

## AI: opportunity or threat for the legal profession?

"Thou aimest high, Master Lee. Consider thou what the invention could do to my poor subjects", replied Queen Elizabeth I to William Lee's patent request for a novel knitting machine.<sup>1</sup> The Virgin Queen rejected the patent, fearing it would render the hands of "young maidens who obtain their daily bread by knitting" obsolete<sup>2</sup> – many of whom would later join the Luddites, a 19<sup>th</sup> century movement of English textile workers violently opposed to livelihood-threatening technological change. With modern Artificial Intelligence ("AI") now capable of passing the SQE, US Bar, *and* Australian LSAT, legal practitioners may soon begin devising plans for some lawyerly-Luddite raids of their own.<sup>3</sup>

Recent advancements in AI, particularly generative AI, have dominated global conversations given the seemingly boundless potential. This has roused employment concerns in several professions once considered "automation-proof",<sup>4</sup> with the legal profession being singled out as especially "vulnerable" by the universities of Pennsylvania, Princeton, and New York.<sup>5</sup>

It would be a mistake to vilify AI automation so hastily. To echo Peter F. Drucker – *Automation is not the Villain*.<sup>6</sup> By using generative AI to automate, *inter alia*, administration, client due diligence, and research, a considerable amount of time is liberated for fee-earners to dedicate to more valuable and billable work, facilitating increased billings, expanding caseload capacity, and potentially fostering more manageable working hours in particularly busy practice areas. Newly improved capabilities of extractive AIs will contribute to even more time and cost savings for firms, aiding in compliance by actively monitoring and alerting teams to regulatory change. Extractive AIs have already demonstrated efficacy in predictive analysis, enabling firms

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<sup>1</sup> D. Acemoglu & J. Robinson, *Why Nations Fail: the origins of power, prosperity, and poverty*, RHD, (2012) pg. 182.

<sup>2</sup> S. Hubert Burke, *Historical Portraits of the Tudor Dynasty and the Reformation Period*, Volume 4, Nabu Press, (2014).

<sup>3</sup> N. Rose, 'Lawrence the 'AI paralegal' passes SQE with flying colours', *Legal Futures* (2023); P. Arredondo, 'GPT-4 Passes the Bar Exam: What That Means for Artificial Intelligence Tools in the Legal Profession', *Stanford Law School* (2023).

<sup>4</sup> R. Kling & C. Dunlop, 'Controversies about Computerization and the Character of White-Collar Work-life', *The Information Society* (1993), 9(1) pp.1-29.

<sup>5</sup> S. Lohr, 'A.I. Is Coming for Lawyers, again', *The New York Times*, 10/04/2023.

<sup>6</sup> P. Drucker, 'Automation is not the Villain; Automation is not the Villain', *The New York Times*, 10/01/1965.

to identify industry trends, commercial developments, and detailed case insights. This is evident in a personal injury practice in London, where AI is employed to assess the viability of conditional-fee arrangements for cases and determine optimal settlement timings.<sup>7</sup>

Such vast improvements in efficiency will serve as a boon to ALSPs, which are set to proliferate owing to AI “levelling the playing field”.<sup>8</sup> This should open up pathways to justice for a larger audience, welcoming more individuals into the legal market and reshaping a profession that has, of late, been branded as two-tiered.<sup>9</sup>

AI will not only benefit firms but also provide opportunities for the lawyers within them. The advent of the new technology has already given rise to legal issues in areas such as privacy, surveillance, and medical diagnosis. With the introduction of AI-generated contracts, AI-powered self-driving cars, and robot surgeons, a surge in legal challenges around liability is expected. In addition, the development of AI designed specifically for legal practice – dubbed ‘AI Lawtech’ – necessitates individuals with both technological acumen and legal expertise.<sup>10</sup>

Replacement is inevitable, though will primarily affect roles carrying out “low-skilled, standardised legal work”.<sup>11</sup> Fears over job security, then, are not unfounded. Nevertheless, the emergence of new practice areas and the demand for AI Lawtech should alleviate such concerns, with an additional 80,000 roles predicted in the next decade – 25,000 by 2025 alone.<sup>12</sup> This affirms the ongoing need for high-skilled lawyers in the profession, regardless of advancing technology.

Analogous with most novel technologies, AI has sparked several concerns – most notably, the expected “savage reduction” of 57,000 jobs by 2038.<sup>13</sup> As forementioned, this

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<sup>7</sup> ‘How Will AI Impact the Legal Sector?’, *Altior Barbri* (2023).

<sup>8</sup> ‘Generative AI could radically alter the practice of law’, *The Economist*, New York, 06/06/2023.

<sup>9</sup> O. Bowcott, ‘Legal aid cuts creating two-tier justice system, says Amnesty’, *The Guardian*, 11/10/2016.

<sup>10</sup> J. Armour & M. Sako, ‘New research finds that AI is improving the way the legal sector operates’, *University of Oxford* (2021).

<sup>11</sup> Boston Consulting Group and Bucerias (2016), referenced in ‘Artificial Intelligence and the Legal Profession’, *The Law Society* (2018), pg. 7.

<sup>12</sup> *Ibid* [n7].

<sup>13</sup> *Ibid* [n7].

impact will predominantly affect lower-skilled roles, and should be offset by the creation of new opportunities in emerging fields. Yet, the jeopardy to the market extends beyond just job security. Observers fear reduced profitability as clients, upon learning about AI usage, may demand lower costs. Moreover, achieving a "level playing field" implies heightened parity and increased competition for clients; a Reuters survey indicates a 33% rise in competition for new market entrants.<sup>14</sup> As firms improved capabilities cause supply to rise, fees are likely to drop. Commentators expect lower fees – with high fees typically seen as a barrier for new clients – to attract a larger clientele, hopefully easing the impact on overall profitability – emphasis on 'hopefully.'

Data security stands out as a major concern. Lawyers uploading sensitive case information to prompt AI raises concerns about data protection, particularly in light of ChatGPT's data breach last year.<sup>15</sup> Those responsible for training AI and reviewing prompts find themselves in uncomfortably close proximity to sensitive data. Some argue that this situation could potentially breach the principle of client confidentiality.

There are also concerns regarding inherent biases embedded in generative AIs, reflecting societal prejudices present in their training datasets. In the legal realm, tackling biases is crucial – a recidivism risk AI tool was noted as being bias against BAME defendants, disproportionately flagging them as more likely to reoffend.<sup>16</sup> The peril lies in biases presented by computers being falsely perceived as objective due to their source, the recent Post Office and Horizon scandal being a good example of this.<sup>17</sup> This ties into the wider conversation surrounding the ethics of AI use in the legal profession. How will AI justify its decisions and who is responsible for them? Particularly given advanced features like neural networks, enabling it to

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<sup>14</sup> 'Future of Professionals Report: How AI is the Catalyst for Transforming Every Aspect of Work', *Thomson Reuters*, (2023).

<sup>15</sup> S. Poremba, 'ChatGPT confirms data breach, raising security concerns', *Security Intelligence* (2023).

<sup>16</sup> M. Stepka, 'Law Bots: How AI Is Reshaping the Legal Profession', *Business Law Today* (2022).

<sup>17</sup> K. Peachey, M. Race & V. Sri-Pathma, 'Post Office scandal explained: What the Horizon saga is all about', *BBC News* (2023).

surpass the original developer's intentions or expectations. Granted it is still early days, as AI becomes increasingly integrated, addressing these questions will become paramount.

No doubt AI is here to stay, redefining the new 'normal' in virtually every industry. Fortunately for the legal profession, commentators seem mostly optimistic. Certainly, AI will face teething problems, the nature of which can, and *are* being remediated through software tweaks.<sup>18</sup> Nonetheless, successful lawyers must continually sharpen legal skills as *well* as understand how to most effectively integrate and leverage the new technology which is set to form an indispensable part of the profession. As to whether it could replace lawyers *entirely* – a report from Oxford University suggests otherwise.<sup>19</sup> Though we shouldn't be quick to rebel if it does. If Economist John Maynard Keynes' 'technological unemployment' is anything to go by, where he predicted an "age of leisure and abundance" along with a 15-hour working week, then expect tired and overworked junior lawyers in the corporate sector to be among the first to usher in our robot replacements.

**(1000 words)**

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<sup>18</sup> J. Nelson, 'With Its Security Under Scrutiny, OpenAI Is Recruiting a Cybersecurity Red Team', *Decrypt* (2023).

<sup>19</sup> *Ibid* [10].