Use of Artificial Intelligence in Legal Practice

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The use of AI tools in legal practice is raising questions that are reshaping the profession. This brief on the Use of Artificial Intelligence in Legal Practice describes the different ways AI can be embedded in legal practice and considers legal and ethical concerns related to the integrity of the legal system, the duties of lawyers, and protection of the rights of clients. Legal practitioners are increasingly utilizing various types of AI tools in several areas of work.

1. Legal research and e-discovery: e-discovery software enable a vast number of documents to be surveyed and those relevant to the search criteria to be identified in a time and cost-efficient way. Tools based on Natural Language Processing (NLP) are being used to retrieve relevant case law, statutes, and regulations. Many lawyers interviewed for this brief discussed using NLP tools such as ChatGPT to answer simple legal questions but also as a legal search engine that can quickly search for relevant legal provisions and case law.

2. Document automation: Virtual assistants equipped with NLP capabilities like for example Genie AI can help lawyers to automate repetitive and time-consuming operations like document review, contract analysis and generating legal documents.

3. Predictive legal analysis: One of the biggest areas of opportunity for generative AI in legal work is predictive analysis. AI algorithms can examine past data to foresee case outcomes, litigation trends, and prospective threats. Lex Machina, for example, is used for litigation strategy as it can leverage court dockets database to gain insights on how a judge may rule. Law Notion uses extractive and generative AI to automatically analyses historical success rates of similar cases to assess potential case outcomes, and analytics results to support evidence-based arguments.

4. Legal review: AI solutions can also be used for legal reviews, reading and summarising documents, disclosure efficiency, and for finding patterns, discrepancies, and pertinent data in legal documents. Elicit, for example uses language models to find relevant papers, summarize takeaways specific to the user's question.

5. Case management: AI tools are also useful for routine work such as filing and sorting out files, for case management and as personal assistants for calendar management, scheduling client meetings, and timekeeping and billing time.

6. Legal advice and expertise automation: Some interviewees also use smart virtual assistants to provide client communication and support, handle routine client inquiries, and provide basic legal information to clients.

7. Information and marketing: Finally, lawyers mentioned using AI tools for virtual research assistants and as marketing tools.

Despite those advantages, however, the increasingly common use of AI in legal practice raises various legal and ethical issues.

1. Accuracy and accountability: AI systems can make errors or provide incorrect information or generate legal interpretations or conclusions that deviate from established legal norms which could have serious consequences in legal matters. If AI tools are used to assist in making legal decisions, the question of who is responsible for those decisions arises. Determining responsibility for these errors can be complex-when AI is involved difficult questions relate to the apportionment of liability between the developer of a defective AI solution and the law firm that uses it.

2. Transparency, communication, and duty of competent representation: Lawyers have a duty to provide competent representation and clear information to their client. The duty of competent representation requires an awareness of the benefits and risks associated with the AI technology. Lawyers are also required to communicate with their clients by promptly informing of any decision or circumstance requiring the client's informed consent.

3. Bias and fairness: AI algorithms can inadvertently perpetuate biases present in training data, leading to biased outcomes. This can result in unequal treatment or unjust results, violating principles of fairness and equal protection under the law.

4. Privacy, data protection, conflict of interests, and duty of confidentiality: AI often requires access to sensitive legal data and documents. Lawyers are required by law to maintain confidentiality of client information and are not permitted to represent clients in conflict-of-interest situations. For the use of client data, the EU General Data Protection Regulation (GDPR) applies.

5. Lack of human interpretation: Relying on AI systems could result in a lack of human insight, empathy, and contextual understanding, which is necessary to establish client's trust.

6. Job displacement: Finally, the adoption of AI in legal practice could potentially lead to job displacement. If mundane and tedious legal work are eventually outsourced to AI assistants, junior lawyers may not be able to acquire practical legal skills.

Widespread adoption of AI in the legal industry requires gaining the trust and acceptance of legal professionals, clients, and the broader society. There is clearly great promise in what AI tools can and will do to support legal professionals in their work but beyond the hype, there is still a need to fully understand how and when to use this technology and what are the inherent risks. Addressing concerns about AI's reliability, accountability, privacy, transparency, and potential biases are crucial for fostering trust and ensuring the successful integration of AI technologies.

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