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Artificial Intelligence, Law, and Ethics

Artificial intelligence has been taking (and passing) law exams at universities, writing scientific articles on legal problems – in collaboration with academics – or preparing submissions, statements of claims, and contracts at lightning speed. And all this happening within weeks of the launch (November 2022) of the best-known AI application called ChatGPT (Generative Pre-trained Transformer), made available for free by the US company OpenAI. It is a conversational chatbot based on large language models making use of deep learning. Its resources include almost unlimited data sets from all over the world, excluding current information from the Internet because the system is – at least for now – closed, limited, and able to establish neural connections only between what it already knows. It generates new content based on the resources it has access to, using logical semantic connections and the mathematical probability of occurrence of a given word in a given sequence. Its statistical model can generate differently worded, correct content each time – even in response to the same question. Hence the first natural attempts of pupils and students to use the tool to write assignments and theses.

And even though the ChatGPT app has so far earned a C+ on its exams in constitutional law, labour law, tax law, and tort liability, according to the authors of the experiment conducted at the University of Minnesota Law School,[2] it not only passed all subjects, but its next version will probably score more points and come close to the results of some of the best students. Actually, it may even surpass them because it will have the entirety of laws, regulations, judgements, rulings, publications, and commentaries at its disposal – just like chess computers have access to a record of all the games played by grandmasters. A body of knowledge impossible for a single person to assimilate. Moreover, it will be able to instantly process these resources and present the results in the form of a narrative.

It is already clear that law faculties (as well as other educational institutions – from elementary to doctoral schools) need to find methods that would make

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[2]   https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4335905 (access: 6.02.2023).

using AI tools (such as ChatGPT) useful for pupils and students because the general bans that are being introduced (e.g. in public schools in New York or Seattle) will not last long and cannot be enforced in the case of home assignments or the process of writing a thesis. There is a need for positive examples of the application of AI in the teaching process, involving even the inclusion of such tools in the curriculum – in a similar way to how research methods or methods of obtaining information and opinions from the Internet are taught. **Law schools can set an example when it comes to developing academic rules to help learners use AI and language models in a transparent and ethical manner.**

Law professor Andrew Perlman of Boston's Suffolk University Law School used ChatGPT to write a scholarly paper on the implications of the introduction of this app for legal services and society as a whole.[3] The article is more than 15 pages long, and the scholar's own input includes only the abstract, the epilogue (conclusions), and the questions or prompts to which ChatGPT responded. The rest of the text was generated by artificial intelligence and did not undergo any editing or proofreading. It took, as the author mentioned in the abstract, a total of about an hour to "write" the entire paper.

As Professor Perlman stressed, the answers provided by the application were imperfect and problematic at times, and the use of artificial intelligence itself raises a number of legal, regulatory, and ethical issues. On the other hand, the utilisation of this tool in such a mature, specialised, and deeply humanities discipline as law points to the need to review and rethink the existing methods of accessing, collecting, and processing knowledge, using legal advice and new methods of training the workforce of the future for professions in law, finance, consulting, management or medicine.

The social role of experts, consultants, and professionals employed in the knowledge economy will change – especially in the consulting, technology, creative, and communications industries. We will soon have to face the need to answer the question of to whom to attribute authorship of an idea, content or publication (to quote Professor Perlman, "to determine whether a piece of writing was produced by a human or a machine learning model"). It will also be necessary to confront potential abuse or over-reliance on tools that make use of artificial intelligence.

As pointed out by the authors of the University of Minnesota's experiment involving ChatGPT taking an exam in law, lawyers will soon have to use artificial intelligence on a daily basis to save resources, time, and money, as well as to improve the quality of their materials and performance. Examples include standard statements of claims and motions, popular agreements and contracts, draft versions of pleadings

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[3]   https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4294197 (access: 6.02.2023).

or summaries of arguments and judicial decisions concerning a particular issue, which can be drawn up by ChatGPT or similar tools. Their final versions, however, must be – also for reasons associated with professional liability and ethics – finalised and approved by a human being with not only knowledge of the relevant facts and technical expertise, but also with the ability to reason, prioritise issues, and draw conclusions, which is something that cannot be attributed even to the most advanced language models in existence.

In addition, law firms and lawyers will be able to use AI to analyse their own databases and sets of publications, opinions, internal procedures, letters, and submissions in terms of accumulated knowledge, communication style, and institutional culture, which in the future will be applied to content (contracts, letters, applications, etc.) developed by tools such as ChatGPT to make them in line with the existing materials drawn up by professionals working in law firms.

According to University of Minnesota researchers, it is difficult to predict today how AI will affect the employment prospects of law graduates, but future lawyers will certainly need to learn how to use these tools effectively to remain competitive in the market. After all, it is difficult to imagine a modern lawyer who keeps on referring only to commentaries and glosses found in printed books or periodicals, typewriting their court submissions. AI applications are unlikely to wipe out the demand for lawyers, but they do herald the twilight of legal services as we know them. In the case of complex legal issues, an AI tool alone will not be enough as there will still be a need for expertise, independent judgement, and advice backed by experience in negotiations, trials, and litigation, which only sufficiently competent and qualified (and tech-savvy) individuals will be able to provide.

When it comes to less complex legal issues, in turn, researchers predict even more far-reaching changes in the provision of legal services. AI will help less affluent clients deal with common cases such as child custody after divorce, debt enforcement, debt repayment (including mortgages), evictions or personal bankruptcy. In countries such as the U.S., nearly 90% of those living below the poverty line and most of the middle class cannot afford legal services as a result of excessive costs thereof. Thanks to technology, such people will be able to take advantage of a more extensive body of knowledge available online, as well as more affordable prices of legal services because applications such as ChatGPT will make it easier for lawyers to serve a much larger number of clients on a budget.

However, technology is no substitute for lawyers, and even ChatGPT itself, when asked about different legal issues, replies that only licensed professionals can give binding, correct answers. Its further versions and similar applications will most likely follow the same line of argument. Nevertheless, the legal industry will have to redefine the rules on professional liability and the standards for the

use of artificial intelligence to avoid disputes over the provision of advice by unauthorised entities (because we can't talk about individuals in the case of AI).

One thing is certain: **we can already witness the effects of the fundamental changes in the legal industry, research, and education in law brought about by the rapid emergence of AI tools such as ChatGPT. The tech revolution is here.** These solutions and applications cannot be ignored or banned altogether (even though certain industry regulations will be necessary, as experts stress) because the next generation of lawyers will use artificial intelligence to streamline their work, save time and money, and – above all – to improve the quality of their services and attract more clients.