

NOTES / AANTEKENINGE

Artificial Intelligence: Shaping the Future of the Legal Profession

1 Introduction

“AI won’t just enhance the way we live but transform it fundamentally. AI is placing tools of unprecedented power, flexibility, and even personalization into everyone’s hands, requiring little more than natural language to operate. They’ll assist us in many parts of our lives, taking on the role of superpowered collaborators.” (Savarese “Building Generative AI We Can Trust” (2023) <http://www.salesforce.com/news/stories/building-generative-ai-we-can-trust/>) (accessed 20-09-2024)

The role of artificial intelligence (AI) in day-to-day work has grown exponentially in recent years, and the drastic shift from the traditional mode of carrying out tasks and functions to embedding state-of-the-art technology into everything we do has become inevitable (Khalil, Mansour and Fadda “The Sudden Transition to Synchronized Online Learning During the COVID-19 Pandemic in Saudi Arabia: A Qualitative Study Exploring Medical Students’ Perspectives” 2020 *BMC Med Educ* 285). The COVID-19 pandemic ignited the legal profession into rethinking, revamping and redesigning a traditionally formal system into one that was more contemporary, with the focus on innovation, evolution and creativity in modern times (Behbehani “Moving Education out of the Industrial Era: How the Pandemic Is Reshaping Global Learning” (2021) <http://insights.samsung.com/2020/11/10/how-the-pandemic-is-reshaping-global-learning/> (accessed 2024-09-14)). The trend of evolution, creativity, and digitalisation has continued post-COVID, and the emergence of artificial intelligence in most sectors worldwide has seen computers impersonate human activities and change the way the world operates. The evolution of machine learning, computing power and the Internet through artificial intelligence, which is at the core of the fourth industrial revolution, has seen the need to continue revamping and rethinking the way we do things when operating in these changing times (Sahai and Rath “Artificial Intelligence and the 4th Industrial Revolution” in Panda, Mishra, Balamurali and Elngar (eds) *Artificial Intelligence and Machine Learning in Business Management: Concepts, Challenges and Case Studies* (2021) 17). AI, through technology, has seen knowledge machines move beyond analytical to predictive and prescriptive applications, shaping the new economy and marketplace (Sahai and Rath in Panda *et al Artificial Intelligence and Machine Learning* 17). There is no doubt that AI is also transforming the legal profession in ways

that one can hardly imagine. This note looks at the impact of AI on legal practice, highlighting the opportunities for greater efficiency, productivity and accuracy while also looking at some of the challenges posed by AI, such as privacy issues and ethical considerations. In addition, the note looks at how AI can be incorporated into the LLB curriculum with a strong focus on deep and lifelong learning for law students. The note concludes with a recommendation for the legal sector and all parties involved in advancing the legal profession to embrace AI while mitigating its potential risks.

2 The rise of AI

AI is commonly defined as technology in the form of machines and computers that are designed to emulate the cognitive abilities of humans in order to solve problems and simplify processes (Tai "The Impact of Artificial Intelligence on Human Society and Bioethics" 2020 *Tzu Chi Medical Journal* 339). AI is not a new concept, as many people believe, and it is often regarded as the oldest field of computer science (Holzinger, Langs, Denk, Zatloukal and Muller "Causability and Explainability of Artificial Intelligence in Medicine" 2019 *WIREs Data Mining Knowledge Discovery* 312). In 1950, Alan Turing, often referred to as the father of AI, published a book titled "Computer Machinery and Intelligence", which gave credence to the idea that a machine could display and achieve intelligent behaviour similar to that of a person (Biswas "History of AI: A Fascinating Journey Through Time" 2024 *Dorik* 6). Even before this period, a Japanese professor named Makoto Nishimura invented the first Japanese robot called "Gakutensoku" (Biswas 2024 *Dorik* 8). In 1952, computer scientist Arthur Samuel invented a programme that could play checkers on its own (Biswas 2024 *Dorik* 8). In 1955, John McCarthy, often regarded as the pioneer of AI, organised a conference that spread the word and created interest in AI as a field of study (Biswas 2024 *Dorik* 21). Slowly, in the 1960s, AI developed to think like humans and chat with humans, resulting in the first chatterbot (Biswas 2024 *Dorik* 7). In 1979, the Association for the Advancement of Artificial Intelligence (AAAI) was formed, creating further interest in AI (Biswas 2024 *Dorik* 4). In 1986, the world saw the first driverless robot car. The 1980s saw a period where interest in AI waned, but the 1990s saw a resurgence where an AI programme called Deep Blue won a chess match against the world chess champion (Biswas 2024 *Dorik* 3). A breakthrough also came in the 1990s, when AI could recognise voice through a software programme called "Dragon Naturally Speaking" (Biswas 2024 *Dorik* 11). In 2000, AI had evolved to recognise and simulate human emotion, and a few years later, robotic vacuum cleaners were invented (Biswas 2024 *Dorik* 12). Two robots travelling to Mars in 2003 were well documented. Big technology companies like Meta, Apple, Netflix and Microsoft then used the power of AI for gaming, algorithms, virtual assistants and advertisements (Biswas 2024 *Dorik* 13). In current times, AI has advanced to such an extent that it can recognise voices and human body movements, create immediate responses, translate text, generate images, create videos from texts, develop animations, and more (Biswas 2024 *Dorik* 14).

3 AI in legal practice

AI is shaping the future of the world in ways that far exceed the creation of any past invention (Ahmad, Han, Alam, Rehmat, Irshad, Munoz and Montes "Impact of Artificial Intelligence on Human Loss in Decision Making, Laziness and Safety in Education" 2023 *Humanit Soc Sci Commun* 311). In the education sector, AI has revolutionised teaching and learning, with learning management systems, lectures, discussion boards, examination integrity, student success metrics, research, plagiarism detection, enrolment and other key functions all being influenced or shaped by AI (Ahmad *et al* 2023 *Humanit Soc Sci Commun* 311). The legal profession is no different, with AI now influencing the day-to-day activities of legal professionals and the legal environment. The advent of data analytical tools, smart virtual assistants, legal-software programmes and practice-management systems has resulted in the work of lawyers being better managed and more streamlined, allowing more time for time-consuming tasks, consultations and litigation (Pietropaoli "Use of Artificial Intelligence in Legal Practice" 2023 *British Institute of International and Comparative Law Report (BIICL)* 3). According to a recent report by the British Institute of International and Comparative Law, AI is now being used to assist lawyers in seven key areas of legal work, namely legal research and e-discovery, as a document drafting and management tool, predictive legal analysis, legal review as a reading and summarising tool, case management and filing, client communication and automation and as a learning and marketing tool (Pietropaoli 2023 *BIICL* 3). Many legal practitioners have highlighted that AI as a predictive analysis tool is groundbreaking, as now case outcomes, data, trends, litigation risks and even strategic legal decisions can be highlighted by AI virtual assistants when brainstorming or preparing for a legal matter (Pietropaoli 2023 *BIICL* 3). Various AI-related platforms or search engines can locate legal precedents, identify and analyse case law and relevant statutes, review vast numbers of legal documents, identify patterns, discrepancies and trends, and overall provide greater insight into accurate decision-making while also saving a lot of preparation time and costs (Pietropaoli 2023 *BIICL* 3). These AI virtual assistants or tools can attend to many tedious and routine tasks such as case filing, scheduling meetings, calendar management, generating bills and invoices and many more administrative tasks (Pietropaoli 2023 *BIICL* 3). Legal bots, which are online programmes, are now being used to assist clients with specific legal issues or to provide customised answers based on unique sets of facts (Marchant "Artificial Intelligence and the Future of Legal Practice" 2017 *The SciTechLawyer* 22). In some countries, AI algorithms are now being used in criminal-sentencing decisions, and a number of online dispute-resolution tools are being used to increase access to the legal system and settle thousands of minor disputes (Marchant 2017 *The SciTechLawyer* 22). The United Kingdom government has moved towards an Internet-based dispute-resolution system that seeks to resolve minor civil claims without the intervention of a court (Marchant 2017 *The SciTechLawyer* 22). The legal profession has embraced the use of AI in practice, and its popularity is now spreading to other legal sectors such as advisory boards, the courts, the judiciary and various other role-players.

4 The advantages of using AI in practice

The legal profession can be stressful as legal practitioners spend a lot of their time analysing documents, preparing for court, consulting with clients and researching the law so as to keep abreast of new legal developments in legislation and case law. Many legal practitioners have little time for their private lives, owing to a voluminous workload. However, AI has alleviated many challenges experienced by legal practitioners, as computer software systems are programmed to complete data-intensive tasks in a fraction of the time that it would have taken a person. Through its ability to “learn” as it goes, AI can analyse legal documents and contracts at breakneck speed, picking up missing words, terms or clauses through repetitive analysis. A huge advantage is that these “intelligent” tools provide more accurate data and results, as a person can get tired and distracted very easily (Marwaha “7 Ways Artificial Intelligence Can Benefit Your Law Firm” 2017 <http://www.lawtechnologytoday.org/2017/07/7-ways-artificial-intelligence-can-benefit-your-law-firm/> (lawtechnologytoday.org in Bing) (accessed 2024-09-19)). AI can save the legal practitioner countless hours spent on tasks such as document review, legal research, proofreading, case management and general organisation of most of the paperwork usually associated with a legal office (Marwaha <http://www.lawtechnologytoday.org/2017/07/7-ways-artificial-intelligence-can-benefit-your-law-firm/>). AI-powered chatbots can be used by law firms to provide instant feedback and support to online clients, directing more complex problems to an attorney, increasing access to justice and allowing more time and space for the attorney to manage their personal and professional time (Pietropaoli 2023 *BIICL* 3). AI, through its predictive-analysis tools and risk-assessment software, can allow legal practitioners to identify risks, predict outcomes and find smart solutions long before problems arise, and this has the effect of reducing costs, promoting client satisfaction and protecting the reputation of the law firm (Pietropaoli 2023 *BIICL* 3). Some AI software has the ability to assess every lawsuit in that specific field of law and provide litigation avoidance advice to the legal practitioner, resulting in a more likely scenario of settlements, which may be more advantageous to the client (Pietropaoli 2023 *BIICL* 3). Allowing AI to attend to time-consuming, menial and repetitive tasks can also free up practitioners to focus more on high-quality legal work, such as litigation, longer and more in-depth consultation with clients, training and mentoring of staff and high-level legal representation, which is crucial to a successful legal practice. There is no doubt that AI has transformed the legal profession in many ways, but most legal professionals would agree that the key positives attributable to AI are alleviating stress, reducing costly errors and mistakes, increasing productivity and saving time and costs (Pietropaoli 2023 *BIICL* 3).

5 The risks associated with AI

AI is not adequately regulated, and legal practitioners need to exercise a degree of caution when using it in legal practice. It is difficult to trace the process of decision-making by AI systems, and many users may not even understand how a decision has been arrived at, raising concerns about

accountability (Pietropaoli 2023 *BIICL* 3). It is important, then, to double-check the results as AI systems can be defective, display incorrect information or even display some degree of bias that could have emanated from their programmer (Pietropaoli 2023 *BIICL* 3). Any mistakes in the AI algorithms can lead to repetitive errors, and therefore, training on the use of AI tools, systems and algorithms is crucial to detecting and alleviating such errors (Ahmad *et al* 2023 *Humanit Soc Sci Commun* 311). There are numerous ethical issues associated with the use of AI, and these include but are not limited to privacy, consent, use of personal data, criminal and malicious use, bias, lack of autonomy and delegated decision-making (Stahl *Artificial Intelligence for a Better Future* (2021) 25). Legal practitioners need to guard against the blanket use of AI, and ethical issues can be minimised by using secure algorithms to protect the user's privacy, security and any confidential material that can be leaked (Pietropaoli 2023 *BIICL* 3). Lawyers need to guard against clients' confidential information being leaked or lost when using AI tools, and there must be a concerted effort made to ensure that the duty to preserve client confidentiality is not breached. This may require informing clients about the use of AI tools and possibly obtaining their informed consent at the outset to avoid possible future legal challenges (Pietropaoli 2023 *BIICL* 3). The legal profession also needs to guard against over-reliance on AI, as clients may lose confidence and trust in a system that does not prioritise the human element (Pietropaoli 2023 *BIICL* 3).

6 Introducing AI into the LLB curriculum

Most researchers agree that AI has now become a vital cog in education and has a distinct role to play in educating students (Ahmad, Rahmat, Mubarik, Alam and Hyder) "Artificial Intelligence and Its Role in Education" 2021 *Sustainability* 7). Many places of learning have moved towards flexible, data-driven spaces where students can learn beyond their four walls. Technology has changed the world, and a new breed of students called "digital natives" has embraced technology at a young age (Pistone "Law Schools and Technology: Where We Are and Where We Are Heading" 2015 *Journal of Legal Education* 587). With the advent of the fourth industrial revolution and the rise of AI technologies that have infiltrated most sectors and fields, the demand for core skillsets such as creativity, innovation and digital acumen in this "new age" of lawyering requires a re-evaluation of the traditional approaches to educating and training future lawyers (Fenwick, Kaal and Vermeulen "Legal Education in the Blockchain Revolution" 2017 *Legal Studies Research Paper No 17-05* <https://ssrn.com/abstract=2939127>). The call for more well-rounded LLB graduates who display readiness for practice in the twenty-first century has been made by many professional bodies and legal role-players in the past few years (Van Niekerk "The Four Year Undergraduate LLB: Where to From Here?" 2013 34(3) *Obiter* 533). The issue of technological competence is now seen as an integral component of any LLB programme, and law students should be trained in using all forms of AI tools that are now relevant in legal practice. The New York State Bar Association in its report on the future of the legal profession, focused expansively on the role of technology in practice and recommended that law schools and firms commence or increase the training of lawyers in the use of technology (see New York State Bar Association *Report of the Task Force*

on the Future of the Legal Profession (2011)). The Report went on to recommend that law schools increase their offerings on technology and incorporate into the curriculum crucial areas such as online legal research, e-discovery, document-management technology, technology in the courtroom and project management. The report added that using technology in practice is crucial to assist lawyers in working faster and more efficiently, finding better solutions to legal problems, and competing more effectively in the marketplace. Law students will be disadvantaged if they are not exposed to AI technology at an early stage, as AI will enable them to work smarter, faster and more accurately in a shorter time. At the outset, students need to understand how AI works, how it can be incorporated into practice, its benefits and ways to minimise its risks.

From a practical perspective, students need to understand how AI can assist lawyers in e-discovery, document automation, predictive legal analysis, legal research, case management, legal review and client communication and support (Pietropaoli 2023 *BIICL* 31). Exposing law students to AI requires not only a focus on the delivery mode but also incorporating it into the curriculum, offering specialist law and technology courses and arranging access to various AI software programmes (Goodenough “Developing an E-Curriculum: Reflections on the Future of Legal Education and on the Importance of Digital Expertise” 2013 *Chicago-Kent Law Review* Paper 13–13 <https://ssrn.com/abstract=2255005>). From a practical perspective, technology in the form of AI can be infused into the curriculum in many ways. Assignments and study topics can focus on AI software and tools such as ChatGPT, IronClad, Genie AI, Spellbook, Grammarly, Contract Express, Law Notion and many more legal review and analytical solutions. Legal Clinics can expose students to smart virtual assistants, case-management tools and expertise automation. AI competence can also be integrated into the curriculum by linking it to course electives, upper-level technology courses or stand-alone modules such as Legal Skills or Legal Practice, where it can form part of an ethical requirement or professional skill (O’Leary “Smart Lawyering: Integrating Technology Competence into the Legal Practice Curriculum” 2021 *University of New Hampshire Law Review* 201). However, legal and ethical issues arising from the use of AI in legal practice must also be highlighted, and students must be aware of concerns relating to privacy, duty of confidentiality, job loss, bias, lack of transparency and lack of the human element in the decision-making process (Pietropaoli 2023 *BIICL* 31). It is imperative that ethical guidelines be developed so that issues of privacy, confidentiality, the human role and intellectual-property rights, among other concerns, are brought to the fore before students focus on the more popular elements of using AI (Pietropaoli 2023 *BIICL* 31).

7 Conclusion

AI has transformed the world and has greatly impacted the way we function, live and carry out our daily activities. The legal profession, like many other disciplines, is being revolutionised by AI technologies that are enabling legal practitioners to work smarter, faster and more efficiently in the current legal landscape. The benefits of using AI in practice are far-reaching with the

advent of data analytical tools, smart virtual assistants, legal software programmes and practice-management systems simplifying time-consuming tasks, consultations and litigation (Pietropaoli 2023 *BIICL* 3). However, despite the potential to use AI technologies in legal practice, it is imperative that legal practitioners upskill and gain competence in using such tools in practice (Pietropaoli 2023 *BIICL* 3). Legal practitioners need to exercise caution when dealing with numerous ethical issues associated with the use of AI, and these include but are not limited to privacy, consent, use of personal data, criminal and malicious use, bias, lack of autonomy and delegated decision-making (Stahl *Artificial Intelligence for a Better Future* 25). A concern with AI integration is that it minimises human control, impacts negatively on critical thinking and value creation and could lead to job loss in the legal profession (Pietropaoli 2023 *BIICL* 3). The concern that AI may replace lawyers is far-fetched as AI cannot provide the same level of empathy, insight, interaction, creativity and connection with clients as can a lawyer (Pietropaoli 2023 *BIICL* 3). While the legal profession can benefit from using AI as a collaborative tool, it also needs to guard against over-reliance on AI technologies as the profession still requires professionals who exercise due diligence, emotional intelligence and strategic advice to clients (Pietropaoli 2023 *BIICL* 3). Going forward, it may be the ideal time for AI use to be regulated so that issues of privacy, data protection, interpretation and fairness are not “brushed under the carpet”.

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