

THE PROMISING ROLE OF ARTIFICIAL INTELLIGENCE IN INTERNATIONAL ARBITRATION

David Waldron, Peter Sharp,† & Robert Bolgar-Smith‡*

Abstract

The growing use of artificial intelligence [“AI”], particularly generative AI, and the development of novel AI tools undoubtedly promise to revolutionise various areas of legal work. This creates opportunities for significant time and cost efficiencies, and arguably improvements in access to justice.¹ However, the use of AI is not without risk, especially when users become overly reliant on its outputs. There have already been instances where counsels and parties have faced court sanctions for submitting pleadings containing “hallucinated” (i.e., plausible but entirely fabricated) cases.² Additional risks include breaches of confidentiality, data security vulnerabilities, algorithmic bias and a diminished sense of ownership of the work. Despite these risks, banning the use of AI in legal work is neither desirable nor practicable. Clients expect their lawyers to utilise all available tools, especially those that can drive cost efficiencies by, for example, helping identify key facts from large data sets. Accordingly, the challenge lies in how legal practitioners can most effectively, safely and proportionately integrate AI into their workflows. In this

* Mr. David Waldron is a Partner at the London office of Morgan Lewis.

† Mr. Peter Sharp is a Partner at the London office of Morgan Lewis.

‡ Mr. Robert Bolgar-Smith is a Partner at the London office of Morgan Lewis.

¹ Florescu, C. I., *The Interaction Between AI (Artificial Intelligence) and LA (International Arbitration): Technology as the New Partner of Arbitration*, 18 Revista Română de Arbitraj (2024).

² *High court tells UK lawyers to stop misuse of AI after fake case-law citations*, THE GUARDIAN (Oct. 05, 2025) available at <https://www.theguardian.com/technology/2025/jun/06/high-court-tells-uk-lawyers-to-urgently-stop-misuse-of-ai-in-legal-work>.

article, the authors aim to explore the impact of the growing use of AI in the context of international arbitration.

A. Why International Arbitration Is Well-Suited to AI Integration

International arbitration is a method of dispute resolution where the parties agree for their dispute(s) to be resolved by private arbitrators as opposed to by a national court. International arbitration is widely recognised as the preferred dispute resolution mechanism for cross-border disputes: the 2025 International Arbitration Survey conducted by Queen Mary, University of London, which is based on over 2,400 questionnaire responses and 117 interviews from across a diverse pool of representatives, found that an overwhelming majority (87%) of respondents continue to choose international arbitration to resolve cross-border disputes³. Key reasons for this preference include that: *first*, international arbitration provides a neutral forum for resolving disputes – i.e., outside of the local courts of one of the parties; *second*, the parties can specify the qualifications that they consider the arbitrator(s) should have; *third*, arbitration awards are easier than a court award to enforce internationally with over 170 countries having ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards [“**New York Convention**”] under which non-domestic arbitral awards are enforceable in any ratifying state subject to certain narrow exceptions; *fourth*, confidentiality – unlike most court proceedings, the submissions, rulings / awards and even the existence of the dispute are normally not made public in international arbitrations, and finally, – generally arbitration awards are final and binding with no (or limited) rights of appeal. Whilst many of the concepts will be more widely applicable, our

³ Queen Mary University of London & White & Case LLP, 2025 International Arbitration Survey: The Path Forward – Realities and Opportunities in Arbitration (Nov. 11, 2025), available at <https://www.whitecase.com/sites/default/files/2025-International-Arbitration-Survey-report.pdf>.

focus in this article will be on international commercial arbitration as opposed to, for example, investor state arbitration.

International arbitration is well placed to navigate the evolving landscape of AI in legal practice. Key features which make it a promising environment for the responsible exploration of AI's potential whilst managing the risks of these emerging technologies, include the procedural flexibility inherent in arbitration proceedings, the prospect of AI tools being trialled across a wide range of complex disputes as well as across multiple jurisdictions, and the ability for AI tools to be monitored by legal professionals for quality and reliability in real time. These features are each explored in further detail below:

B. Procedural Flexibility and Party Autonomy

At the heart of international arbitration lies a focus on procedural flexibility.⁴ Parties have significant freedom to shape the conduct of proceedings, including as to the adoption, regulation and scope of use of AI tools. This adaptability enables tailored trialling of novel case management techniques by both parties and the arbitral tribunal along with timely responses to technological developments. The prospective integration of AI to optimise and streamline arbitration proceedings further reinforces the procedural flexibility that arbitration provides to parties.

C. Breadth of Disputes and Industry Exposure

International arbitration is used to resolve disputes spanning a wide spectrum of industries, complexities and financial values. The diversity in types of disputes allows AI tools to be trialled in a variety of contexts from high-value commercial arbitrations to more routine technical matters. It

⁴ Jones, D. S., *Flexibility in International Commercial Dispute Resolution*, 90 Arbitration: Int'l J. Arb. Mediation & Disp. Mgmt. 109 (2024).

also fosters the cross-pollination of know-how and expertise from different sectors and industries.

D. International and Cross-Jurisdictional Nature

International arbitration's transnational and cross-jurisdictional character i.e., both between different states and between different jurisdictions within a single state, allows it to draw upon legal traditions and technologies from across the globe,⁵ thereby encouraging the exchange of AI tools and governance approaches between jurisdictions and accelerating comparative learning and informed convergence on best practices.

E. Professional and Institutional Oversight

Finally, international arbitration benefits from the stewardship of experienced, legal professionals and well-established arbitral institutions, who can each bring in experiences from different sectors and industries, as well as from acting as counsel, as arbitrators and within institutions. These participants provide built-in mechanisms for quality assurance, ethical guidance and the development of standards for responsible AI integration, including ensuring that any proposals align with necessary case management practicalities.

Together, these attributes make international arbitration not only a fertile forum for the practical deployment of AI, but also a proving ground for shaping broader norms in legal technology governance.

II. Practical Use Cases for AI in International Arbitration

The potential uses of AI in a particular arbitration will depend on the nature of the case and the parties involved. Furthermore, it is inevitable that new tools will be developed in the coming months and years. Accordingly, it is

⁵ Nadim Comair-Obeid & Stavros Brekoulakis, Chapter 1: Introduction, in *The Plurality and Synergies of Legal Traditions in International Arbitration: Looking Beyond the Common and Civil Law Divide* 1, 2 (Nadim Comair-Obeid & Stavros Brekoulakis eds., 2024).

neither possible nor helpful to be overly prescriptive in drafting a procedural order. However, likely issues which parties and arbitrators will want to consider include:

A. Document Review

Legal professionals already have significant experience in utilising document review tools such as keyword searches, date sorting, email threading and de-duplication.⁶ Nevertheless, as a result of the explosion of digital information generated within most businesses, document production (sometimes referred to as disclosure or discovery) still often remains one of the most expensive stages of an arbitration, both in time and costs.⁷ Accordingly, the development of new tools to create a more efficient process should be welcomed.

AI is enabling the development of increasingly advanced document production review tools for use by parties. For example, technology assisted searches enable document classification through the use of prompts and iterative prioritisation of document results which enhances organisation and improves efficiency. Image recognition and classification tools can, where appropriate, remove all images from the document review pool or identify all photos in respect of a specific subject matter. Other tools include: (i) sentiment analysis whereby, for example, emails are identified where the author expresses anger about a particular issue, and (ii) to help ensure consistency of redactions across a document set wherein AI redaction tools can conduct contextual identification as opposed to exact language matches. However, AI can also be used to generate increasingly sophisticated and realistic forgeries of documents and photos, as well as

⁶ Shetty, P. and Chauhan, A. S., *Navigating the Frontier: Assessing the Benefits and Limitations of AI Integration in International Arbitration*, 10(1) BCDR Int'l Arb. Rev. 32–33 (2023).

⁷ Tibor Zuberbühler, Christoph Müller & Philipp Habegger, *IBA Rules of Evidence: Commentary on the IBA Rules on the Taking of Evidence in International Arbitration* 40, ¶ 32 (2d ed. 2020).

deep-fake audio and video.⁸ Accordingly, arbitrators will need to exercise additional caution and will likely need to seek greater technical assistance in relation to factual evidence.

B. Early Case Analysis, Prioritisation and Summarisation

AI tools can review and summarise large document sets - including generating chronologies, flagging conflicting statements (e.g., between pleadings and witness statements) and conduct contractual analysis to highlight key contractual terms and substantive differences (for example, between sub-contractor agreements).⁹ This could be of significant assistance for all users of international arbitration, including the parties, their counsel, arbitrators and tribunal secretaries. However, as mentioned below, care should be taken in how such tools are applied, particularly in areas requiring careful analysis or matters of judgement.

C. Transcription and Translation

AI-powered transcription tools are becoming more reliable for recording meetings and phone / video calls. Similarly, AI can assist with translations. Nonetheless, these tools can still make mistakes and thereby risk creating a problematic false record. Accordingly, human review to confirm the summary is strongly advised and, where a transcription or translation is likely to play a pivotal role in a case, professional services remain advisable. Parties should also be aware of any potential implications on privilege when utilising these tools, especially in cross-border matters (and in

⁸ S. McCarthy, *Arbitration Tech Toolbox: Is Generative AI Now the Biggest Threat to Remote Hearings?*, KLUWER ARB. BLOG (Apr. 13, 2024), available at <http://arbitrationblog.kluwerarbitration.com/2024/04/13/arbitration-tech-toolbox-is-generative-ai-now-the-biggest-threat-to-remote-hearings/>.

⁹ David Evans, Michael McIlwrath, Eric van Ginkel & Alan Limbury, *Dispute Resolution Enhanced: How Arbitrators and Mediators Can Harness Generative AI*, 78 Disp. Resol. J. (2024).

investigations)¹⁰ and any local law requirements on the making of recordings.

D. Legal Research

AI-powered research tools have significant potential benefits, including their use of “natural language processing” to allow a more natural, user-friendly search capability and their ability to deploy predictive models to more accurately identify, collate and summarise legal research. However, users must remain cautious about over-reliance, especially on non-specialist tools. Users should always confirm everything that an AI tool produces before using it. In the recent case of *Hamad Al-Haroun v. Qatar National Bank Qpsc, Qnb Capital Llc*¹¹ solicitor Abid Hussain who acted for the claimant, Hamad Al-Haroun, admitted he had relied on his client’s research which was produced using AI research tools without verifying its accuracy. The court described Mr Hussain’s conduct as a “*lamentable failure to comply with the basic requirement to check the accuracy of material that is put before the court*” and referred Mr Hussain to the Solicitors Regulation Authority for further investigation.

E. Cross-Examination

AI-powered tools are being developed to assist with both the preparation of and during cross-examination, including providing real-time, automated fact checking of a witnesses’ oral testimony against their witness statements and the corpus of documentary evidence.

However, such tools should not be used as a replacement for detailed preparations and/or the development of cross-examination strategies. As AI becomes more widely adopted and as increasingly specialised tools for,

¹⁰ Silicon Valley Arbitration & Mediation Center (SVAMC), Guidelines on the Use of Artificial Intelligence in Arbitration 2023, cl. 3.

¹¹ *Hamad Al-Haroun v. Qatar National Bank Qpsc, Qnb Capital Llc*, [2025] EWHC 1383 (Eng.).

for example, cross examination are developed, this will inevitably mean that the likelihood of both sides using the same tool is quite high and that any tactical advantage would be lost.¹²

F. Arbitrator Selection

Subject to the agreed procedure or institutional rules, arbitrators are normally selected by either the institution or the parties themselves through a process which may include different mechanisms, such as the drawing up a shortlist of candidates, considering their relevant expertise and confirming availability and willingness to act. AI may support the selection process by analysing both structured data (e.g., arbitrator databases) and unstructured data (e.g., articles, published decisions and biographical information) to assess a potential arbitrator's historic preference for particular legal theories, etc.¹³ However, depending on how the tool is programmed and the quality of the database upon which it is trained there are risks of bias and the exclusion (or inclusion) of candidates based on incorrect or out-of-date information, as well as of hallucinations.

G. Drafting and Document Preparation

One common but more controversial use of AI is in drafting documents. There will be situations where it is reasonable to use AI to prepare initial drafts: for example, simple *inter partes* correspondence or fact summaries. However, it is not advisable (at least at present) to use such tools to draft more substantive documents, such as pleadings, openings, arbitral awards, etc. It is always vital that users retain full responsibility for all work product. In doing so, the responsible author should have consideration both of the

¹² *Arbitration Tech Toolbox: Cross Examination? There's an App for That*, KLUWER ARBITRATION BLOG (Nov. 11, 2025) available at <https://legalblogs.wolterskluwer.com/arbitration-blog/arbitration-tech-toolbox-cross-examination-theres-an-app-for-that/>.

¹³ Schwing, M. A., *Don't Rage Against the Machine: Why AI May Be the Cure for the 'Moral Hazard' of Party Appointments*, 36 ARB. INT'L (2020).

facts which have been included and just as importantly those that have been excluded.

H. Costs Submissions

AI has the potential to streamline and optimise the preparation of costs schedules and costs submissions through the analysis of billing data, emails and calendars to quickly and accurately allocate costs to specific workstreams. Similarly, it can be used to interrogate the other parties' costs.

III. Risks of Delegating Matters of Judgment to AI

Whilst AI tools are increasingly powerful and effective, it remains essential that there should be strict expectations of oversight and judgement by human actors. The use of AI in ways that delegates questions of judgement (for example, the preparation of summaries of the parties' position on a particular issue) should be used cautiously.¹⁴ Even accurate summaries can obscure nuance and tone, be that in emails, witness statements or pleadings.

This is particularly critical where arbitrators use AI tools because any errors (or just the unapproved use of AI tools) could open up the eventual arbitration award to risk of challenge or unenforceability, as mentioned below.

Various institutional arbitrations and bodies as well as some jurisdictions have provided guidelines on the use of AI. These include, the Silicon Valley Arbitration & Mediation Centres ["SVAMC"] "*Guidelines on the use of artificial intelligence in arbitration*"¹⁵, the Chartered Institute of Arbitrators ["CIArb"]

¹⁴ Scherer, M., *Artificial Intelligence and Legal Decision-Making: The Wide Open?*, 36(5) J. Int'l Arb. 561 (2019).

¹⁵ Silicon Valley Arbitration & Mediation Center (SVAMC), *Guidelines on the Use of Artificial Intelligence in Arbitration* (Oct. 05, 2025), available at <https://svamc.org/wp-content/uploads/SVAMC-AI-Guidelines-First-Edition.pdf>.

“*Guideline on the Use of AI in Arbitration (2025)*”¹⁶ and the “*Artificial Intelligence (AI) Guidance for Judicial Office Holders*”.¹⁷ It is likely that many other guidelines will be published in due course and that these guidelines will need to be updated and amended as the technologies develop.

At present, it is largely accepted that AI is not yet in a position to be trusted with matters of judgement or decision making, which lies solely with arbitrators in international arbitrations.¹⁸ Indeed, the Ministry of Justice of Estonia recently denied stories that it was developing AI robot judges, noting that such stories were misleading and that it is instead seeking tools to address the court’s administrative burden.¹⁹ However, it is likely that as AI develops, its utility may expand including into areas of judgement and that some parties or jurisdictions may investigate such tools. Careful oversight will inevitably remain necessary.

IV. Cognitive Engagement and Human Oversight

Parties and arbitrators should also be aware that outsourcing too much analysis and drafting to AI carries the risk of disengagement and a reduction in comprehension of the issues in dispute. A recent preliminary study led by the Massachusetts Institute of Technology (MIT) Media Lab entitled “*Your Brain on ChatGPT: Accumulation of Cognitive Debt when Using an AI Assistant for Essay Writing Task*” looked at the impact of using AI to draft essays. They identified that 83.3% of participants using AI (large language models) were unable to provide a correct quotation from the essay they had

¹⁶ Chartered Institute of Arbitrators (CI Arb), *Guideline on the Use of AI in Arbitration (2025)* (Oct. 05, 2025), available at https://www.ciarb.org/media/m5dl3pha/ciarb-guideline-on-the-use-of-ai-in-arbitration-2025-_final_march-2025.pdf.

¹⁷ Courts and Tribunals Judiciary, *Artificial Intelligence (AI) Guidance for Judicial Office Holders*, (Apr. 14, 2025) available at <https://www.judiciary.uk/wp-content/uploads/2025/04/Refreshed-AI-Guidance-published-version.pdf>.

¹⁸ Silberstein-Loeb, J., *Arbitrators, Decision Making, and Generative AI*, 41(4) ASA Bull. 832–33 (2023).

¹⁹ *Republic of Estonia, Ministry of Justice & Digital Affairs, Estonia Does Not Develop AI Judge* (Nov. 11, 2025) available at <https://www.justdigi.ee/en/news/estonia-does-not-develop-ai-judge>.

just produced, whereas only 11.1% of those who had either been “brain-only” (i.e., not allowed to use AI or a search engine) or those allowed to use a search engine faced the same difficulty.

Furthermore, large language model AI tools are based on identifying patterns from historic data. Whereas arbitrators and lawyers will face novel factual issues and theories of law. Accordingly, lawyers and arbitrators must retain responsibility for the substance and rationale of their decisions in order to avoid cognitive and legal inertia.

V. Governance and Procedural Orders

The legal industry as a whole (and indeed large parts of society) is grappling with how best to embrace AI whilst navigating the risks. In order to ensure that all participants are aware how the other parties are utilising these novel tools, it is essential that there are clear and open conversations, and an acceptance that any rules and agreements may need to be amended as the matter progresses.

A critical mechanism to address these risks and to support responsible AI use in international arbitration is the procedural order. Procedural orders can help to establish early-stage discussions about AI usage, ensure transparency so that all participants are aware how AI is being used, obtain party consent to AI’s use, maintain equality of arms and get participants to confirm that they remain ultimately responsible for any work product.

Both the CIArb and SVAMC AI Guidelines discussed above provide proposed draft procedural orders on the use of AI in arbitrations.

As part of this process, arbitrators should ensure that they fully understand how such tools operate and what the likely impacts and risks are. To that end, lawyers should be willing to collaborate in order to provide agreed explanations and “teach-ins” of new tools to arbitrators.

A. Mitigating against Risks of Challenge of an Award

One of the benefits of international arbitration is the finality of arbitral awards, which lies in the ultimate enforceability of arbitration awards and the limited routes of recourse. However, one of the limited reasons under the New York Convention for refusal to recognise and enforce an arbitral award is if the competent authority of the country where recognition and enforcement is sought finds that the recognition or enforcement of the award would be contrary to the public policy of that country (Article V(2)(b)).²⁰ Accordingly, parties should have consideration of any guidance on the use of AI in any jurisdictions in which they are likely to seek to enforce an award.

It is also sometimes possible to challenge an award as a result of serious irregularity in the proceedings (for example, failure to follow a fair process). In the context of an English arbitration, this would likely be pursuant to section 68(2)(c) (serious irregularity through failure by the tribunal to conduct the proceedings in accordance with the procedure agreed by the parties) or Section 68(2)(i) (any irregularity in the conduct of the proceedings or in the award which is admitted by, amongst others, the tribunal) of the Arbitration Act 1996. Accordingly, if it was identified that an arbitrator had relied heavily upon facts provided to them by an AI tool (which were, therefore, not on the record and which the parties had no knowledge of or control over) or, more crucially, had used an AI tool to assist with their decision making process, particularly if in contravention with any agreement with the parties, and it could be shown that this had

²⁰ Argerich, G., Noodt Taquela, M. B., and Jorge, J., *Could an Arbitral Award Rendered by AI Systems be Recognized or Enforced? Analysis from the Perspective of Public Policy*, KLUWER ARBITRATION BLOG, (Feb.6, 2020) available at <http://arbitrationblog.kluwerarbitration.com/2020/02/06/could-an-arbitral-award-rendered-by-ai-systems-be-recognized-or-enforced-analysis-from-the-perspective-of-public-policy/>.

caused or would cause substantive injustice, then any award could be open to challenge on the basis that due process had not been followed.

This issue has arisen in the recently filed case of *LaPaglia v. Valve Corp.*,²¹ in a Californian federal court where the claimant is seeking to have an arbitral award under the American Arbitration Association vacated on grounds including that the arbitrator had “*outsourced his adjudicative role to Artificial Intelligence*” as evidenced by the award allegedly containing “*telltale signs of AI generation*” and cited “*facts that are both untrue and not presented at trial or present in the record*”. As at the time of writing, the court is yet to rule on the petition.

Whilst the reasonable use by a party (or arbitrator) of an AI tool is unlikely to be sufficient on its own to challenge an arbitration award, there is a risk that an unsuccessful party could seek to avoid (or at least delay) enforcement of an arbitration award by raising complaints of unfair or unagreed use of AI.

Conducting informed discussions about AI usage early on in the proceedings and recording the parties’ consent to the use of AI tools by way of procedural orders should help mitigate any such risks. That said, parties (and arbitrators) should also ensure that their use of any AI tools does not conflict with the terms of the arbitration agreement or any applicable laws, regulations, policies or institutional rules; all of which are likely to develop over the coming years.

B. Confidentiality and Data Security

Confidentiality is a cornerstone of arbitration and legal work. AI use inevitably creates additional concerns, including:

- a) How (and where) any data is stored;

²¹ Case No. 3:25-cv-00833 (S.D. Cal. filed 2025).

- b) The protection of the data from third parties (including through cyber-attacks);²²
- c) Ensuring that confidential data is not used for machine learning purposes.²³

Accordingly, parties must conduct reasonable due diligence to evaluate any tools they intend to use. As part of this process, law firms should ensure that their employees are sufficiently aware of the tools available and attendant risks

VI. Conclusion

AI presents significant opportunities for legal practice, including greater efficiency and broader access to justice. Arbitrators (and arbitral institutions) should avoid overly regulating the use of AI to the detriment of party autonomy. However, in order to mitigate against the intrinsic risks, its use must be transparent, proportionate and subject to human oversight.

A considered, risk-based approach is also appropriate in a situation where it would be naïve to assume that other participants – including, lawyers, clients, arbitrators, judges and experts – are not already using AI.

International arbitration, with its collaborative nature and procedural adaptability, offers an ideal forum to test and refine AI tools safely. Encouraging early discussions and incorporating pragmatic, risk-based clauses into procedural orders (and arbitration clauses) can help manage uncertainty. In doing so, the international arbitration community can strike a balance between innovation and accountability.

²² Chan, E. and Limond, K., *Striking the right balance: approaching disclosure of generative AI-assisted work product in international arbitration*, 2024(1) b-Arbitra 74–75 (2024).

²³ Petillion, F., *Responsible Use of AI Tools in the Arbitration*, 2024(2) b-Arbitra 416 (2024).