

Analyzing the Endeavours of the Supreme Court of India to Transcribe and Translate Court Arguments in Light of the Proposed EU AI Act

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Abstract

The Supreme Court of India has been a pioneer in using ICT in courts through its e-Courts project in India. Yet another leap, its recent project, *Design, Development, and Implementation of Artificial Intelligence (AI) solution, tools for transcribing arguments and Court proceedings at Supreme Court of India*, expressed through bid number **Ref No. AI Solutions/2023/SCI** has potential to impact the way AI algorithms are designed in India, and not just for this particular project. In this paper, we evaluate the endeavours of the Supreme Court of India in light of the state of AI technology as well as the attempts to regulate AI. We argue that since the project aims to transcribe and translate the proceedings of the constitutional benches of the Supreme Court, it has potential to impact *rule of law* in the country. Hence, we place this application in High Risk AI as per the provisions to the proposed EU AI Act. We provide some guidelines on the approach to transcribe and translate making the maximum use of AI in the Supreme Court of India without running into the dangers it may pose.

1 Introduction

Indian judiciary is burdened by a heavy backlog of cases and it is in a desperate search for innovative methods to address the backlog. The use of technology has helped Indian judiciary to battle the situation (Verma, 2018). The technology is growing at a very rapid pace and hence it should leverage new technologies like artificial intelligence. In a written reply in Rajya Sabha on 07 April 2022, the then Union Minister of Law and Justice, Shri Kiren Rijiju had highlighted various use cases of AI in judiciary in India (PIB-Delhi, 2022). The Supreme Court of India has decided to do a pilot project on the use of AI for transcribing constitutional court arguments in real time (SupremeCourtOfIndia, 2023). When this paper was written, the Supreme Court had already asked for participation of technology companies in a bid to use AI in the court proceedings.

1.1 Our Focus on the Supreme Court Bid Document

As the Supreme Court mentions in its bid document that the goal is to leverage artificial intelligence, machine learning and deep learning for various purposes including the automated transcription of the proceedings of the the Supreme Court’s constitutional benches SupremeCourtofIndia (2023). The tasks that are of interest to us, and are discussed in the paper, are enumerated and for the sake of completeness, reproduced below.

1. Page 40, Section V(b)(i.) *Transcribing of arguments and court proceedings on real time basis and displaying the same on monitors in the courtroom.*
2. Page 40, Section V(b)(iii.) *The transcription generated primarily must be in English language. However, the transcription generated must also be capable of being translated into the languages stated in the Eight Schedule of the Constitution of India, 1950.*
3. Page 40, Section V(b)(iv.) *The AI tool to be developed and deployed must have an advance level of natural language processing, to understand legal terms, documents, petitions, judgments, etc. and to automatically classify them in the relevant specialization.*
4. Page 40, Section V(b)(v.) *The AI tool to be developed and deployed must have software and machine learning capabilities, to build a sophisticated hierarchy of classification models to analyse the contents of documents transcribed contained in unstructured text, rich text, html, PDF documents, to have a prediction, intelligent processing, smart classification, content extraction and summarization.*

AI is a constantly evolving scientific area right now. There is no consensus on any single definition of AI or even threats that it may pose (Hinton, 2023), (Bengio, 2023) (LeCun, 2023), (Ng, 2023). In such times, it may be said that it is very courageous of the Supreme Court to invite bids for using AI to improve access to justice in India. However, these endeavours have to be properly evaluated on legal and technical basis so as to appropriately balance the need of the judiciary to use AI and the robustness of the technology to be fit for the purpose.

1.2 Elements of High Risk AI in the Supreme Court Project

The early and landmark step of the European Union to frame a law for the use of artificial intelligence is commendable that has been lauded throughout the world. The proposed EU AI Act of the European-Parliament (2021) considers that the AI systems that adversely impact the following may be classified as high risk AI:

1. Health and safety of natural persons
2. Adverse impact on fundamental rights of natural persons

3. Democracy and rule of law

4. Environment

The intention of the Supreme Court is to use AI for constitutional bench matters, that are binding on courts all over India, including the Supreme Court benches that have a strength lesser than the said constitutional bench. Since the jurisdiction of Supreme Court constitutional benches is really supreme, it may directly impact health and safety of the citizens if a case with it is about health or any other rights, including fundamental rights. It may impact the environment if the case is of such nature. Even if all such impacts may look far fetched, being used in constitutional benches, use of AI may certainly impact rule of law. In any case, playing the devil’s advocate and assuming a worst case scenario will only help the Supreme Court to assess the gravity of application of AI in its proceedings. Such an application of AI, therefore, may be placed under the high risk category as defined in the proposed EU AI Act.

Thus, the stakes are high if the Supreme Court wants to utilize the capabilities of AI for transcribing and translating constitutional benches proceedings as any mistake made by the AI may really lead to a blunder. For this reason, borrowing some procedures for conformity assessment from the proposed EU AI Act may be helpful.

1.3 Anil Ambani’s Case

Anil Ambani’s case (EconomicTimes, 2019) is an excellent example of sensitivity of words used in the Supreme Court judgments and how AI may catastrophically change meanings. Transcribing of voice may not be a big deal when a machine learning algorithm on YouTube tries to generate the transcripts of a random video. However, when it is utilized by the Supreme Court of India, it no longer remains an ordinary application. It has potential to touch millions, if not billions of lives in India. We all are aware of the infamous case in which the word “NOT” was removed from the order and removal of this one word had resulted in two staff members being terminated from their services (EconomicTimes, 2019).

1.3.1 Reasonably Foreseeable Misuse

A wrong transcription may have a tremendous impact on rule of law. Human beings may suffer from automation bias. This may mean that the burden of correctness may be placed on the technology. Thus, even if the error should have been caught by human beings, it may creep in due to automation bias. However, since the transcriptions will be displayed on screens in the court, someone should be able to figure out such mistakes.

1.3.2 Malicious Manipulation

As above, a wrong transcription may still be acceptable as it may be corrected in the better versions or by a careful use of the technology. However, if the technology is weaker in cybersecurity and it is possible to manipulate the AI models maliciously, then