Contents

Chapter 3:
Will AI augment and enhance – or replace?

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Introduction

AI, and specifically generative AI, has the potential to have a significant impact on the role of human lawyers. We've already seen how AI can impact specific segments of legal work, such as eDiscovery, by significantly increasing the efficiency of tasks but also allowing for the scope of review work to grow and change how the work is staffed. Generative AI has the potential to accelerate these changes, and there has been considerable public commentary on the potential exposure of legal work to the impact of generative AI. For example, Goldman Sachs estimated that 44 percent of legal tasks could be automated by AI, more than any other industry group with the exception of office administrative support.[1] But the question shouldn't be *who* AI replaces, but *what*. AI will change how certain tasks and responsibilities are handled, but there is a corresponding opportunity to grow the scope of legal service offerings with a focus on the true value that lawyers bring – expertise and human judgment.

This chapter will break down the tasks of lawyering. What is it that lawyers actually do, and how will each individual function be impacted by AI? We will then discuss the growing importance of new skill sets for lawyers, from general AI literacy to prompt engineering, and how lawyers are beginning to partner with other professionals such as coders and data scientists to enhance service delivery. Finally, we'll look at some of the biggest professional opportunities for lawyers at law firms, in-house, and with legal technology vendors in the new era of generative AI.

The building blocks of legal services

The question of whether AI will replace human lawyers is an oversimplification of a more complex issue. It is reflective of the legal industry's general tendency to merge the tasks of lawyering into one amorphous process that combines expertise with the creation and presentation of work product. To understand the likely impact of AI on legal work, we first need to break

down the individual components of providing legal services and assess if, and how, each one will evolve, considering the advancements in AI. In taking this more granular approach, it becomes clear that many tasks that lawyers perform will continue to be transformed by technology, while others will remain solidly in the human realm, even with the advancements in generative AI.[2] In addition, there is an opportunity to expand the scope of services that lawyers currently provide and deliver even greater value for clients by taking advantage of the efficiencies gained with AI.

While there is no current comprehensive definition of what the provision of legal services encompasses, the following groupings are a helpful way to begin assessing the likely impact of AI:

- *Acquiring and maintaining legal knowledge.* Specific information that lawyers have learned or continue to learn, including more static, practice-related information (for example, the general process involved in managing certain matters, or how to communicate with colleagues and clients in a professional manner), and knowledge that is always evolving (for example, information regarding case law or what provisions are market in a negotiation).

- *Conducting analysis.* Lawyers spend a significant portion of their time engaging in analysis, be that research, summarization, contract review, document review, or other similar processes. This can require relatively little expertise, such as summarizing an article on a legal topic, or the ability to apply pre-existing knowledge, such as interpreting a complex provision in a contract in the context of case law, legislation, and market standards.

- *Creating content.* The preparation of a work product, including both informal documentation (e.g. emails to clients and opposing counsel) and formal documentation (e.g. contracts and court filings).

- *Presenting.* An often-overlooked task when we think about the practice of law is the important role of presentation-related tasks, including oral advocacy, negotiation, or more informal client communications, such as explaining a legal concept or providing a legal opinion verbally.

- *Using legal judgment.* Arguably the most valuable service that lawyers provide is the application of their judgment to a legal scenario. The use of judgment includes, among other things, the ability to adapt to novel or quickly changing circumstances, to accurately assess the impact of context on a legal issue, to use creativity within the legal constraints of a matter, and to use emotional intelligence to accurately assess and respond to a situation.

Legal tasks most likely impacted by AI

Knowledge
Knowledge, or more specifically the ability of a lawyer to surface the relevant legal knowledge applicable to a set of facts, has been a legal skill supplemented by technology for decades. Initial AI applications focused on research were often questionnaire-based with the ability to predict a likely outcome for certain areas of the law. The biggest and most immediate impact of generative AI will likely be on legal research and the ability to surface other legal knowledge such as precedents.
    There are a few factors that lead to this conclusion:

- The data required for training AI is often public so vendors can pre-train their systems to be helpful to customers out-of-the-box;
- Performing legal research or searching for other legal knowledge doesn't require a complex user-interface;
- The tasks typically don't require large groups of lawyers or clients to collaborate, so the technology doesn't require complex project management functions; and
- Legal research and precedent searching are typically straightforward workflows (e.g. asking a question, receiving an answer, and potentially asking a follow-up question).

Nevertheless, the human component in research and other knowledge management functions will remain critical despite technological advancements. Legal researchers and knowledge management lawyers will likely become the experts in training AI systems and interacting with them to ensure they are effective. In addition, even the best generative AI systems have accuracy deficiencies and require human review for quality control and to ensure the final work product is appropriate and helpful for clients. This is because most legal research questions involve a degree of nuance, and even the most carefully crafted questions can be misinterpreted by an AI system. There could also be deficiencies and biases in the AI's training (i.e. not including an applicable jurisdiction in the training data or human errors in the training of the AI system that lead to incorrect or incomplete responses).

Analysis
Legal analysis is another area in which AI's current impact will continue to grow. For example, the process of reading a document or article and

summarizing the content is an excellent application of generative AI and one where the technology excels. The use of machine learning for e-discovery document review and corporate contract review is already the default, depending on the scope of the project. But while legacy technology was largely focused on *identification* and *extraction* of content, generative AI will further impact legal workflows by facilitating the *interpretation* of this content.

For example, the most widely adopted AI systems used for due diligence currently identify the relevant legal provisions and extract them for lawyer review. The human lawyer then conducts the bulk of the analysis to answer the legal question (for example, is the agreement assignable by the vendor?). Generative AI, with its ability to interpret written language and provide an answer to a legal question, will likely take a bigger role in the analysis portion of the workflow. But once again, these AI systems are fallible, with varying degrees of accuracy based on their training and implementations. The human review and quality control component will remain critical while the benefits of the AI will largely be in increasing the efficiency of the review.

Content creation
We will also see AI playing a larger role in content creation and drafting workflows, including email communications and generation of formal legal documents. These are more complex use cases where the impact will not be as immediate as for the knowledge and analysis-related tasks. AI-enabled content creation will require more time and investment from technology vendors, primarily because the data required for training is more likely to be custom, the final work product is more complex, and integration with other tools, such as email or document management systems, becomes more critical to facilitate collaboration.

More traditional legal drafting technology uses variable coding in the forms or precedents being automated and presents end-users with a ques-tionnaire. This requires varying degrees of up-front administrative preparation and several steps for the lawyers generating the documents. These time investments served as barriers to wider adoption and limited the impact of the technology; primarily large-scale use cases, such as repet-itive and ongoing drafting of non-disclosure agreements on the same form, could justify the effort required to build the automation. Generative AI will likely diminish the administrative burden and streamline the user experi-ence, which will allow technology to have a bigger impact on drafting. As with the other tasks noted above, AI will likely be most useful in increasing the efficiency of generating a first draft of content and lawyers will still play

an important role in reviewing and revising documents, especially for heavily negotiated or material documents.

The critical human components of lawyering

Presentation

One key element of lawyering upon which AI will have limited impact is all forms of presentation involving human interactions. This permeates everything a lawyer does, regardless of practice area or organization. It includes activities ranging from formal oral advocacy to a casual phone call or in-person interaction. The art of negotiating on behalf of a client is incredibly complex and requires not just an understanding of the law, but also the ability to read tone and facial expressions, quickly adapt to changing circumstances, and to express a position in a persuasive manner. These critical aspects of a lawyer's work cannot be replaced, or even significantly supported, by any AI.

Judgment

Perhaps the greatest value that a lawyer provides to their client is their ability to apply sound and measured judgment to the client's situation and provide advice that will lead to the best possible outcome.[3] Judgment imbues almost every task a lawyer does, including the review of every work product and every interaction involved in providing legal services. Even tasks for which AI can deliver clear and immediate value, such as research, require an additional layer of supervision by a lawyer exercising their judgment to ensure the AI results are accurate and applicable. This is why even the most advanced generative AI trained specifically for legal work cannot replace the role of a lawyer entirely.

As discussed above, we will see the role of lawyers evolving and becoming more supervisory in nature for tasks that are easily automated or supported by AI. This will bring new efficiencies to legal practice, and time previously spent by lawyers on more administrative aspects of their practice can now be used for higher-level work. This presents an incredible opportunity for the legal industry to assess how the scope of legal services offered can evolve and expand to adapt to this new environment, and how legal resourcing can adapt to best deploy talent, especially junior talent, whose work can now be completed much more efficiently.

Just like the volume of documents reviewed as part of discovery grew exponentially with the introduction of e-discovery software, lawyers will have the ability to take on more work of a different kind and discover new ways of offering clients value with the support of AI solutions. For example,

a law firm's ability to use AI to conduct "what's market" deal point studies on a broader scale and without requiring significant resources to complete work that is typically non-billable will allow those firms to turn their work product into invaluable market data for their clients.

With this evolving legal landscape in mind, how can lawyers prepare themselves for the changes to come and ensure they are positioned to respond to changing client demands and new competitive pressures?

Evolving legal skill sets

While many tasks that lawyers perform will be supplanted to varying degrees by AI, there are new corresponding opportunities that arise as well. The time that was previously used on more administrative tasks can now be redirected, either to increasing the scope of work performed, or to working with the technology and the teams that support the technology in more effective ways.

This transition will be greatly facilitated for those lawyers, law firms, and in-house teams that embrace the need for adaptation. In addition, a formalized duty regarding technology competence is increasingly being adopted by legal regulatory bodies. A total of 39 jurisdictions in the United States have already adopted statements on technology competence[4] and, in 2019, The Federation of Law Societies in Canada amended its Model Code of Professional Conduct to note:

> *"To maintain the required level of competence, a lawyer should develop an understanding of, and ability to use, technology relevant to the nature and area of the lawyer's practice and responsibilities. A lawyer should understand the benefits and risks associated with relevant technology, recognizing the lawyer's duty to protect confidential information set out in section 3.3."*[5]

There are many competencies that will be specific to a practice area or in-house team of a specific size, but the following skills are generally beneficial to any practicing lawyers.

AI literacy

Regardless of level of seniority or size of a lawyer's organization, AI literacy will be critical for all lawyers going forward. AI literacy includes an understanding of the fundamentals of how different types of AI work, how they're trained, how to evaluate the data used for training, and the ability to understand accuracy limitations such as over- or under-inclusivity, biases, and hallucinations. Specifically, lawyers will need to determine whether AI

should be used to assist with the completion of a certain task. Without an understanding of the abilities and limitations of the technology, AI could be used to perform tasks it wasn't properly trained to complete, leading to poor outcomes. In addition, if a determination has been made that the use of AI is appropriate, lawyers will need to understand how to use a system properly. Improper use of an AI system becomes more likely when lawyers don't fully understand how the technology works, how it was trained, and the level of human supervision required.

Prompt engineering

For those lawyers who will be interacting directly with AI systems, and specifically generative AI systems, learning how to ask an AI system a question, or prompt it, to ensure it provides the answer that they need will be critical. Unlike humans, AI systems either cannot or aren't particularly skilled at asking clarifying questions or letting a user know when they don't know something. That means lawyers who engage with these types of systems need to draft questions differently than they would if they were speaking to another human lawyer. The questions need to be specific; parameters and scope need to be clear; and exact terms need to be used. This may seem simple but is in fact a skill that is honed with practice and requires the ability to strategically adjust the approach depending on the specific technology being used.

Legal project management

While not exclusively focused on the application of AI technology, legal project management skills are critical to ensure that AI is properly and effectively leveraged for client work. The practice of law inherently involves a considerable amount of project management, and it's something that most lawyers practice informally without naming or formalizing the process. The increasing impact of AI in law calls for a more structured approach to legal project management. AI will allow for the scope of work to expand, and the number and types of stakeholders involved to grow (for example, the inclusion of different professionals such as data scientists on a matter), resulting in more moving pieces that require formal legal project management. This includes clearly defining the scope of a matter upfront, determining and documenting the best approach for the matter from a process perspective (including staffing and use of technology), and implementing timelines and managing the matter effectively. Without a more rigorous approach to legal project management, lawyers could inadvertently over-rely on AI or miss an opportunity to use the technology appropriately.

AI in legal education

Naturally, lawyers are concerned about the impact of AI on the upskilling and mentorship of future generations of lawyers. How can they ensure that lawyers receive the training necessary to be successful?

Legal regulatory bodies will play an important role in supporting lawyers' use of technology, especially in their ability to support sole-practitioners, smaller law firms, and organizations with small legal functions that may not have the resources to build the expertise required in-house. These organizations can also lean on their vendor relationships for support and education, to the extent that it's available. Meanwhile, larger law firms and organizations have an opportunity to build internal knowledge hubs that are focused on supporting and training their teams during this transition.

Law schools undeniably play a critical role in preparing law students who will enter a profession evolving at break-neck speed. Whether through new program concentrations, new courses, or simply updates to the curriculum, law schools around the world have already started tackling this challenge. The University of Edinburgh's LLM in Innovation Technology and the Law, Suffolk University Law School's Legal Innovation and Technology Concentration, and Osgoode Hall Law School's Legal Engineering: Technology & Innovation in Legal Service Delivery course are just a few examples of how legal education is evolving.

However, there is still significant room to improve the preparation of law students for practice by updating the curriculum of traditional courses to include the ways in which technology can be applied to each subject matter. By incorporating elements critical to service delivery, such as knowledge of relevant technology, with the substantive subject matter traditionally taught, students will be in a better position to take on the challenges and opportunities of AI in their practice.

Partnering with other professionals

This conversation would be incomplete without addressing the often-discussed question of whether lawyers should learn how to code. While an additional skill is always a benefit, it is more likely that lawyers will partner with professionals with other specializations to ensure that more complex solutions are secure, scalable, and properly built and maintained. Basic technical competence remains important, especially for administrators of low-code and no-code legal tech solutions that may not require fully-fledged coding capabilities but can nevertheless involve complex configurations and workflows.

Trusting professionals who are experts in their fields, whether they are hired to work within a legal organization or engaged as consultants, will

often lead to better long-term results, especially for more complex work. While there will be instances where the task is straightforward and a cursory knowledge of data science will suffice, for larger-scale and ongoing projects, lawyers need to be able to communicate and collaborate effectively with their computer engineering and data science counterparts to ensure the best outcome for clients.

As an example, if a law firm embarks on a large-scale AI project where it will be training a system on large volumes of proprietary data in order to surface relevant precedents or other knowledge content, each professional will play a key and distinct role in ensuring the success of the project. The data scientist will help craft the training approach and strategy with an expertise in how the AI system uses data to deliver the work product desired and an understanding of how to transform structured and unstructured data into usable knowledge. The lawyers will bring the subject matter expertise and help communicate the project requirements. The increasing diversity in the skill sets and the professionals involved in delivering legal services will allow lawyers to provide their clients with a more holistic service delivery experience over time by being able to layer deeper data analysis and new efficiencies on top of traditional work product.

Impact of AI on alternative careers in law

Looking beyond traditional lawyer roles, advancements in AI have created new opportunities for alternative careers for lawyers. These roles require some legal education or experience in private practice, but they apply that expertise to achieve new objectives. The following are examples of emerging roles for lawyers in different organizations specifically focused on the building, training, selling, support, and implementation of AI.

Law firm roles

Traditional law firm departments such as knowledge management and information technology have been evolving for years to better meet the needs of an organization integrating complex AI systems into legal practice. Innovation functions focused on the evaluation, implementation, and adoption of legal technology and the management of related process improvement projects have proliferated, either as part of existing operations functions, or as new groups within the firm. This has created new opportunities for lawyers to move into non-practicing roles in different capacities including as legal engineers or technologists (individuals with hybrid expertise in law and the application of technology to legal processes), legal project managers, or innovation consultants.

In-house roles

The continuing growth and evolution of the legal operations function within in-house teams remains critical to the successful evaluation and implementation of AI systems in those organizations. Legal operations teams have numerous responsibilities, including project management and financial management within the legal function, as well as leading process improvement projects, including the integration of legal technology. In-house legal operations teams, depending on the size of their organization, will be tasked with implementing generative AI solutions in numerous areas, including spend management, contracting, and legal requests.[6] Lawyers with a robust understanding of different workflows within in-house groups and expertise in AI and its implementation can play a pivotal role in the success of a legal operations function.

Legal technology vendor roles

Legal technology companies employed lawyers in alternative roles long before the growth of AI in the legal industry, primarily in roles focused on legal content creation and curation. The proliferation of AI has led to more tools that are used by lawyers and, as a result, there are more technology vendors seeking individuals with hands-on experience in legal practice. Product and revenue teams are the primary functions in which previously practicing lawyers have been able to bring value within a technology company. In product teams, lawyers have filled roles focused on influencing the design of the technology to ensure the user experience and workflow is appropriate for use by lawyers, or training an AI system to complete legal tasks, identify legal provisions, or other similar processes that require legal expertise. Within revenue teams, lawyers have filled roles focused on selling legal tech products directly to lawyers, law firms, or in-house teams or supporting those organizations in a customer success role to ensure a smooth implementation process and healthy adoption.

Conclusion

While the precise ways in which AI will impact the practice of law may be uncertain, it's also clear that lawyers have every reason to be optimistic and energized by the potential opportunities of further integrating AI in their practice. Leveraging and benefiting from these opportunities will require adjustments and flexibility, especially with respect to tasks such as research, legal analysis, and drafting, which will be impacted in a more meaningful way by generative AI. Even in these scenarios, lawyers will play a central role in understanding and using new technology, then deploying the addi-

tional time they would have otherwise spent on more administrative tasks on higher-value tasks or by increasing the volume or scope of work performed for clients. Importantly, the central functions of lawyering, such as the exercise of judgment and the ability to present and persuade, remain untouched by the current capabilities of AI.

It is reassuring to know that what makes lawyers so valuable and irreplaceable are their most human elements – the ability to apply their expertise and judgment, to creatively solve complex legal problems, having the grit and adaptability to react to intangible changes in circumstances, and to possess the emotional intelligence to be a true partner to their clients.

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