



Précis Paper

Artificial Intelligence and the law

A discussion on the role of artificial intelligence in the legal industry and how it might impact the future practice of lawyers and other legal professionals.

Discussion Includes

- Artificial intelligence and general legal services
- Artificial intelligence and the delivery of personal legal services
- The ethics of artificial intelligence
- Collection of data
- Accessibility

Précis Paper

Artificial Intelligence and the law

1. In this edition of BenchTV, Simon Rice (Professor of Law, University of Sydney, Sydney) and Simon Goodrich (Cofounder, Senior Partner and Managing Director, Portable) discuss the role artificial intelligence plays in the legal industry and how it might impact the future practice of lawyers and other legal professionals.

Artificial Intelligence and General Legal Services

2. Artificial Intelligence is a simulation of human intelligence by machines and through that the ability to break down some of the activities that humans do by using a number of mechanisms such as algorithms, the use of big data, machine learning and natural language processing.
3. Artificial technology is a component of information technology which will assist legal professionals to carry out their general business more efficiently, quickly and cheaply.
4. The low level, repetitive technical tasks traditionally carried out by junior lawyers and paralegals, will be able to be done electronically through artificial intelligence.
5. Large firms are able to invest time and money in artificial intelligence processes, having the client numbers to afford to repay the firm's capital investment in artificial intelligence programs.

Artificial intelligence and the delivery of personal legal services

6. With new technologies, there are new business opportunities for lawyers, the question however is what do clients actually want and need?
7. In the areas of family law, disputed wills and estate matters, clients require empathy, which is an element in the delivery of legal services that cannot be replicated by artificial intelligence.
8. Therefore, whilst artificial intelligence may assist in the delivery of legal services, lawyers will continue to be needed to interpret and assess the data and present the data to their clients.

The ethics of artificial intelligence

9. Artificial intelligence is a significant disruptor for the future of the legal profession and as such, it will require the legal profession to organise itself differently.
10. The legal industry purposely makes the ability of a consumer to reach a legal answer difficult as part of their business model. As a result, people are starting to use apps and

other programs to write letters that lawyers used to do. These letters are possibly already effectively automated within legal practice, however they are now outsourced or open sourced and are able to be accessed by the wider community directly.

11. An ethical question which arises is what duty does the app owe the consumer to be accurate, responsive and accountable? This is because artificial intelligence tends to leave out a lot of what comes with legal services, that is the conventional, ethical framework or accountability.
12. There are three areas where we are thinking about the ethics within AI that need to be considered;
 - a. Transparency and accountability
 - b. Predictability and Consistency
 - c. Equality before the law
13. In the US, judges use artificial intelligence programs to provide them with sentencing recommendations based on algorithms. The case of *Loomis v Wisconsin*, 881 N.W.2d 749 (2016) is a case that introduced a lot of people to the idea of predictive sentencing.
14. There is bias in decision makers and we should accept that there is also bias in artificial intelligence. Our legal system accepts bias in decision makers, by exposing decision makers to scrutiny by virtue of open courts, the appeal process, and in NSW, the Judicial Commission.
15. The same kind of data analysis that was used in *Loomis v Wisconsin*, 881 N.W.2d 749 (2016) is used here in Australia for management of prison inmates and Government functions such as the Robodebt.

Collection of data

16. One of the challenges society has is that a lot of data is currently in large, proprietary and relatively opaque systems. The data that is collected privately by proprietary companies such as Facebook, Amazon, Netflix and Google, are not just name, address, date of birth etc, but purchasing habits, viewing habits etc.
17. All of this data becomes available globally but privately, and the consumer has no choice but to provide it as access to these services is conditional upon this.

Accessibility

18. The two main issues regarding accessibility and artificial intelligence are
 - a. Access to technology and
 - b. The ability to speak English.
19. Further, a risk of reliance on artificial intelligence in the legal industry is that it could divorce a lawyer from a sense of responsibility to a client. The relationship then becomes

arms-length and it ultimately results in a change in the traditional lawyer-client relationship.

BIOGRAPHY

Simon Rice

Professor of Law, University of Sydney, Sydney

Simon teaches and writes on legal ethics, drawing on his experience as a community legal centre lawyer and tribunal judicial member. He is a former Director of the NSW Law and Justice Foundation, and former Chair of the ACT Law Reform Advisory Council. He is the co-author of texts on anti-discrimination law and human rights law, and was awarded a medal in the Order of Australia for legal services to the economically and socially disadvantaged.

Simon Goodrich

Cofounder, Senior Partner and Managing Director, Portable

Simon Goodrich is a co-founder of Portable, a team of designers, researchers and developers interested in responding to social need and policy failure by placing users in the centre. Simon has over 15 years in the space, including being the Australian Ambassador of the Webby's, the New York based award that are the Oscars for online, being past National President of AIMIA, at the time the peak digital body in the sector and previously sitting on the Board of Health Informatics Association of Australia, the digital health peak body, driving their Innovation portfolio. He is currently an Adjunct Fellow at the Sir Zelman Cowan Centre at Victoria University, the leading justice innovation hub in Australia.

BIBLIOGRAPHY

Cases

Loomis v Wisconsin, 881 N.W.2d 749 (2016)