

Chapter 12

Impact of Machine Learning in Legal Education and the Legal Profession

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ABSTRACT

Machine learning applications are becoming increasingly prominent to law students and lawyers. As these applications gain momentum, it is crucial that their use maintains space for creativity in interpretation of the law, instead of only repeating precedent. Within the legal profession, clients' demand might be one of the key factors which drives the uptake of machine learning. For others, human interaction may remain central to what the legal profession can offer. This chapter aims to: (1) analyse the current impact of machine learning in legal education and legal profession; (2) determine the current trend of machine learning in legal education and legal profession; and (3) propose the way forward for ensuring positive impact of machine learning to the legal education and legal profession. Legal practitioners and educators must be open to the impacts of machine learning to appropriately develop the best legal practice and education model to better serve society.

INTRODUCTION

Oliver Wendell Holmes, in an 1896 article *The Path of the Law*, notably commented that the “prophecies of what the courts will do in fact . . . are what I mean by the law” (Holmes, 1896). Prediction of what the courts will do lies at the core of the legal practitioner’s task. In developing compliance frameworks, the legal practitioners need to be capable of predicting what behaviour is allowed under the law, and what behaviour is not permitted. In devising case management strategies, the legal practitioners are required to be able predict how a judge or panel of judges would likely categorise the client’s case.

Human judgment and the use of hunches have, nevertheless, regularly shown to be unpredictable forecasters. Studies carried out in the past 80 years have constantly demonstrated that smart, algorithmic

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methods of predictions are consistently identical to or better than human beings in predicting outcomes. Based on some of these studies, even very straightforward algorithms outperform human judgments in predicting outcomes in bail decision making (Meehl, 1955), predicting the performance of college student (Sarbin, 1943) and predicting outcomes of electroshock therapy (Wittman, 1941). Grove and Meehl conducted a meta-study of 136 studies over an extensive range of disciplines, demonstrating that predictions generated utilising the clinical method, i.e. human judgment based on informal review and argument with others, outperforms a formal, algorithmic, and objective equation in just 8 of a total of these 136 studies (Grove & Meehl, 1996).

In fields from medicine to sports to insurance, prediction by algorithm outperforms human judgment. Data driven analytics provide superior predictions. Legal predictions are no different. Indeed, as Oliver Wendell Holmes wisely noted in *The Path of the Law*: “For the rational study of the law, the black-letter man may be the man, but the man of the future is the man of statistics . . .”(Holmes, 1896).

As these technological advancement and machine learning applications gain momentum, it is crucial that their use maintains space for creativity in interpretation of the law, instead of only repeating precedent. There are many different types of machine learning algorithms that are able to overcome some of the problems of simple regression analysis, such as neural networks (Rumelhart, Hinton & Williams, 1986). With good sets of data, the machine figure out what the relationship is between the outcome and the variables. The “learning” here is discovering the equation that best fits the data and solves a specific problem. The machine finds “hidden” connections between the outcomes and the variables. There are, inevitably, limitations with these technologies. Machine learning is only as good as the data provided. If the inputs are trash, the outputs will be junk too. The data needs to be carefully curated and free from biasness so as to allow the machine to “magically” solve the legal problem at an optimal level.

Within the legal profession, clients’ demand might be one of the key factors which drives the uptake of machine learning. For others, human interaction may remain central to what the legal practitioners can offer. This chapter aims to: (1) analyse the current impact of machine learning in legal education and legal profession (2) determine the current trend of machine learning in legal education and legal profession (3) propose the way forward for ensuring positive impact of machine learning to the legal education and legal profession. Legal practitioners and educators must be open to impacts generated from the use of machine learning to appropriately develop the best legal practice and education model to better serve the goal of justice in the society.

BACKGROUND

One of the recent advancements of machine learning model, particularly using Large Language Model (LLM), ChatGPT, was just released by OpenAI in November 2022 (Schulman et al, 2022). Legal scholars have already been examining the impacts of this technological tool and other identical instruments for legal education and the legal profession (Oltz, 2023). Some legal scholars examined the capability of ChatGPT’s and its subsequent versions to pass the U.S. bar (Katz et al, 2023 and Bonmarito & Katz, 2022), write a law review article (Perlman, 2022, draft law assessments (Hargreaves, 2023), create legal documents (Choi et al, 2023), or reduce teaching loads and service of law school academics (Olz, 2023).

Machine learning (ML) is not a monolith (Lehr & Ohm, 2017). “Machine learning” is what drives Netflix’s recommendations (Alvino & Basilico, 2015), predictive policing (Shapiro, 2017 and Richardson

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