

## AI in the Courtroom - “a square peg in a round hole” ?

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Earlier this year, in the case of Santander UK PLC v Carlin and Anor, His Lordship Simpson sitting in the Chancery Division of the High Court, was called upon to determine long rearguard action to home repossession proceedings for non-payment of mortgage. The action was brought upon by Santander bank against one Mr Thomas Anthony Carlin, a serving police officer of the PSNI. Mr Carlin opted to represent himself in this legal battle, as Litigant in Person.

A riveting point of the said dispute arose when Mr Calin, during an earlier stage of the repossession proceedings, was handed down an adverse ruling by Lord Justice Gillen sitting as the presiding judge. In courtroom protest, Mr Calin raised from his seat and approached the bench brandishing his PSNI warrant card. He thereupon threatened to arrest Justice Gillen. Incidentally, the Attorney General successfully prosecuted and secured a 3 month conviction against Mr Calin for contempt of court. The genesis of our interest though lies elsewhere - in the Court's appreciation (or not), on part of the evidence put forth by Mr Calin. The Judge had this to say:

*His final submissions before me also refer to answers provided to a series of questions put by him to ChatGPT, criticising counsel, solicitors, and judges, and he prays in aid these answers in support of this case since they have been provided by AI which “does not have personal opinions, beliefs or feelings.” Sadly, ChatGPT seemed unable to recognise or correct the misuse by Mr Carlin in one of this questions of the phrase “cast dispersions” rather than “cast aspersions.”*

The debate about the intrusion of artificial intelligence (AI) in the courtroom, and indeed in the legal world, is a very live one. That AI is here to stay and thrive, is beyond dispute. However, at the very root of traditional dispensation of justice is the sensorial element - the trial hearing, the demeanour of a witness, the appreciation of and weight of oral and visual evidence and the live exchanges between Bench and Bar. As

generative AI is set to encroach on this norm and redefine global trends in the legal process, law practitioners are bound to reinvent themselves, and find ways to become more relevant in their mastery of technology. The scene is set: If in Mauritius our caselaw research is principally geared on captive keywords from the Supreme Court govmu.org website, the wider accessibility of legal AI interface such as CoCounsel, Westlaw Edge or Lexis + sparks an ethical conundrum in the manner we are to dispense our duty as barristers. Will AI predict the outcome of a case or the sentence?

There is now a new fine line between assisting the Court and misleading it.

In a world dominated with a surfeit of touch button available information, the new challenge will be to streamline information for relevance. This is already being done for legal research but if AI is to take over, it will become urgent to expressly stipulate guidelines for practitioners on how generative AI should be used in assisting the court and avoiding miscarriages of justice.

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