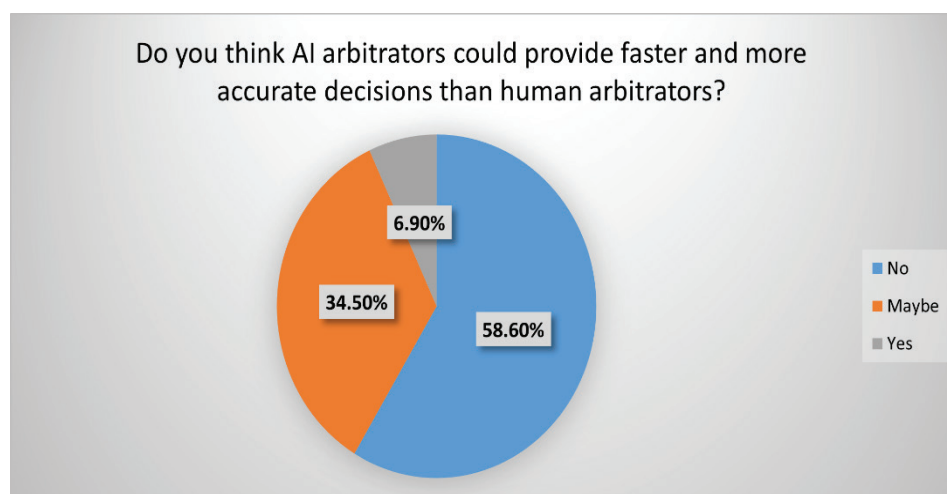


Figure 5: Is AI Faster and More Accurate Than Human Arbitrators?

Last but not least, Figure 6 below addresses the question of how the role of human arbitrators is changing with the increased use of AI, on a scale of 1 to 5. The figure shows that 31% of respondents believe the role is slightly changing, while only 6.90% believe it is very changing.

We can conclude from the data, information, and analysis provided above that there has been a significant increase in the use of AI tools by arbitration practitioners in the arbitration field. However, this increased use of AI tools focuses on the AI tools that assist arbitrators in increasing efficiency and saving time, rather than replacing them from a decision-making perspective. Moreover, the results have shown that it is believed that the increased use of AI tools is limited to supporting arbitrators

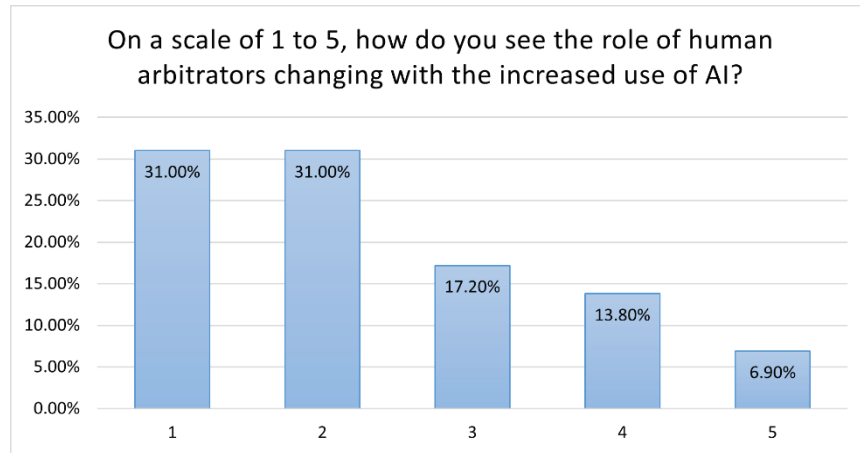


Figure 6: Role of Human Arbitrators in the light of the Increased Use of AI

rather than replacing them completely, as the belief that faster and more accurate decisions remain a significant characteristic of human arbitrators, not an AI arbitrator. Notably, the empirical findings both support and contextualize the legal analysis above: while laws and conventions implicitly require human arbitrators, practitioners' overwhelming preference for AI as a supportive tool rather than a replacement suggests that legal norms are not merely restrictive but are consistent with professional consensus.

3. Discussion

Scholars Marrow, Karol, and Kuyan (2020) left the question of 'Are we there yet?' open. This study's findings suggest the answer remains negative under current conditions, though future reforms may shift the balance.³⁷ Scholar Horton, however, urges caution, warning that premature or forced adoption may compromise fairness and erode confidence in arbitration as a trusted mechanism.³⁸

In my opinion, AI tools have advanced to the stage where they can perform many of the tasks that

³⁷ Paul Bennett Marrow, Mansi Karol and Steven Kuyan, 'Artificial Intelligence and Arbitration: The Computer as an Arbitrator—Are We There Yet?' (2020) 74(4) *Dispute Resolution Journal* <<https://www.marrowlaw.com/wp-content/uploads/2021/02/Marrow-et-al.-AI-and-Arbitration.pdf>> accessed 24 January 2024.

³⁸ David Horton, 'Forced Robot Arbitration' (2024) 109 *Cornell Law Review* 679 <<https://publications.lawschool.cornell.edu/lawreview/wp-content/uploads/sites/2/2024/04/Horton-final-4-11-24.pdf>> accessed 16 February 2025.

an arbitrator can. The increasing use of AI tools in arbitration is significant. Time has shown that no profession is immune to having AI tools take control of some aspects of its work, including the role of an arbitrator. By processing materials in a way that is similar to human arbitrators, AI poses a challenge to the international arbitration field. This technological development and rapid adoption of new tools have led to this article addressing the ongoing debate over whether AI arbitrators could replace human arbitrators from legal and social perspectives. In other words, the article examines whether AI tools are used to replace human arbitrators or merely to support them and the arbitration field.

From a legal perspective, this article has analyzed and studied several pieces of legislation, conventions, and instruments used by arbitration organizations to determine whether AI can replace human arbitrators according to current applicable regulations. It has been realized that the legal framework of arbitration is designed to have human arbitrators as decision-makers, whether this is stated clearly in the regulations or indirectly deduced from the requirements for arbitral awards, arbitrators, and the arbitral process in general. Noting that, in my opinion, only time can confirm if AI tools can replace human arbitrators.

Moreover, it should be noted that implementing the use of AI tools and AI arbitrators without suitable regulations on their use and application in the arbitration field could impact arbitration's reputation as a preferred dispute resolution mechanism. Therefore, the EU's proposal for the Artificial Intelligence Act ("the AI Act"), published on 21 April 2021, is considered a significant step toward modernizing the applicable regulations. The AI Act distinguishes between different categories of AI systems based on their potential risk to individuals, society, and the environment. It mandates that AI systems used in areas of the law be created and built in a way that guarantees transparency, accountability, and fairness. This means that users of AI systems must be informed about how the system works and the data used to train it. Additionally, the AI Act requires that AI systems used in legal contexts are subject to human oversight, meaning that there must always be a person responsible for the final decision.

In other words, the AI Act recognizes the potential benefits of AI in the legal field but emphasizes the need for responsible use and adequate safeguards. The regulation aims to ensure that AI systems used in law respect fundamental rights and ethical principles and contribute to the promotion of human well-being.

From a social perspective, public policy plays a significant role in the use of AI in arbitration and the possibility of AI arbitrators replacing human arbitrators. When answering the question of whether AI can replace human arbitrators, several issues regarding public policy can arise when arbitral awards are rendered and issued by AI arbitrators, especially if they violate state law and societal norms. As mentioned earlier, how courts, laws, regulations, and society respond to technology will determine how public policy grounds are and will be applied. This concern is reinforced by the survey's finding that 93.1% of respondents believe AI tools should support, not replace arbitrators, indicating a strong alignment between professional sentiment and public policy caution.

Furthermore, the statistical studies, results, and data mentioned in Part III help in having an initial

answer to the ongoing debate. The results of studies, whether conducted by the author or by the School of International Arbitration at Queen Mary University of London and in partnership with White & Case LLP, demonstrate a significant increase in the use of AI tools by arbitration practitioners in the arbitration field. However, this increase despite its frequency is focused on tools that assist arbitrators to increase efficiency and save time, rather than replacing them from a decision-making perspective. Additionally, the results have shown that most respondents agree that AI tools are only used in a manner that supports arbitrators and would not replace human arbitrators. In my opinion, this indicates a cautious and pragmatic approach, one that acknowledges the benefits of technological innovation while safeguarding the essential role of human judgment, fairness, and legitimacy in arbitration.

Conclusion

This article has examined the potential for AI arbitrators to replace human arbitrators, considering both legal and social perspectives. The analysis suggests that, within the current legal framework, AI arbitrators are unlikely to fully replace human decision-makers. Existing arbitration laws emphasize the requirement of human judgment, consent, and due process, making legislative reform a prerequisite for AI to assume such a role. Socially, too, parties continue to prefer the assurance of human reasoning, accountability, and empathy in adjudication.

At present, AI tools are most effectively deployed as support mechanisms assisting with document review, translation, case management, and predictive analytics, thereby enhancing efficiency while leaving final decision-making to human arbitrators. Looking forward, however, incremental reforms could progressively broaden the role of AI. Legislators and arbitral institutions should consider:

- Regulatory innovation: adopting clear guidelines that permit AI to assist in defined procedural or evidentiary tasks while safeguarding party autonomy and due process.
- Transparency and disclosure standards: requiring parties to be informed of how AI is used during proceedings, thus maintaining fairness and confidence.
- Ethical oversight frameworks: creating specialized committees or adapting institutional rules to monitor the risks of bias, data security, and accountability in AI-assisted arbitration.
- Capacity building: training arbitrators and practitioners in the responsible use of AI tools to ensure equal access and reduce technological asymmetry between parties.

From my perspective, AI arbitrators may, in the medium term, take on routine or procedural functions, but full substitution of human arbitrators remains unlikely in the foreseeable future, given legislative, cultural, and public policy constraints. Nevertheless, with thoughtful reforms, AI could evolve from a mere support tool into a trusted partner in arbitration, enhancing efficiency without eroding the human values that underpin justice. Yet, the key question remains: will the future of arbitration witness AI as a co-pilot to human judgment, or as a full-fledged arbitrator in its own right?

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