

Artificial Intelligence and Legal Education

By William Connell and Megan Hamlin Black

Let's be frank, Artificial Intelligence (AI) can be a scary thing. The concept of machines that think has been around as a concept in science fiction for quite a while. Think of HAL, the supercomputer of the 1968 film *2001 – A Space Odyssey*, who ultimately turned against his astronaut companions and became a cold-blooded killer.¹ Or recall the tormented monster in Mary Shelley's *Frankenstein*, when the monster says, "You are my creator, but I am your master" (admittedly, the creature was a compilation of human parts, but you get the concept).² If you are an attorney, or preparing to become one, you probably have heard speculation of whether AI will replace lawyers, and if so, how. Understandably, this can be a cause of concern. What is lesser known is the impact this has on formal legal education, and how the legal education is adjusting to address the changing legal landscape. This article explores the emergence of AI technology into the legal profession and offers insights as to how it can be addressed by law schools.

AI in the Legal Profession and Law Students

There seems to be a conflict between the pace that innovation occurs in the practice of law versus the speed it occurs in technology, especially in the case of AI technology for legal research tools. The legal practice is predominantly a prescriptive field as it focuses on legal precedent, making room for innovation a sometimes arduous and slow process. AI legal technology

companies seeking to break into the field and become as ubiquitous as Westlaw or LexisNexis move exponentially faster than the profession. For instance, in the past year, ROSS Intelligence has introduced new practices of law to its AI databases so that ROSS states on its Web site that "ROSS' scope of coverage now encompasses American caselaw from all practice areas" and all state statutes and regulations. Their Web site represents that firms using ROSS reported that they experienced finding more legal authorities and using less time to do so, all of which increases efficiency.³ The increasing speed of technology innovation advancing to AI legal technology tools arguably threatens the status quo. This technology could be seen as a danger to the practice of law, which is interesting since the notion that the practice of law is in decline as a profession has been discussed since at least the mid-1990s.⁴ The focus of that discussion was often on the quality of life as a lawyer. This is still a concern as the legal profession has remained relatively unchanged; however, in the last couple of years, legal technology tools have become increasingly mainstream, and there exists concern that technology could *replace* lawyers. Law students are aware of this. Law School Transparency Data Dashboard recently reported that overall first year enrollment in law schools in 2017 has declined since 2010 by approximately 25 percent.⁵ A recent article in *USA Today* suggested that this steady decline has contributed to several mergers of law schools (e.g. Hamline University and William Mitchell College of Law in Minnesota), and in some instances, closure, for example, the Whittier Law School. In an article published in 2017, writer Greg Toppo in *USA Today* opined that, "As several trends hit the law profession—fewer graduates, fewer jobs and the specter of growing automation in legal services—experts say more law schools could take a hit."⁶

There is speculation that the automation provided by AI legal technology tools will lead to fewer jobs. In a recent blog post, Professor Christian Sundquist of Albany Law School, expressed the view of many when noting that some legal employment opportunities are being taken over by AI, especially opportunities for first-year lawyers.⁷ It is important to note two different types of consumers for the AI legal technology tools: Attorneys and members of the public who need legal assistance. The tools for both markets have similar

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functions such as natural language searches, legal document review, and basic legal research, but are tailored based on the consumer's legal expertise. LegalZoom, for example, on its Web site, purports to assist a person in the preparation of legal documents covering a wide array of topics including but not limited to business formation, wills and trusts, and to help with intellectual property matters (the Web site indicates it offers self-guided programs and an independent network of associated attorneys).⁸ Companies with AI tools marketed toward attorneys include functions such as legal research, basic memo checking legal discovery and even drafting in some cases. This work has been referred to as lower rung legal functions that are traditionally done by new lawyers, often recent law school graduates. Some believe that lawyers who do these functions will need to change their focus or face the prospect of being without a job.⁹

This is not to say that the legal profession is going away. Many argue that these AI technological advancements will allow and provide more opportunities for those willing to work with the AI. To take advantage of these opportunities, it is vital that attorneys and law school students know what the emerging technologies are and how to work with them. In looking at the impact of AI on legal education, many of the articles consist of Web sites and blogs sponsored by companies working in the field. The relative lack of scholarly resources on the topic indicates the newness of the AI technology and research tools (although admittedly, the topic is being discussed with increasing frequency). AI technology could make lawyers more efficient, and thereby ultimately increase the *demand* for lawyers, lawyers with strong AI skills. Yet, even this viewpoint acknowledges that the progress of AI could impact *how many* legal positions and opportunities are available in the future.¹⁰

Education is at the center of the future of the legal profession. There is pressure to provide an education to law school students which will make them competitive in the legal market. Law schools need to embrace the increased presence of AI as research tools in the legal profession and adjust their curriculum accordingly. Legal educators are aware of the impact of AI on the legal profession, but in general, the coursework students need is still in the developmental stages. Brian Dalton, writing on the Web site *Above the Law 2020*, wrote of one survey of law schools which reported that “barely one-fifth” of the surveyed schools responded that the schools were working new legal technology into coursework (although more were considering doing so). Dalton also reported that as of spring 2018, approximately 10 percent of American Bar Association (ABA)-accredited law schools held a course on artificial intelligence. Dalton

reported that among several academics who were asked, the consensus was, “AI had yet to meaningfully arrive as a teaching tool.”¹¹

Michael Robak, Associate Dean at the University of St. Thomas School of Law, recently wrote a blog post about a panel he moderated at the CALIcon June 2018 Conference. This panel consisted of recent law school graduates. Robak reported that the opinion of the students was that there existed “a need to increase law school administration and faculty awareness that legal technology is a real path for future opportunities and employment.”¹² Furthermore, the students opined about a need for more learning and access to legal technology within the law school setting. They also suggested that adjunct teachers and clinical faculty were very helpful in this type of teaching.¹³

That said, courses are being offered in AI application by some law schools. Some schools even have programs. For example, LegalRnD—The Center for Legal Services Innovation at Michigan State University, offers a curriculum of course offerings with titles that include Artificial Intelligence & Law, Delivering Legal Services: New Legal Landscape, Information Privacy and Security Law, and E-Discovery among others.¹⁴ At many schools, however, these courses and programs, if they exist, are in their infancy. For many law school students, their experience is that AI education is self-directed, that the students interested in AI must seek out individuals who can assist them.¹⁵

Some Suggestions to Consider

So, what are some suggestions for law school education?

- Suggestion 1—Identify the skills which are and will be needed to successfully practice law in the 21st century.

Professor Sundquist suggests that much of the traditional legal pedagogy focused on providing information and knowledge of items which technology now handles. While the Socratic Method has been a time-honored tradition, Socrates never had to deal with an intelligent computer. That does not mean no new frontiers exist for legal practitioners to master. There are areas of study vital to legal practice that AI tools have not been able to replicate. Professor Sundquist wrote in a blog that the law schools must train students in three areas: “(1) Engage in high-level critical analysis; (2) provide creative solutions to complicated problems; and (3) provide emotive client-focused representation.”¹⁶ Creativity and empathy are two areas that machine learning cannot exceed humans. Yes, IBM has developed computers such

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as Deep Blue which are great chess players.¹⁷ Shelley is a program that produces computer-generated horror stories and is now collaborating with human authors to produce its stories.¹⁸ The combination of AI technology and human collaboration can create a stronger product, either in the practice of law or writing literature. The combination of a strong understanding of AI with forward thinking creativity and empathy are areas which law students can pursue and have a strong chance of finding success in.

There are other skills artificial intelligence cannot replicate, and it would be beneficial for legal educators to build on those skills so that future attorneys and AI complement each other. AI is many things, but it is not static. Law schools could develop study committees to monitor the use of AI in the legal profession and use the committee's findings to identify the skills which are needed. This will need to become an integral part of the delivery of legal education. Courses must be developed to promote and enhance AI skills. The establishment of courses, however, will not be enough. Legal educators will need to be continually monitoring the legal field to see how AI is evolving. This is not going to be a one-time effort, but a process whereby the courses are adjusted and tweaked every year. In traditional courses such as contracts, torts, and evidence, there are changes in the curriculum, but these tend to happen over a long period of time (multiple years). AI changes seem to occur monthly. Incorporating AI instruction into traditional legal education will take some creativity and a balance between teaching specific skills in AI but also not being overly concentrated on a particular program that may be totally revised or even obsolete within five years. We would suggest that law school study committees include people not only from within the school, but also from outside the legal community and the technology field. The goal should be to hear from multiple voices and communities in deciding how to identify the necessary AI skills and then deciding how best to teach students those AI skills necessary to succeed in the future.

- Suggestion 2—Integrate courses or programs which provide instruction in the use of artificial intelligence within the legal field.

Law schools could provide more formal instruction in AI technologies by developing specific courses addressing the use of and access to Artificial Intelligence. Law schools want and need to be competitive. To be competitive, law schools need to help equip students with skills that will be needed, as opposed to focusing on what has been successful in the past.

On Michigan State University's Center for Legal Services Innovation Web site, the course description for the Artificial Intelligence & Law course reads as follows:

Artificial Intelligence is experiencing a “golden age” of rapid development. As the use of AI increases, people and computers are knowingly and unknowingly interacting in new ways. Lawyers are confronting computer issues in every practice area. Smart contracts. Autonomous vehicles. Creation and ownership of property. Robot policing and warfare. Interconnected products. Autonomous devices. AI requires updated and new regulations, new ways of practicing, and an understanding of how laws and code interact as a new regulatory system within society. This class will look at how computers are affecting the law and what lawyers should know to provide legal services in this hybrid world.¹⁹

This description suggests a course that is looking at both the law of new AI technologies and how to use them. Our purpose in this article is not to promote a program, but to illustrate what a course or curriculum might look like.

Undoubtedly, there would need to be some financial investment by the schools. Classes in AI seem particularly ripe for being co-taught. Collaboration between full-time and adjunct faculty might work very well. Furthermore, the schools would need to provide students access to certain AI programs. Often this might involve the purchase of a license or licenses to enable access. There will be a fiscal impact associated with these programs, which we do not mean to dismiss. We, however, make three points in response:

1. If schools do accept that AI is an integral part of the legal landscape, then AI education is worth pursuing. Schools should seek out faculty interested in teaching such courses and put a focus on it;
2. Adjunct faculty, or practitioner faculty, typically work for a stipend and do not receive other benefits. Adjunct faculty are a relatively inexpensive investment for a post-secondary school, especially when it comes to teaching critical skills. Further, since technology is rapidly changing, the courses would need to be developed from scratch, so to speak. A collaborative approach might be the best practice to implement; and
3. As to the subscriptions, the schools can negotiate with the providers. It should be noted that there are

several free AI tools available on the market (e.g., EVA by ROSS Intelligence). In addition, some providers may be willing to provide educational institutions with a reduced fee or even free access to their programs to promote the use of their product. Law student graduates will naturally gravitate to programs they have used in school.

We could note that the study committees referenced in Suggestion 1 should be involved in shaping the AI curriculum.

- Suggestion 3—Encourage more partnerships between law students and technology start-up entities.

Legal clients today are looking, indeed, are expecting, their attorneys to have some sophistication with the new legal technologies. Clients do not want to pay partners or associates for the time to learn these technologies. Yet, hands-on training is a good way to learn a new technology. Law schools are able to address this issue.²⁰ A new trend in legal education is to have law students work with attorneys to assist startup and other new technological companies. This model emphasizes the student working with the client in a more direct capacity than working as an intern in a traditional law firm.²¹ One example of this is the Legal Startup Garage at University of California–Hastings. According to the program’s Web site, law students provide legal services to new technology companies, under the supervision of other attorneys. The legal work includes the areas of corporate and intellectual property law.²² Admittedly, it may be easier for a law school in, say, California or the Boston area, to find multiple startup technology companies or incubators to work with than schools in other areas, but the idea can certainly be researched and applied.

This again relates to the study committees previously referenced. A key component to all these suggestions is that legal educators work with those from the outside legal community and the AI community to implement these ideas. Indeed, many of the people on such study committees could help with partnering students with an organization that will be beneficial to both parties.

Conclusion

Despite our pop culture’s sometimes frightening portrayals of artificial intelligence, AI is a tool to be used, not feared. Automation is changing how many jobs are performed today. Why would one expect the legal profession to be isolated from these

changes? The encroachment of AI into the legal field is becoming more and more rapid. Legal education, particularly in law schools, is steeped in tradition. While tradition is a great thing, tradition is often slow to evolve. Law schools need to review the curriculum and provide learning experiences in the use of AI in the legal profession. Many prospective law students are quite cognizant of the impact of AI on the law. These students will look for schools that prepare them for the new legal world. AI will be a part of that world. Being able to provide a strong curriculum in artificial intelligence will make a school a more attractive choice to students in a very competitive market.

Notes

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