



Time To Regulate Use of Generative AI In Professional Legal Practice - A Study of Recent Errors While Using Generative AI and Its Ethical Implications

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Abstract:

Since the rapid growth and free access of Generative AI tools like ChatGPT 3.5 earlier and increasing popularity of similar tools like Claude AI, Copilot, Gemini etc many people including Advocates and Lawyers began to use these tools as an assistant. The ease of use and reliability on spellings, grammatical correctness and speed of the output helps in saving time, energy, effort and cost – leading to increased use and wider adoption. However the creativity of these tools sometimes leads to them providing unrealistic, unverified and unsubstantiated content while not informing the user that these are not facts. Many time due to lack of awareness of how these tools give their output and also blindly believing the outputs to be factual, time and again despite blunders coming to notice from across the world, Adocates have used these Generative AI tools' generated content without verification which range from hilarious to absurd and foolish to dangerous, utting at stake law, justice and ethics. This paper studies some of these instances and makes a case for regulating use of Generative AI by Advocates and Lawyers either by using Explainable AI tools in place of Generative AI tools or by taking declaration for having used or not used Generative AI in their draftings/pleadings and having verified the contents if these are generated using AI.

Introduction:

“Technology will integrate police, forensics, jails, and courts, and will speed up their work as well. We are moving towards a justice system that will be fully future-ready.” Prime Minister of India, Sri Narendra Modi.

The growth of generative AI tools and the ease of using these in legal drafting, research and other aspects of advocacy is not without its pitfalls. Though initially used in 1980's the term AI Hallucination became popular around 2022 as a metaphor adopted from psychology to attribute AI systems generating false or imaginative or misleading outputs that appear reliable, logical and realistic. This ability to create something out of learning to be creative but applying it in unwanted place led to fabrication of case laws and citations which have unfortunately been submitted as being real to the courts. With such instances increasing and having potential to derail justice if not detected or to delay justice due to time taken to verify the citations Courts across India, US, Europe and Africa have now become stricter and are considering these as professional misconduct and not merely as mistakes or oversight. They have begun to come down heavily on the errant advocates.

The Advocates, in India, are bound by Advocates Act and have a strict Code of Conduct which aim to ensure transparency, accountability, fairness and uphold highest standard of ethics [1]. But with Advocates acting in haste or sometimes not verifying facts or sometimes entrusting work to inexperienced

juniors or even being careless, instances of major lapses have increased and are regularly reported in media. This problem however is not just restricted to India – and reports from around the world point to such mess being prevalent across the world.

The Hon'ble Supreme Court of India has recently in March 2026, appointed a senior advocate as amicus curiae to assist the court in dealing with the implications of artificial intelligence (AI) in legal practice, specifically regarding the use of AI-generated fake case citations, was reported in The Hindu e-news paper. [2, 3, 4]

While the current laws and code of conduct can deal with such situations, the magnitude of use of Generative AI instead of using paid Explanative AI has potential to create enormous number of violations which is an unaffordable luxury for the judicial system which is already overburdened.

As with any tool, AI can be used well or left unused or misused or abused. Without assigning responsibility as a duty people, including Advocates, may not be careful in using it. Hence there is a need to regulate and fix responsibility in using AI is felt necessary.

Objectives:

1. To study recent cases wherein fake AI generated citations and case laws were submitted in Courts
2. To understand ethical implications of using generative AI in advocacy.
3. To ascertain if there is violation of code of ethics in light of AI misuse.
4. To propose regulatory suggestions which can aid ethical compliance

Methodology:

This study is based on extensive literature review and is qualitative in nature adopting doctrinal legal research methodology.

The research uses Cases reported in media covering misuse of AI, articles related to ethics and AI, Code of Condcut for Advocates and judicial pronouncements.

Limitations: The study does not go into thematic analysis of ethical concerns like bias, transparency, accountability and misconduct. The study is based on analysis which is limited to few cases which have been reported widely in the media.

The study does not generalize or makes any assertion that misuse of AI is rampant or a general practice.

Review of Literature:

The Ministry of Law & Justice through the Press Information Bureau in its publication titled 'Digital Transformation of Justice: Integrating AI in India's Judiciary and Law Enforcement' said "Artificial Intelligence (AI) is driving a transformative shift in India's judiciary and law enforcement, enhancing efficiency, accessibility, and decision-making. By integrating AI into judicial processes, case management, legal research, and law enforcement, India is streamlining operations, reducing delays, and making justice more accessible to all." [5]

The Government is making all out efforts for using ICT, AI and new technologies to ensure that e-courts become fully functional, operational and more efficient. The Phase-III of modernizing judicial functions through digital innovation the key AI Applications to be implemented in e-courts include:

- Automated Case Management
- AI in Legal Research and Documentation
- AI-Assisted Filing and Court Procedures
- AI for User Assistance and Chatbots
- AI for Predictive Analysis in Case Outcomes

The budget earmarked is ₹7210 Crore for the e-Courts Phase III project, of which ₹53.57 Crore is specifically meant for integration of AI and Blockchain technologies across High Courts in India. The project aims to achieve greater efficiency, transparency, and accessibility in the judicial system.

While there is acceptance of the new technology and acknowledgement of its benefits, the misuse of the AI tools is bringing in its own set of problems.

The Economic Times reported that the Chief Justice of the Supreme Court expressed alarm at the use of AI to draft petitions in SC. The CJI said “We are alarmed to learn that lawyers are using AI to draft petitions. It is very unfortunate that the petitions quote non-existent paragraphs from judgments”[6]

He also said “It makes the judges' task more difficult. Now, they must not only go through the pleadings, but also scrutinise the authenticity of every paragraph quoted from cited judgments.”

Recently in January 2026 The Bombay High Court imposed a fine on Heart and Soul Entertainment Ltd ₹50,000 for filing AI-generated submissions that cited a fake case, searching for which resulted in wasting judicial time. The Court observed “This court and its law clerks were at pains to find out this case law but could not find it.”. Further it observed “This has resulted in the waste of precious judicial time. If an AI tool is used in aid of research, it is welcome; however, there is great responsibility upon the party, even an advocate using such tools, to cross verify the references and make sure that the material generated by the machine/computer is relevant, genuine and in existence.” [7]

The High Court observed: “A strong pointer is seen from a reference made to one alleged caselaw 'Jyoti w/o Dinesh Tulsiani Vs. Elegant Associates'. Neither citation is given nor a copy of judgment is supplied by the Respondent. This court and its law clerks were at pains to find out this case law but could not find it.” [7]

The bench emphasised the seriousness of wasting judicial resources: “This has resulted in the waste of precious judicial time. If an AI tool is used in aid of research, it is welcome; however, there is great responsibility upon the party, even an advocate using such tools, to cross verify the references and make sure that the material generated by the machine/computer is relevant, genuine and in existence,” High Court said. [7]

In September 2025, the Delhi High Court flagged “AI hallucination” when a petitioner submitted AI generated case laws and AI modified parts of Case Laws. One judgment that did not exist and another did not contain averments made in the quoted paragraphs. Justice of the High Court allowed the petitioner to withdraw their petition. [8]

In February 2026, the Andhra Pradesh High Court while hearing in Gummadi Usha Rani & Anr. v. Sure Mallikarjuna Rao & Anr. refused to quash a trial court order that had relied on an AI-prompted, non-existent ruling. The HC clarified that although the citation was wrong, the legal principles applied by the trial judge were correct and aligned with settled law. [2]

However, the Supreme Court while dealing with the same case critically noted that “At the outset, we must declare that a decision based on such non-existent and fake alleged judgments is not an error in the decision-making process. It would be a misconduct and legal consequence shall follow.” The Court emphasized that reliance on fabricated judgments “strikes at the integrity of the adjudicatory process.” [2, 3,4]

In March 2025, the Karnataka High Court took serious note of a city civil judge who had relied on non-existent Supreme Court judgments to pass an order in *Sammaan Capital Limited v. Mantri Infrastructure Pvt. Ltd.* The High Court called this conduct “disturbing”. [9]

Results:

The intention of Government and Higher Judiciary is in favour of using AI for improving delivery of justice and also for expediting the process but without compromising on the quality of judicial process to ensure justice.

However, the cases cited above, point to misuse or improper or injudicious use of AI. It is a matter of research as to how many Advocates use AI for their work and how many verify it or how many errors have taken place, it suffices that the errors have potential to disturb the justice delivery system,

The Supreme Court’s observation serves as a warning for all the parties, including Judges to be vigilant while using AI tools. The Supreme Court has added another dimension of Misconduct by emphasising that reliance on AI-generated, non-existent case law without proper verification and application of mind is considered professional misconduct. [4]

Further the Supreme Court has also said it’s a mandatory duty to ensure that only factual information and not deep fake information is submitted to Courts.

By adding the extra dimension to Professional Misconduct, the Supreme Court allows initiating disciplinary action against misuse of AI to ensure the integrity of the judicial process.

The rules of the Bar Council of India are very clear on the professional ethics of advocates. Though nothing is explicitly mentioned about use of AI, the code encompasses the proper use of any existing or future tools in ethical manner.

The improper use of AI leads to breach of ethical codes, which includes but is not restricted to the following areas:

- Confidentiality: Untrained use of AI may compromise confidentiality of client information and privileged communications.
- Integrity and Honesty: Submitting citations without verification dilutes the standards of honesty and integrity.
- Competence and Diligence: Depending on a computer algorithm to do one’s duty instead of just using it as an assisting tool raises questions about one’s legal knowledge and skills required to represent one’s clients effectively. Over reliance on AI tools indicates negligence towards one’s duty and reluctance to handle all legal matters diligently and with due care.
- Respect for the Judiciary: Submitting inaccurate or false citations is not expected of lawyers who should uphold the dignity and authority of the judiciary.
- Professional Independence: Lawyers must maintain their independence and not allow external influences like technology to take over their role.

- Advocacy and Fairness: Lawyers must strive for their clients interest but within the limits of the law while promoting fairness, ensuring etical behaviour and prevalence of justice.

Discussion:

The Generative AI cannot be blamed for the botch-ups of non verification by the Advocates. There is uncompromising need to be transparent and accountable while using AI tools while drafting. The advocates must also remember that privacy concerns and data security is also at risk while using Generative AI tools, especially the unpaid ones.

Improper prompts or biased prompts can lead to generation of biased, inaccurate and factually wrong content and citations.

Advocates must retain their professional independence. Even the Supreme Court judges praised the drafting of earlier advocates who relied on their own wisdom, skills and knowledge.

To be fair to generative AI, there have been improvements and also development of profession specific AI tools which are more reliable than earlier predecessors. Efforts are on to make AI more responsible and ethical.

It must also be understood that AI tools must be made culturally more inclusive and not generalise everything. That change will take some time, till then it becomes the responsibility of the advocates to use the tools more sensibly.

Conclusions:

But with human nature being not uniform and in the quest for either saving time, effort or money or to do more work or even due to sheer lack of understanding limitations of AI or even sometimes being careless, advocates are also prone to err while using AI tools.

We must ensure integration of AI with ethical governance frameworks to balance innovation and responsibility.

There is urgent need to regulate it, probable ways could be:

- Mandatory disclosure of AI use in pleadings (AI Verification Certificates).
- Judicial guidelines for admissibility of AI-generated content.
- Mandatory training for lawyers in AI literacy and ethical use.

Human judgement, wisdom, experience and moral responsibility cannot be passed on to the AI tools. Similarly Government or the BCI must give out clear code of conduct for using AI tools and not leave the matter to the Courts, who are already looking into things which should not be burdened on them.

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