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# Justice is Mechanized: Ethical Implications of AI in Law

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## ABSTRACT

*Justice is blind is a phrase that refers to the idea that the legal system is unbiased and objective. With the coming of artificial intelligence (AI), can justice be mechanized? The influence of Artificial Intelligence on the legal field is no longer a secret. The use of AI in the legal field, however, also invokes many legal ethics concerns regarding equality, accountability and accuracy.*

*This paper attempts to look into the impact of AI on these three values and aims at exploring these concerns in depth, evaluating whether the benefits of AI in terms of efficiency and accessibility outweigh the ethical challenges it presents. Ultimately, the aim of the paper is to assess if AI can truly supplant human judgment and expertise in the legal profession or if it should remain a supplementary tool to ensure justice is served effectively and ethically.*

**Keywords:** Artificial Intelligence, Judiciary, Legal Ethics, Lawyers.

## I. INTRODUCTION

Since the inception of Artificial Intelligence (AI), the questions asked by the legal fraternity is whether AI will replace advocates and judges?<sup>2</sup> In a survey conducted in 2011 and 2015, law firm leaders were asked if they could foresee a law-oriented AI system potentially replacing certain functions within the next five to ten years?<sup>3</sup> In 2011, 35% leaders believed that AI could replace paralegals and first year associates.<sup>4</sup> In 2015, that percentage went up to 47%.<sup>5</sup>

AI in legal system has invoked various legal ethics concerns.<sup>6</sup> The Advocates Act, 1961<sup>7</sup> and the Bar Council of India Rules<sup>8</sup> were developed long before the introduction of powerful AI algorithms. As a result, their utility and control over such technologies are questionable. Ethical use of AI programs is crucial as they play a growing role in law.<sup>9</sup> The use of AI in the legal area

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<sup>2</sup> Catherine Nunez, *Artificial Intelligence and Legal Ethics: Whether AI Lawyers Can Make Ethical Decisions Comments*, 20 TUL. J. TECH. & INTELL. PROP. 189 (2017).

<sup>3</sup> Thomas S. Clay & Eric A. Seeger, *Law Firms in Transition*, ALTAN WIEL, INC., 2015 83 (2015).

<sup>4</sup> Thomas S. Clay & Eric A. Seeger, *Law Firms in Transition*, ALTAN WIEL, INC., 2015 83 (2015).

<sup>5</sup> Thomas S. Clay & Eric A. Seeger, *Law Firms in Transition*, ALTAN WIEL, INC., 2015 83 (2015).

<sup>6</sup> Catherine Nunez, *Artificial Intelligence and Legal Ethics: Whether AI Lawyers Can Make Ethical Decisions Comments*, 20 TUL. J. TECH. & INTELL. PROP. 189 (2017).

<sup>7</sup> The Advocates Act, 1961 ACT NO. 25 OF 1961 (India).

<sup>8</sup> Bar Council of India Rules, 1975.

<sup>9</sup> Nicole Yamane, *Artificial Intelligence in the Legal Field and the Indispensable Human Element Legal Ethics*

raises concerns regarding lawyers' obligation to offer competent counsel and AI's prohibition from unauthorized practice of law.<sup>10</sup>

This paper aims to explore the ethical issues of using AI in the legal environment. The paper argues AI is a positive innovation as long as it is employed as a supplement tool for the lawyers and doesn't become the lawyer itself. The paper will argue why AI cannot replace lawyers and judges just yet. Finally, the paper presents the case for why human interaction is still required in legal profession.

The paper is divided into three chapters. First chapter will talk about how AI is a positive addition to legal services and the ethical implications of that addition. Second chapter will discuss what provisions does BCI has for ethical use of AI in legal settings and what can be done to improve them. Finally, third chapter focuses on how replacing lawyers and judges entirely with AI would be unethical and against the idea of justice. This will further elaborate how the legal fraternity should handle the use of AI ethically so as to supplement justice instead of mechanizing it entirely.

## II. OPPORTUNITIES AND ETHICAL CONCERNS WHILE EMPLOYING AI

Although the concept of artificial intelligence has been around for a considerable time, its application through advanced programs within the legal field is a relatively recent development.<sup>11</sup> The contemporary developments in technology has made it possible for AI to learn from trial and error which is massive step up from the time when it required data input from humans.<sup>12</sup>

Advancements in AI technology have considerably increased its potential applications, allowing for a far larger and more impactful use than previously possible.<sup>13</sup> In the contemporary times, AI is majorly being utilized for research, legal counsel and contract review.<sup>14</sup>

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*Demands*, 33 GEO. J. LEGAL ETHICS [i] (2020).

<sup>10</sup> Nicole Yamane, *Artificial Intelligence in the Legal Field and the Indispensable Human Element Legal Ethics Demands*, 33 GEO. J. LEGAL ETHICS [i] (2020).

<sup>11</sup> Keith Mullen, *Artificial Intelligence: Shiny Object? Speeding Train?*, AM. BAR ASS'N RPTE EREPORT 2018 FALL ISSUE, [https://www.americanbar.org/groups/realproperty\\_trust\\_estate/publications/ereport/rpteereport-fall-2018/artificial-intelligence/](https://www.americanbar.org/groups/realproperty_trust_estate/publications/ereport/rpteereport-fall-2018/artificial-intelligence/).

<sup>12</sup> Lauri Donahue, *A Primer on Using Artificial Intelligence in the Legal Profession*, HARV. J. L. & TECH. (Jan. 3, 2018), <http://jolt.law.harvard.edu/digest/a-primer-on-using-artificial-intelligence-in-the-legal-profession>.

<sup>13</sup> Nicole Yamane, *Artificial Intelligence in the Legal Field and the Indispensable Human Element Legal Ethics Demands*, 33 GEO. J. LEGAL ETHICS [i] (2020).

<sup>14</sup> Nicole Yamane, *Artificial Intelligence in the Legal Field and the Indispensable Human Element Legal Ethics Demands*, 33 GEO. J. LEGAL ETHICS [i] (2020).

### (A) Legal research

Legal Research is an area where AI is being utilized quite extensively.<sup>15</sup> Legal research has changed massively, moving beyond the conventional practice of looking through massive physical books for relevant precedents. Contemporary legal practitioners rely on online legal research systems which use AI technology to speed the research process.<sup>16</sup> In recent years, increasingly complex legal research tools have evolved, using cutting-edge AI technology to improve efficiency and accuracy in legal research.

ROSS, “the world’s first artificially intelligent attorney” is a great example of the same.<sup>17</sup> Renowned American firms like Baker Hostetler and Jackson Lewis have started using ROSS for legal research.<sup>18</sup> ROSS separates itself from standard AI research platforms by processing full prompts rather than just keywords to provide search results.<sup>19</sup> This method enables ROSS to outperform other tools’ limited search capabilities by providing more complete and contextually relevant results.<sup>20</sup> ROSS also has the ability to draft legal documents<sup>21</sup> and evaluating them by suggesting supporting precedents and stronger arguments.<sup>22</sup>

#### a. Ethical Considerations

Accuracy is the biggest rhyme breaker in the poetry that is AI. AI can scour the internet for the specific information that is needed, however the veracity of that information is always frowned upon. While using AI tools like ROSS, it might be difficult to ensure the factual accuracy of the output without independently cross referencing the results.<sup>23</sup> Reliance on AI-generated legal research by the lawyer without sufficient verification might result in inaccuracies and possible

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<sup>15</sup> Nicole Black, *Lawyers have a Bevy of Advanced and AI-enhanced Legal Research Tools at their Fingertips*, ABA J. (Nov. 22, 2019), <https://www.abajournal.com/web/article/lawyers-have-a-bevy-of-advanced-and-ai-enhanced-legal-research-tools-at-their-fingertips>.

<sup>16</sup> Nicole Yamane, *Artificial Intelligence in the Legal Field and the Indispensable Human Element Legal Ethics Demands*, 33 GEO. J. LEGAL ETHICS [i] (2020).

<sup>17</sup> Matthew Griffin, *Meet Ross, The World's First AI Lawyer*, 311 INST. (Jul. 11, 2016), <https://www.311institute.com/meet-ross-the-worlds-first-ai-lawyer/>.

<sup>18</sup> Ross Intelligence Offers a New Take on Legal Research, ABOVE THE LAW (May 29, 2019), <https://abovethelaw.com/2019/05/ross-intelligence-offers-a-new-take-on-legal-research/>.

<sup>19</sup> Stergios Anastasiadis, *How is Natural Language Search Changing The Face of Legal Research?*, ROSS INTELLIGENCE BLOG (2019), <https://blog.rossintelligence.com/post/how-natural-language-search-changing-face-of-legal-research>.

<sup>20</sup> Stergios Anastasiadis, *How is Natural Language Search Changing The Face of Legal Research?*, ROSS INTELLIGENCE BLOG (2019), <https://blog.rossintelligence.com/post/how-natural-language-search-changing-face-of-legal-research>.

<sup>21</sup> Andrew Arruda, Andrew Arruda, *CEO of Ross Intelligence, Discusses AI in the Legal Profession*, NORTHWESTERN PRITZKER SCH. L.: NEWS (Nov. 10, 2017), <http://www.law.northwestern.edu/about/news/newsdisplay.cfm?ID=892>.

<sup>22</sup> Walters, *AI Practice, Not Promise, in Law Firms*, ABA L. PRAC. MAG.: TECHSHOW ISSUE (Jan. 1, 2019), [https://www.americanbar.org/groups/law\\_practice/publications/law\\_practicemagazine/2019/january-february/JF2019Walters/](https://www.americanbar.org/groups/law_practice/publications/law_practicemagazine/2019/january-february/JF2019Walters/).

<sup>23</sup> Christopher Collins et al., *Artificial Intelligence in Information Systems Research: A Systematic Literature Review and Research Agenda*, 60 INTERNATIONAL JOURNAL OF INFORMATION MANAGEMENT 102383 (2021).

misconduct.<sup>24</sup>

Further, an excessive reliance on AI technologies may result in a decline in critical thinking and analytical abilities among legal practitioners.<sup>25</sup> Moreover, the sources for research done by humans can be directly traced and verified. AI generated content might not have a clear lineage or might be the result of complex processes.<sup>26</sup>

### **(B) legal counsel**

The contemporary times are seeing a boom in the legal self-help apps on the internet that operate with the integration of AI.<sup>27</sup> A self-help app usually provides services like document drafting, information regarding legal rights and general legal query to the person using the app.<sup>28</sup> An example of that would be DoNotPay, which was created to “help friends and family challenge their parking tickets”.<sup>29</sup> The app after undergoing multiple developments has now become “world’s first robot lawyer.”<sup>30</sup>

Legal Self-help apps improve access to justice by eliminating the need for traditional legal representation. They are most often free and accessible to a larger audience than the legal system is. Since the launch of DoNotPay, 160,000 parking tickets have been overturned.<sup>31</sup> In a country like India, it is not enough to administer justice. It has to be ‘delivered’ to the people who can’t reach it.

#### **a. Ethical considerations**

The biggest concern when it comes to the self-help apps is the issue of data privacy. AI systems are often dependent on enormous databases, which may include sensitive personal

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<sup>24</sup> Akerman LLP-Evelina Gentry, *The Challenges of Integrating AI-Generated Evidence Into the Legal System*, LEXOLOGY (2024), <https://www.lexology.com/library/detail.aspx?g=5da28e05-106e-459e-95e8-4021f807b393> (last visited Sep 3, 2024).

<sup>25</sup> “Over-reliance On AI Tools Can Diminish Critical Thinking”: Dr. Karuna Akshay Malviya, Director, School Of Law, DY Patil, Deemed To Be University, BW LEGAL WORLD, <https://bwlegalworld.com/article/%E2%80%9Cover-reliance-on-ai-tools-can-diminish-critical-thinking%E2%80%9D-dr-karuna-akshay-malviya-director-school-of-law-dy-patil-deemed-to-be-university-527910> (last visited Sep 3, 2024).

<sup>26</sup> Akerman LLP-Evelina Gentry, *The Challenges of Integrating AI-Generated Evidence Into the Legal System*, LEXOLOGY (2024), <https://www.lexology.com/library/detail.aspx?g=5da28e05-106e-459e-95e8-4021f807b393> (last visited Sep 3, 2024).

<sup>27</sup> 25 Apps for Providing Virtual Legal Services | Connecting Justice Communities, <https://www.connectingjusticecommunities.com/25-apps-for-providing-virtual-legal-services/2021/03/> (last visited Sep 3, 2024).

<sup>28</sup> Merran Lawler, Jeff Giddings & Michael Robertson, *Opportunities and Limitations in the Provision of Self-Help Legal Resources to Citizens in Need*, 30 WINDSOR YEARBOOK OF ACCESS TO JUSTICE (2015).

<sup>29</sup> Julie Fishbach, *Coder, 19, Builds Chatbot That Fights Parking Tickets*, NBC NEWS (Jul. 21, 2016), <https://www.nbcnews.com/feature/college-game-plan/coder-19-builds-chatbot-fights-parking-tickets-n612326>.

<sup>30</sup> Julie Fishbach, *Coder, 19, Builds Chatbot That Fights Parking Tickets*, NBC NEWS (Jul. 21, 2016), <https://www.nbcnews.com/feature/college-game-plan/coder-19-builds-chatbot-fights-parking-tickets-n612326>.

<sup>31</sup> Julie Fishbach, *Coder, 19, Builds Chatbot That Fights Parking Tickets*, NBC NEWS (Jul. 21, 2016), <https://www.nbcnews.com/feature/college-game-plan/coder-19-builds-chatbot-fights-parking-tickets-n612326>.

information.<sup>32</sup> Even with newer technology that works on trial and error, the data that is put into the database is stored.

This may pose privacy and data protection problems, particularly if there are questions about the legality of the data collecting or processing procedures.<sup>33</sup> While lawyers are barred by statute and by their ethics to not disclose the confidential information.<sup>34</sup> This secrecy is very difficult to maintain in the case of AI which is susceptible to hacking.

Further, reliability of the advice provided is to be questioned.<sup>35</sup> With no particular experience and wisdom of lawyers, it becomes difficult to trust AI chat bots. AI chatbots are prone to provide incorrect or deceptive replies, a condition known as “hallucinations”, which poses a significant risk.<sup>36</sup> This issue has becoming increasingly problematic as AI chatbots’ disinformation has the potential to result in the establishment of legally binding contracts, posing substantial legal and ethical implications.

### (C) Contract Review

As inferred from the aforementioned example, contract review is yet another area that is booming with AI possibilities.<sup>37</sup> Companies like eBay use AI to review the contracts that are being entered on their site on a daily basis.<sup>38</sup> AI technologies “that can read contracts accurately in any format, provide analytics on the retrieved data, and extract contract information” has been around for a while.<sup>39</sup>

The new capabilities aim to “automatically ingest proposed contracts, analyze them in full using natural language processing (NLP) technology, and determine which portions of the contract

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<sup>32</sup> Akerman LLP-Evelina Gentry, *The Challenges of Integrating AI-Generated Evidence Into the Legal System*, LEXOLOGY (2024), <https://www.lexology.com/library/detail.aspx?g=5da28e05-106e-459e-95e8-4021f807b393> (last visited Sep 3, 2024).

<sup>33</sup> Akerman LLP-Evelina Gentry, *The Challenges of Integrating AI-Generated Evidence Into the Legal System*, LEXOLOGY (2024), <https://www.lexology.com/library/detail.aspx?g=5da28e05-106e-459e-95e8-4021f807b393> (last visited Sep 3, 2024).

<sup>34</sup> British Institute of International and Comparative Law, *Use of Artificial Intelligence in Legal Practice*, LAW NOTION, (2022), [https://www.biicl.org/documents/170\\_use\\_of\\_artificial\\_intelligence\\_in\\_legal\\_practice\\_final.pdf](https://www.biicl.org/documents/170_use_of_artificial_intelligence_in_legal_practice_final.pdf).

<sup>35</sup> blesousky@fbtlaw.com, *AI Chatbots, Hallucinations, and Legal Risks - Frost Brown Todd | Full-Service Law Firm*, FROST BROWN TODD (2024), <https://frostbrowntodd.com/ai-chatbots-hallucinations-and-legal-risks/> (last visited Sep 3, 2024).

<sup>36</sup> blesousky@fbtlaw.com, *AI Chatbots, Hallucinations, and Legal Risks - Frost Brown Todd | Full-Service Law Firm*, FROST BROWN TODD (2024), <https://frostbrowntodd.com/ai-chatbots-hallucinations-and-legal-risks/> (last visited Sep 3, 2024).

<sup>37</sup> Nicole Yamane, *Artificial Intelligence in the Legal Field and the Indispensable Human Element Legal Ethics Demands*, 33 GEO. J. LEGAL ETHICS [i] (2020).

<sup>38</sup> Rob Toews, *AI Will Transform the Field of Law*, FORBES (Dec. 19, 2019), <https://www.forbes.com/sites/robtoews/2019/12/19/ai-will-transform-the-field-of-law/#23c5a9e47f1>.

<sup>39</sup> Beverly Rich, *How AI Is Changing Contracts*, HARV. BUS. REV. (Feb. 12, 2018), <https://hbr.org/2018/02/how-ai-is-changing-contracts>.

are acceptable and which are problematic.”<sup>40</sup> Using AI to review contract enhances speed and efficiency.

a. Ethical Considerations

In a study conducted to evaluate the AI contract review capabilities, it was seen that AI could not identify standard provisions in contracts, e.g., limitation, with only 50% accuracy.<sup>41</sup> The “trust factor” plays an important role in ascertaining whether AI assisted contract review is worth it.

Legal Practitioners and firms that employ AI to review contract do not garner much confidence since the technology is in its nascent phase. Implementing the notion of accuracy is critical for AI systems to be on par with legal practitioners, since inadequacies in any metric can result in substantial wasted time.<sup>42</sup>

### III. INDIAN PROFESSIONAL ETHICS AND AI

Strong ethical rules are a necessary condition for any profession. Ethics refers to human conduct in making choices about what is good and wrong.<sup>43</sup> Professional ethics refers to the established code of moral standards that govern an individual’s behavior in a professional setting or workplace.<sup>44</sup> These standards apply to legal practitioners as well.

#### (A) Current Regulations & Inability to Adapt

In India, the conduct of an advocate is governed by the Bar Council set up under the Advocates Act, 1961. Under section 49(1)(c) of the Act, the Bar Council of India established the Rules on standards of professional. These rules are mentioned in Chapter II, Part VI of the Bar Council of India Rules.<sup>45</sup>

The Bar Council Rules were formed in 1975 and hence do not contain provisions related to the use of technology like AI. The BCI Rules were developed within the context of a judicial system in which the practice of law is limited to courtroom settings.<sup>46</sup>

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<sup>40</sup> Rob Toews, *AI Will Transform the Field of Law*, FORBES (Dec. 19, 2019), <https://www.forbes.com/sites/robtoews/2019/12/19/ai-will-transform-the-field-of-law/#23c5a9e47f1>

<sup>41</sup> Chase D’Agostino, *Project Johnny 5 A Case Study on Evaluating AI Abstraction Tools*, QUISLEX (2019), <https://quislex.com/sites/default/files/article/document/2019/08/AIAbstraction.pdf>.

<sup>42</sup> Precision and Recall, Essential Metrics for Machine Learning, <https://www.analyticsvidhya.com/blog/2020/09/precision-recall-machine-learning/> (last visited Sep 3, 2024).

<sup>43</sup> Ethics | Definition, History, Examples, Types, Philosophy, & Facts | Britannica, <https://www.britannica.com/topic/ethics-philosophy> (last visited Sep 3, 2024).

<sup>44</sup> Professional ethics and codes of conduct, IMMIGRATION ADVISERS AUTHORITY (2018), <https://www.iaa.govt.nz/for-advisers/adviser-tools/ethics-toolkit/professional-ethics-and-codes-of-conduct/> (last visited Sep 3, 2024).

<sup>45</sup> Bar Council of India, Bar Council of India Rules, 1975, Chapter II, Part VI. (India)

<sup>46</sup> Anirudh Gotety, *REGULATING THE ETHICS OF THE UNKNOWN: ANALYSING REGULATORY REGIMES*

However, the Preamble to the Standards of Professional Conduct and Etiquette under the Rules,<sup>47</sup> could provide some guidance with relation to AI. It states that although the rules contain guidance for behavior and etiquette for lawyers, these particular rules do not devalue other key standards that may not be expressly mentioned.<sup>48</sup>

The preamble makes the rules inclusive and wide. The preamble also states that the advocate must fearlessly uphold the interest of their client.<sup>49</sup> It can be inferred that advocates are required to provide a quality of service to their clients that is consistent with global norms, with an emphasis on efficiency, dependability, and cost effectiveness.

### **(B) The way forward with AI**

Using the aforementioned interpretation of the preamble, it can be argued that advocates must be judicious while using AI. This interpretation does not bar the use of AI as the advocate must employ means that are efficient and cost effective. Simultaneously it also serves as a safeguard on the over reliance on the technology to by making sure that the advocate upholds dependability.

From Indian standpoint, the need to integrate AI into the legal system is the need of the hour. The piling mountains of pending cases, the dearth of judges requires effective and swift resolution to cases. This need is supplemented by the report by the World bank which states that India ranks the lowest in “enforcement of contracts”.<sup>50</sup>

Both, legal practitioners and the judiciary stand to benefit significantly from the use of AI-driven technology. For example, AI may speed up time-consuming operations like document screening and discovery. The efficiency gained by advocates using AI can then help the courts, since simplified legal processes can lead to a more efficient judicial system.<sup>51</sup>

However, all this cannot be done solely by relying on the preamble of the rules. The Preamble should be used to give way to add rules to address the use of technology in India. The prevalent argument against introducing technology regulatory frameworks is that technological penetration in India has not yet reached a level adequate to justify such control.

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*FOR AI-BASED LEGAL TECHNOLOGY AND RECOMMENDATIONS FOR ITS REGULATION IN INDIA* (2021).

<sup>47</sup> The Bar Council of India Rules, 1975, Chapter II, Preamble.

<sup>48</sup> The Bar Council of India Rules, 1975, Chapter II, Preamble.

<sup>49</sup> The Bar Council of India Rules, 1975, Chapter II, Preamble.

<sup>50</sup> The World Bank, Ease of Doing Business in India, available at <https://www.doingbusiness.org/en/data/exploreeconomies/india> (Last visited on Sept 1, 2024).

<sup>51</sup> Anirudh Gotety, *REGULATING THE ETHICS OF THE UNKNOWN: ANALYSING REGULATORY REGIMES FOR AI-BASED LEGAL TECHNOLOGY AND RECOMMENDATIONS FOR ITS REGULATION IN INDIA* (2021).



However, it is India's ambition to improve its standing in the World Bank's Ease of Doing Business rankings.<sup>52</sup> The appropriate use of technology will considerably help achieve this aim. To guarantee that technology improvements benefit the corporate environment, suitable rules must be implemented.

Rules stating that advocates need to not only conduct their professional affairs with the greatest ethical standards, but also to remain current on technology innovations that can best serve their clients' requirements is the need of the hour.

Rules regarding regulation of use of AI by advocates should be introduced. To guarantee the proper use of AI technology in legal practice, advocates must treat AI output with the same scrutiny and supervision that they would when assessing the work of a junior colleague.<sup>53</sup>

The rules must make lawyers fully responsible for the help they get from AI systems just as they would if they took the assistance of a junior advocate. This includes being accountable for the accuracy, appropriateness, and ethical consequences of any technical tools they use, whether AI-powered or not.

#### IV. IS THE AGE OF AI UPON ADVOCATES?

There are growing discussions about AI replacing humans in the legal system. There is a misconception amongst the general public that AI will replace lawyers in the upcoming future. However, such a change is not possible and further would not be ethical in the current stage of AI technology.

The 7 lamps of advocacy are the penultimate litmus test to prove how AI still can't replace legal practitioners. Judge Edward Abbott Parry propounded the 7 lamps of advocacy theory which mention the most important attributes that an advocate must possess in order to thrive in his legal career while practicing in any court.<sup>54</sup>

The first lamp is honesty. Honesty is defined as the quality of being free from deception and fraud.<sup>55</sup> An advocate should be honest in his approach, honest towards his client, his opposition,

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<sup>52</sup> Subhayan Chakraborty, *Ultimate Aim of Ease of Doing Business Reforms is to Improve Lives: PM Modi*, BUSINESS STANDARD, (November 20, 2018), available at [https://www.business-standard.com/article/economy-policy/ultimate-aim-of-ease-of-doing-business-reforms-is-to-improve-livespm-modi-118111901258\\_1.html](https://www.business-standard.com/article/economy-policy/ultimate-aim-of-ease-of-doing-business-reforms-is-to-improve-livespm-modi-118111901258_1.html) (Last visited on Sept 2, 2024).

<sup>53</sup> Anirudh Gotety, *REGULATING THE ETHICS OF THE UNKNOWN: ANALYSING REGULATORY REGIMES FOR AI-BASED LEGAL TECHNOLOGY AND RECOMMENDATIONS FOR ITS REGULATION IN INDIA* (2021).

<sup>54</sup> Edson R. Sunderland, *Review of The Seven Lamps of Advocacy*, 22 MICHIGAN LAW REVIEW 743 (1924).

<sup>55</sup> Honest Definition & Meaning - Merriam-Webster, <https://www.merriam-webster.com/dictionary/honest> (last visited Sep 3, 2024).

towards the court and to the law.<sup>56</sup> Honestly is not a trait that AI can mimic. AI suffers from data bias.

Data bias Refers to the occurrence of skewed findings caused by original training data or AI algorithm, resulting in distorted outputs and potentially hazardous effects.<sup>57</sup> A recent incident showing this problem occurred in New York City, when a chatbot deployed by the local government, supposed to aid customers in navigating municipal services, delivered false and illegal advice.<sup>58</sup> Hence, AI cannot perform this function for advocates.

Second lamp is courage. Courage is the ability to stand in front of a judge and state your case without fear.<sup>59</sup> A good advocate must be courageous enough to present his case and represent the best interest of his client without being afraid.

AI chatbots cannot emulate courage. An example of that would be the fact that when the prompt giver asks ChatGPT to recheck the answer it gave, it changes its answer even if the previous answer was correct. Courage is intrinsically rooted in emotions, awareness, and moral reasoning—qualities an AI lacks.<sup>60</sup>

Third lamp is of industry. The advocate's first responsibility is to learn to labor. Every successful advocate relied on industry for some of their success. AI is relied upon human's labor to succeed. If humans stop putting in effort to develop the technology further, AI will no longer remain relevant. Hence, AI does not possess the quality of industry as well

Fourth lamp is of wit. Being a lawyer requires wit and a sense of humor. Wit is not just being a funny but the ability to adapt to change and keep calm. An example of this would be from a case that I witnessed in Rajasthan High Court.

An advocate was arguing a case regarding validity of a contract and the judge was not in his favor. Frustrated, the advocate said, "Your honor, I would not argue any further. I just want the court to note down the date in which the contract was entered." The judge replied, "2007". The

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<sup>56</sup> SEVEN LAMPS OF ADVOCACY, LAW NOTES (Nov. 28, 2022), <https://lawnotes.co/seven-lamps-of-advocacy/> (last visited Sep 3, 2024).

<sup>57</sup> What Is AI Bias? | IBM, <https://www.ibm.com/topics/ai-bias> (last visited Apr 15, 2024).

<sup>58</sup> Colin Lecher, Katie Honan for THE CITY & Maria Puertas, *Malfunctioning NYC AI Chatbot Still Active Despite Widespread Evidence It's Encouraging Illegal Behavior – The Markup*, (2024), <https://themarkup.org/news/2024/04/02/malfunctioning-nyc-ai-chatbot-still-active-despite-widespread-evidence-its-encouraging-illegal-behavior> (last visited Sep 3, 2024).

<sup>59</sup> SEVEN LAMPS OF ADVOCACY, LAW NOTES (Nov. 28, 2022), <https://lawnotes.co/seven-lamps-of-advocacy/> (last visited Sep 3, 2024).

<sup>60</sup> Courage To Leap & Lead Turning Failure to Success, *The Intersection of AI and Courage: Harnessing the Power of Brave New Technologies*, MEDIUM (Apr. 9, 2023), [https://medium.com/@cb\\_courage/title-the-intersection-of-ai-and-courage-harnessing-the-power-of-brave-new-technologies-8743db362a02](https://medium.com/@cb_courage/title-the-intersection-of-ai-and-courage-harnessing-the-power-of-brave-new-technologies-8743db362a02) (last visited Sep 3, 2024).

advocate to that said, “the font used in the contract is ‘Calibri’, which was introduced in 2013.”

This showcases how a human can adapt to changes quickly if he has wits. AI can not do that since it is depended on its programming which is rigid.

Fifth lamp of advocacy is Eloquence which refers to the art of speaking. Great advocates speak in the manner that convinces anyone. AI speaks in the language that is pre programmed and limited to the language model it was trained on. AI models rely largely on textual patterns and statistical correlations.<sup>61</sup> While they may construct cohesive and grammatically accurate phrases, they may struggle to develop language that is not just correct but also rhetorically effective or visually appealing.<sup>62</sup>

Sixth lamp is of judgement. Judgment is an intellectual capacity that allows a man to turn good sense into right action.<sup>63</sup> This is the most important skill for a lawyer as it entails analyzing and evaluating a case’s strengths and flaws, anticipating probable counterarguments. AI cannot make judgements. It does not have critical thinking and a sense of morality.

Seventh lamp is of fellowship. An advocate must maintain fellowship with his colleagues. When an advocate accepts the case and argues, he is arguing against the opposing advocate. However, this opposition doesn’t make them his enemies. Fellowship pushes the advocates to do better and hence furthers the cause of justice. AI does not have kinship. It has no motivating factor and hence cannot have fellowship.

## V. SUGGESTIONS

As advanced as AI is, it has still a long way to go before it can compete for the jobs of legal practitioners. On the other hand, legal practitioners can employ AI judiciously for the betterment of the legal fraternity and furtherance of justice.

BCI should form rules at the earliest to combat the negative effects of AI in law and to highlight the positives of AI which will prove fruitful for the legal system. The best-case scenario is for advocates to guide AI in doing tasks.

Lawyers should examine AI programs for potential biases, particularly those that might result in unequal outcomes based on race, gender, or other protected characteristics. Regularly assess

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<sup>61</sup> AI and Aphasia in the Digital Age: A Critical Review - PMC, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC11047933/> (last visited Sep 3, 2024).

<sup>62</sup> Causal AI: Bridging the Gap Between Correlation and Causation · Neil Sahota, <https://www.neilsahota.com/causal-ai-bridging-the-gap-between-correlation-and-causation/> (last visited Sep 3, 2024).

<sup>63</sup> Deepshikha, *Critical Professional Ethics: The Seven Lamps of Advocacy*, (2024), <https://www.legalbites.in/professional-ethics-seven-lamps-of-advocacy/> (last visited Sep 3, 2024).

AI tools to verify they are still fair and unbiased. Ultimately, the aim of BCI should be for AI to supplement lawyers and not replace them. Lawyers should analyze AI outputs and use their professional judgment when interpreting and using AI-generated insights.

## VI. CONCLUSION

The age of AI is here and the technology is here to stay. Countries like USA and England have come up with code of ethics that has to be utilized by the lawyers when they are employing the use of AI.<sup>64</sup> It is high time that India stops avoiding technology when it comes to the legal system and adopt changes.

While the preamble of Standards of Professional Conduct and Etiquette under the BCI Rules give autonomy to the lawyers to adapt, proper regulations and ethical rules should be brought in to deal with the changing world.

AI is very powerful and if used correctly can work wonders for a country like India which has 40 million pending cases.<sup>65</sup> Lawyers should understand the potential of AI-based legal technology to provide dependable, efficient, and cost-effective solutions to their clients. However, they must strike a careful balance between the use of these technologies and ethical issues, ensuring that their professional judgment remains vital to decision-making. In the end, AI is a tool, not a replacement.

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<sup>64</sup> New guidance on generative AI for the Bar, <https://www.barcouncil.org.uk/resource/new-guidance-on-generative-ai-for-the-bar.html> (last visited Sep 3, 2024).

<sup>65</sup> National judicial data grid, November 2021, available at <http://njdg.ecourts.gov.in/>.

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