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Artificial Intelligence, the Legal Profession and Access to Justice in Sri Lanka: Feasibility and Challenges

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Abstract

This article explores the feasibility and challenges of using artificial intelligence (AI) in the legal profession to improve access to justice in Sri Lanka. The Sri Lankan legal system faces several challenges, including a lack of access to legal services, particularly in rural areas. AI technology has the potential to address these challenges by providing access to legal information and advice to individuals who cannot afford to hire a lawyer or live in remote areas. The article investigates the ways in which AI can be used to improve access to justice in Sri Lanka. AI-powered legal research tools assist lawyers and judges in managing cases while making the complexities of law more accessible to citizens. However, the article also discusses several challenges that must be addressed to ensure the effectiveness and accessibility of AI solutions. This article will review the existing literature on AI's contribution to the legal profession and explores how these capabilities can assist Sri Lankan legal personnel. It would also discuss the risks and challenges with implementing these features. By being proactive and taking a responsible approach to AI, lawyers and legal professionals can reap the benefits of this technology while minimizing its risks.

Keywords: Artificial Intelligence; Legal profession; Access to justice

1 Introduction

We have arrived at a new era where AI technology is taking the job market by storm. Naturally, this is not the first instance that computers have bested humans. For example, in 2004, a group of researchers developed a statistical model that outperformed legal experts in predicting the outcome of Supreme Court cases.¹

¹ T. W. Ruger, et al, 'The Supreme Court Forecasting Project: Legal and Political Science Approaches to Predicting Supreme Court Decision making' (2004) *104 Columbia Law Review* 1150.

It is the conversation about AI and computer capabilities that has gained increasing traction recently. AI has proven that it is capable of outperforming humans at various tasks, and this is a concept that has been gradually developing over the decades. So how does the legal field benefit from these new developments? A majority of the lawyer's task involves the processing of large volumes of information and computers are speedier and efficient at this task than humans.²

There is little agreement as to the exact definition of AI. Generally, AI technology encompasses the idea of automating tasks that generally require human intelligence.³ When a machine is programmed to perform tasks that require higher-order cognitive processes typically associated with human intelligence, it is considered AI technology.⁴ This has been demonstrated in instances where machines have been programmed to play chess, translate languages, and even drive vehicles.⁵

According to Russell and Norvig⁶, there are two features of AI that can be used to assist the legal profession and the justice system which are machine learning and rules, logic, and knowledge representation.⁷ The term 'machine learning' pertains to a branch of computer science that focuses on creating computer algorithms capable of learning from previous experiences and enhancing their performance as they gather more data.⁸ In essence, it involves recognizing patterns in vast amounts of data, learning from it, and improving its functions.⁹ Here, 'learning' is used in a functional sense, differing from its human context. It means that the machine can enhance its performance based on the experience gained from completing previous tasks.¹⁰

The second feature - Rules, Logic, and Knowledge Representation - is where programmers attempt to model real world phenomena in a method that can be

² J.O. McGinnis and Russell G. Pearce, 'The Great Disruption: How Machine Intelligence Will Transform the Role of Lawyers in the Delivery of Legal Services', available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2436937 (accessed 25 Nov. 2024).

³ S.J. Russell and Peter Norvig, *Artificial Intelligence: A Modern Approach* (Prentice Hall Series in Artificial Intelligence, 2011, 3rd Edition).

⁴ H. Surden, 'Artificial Intelligence and Law: An Overview' (2019) *Georgia State University Law Review*.

⁵ Note 2 above.

⁶ S. J. Russell and Peter Norvig, *Artificial Intelligence: A Modern Approach* (Prentice Hall Series in Artificial Intelligence, 2011, 3rd Edition).

⁷ Note 2 above.

⁸ Note 6 above.

⁹ Note 2 above.

¹⁰ E. Frand and I. H. Witten, *Data Mining : Practical Machine Learning Tools and Techniques* (Diane Cerra, 2005, 2nd edition).

used by computers typically for the purpose of automation.¹¹ Programmers may express complicated information and decision-making processes by defining rules and logic, which enables computers to carry out activities that otherwise require human intelligence. This can involve anything from using symptoms to diagnose medical ailments to understanding legal texts and making decisions based on that interpretation. The ultimate objective is to use software to mimic human reasoning and problem-solving abilities.

This short article explores the ways in which the legal profession and professionals can use such features of AI to assist their practice. It is divided into three sections. It gives examples of current solutions used by lawyers and scenarios where AI tools could perform tasks traditionally carried out by lawyers. Then it discusses the ways in which AI can be used to improve access to justice in Sri Lanka. It also discusses risks and challenges associated with implementing the technology. The conclusion sets out some observations as well as recommendations regarding the future of AI in the legal field.

2 AI and the Legal Profession

A lawyer's duties involve evaluating the merits of a case, applying reasoning and intuition, and deciding on the best course of action.¹² To accomplish this, they consult with clients, conduct legal research, assess the strength of arguments, advocate before judges, and perform a multitude of other tasks. AI can be used to make these more efficient and much more effective. In fact, a study done by Thomas Reuters among 200 in-house attorneys in Canada depict that a two-third majority is ready to adopt AI technology in their profession.¹³

There are many ways in which AI technology can assist the legal profession. AI and data analytics are tools that can assist in legal research, contract review, contract management, and the prediction of litigation outcomes.¹⁴ With machine learning techniques and deep learning, computers can draft sophisticated contracts without the intervention of lawyers.¹⁵ Additionally, AI can now do the tedious task of document review. For example, JP Morgan Chase implemented

¹¹ Note 4 above.

¹² Note 2 above.

¹³ M. Eagan, 'Thomson Reuters Report Highlights Legal Departments' View of Technology, Artificial Intelligence' (www.thomsonreuters.com 3 October 2017), available at: <https://www.thomsonreuters.com/en/press-releases/2017/october/thomson-reuters-report-highlights-legal-departments-view-of-technology-artificial-intelligence.html> (accessed 20 Nov. 2024).

¹⁴ J. Rogers and Felicity Bell, 'The Ethical AI Lawyer: What Is Required of Lawyers When They Use Automated Systems?' (2019) 1 *Law, Technology and Humans* 80.

¹⁵ B. Rich, 'How AI Is Changing Contracts' (Harvard Business Review, 20 February 2018), available at: <https://hbr.org/2018/02/how-ai-is-changing-contracts> (accessed 20 Nov. 2024).

an AI-based program that conducts periodic reviews of loan agreements in seconds, a task that previously demanded 360,000 hours of work annually from lawyers and loan officers.¹⁶

Moreover, AI can be trained to distinguish between relevant and non-relevant documents through pattern recognition.¹⁷ Legal analytics such as LexMachina and Ravel, can now predict outcomes by detecting subtle patterns in judicial decisions that can help litigators and their clients make better strategic decisions.¹⁸ Similarly LexisNexis or Westlaw has made research aspect of a case much more efficient.¹⁹ In 2018, the database 'ROSS Intelligence' was launched in the US, hailed as the 'world's first intelligent attorney'.²⁰ This AI-driven tool processes natural language and provides case briefs based on search results, saving attorneys countless hours of research time.

However, AI technology has its limitations. It cannot quite achieve the level of reasoning or possess cognitive abilities as that of a human. As such, lawyers need not worry about losing their jobs to robots just yet. Interviewing witnesses, deciding the relevant avenue of investigation and determining the location of relevant documents are tasks that AI cannot perform.²¹ Additionally, creative and strategic advising, which involves assessing legal risks while considering complex, ambiguous, and potentially conflicting client objectives and interests²², decisions that require emotional intelligence such as divorce cases and family affairs, appearing in-court on behalf of the client, or writing documents that does not appear as if it was written by a computer²³, are tasks that require to be performed by lawyers and not AI.

¹⁶ H. Son, 'JPMorgan Software Does in Seconds What Took Lawyers 360,000 Hours' Bloomberg.com (28 February 2017), available at: <https://www.bloomberg.com/news/articles/2017-02-28/jpmorgan-marshals-an-army-of-developers-to-automate-high-finance?embedded-checkout=true> (accessed 20 Nov. 2024).

¹⁷ Note 4 above.

¹⁸ Jason Koebler, 'Rise of the Robolawyers' (The Atlantic 14 March 2017), available at: <https://www.theatlantic.com/magazine/archive/2017/04/rise-of-the-robolawyers/517794/> (accessed 20 Nov. 2024).

¹⁹ N. Yamane, 'Artificial Intelligence in the Legal Field and the Indispensable Human Element Legal Ethics Demands' (2021) *The Georgetown Journal of Legal Ethics*.

²⁰ Note 18 above.

²¹ Note 2 above.

²² W Bradley Wendel, 'The Promise and Limitations of Artificial Intelligence in the Practice of Law' (2019) 72 *Oklahoma Law Review* 21, available at: <https://digitalcommons.law.ou.edu/olr/vol72/iss1/3/> (accessed 20 Nov. 2024).

²³ S. Lohr, 'A.I. Is Doing Legal Work. But It Won't Replace Lawyers, Yet' *The New York Times* (19 March 2017), available at: <https://www.nytimes.com/2017/03/19/technology/lawyers-artificial-intelligence.html> (accessed 20 Nov. 2024).

Therefore, with the present-day AI technology, lawyers may ease the burden of performing tedious routine tasks such as document review, or drafting, but those tasks which require creative, innovative thinking or those that require emotional intelligence may warrant the presence of a human lawyer.

3 Use of AI for Improved Access to Justice in Sri Lanka

Access to justice is a principle guaranteed under the rule of law which states that everyone is entitled to equal access to the legal systems.²⁴ It encompasses factors such as being able to understand the rights guaranteed under the law, protection of those rights, obtaining a fair outcome, and knowing that the result will be enforced under the law.²⁵ Legal systems that instil fear in people, limit access to justice due to financial barriers, lack physical accessibility to police stations and courts, provide no legal aid, and have low levels of legal awareness, are not capable of providing access to justice.²⁶

Financial barriers are a main reason for the limitations in access to justice. The consultation fee, the filing fees, court appearance fee, travelling fees of the attorney are all expense which are typically born by the client. With the economic crisis of 2022, and the rising cost of living, legal fees may not even be a consideration to a majority of households. Yet, these households might be in need of the legal services the most. With the 21st century innovation of the smartphone, information is readily available at the tip of the fingers. AI can help clientele obtain legal services directly without the intervention of a lawyer with apps that offer such services and legal advice. This would guarantee access to the legal system for individuals who, due to economic or social barriers, are unable to afford or obtain adequate legal counsel.²⁷ AI, by using the 'Rules, Logic, and Knowledge Representation' feature, use mathematical techniques and computer programming to make the law more understandable, manageable, useful, accessible, and predictable.²⁸ This way, clients can obtain free advice from home which would not only reduce the financial barriers but also travelling restraints and lack of awareness of the law.

Features such as Chatbot allow people to directly resolve their queries without having to pay the high fees charged by lawyers. It can also be used to understand

²⁴ D.L. Rhode, 'Access to Justice', (2000) 69 *Fordham Law Review*, p. 1785.

²⁵ T.C.W. Farrow, 'What Is Access to Justice', (2013) 51 *Osgoode Hall Law Journal*, p. 957.

²⁶ Note 24 above.

²⁷ C. Djeflal, 'Sustainable AI Development (SAID): On the Road to More Access to Justice' 2018, *SSRN Electronic Journal*, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3298980 (accessed 20 Nov. 2024).

²⁸ Note 4 above.

the available options for the client without having to consult a lawyer and once again be charged for the service.²⁹ Additionally, AI-powered language translation tools can help ensure that legal documents and proceedings are accessible to all citizens regardless of their language proficiency.³⁰ This would be an immense advantage in the rural areas of Sri Lanka where not everyone is proficient in the English language.

Additionally, one of the major accusations directed at the legal profession and the justice system in Sri Lanka is the delay in deciding cases. One way to accelerate this process is by streamlining the steps leading to the delivery of the judgment. Legal research, document review and drafting are such preliminary steps. Automating time-consuming tasks like legal research, which typically involves hours of poring over case-law books and legal texts to identify relevant precedents, can free up lawyers to focus on critical tasks such as reasoning, strategizing, planning, and taking on additional clients.³¹

Furthermore, AI technology can also assist in increasing transparency and reducing bias in the profession. For example, scholars argue that the Sri Lankan legal profession has a severe underrepresentation of women which leads to adversely impacting women's rights and impeding their access to justice which can undermine the effectiveness of the justice system as a whole.³² The findings show that women tend to reject careers as lawyers and judges and instead choose a career in the private sector.³³ This, not only affects women's careers, but also affect the representation of women's rights in the legal system where female victims may be subjected to discrimination, bias and prejudice. AI machine learning can be used to tackle some of these challenges. For example, AI can be used to screen the hiring process for skills and qualifications rather than gender.

And in the research stage, by analysing relevant factual information and applying it to relevant legal precedents, it can eliminate the possibility of human error. Unlike human lawyers, machines are not subject to the same problems that can affect their judgment.

However, while AI can complement the legal services provided by lawyers, it is unlikely to replace the need for human skills in service provision. The possibilities

²⁹ S.E. Cruz, 'Coding for Cultural Competency: Expanding Access to Justice with Technology', (2018) 86 *Tennessee Law Review*, p. 347.

³⁰ Note 4 above.

³¹ E.S.T. Poppe, 'The Future Is Complicated: AI, Apps & Access to Justice' (2019) 72 *Oklahoma Law Review*, p. 185.

³² P.K.R. Ranasinghe, 'Women in The Legal Profession: Challenges and Opportunities' (2020) 1 *Knowex Social Sciences Journal*, p. 69.

³³ Note 16 above.

may seem like mere ideologies, but if executed, Sri Lanka may very well see a new dawn in the legal field.

4 Challenges and Risks of AI in the Legal Profession

Despite the many advantages that AI is capable of bringing to the justice system it has its many risks and challenges.

One of the most significant risks associated with AI in the legal profession is the potential for bias and discrimination. As much as it can reduce biases, AI systems are only as unbiased as the data they are trained on. If the data contains biases, the AI system will replicate those biases. For instance, if an AI system is trained on data that contains racial or gender biases, it may make decisions that unfairly disadvantage certain groups of people. This could result in legal challenges and damage a law firm's reputation. Therefore, it is essential to ensure that the data used to train AI systems is diverse, inclusive, and free from biases.³⁴

Another important consideration when using AI in the legal industry is ethics. Lawyers and legal professionals must ensure that their use of AI is transparent and explainable, so that clients understand how decisions are made. They should also make sure that AI is being used in a way that is consistent with legal and ethical standards. For example, AI should not be used to replace human judgment, but rather to *assist* in decision-making processes.³⁵

An additional important consideration while utilizing AI in the legal industry is data protection and privacy. For AI systems to work well, a large amount of data is needed, some of which may contain sensitive client and case information. Maintaining the security of this data and adhering to data protection laws are essential. Lawyers and legal professionals need to take appropriate measures to prevent data breaches and cyber-attacks.³⁶

Another major worry is the duty and liabilities that come with using AI systems. There's a chance that as AI systems are in the developing stage, they can make mistakes or come up with inaccurate results. It is crucial to think about who is in charge when this occurs. For instance, who is at fault if an AI system generates a

³⁴ J. Cobbe and J. Singh, 'Artificial Intelligence as a Service: Legal Responsibilities, Liabilities, and Policy Challenges' (2021) 42 *Computer Law & Security Review*.

³⁵ D. Restrepo Amariles and Pablo Marcello Baquero, 'Promises and Limits of Law for a Human-Centric Artificial Intelligence' (2023) 48 *Computer Law & Security Review*.

³⁶ M. van Bekkum and F. Zuiderveen Borgesius, 'Using sensitive data to prevent discrimination by artificial intelligence: Does the GDPR need a new exception?' (2023) 48 *Computer Law & Security Review*.

false legal opinion - the AI vendor or the law firm? This raises questions about liability and responsibility that need to be addressed.³⁷

Regulation and supervision are also necessary when utilising AI in the legal industry. Since AI is still in its early stages of development, the legal sector currently lacks clear regulations and oversight over its usage. Lawyers and other legal experts may not know what is allowed or not, which can lead to ambiguity and risk. It can also make it challenging to hold AI vendors accountable for their products and services.³⁸

In conclusion, AI offers many benefits for the legal profession, but it also presents some risks and challenges that need to be addressed. By being proactive and taking a responsible approach to AI, lawyers and legal professionals can reap the benefits of this technology while minimizing its risks.

5 Conclusion

AI has the potential to significantly improve access to justice in Sri Lanka by automating routine legal tasks, providing legal advice, and facilitating dispute resolution. However, the use of AI in the legal system also presents various challenges, including data quality, bias, limited resources, and ethical concerns. It is crucial that these challenges are addressed in a manner that ensures the ethical and legal use of AI in the Sri Lankan legal system. With careful planning and consideration, the use of AI can be an effective tool in improving access to justice for all Sri Lankan citizens.

However, beyond the common challenges faced in AI development globally, implementing new technology in Sri Lanka encounters significant setbacks. As of now, Sri Lanka may not be in a position to provide the necessary infrastructure needed for a sophisticated AI system. In many areas of Sri Lanka, there is a lack of high-speed internet connectivity, robust data centers, or even a reliable power supply. As such, before introducing technology, the foundational aspects of technology need to be remedied. Additionally, many legal professionals still refuse to use computers or adapt to modern tools. Professionals with the requisite training and experience in AI and related subjects can be in short supply. This may impede the advancement and application of AI technologies. Also, not every law firm or even the traditional lawyer who is used to a particular procedure will be ready to jump the hurdle of financial constraints associated with AI technology. Not only for research and development, but also for the purchase of such technologies, there will be a cost. There is a question as to whether people

³⁷ Note 34 above.

³⁸ Ibid.

will be ready to use and trust something alien when their current method of practice has no visible ailments. Quite a bit of convincing will be required to get them on board. Additionally, governments themselves should encourage opening the gate to new technologies. Apart from a few sporadic discussions, Sri Lanka is years away from considering development in computer technologies.

To address these issues and establish a supportive climate for AI development and adoption, a number of stakeholders, including the public and corporate sectors and educational institutions, must work together. If implemented, AI has much to offer to the legal profession as well as to the justice system in Sri Lanka.
