

Reports

International

The Future Is Now: Artificial Intelligence and the Legal Profession

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This paper is the abridged version of a report jointly prepared by the International Bar Association (IBA) and the Center for AI and Digital Policy (CAIDP). This initiative arose from a latent need of IBA members (80,000 individual international lawyers from most of the world's leading law firms and some 190 bar associations covering more than 170 countries) that became evident in different ways and, thanks to its President Almudena Arpón de Mendivil Aldama, became an unprecedented project.¹

'The Future is Now: Artificial Intelligence and the Legal Profession' marks the beginning of an essential endeavour, to address the impact AI has on the legal profession, the new ethical issues that arise, and the role of lawyers and legal associations in developing rules for AI governance. This is only the beginning, as achieving its objectives requires ongoing research and regular updates to ensure that the assessment and recommendations are relevant and timely, and reflect the expertise of the profession, uniting the members of this organisation across borders.²

I. Purpose of the Report

The public release of generative AI services, such as ChatGPT, has stirred intense public interest across all sectors of society, including the legal profession. The question of whether AI could replace lawyers, as well as how society should govern AI through the law, has ceased to be a concern belonging solely to science fiction movies. It is now front and centre for the legal profession and for governments around the world.

AI's impact on the law encompasses aspects from legal practice to rules of professional conduct and AI governance.³ From the legal profession's perspective,

the arrival of AI services marked the first time that a widely available technology could perform writing and research tasks with a level of proficiency approaching trained lawyers. Warning signs emerged, such as 'hallucinations' that generated case citations that did not exist, as well as distorted training models that produced biased outcomes. These experiences led law firms to see both promise and peril. On a positive note, effective incorporation will enable the offering of a range of legal services at a lower cost and improved efficiency. Conversely, law firms that do not embrace AI may struggle to remain cost-competitive, leading to client loss and hindering their ability to attract and retain legal talent.⁴ The

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- 1 'About the IBA' (International Bar Association, 19 November 2024) <<https://www.ibanet.org/about-the-iba>> accessed 20 November 2024.
- 2 International Bar Association and Center for AI and Digital Policy, 'The Future is Now: Artificial Intelligence and the Legal Profession' (International Bar Association, 2024) <<https://www.ibanet.org/document?id=The-future-is-now-AI-and-the-legal-profession-report>> accessed 15 November 2024.
- 3 Generative AI is typically defined as 'a machine-learning model trained to create new data, rather than making predictions about a specific dataset. A generative AI system learns to generate more objects that resemble the data it was trained on.' Adam Zewe, 'Explained: Generative AI' (MIT News, 19 November 2023) <<https://news.mit.edu/2023/explained-generative-ai-1109>> accessed 8 August 2024. Generative AI is a subset of AI, which refers broadly to techniques that automate human perception and decision-making.
- 4 John Villasenor, 'How AI will revolutionize the practice of law' (Brookings, 20 July 2023) <<https://www.brookings.edu/articles/how-ai-will-revolutionize-the-practice-of-law/>> accessed 8 August 2024.

question that remains is how to navigate this moment.

On the governance side, the European Union (EU) has enacted the AI Act, a comprehensive law for the regulation of AI.⁵ The United States has put in place a sweeping Executive Order to regulate AI systems across the federal agencies and to establish new safety standards for AI companies.⁶ The Council of Europe has set out the first international treaty for AI.⁷ China has an ambitious plan for AI regulation.⁸ Many countries are also developing legal frameworks for national AI governance. Lawyers will be called upon to ensure compliance with these new legal rules and their own ethical regulations, to promote harmonisation of different legal frameworks and to identify emerging challenges in the years ahead.

In the midst of these recent developments and empowered by its mandate to assist members of the legal profession develop and improve their legal services, and protect and advance the rule of law globally, the IBA took on the challenge of providing guidance on the impact of AI on the legal profession and the law. At the 2023 IBA Annual Conference in Paris, IBA President Almudena Arpón de Mendivil Aldama announced the formation of an AI Project Task Force, encompassing all parts of the Association, to (1) provide IBA members and the legal profession

with relevant and credible guidance on AI-related issues from both a legal and a practical perspective; (2) position the IBA as a leader in addressing such legal issues and enhancing its profile; (3) comply with the IBA Strategic Plan to safeguard the core values of the profession, improve member offerings and educate on developments affecting legal practice; and (4) engage with members of the Association.

Thus, with the goal of producing a report to be presented at the IBA 2024 Annual Conference in Mexico City, the IBA AI Task Force established three Working Groups, entrusted with the responsibility of (1) examining the regulation of AI; (2) assessing AI's impact on the legal profession; and (3) advocating for best practices among bar associations and legal regulatory bodies.

Each of these groups developed its own research methodology to produce insights and recommendations, and thus successfully achieve the objectives of the IBA AI Task Force. The contributions of these Working Groups are the fundamental basis of this report, which ultimately provides insights and guidance to the legal profession globally.

II. The Impact of AI on Law Firms

As the title of the report states, 'the future is now', especially when it comes to the impact this technology has on the delivery of legal services. This technology will probably shape legal practice for many years. Attorneys need to understand AI and how to make use of it.⁹

1. Research Overview

The IBA's AI Task Force conducted an investigation combining three main components: questionnaires, interviews and a literature review. The questionnaire, distributed to all IBA members, ensured diverse and comprehensive representation within the legal profession. Focused interviews with AI leads at larger law firms gathered detailed information on the use of generative AI and its impact on firm members, structure, processes, and business development. The literature review provided an understanding of the challenges facing law firms and broader legal issues, drawing on publications from international associa-

5 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) [2024] OJ L2024/1689.

6 Executive Office of the President, Federal Government of the United States, Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence (14110, 30 October 2023) 88 FR 75191.

7 Council of Europe, 'Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law' (Council of Europe, 2024) <<https://www.coe.int/en/web/artificial-intelligence/the-framework-convention-on-artificial-intelligence>> accessed 13 August 2024.

8 See Ulrich Jochheim, 'China's ambitions in artificial intelligence' (At a Glance, 9 September 2024) <[https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA\(2021\)696206](https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA(2021)696206)> accessed 8 August 2024; and Matt Sheehan, 'Tracing the Roots of China's AI Regulations' (Carnegie Endowment, 27 February 2024) <<https://carnegieendowment.org/research/2024/02/tracing-the-roots-of-chinas-ai-regulations?lang=en>> accessed 8 August 2024.

9 Sofia Larrea, 'Artificial intelligence is not the future, but the present' (IBA Young Lawyers' Committee) <<https://www.ibanet.org/article/522BA7E3-EA7C-4A76-AA9F-013553A5756A>> accessed 13 August 2024.

tions, academic institutions, legal sources and the IBA itself.

2. Findings

a. Current State of Implementation of AI

Based on the survey, 210 out of 333 respondents are law firms that reported using AI in their operations. The majority of AI-utilising law firms are located in Europe (including the UK), the US, and other operating in multiple jurisdictions through subsidiaries in different countries.

For firms with over 500 lawyers, 100% reported implementing AI in their workflow. In contrast, for smaller firms, specifically those with between one and 100 lawyers, the results show that 68% are not yet using AI. This could be concerning, as achieving full implementation will probably widen market gaps, allowing larger firms to continue growing and gaining market share at the expense of smaller firms.

It is noteworthy that over 100 law firms are using AI services such as Microsoft Copilot and Azure for drafting newsletters, social media posts and even logo generation. This differs from client-facing applications like legal research, document assembly, contract drafting, due diligence, and discovery for litigation cases. For these functions, generative AI, chat bots, e-diligence and e-discovery platforms, are being deployed. Some law firms are developing chat functions and using vendor tools such as Harvey for creating first drafts, as these tools are not yet trained with firm-specific data.

Notably, many law firms are adopting a portfolio approach by using a mix of models. These disparities in usage purposes may be attributed to distrust in the tools, the need for testing before making final choices, concerns related to the high cost of implementation or licensing, and a lack of AI/technical talent and skills. However, many of the firms plan to expand their budget and prioritise AI implementation.

When it comes to using generative AI and other AI tools, firms tend to prioritise confidentiality and information management over potential revenue and investment requirements. This approach is probably the result of discussions with clients about AI usage, which typically prohibit the use of client data for training purposes. As a result, firms have under-

taken extensive trial and error searches among generative AI vendors, leading to varied results when using different models for the same questions, with concerns such as hallucinations still being mentioned. This lingering distrust remains a significant factor in the challenges and implementation. The implementation of AI in law firms represents a significant shift towards integrating advanced technologies to enhance legal processes. However, the journey is ongoing, requiring continuous development and refinement to fully realise AI's potential in the legal industry.

b. AI Governance

Out of the 210 law firms that reported using AI in their operations, only 91 reported having policies in place for using AI solutions, while 21 reported lacking these policies. 114 respondents mentioned having an internal AI-dedicated team, while 117 reported that they lacked such a team. Notably, the findings indicate that larger law firms are more likely to have a specialised AI team.

Interviews provided further insights into AI governance practices. All firms interviewed have policies in place and emphasised that establishing these policies was one of the first steps taken before adopting AI solutions. A critical aspect of these policies is the stipulation that lawyers are always responsible for the outcomes and use of AI, often driven by client requirements. Various firms also require their staff to sign AI policy statements to ensure compliance and awareness.

AI governance is still a work in progress for many firms, presenting several challenges such as data governance and distribution, AI tool requirements, security, IP and privacy. These challenges are reflected in the survey, where barriers to AI use were commonly mentioned. The ongoing development of AI governance frameworks is essential to address these issues, ensuring responsible and effective AI integration in legal practice.

As of the date of the survey, the majority of the surveyed firms would be regulated directly by the EU AI Act, and those with a presence in other jurisdictions, such as in South America or Asia, would probably have headquarters in the EU. Therefore, it is foreseeable that their subsidiaries in other countries, even in the absence of specific regulations, would implement strategies considering this regulatory frame-

work.¹⁰ It is noteworthy that the AI Act applies to the outputs of AI systems used within the EU, even if the AI providers or deployers are themselves not located in the EU.¹¹

c. Substantial Impact on Law Firm Structure, Organisation and Business Model

More than 80% of respondents acknowledged the necessity for these adjustments. All law firms anticipate a future shift towards fixed or added value fees, influenced by AI's impact. This shift is expected to include additional technology and development surcharges, as firms aim to avoid a race to the bottom and engage in discussions with clients about sharing financial gains. Firms' internal finance functions are already involved in reviewing cost structures to align with AI's impact, indicating a broader trend towards reevaluating and adapting traditional business models to incorporate AI advancements.

As some interviewees mentioned, these changes brought by AI should not be limited to the administrative aspects of firms. Working with new AI tools requires a change in mindset and processes. Perhaps the most significant change will be cultural. Lawyers will need to become more innovative and adaptable, supported by their firms to confidently embrace AI. This cultural shift is crucial for the successful implementation and widespread adoption of AI tools.

Respondents expect the transition to have a significant impact on workflow and workload, as it takes

time to adjust, and workload may increase during the adoption period before the positive effects become evident. Consequently, many firms are now prioritising the employment of attorneys who are willing to use AI and are open to new forms of technology. This shift involves changing hiring policies and recruitment strategies to focus on more educated and AI-trained lawyers.

d. Training and Adoption

74% of respondents believe that the full implementation of AI can potentially replace certain roles within their firms, highlighting the significant impact AI may have on the legal profession. The perceived impact of AI on different categories of lawyers varies. For younger lawyers, 47% of respondents indicated a significant impact, while 14% viewed the impact as moderate. Junior associates are also expected to be significantly affected, with 51% of respondents reporting a significant impact. Senior associates and partners, however, are seen to be less affected, with only 15% and 11% of respondents, respectively, viewing the impact as significant. The development of these categories shows a similar pattern, with trainee and junior lawyers expected to experience the most significant changes as a result of AI integration.

The correlation between the use and development of different lawyer categories suggests that the adoption of AI will necessitate the creation of new roles or the evolution of existing ones. Also, training young lawyers beyond their use of AI represents a new challenge, with the risk of losing the expertise needed at more senior roles or directly losing talent if work were limited to the use of AI and the review of its outcome.

Furthermore, the interviews revealed that most firms require their employees to undergo training before they can use AI or participate in pilot programmes. Larger firms, in particular, are able to offer more comprehensive internal development programmes and communicate these initiatives effectively.

This indicates that without proper training, professionals will be at a significant disadvantage and risk, which, combined with the low implementation rates of training programmes among the larger group of law firms that participated in the survey, could be a potential weakness not only for organisations but

10 The AI Act applies to:

- 1) providers placing on the market or putting into service AI systems or placing on the market general-purpose AI models in the EU, irrespective of whether those providers are established or located within the EU or in a third country;
- 2) deployers of AI systems that have their place of establishment or are located within the EU;
- 3) providers and deployers of AI systems that have their place of establishment or are located in a third country, where the output produced by the AI system is used in the EU;
- 4) importers and distributors of AI systems;
- 5) product manufacturers placing on the market or putting into service an AI system together with their product and under their own name or trademark;
- 6) authorised representatives of providers, which are not established in the EU;
- 7) affected persons that are located in the EU.

Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules of artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) [2024] OJ L1689.

11 Ibid.

also for individuals and professionals, as well as for the dynamism of the labour market.

e. Competitive Advantages

In-house development of AI technology is found to be a significant competitive advantage for law firms, particularly the largest ones. According to the data, firms with 101–500 legal practitioners are leading in developing and designing their own AI tools or programs internally. This trend highlights that larger firms are better positioned to invest in proprietary AI solutions, probably due to their greater financial and budgetary resources. On the other hand, AI may help ‘level up’ smaller firms. Commentary on access to justice also noted the potential benefits of AI.

The ability to build proprietary AI solutions provides large firms with a unique edge, enabling them to tailor AI tools to their specific needs and workflows. This customisation can lead to more efficient operations, enhanced service quality and ultimately, a stronger market position. Smaller firms, by contrast, may face challenges in allocating the necessary resources for such developments, potentially widening the gap between large and small firms in terms of technological advancement and competitive capabilities.

The data shows that this opportunity opens up for these firms, and only these firms, the possibility to participate in a new market by offering services and technology designed by lawyers and for lawyers, which does not preclude them from adapting to other industries and uses. Providing these services to third parties could lead larger firms to become providers of legal technology services to smaller firms, which will probably make them dependent. This could have a negative impact on medium and small firms.

f. Media and Advertising Strategies

139 respondents have taken into account the liability risks of AI-related advertising, while 71 have not. Interestingly, despite this concern, 142 respondents have invested in new technologies to improve service efficiency and quality without implementing corresponding media or advertising strategies, compared to 68 who have not made such investments.

This discrepancy suggests that while firms are eager to leverage AI to enhance their operations, there

is a notable hesitation to advertise these capabilities due to potential liability risks. Misleading advertising could pose significant legal challenges, necessitating careful risk assessments by firms.

g. The Challenges

Looking to the future, the survey of law firms reveals several key challenges with AI:

- the development of AI policies and governance standards to promote trust and confidence, and mitigate risk;
- adequate testing and assessment of AI tools prior to deployment and subsequent evaluation throughout the AI lifecycle;
- training of lawyers and administrators;
- discussions with clients regarding the use of client data for training purposes; and
- compliance responsibilities for both legal rules and ethical obligations.

III. The Regulatory Landscape: Convergence, Divergence and Harmonisation

As with users in any industry, law firms must stay informed about current and prospective regulations that affect them and their clients. This awareness influences adoption strategy, budgeting decisions, risk analysis and more.

1. Research Overview

The IBA’s AI Task Force was entrusted with the identification of the common principles that should apply globally when considering AI regulation. The ultimate goal of this workstream was to make recommendations to coordinate and bring closer together global regulatory frameworks, despite the devil being so often in the details.

2. Findings

a. Joint Stakeholder Efforts

Most respondents agree that legislators should consult with tech experts, industry representatives, acad-

emia and others before regulating AI. Interestingly, some respondents also suggested consulting with end users, consumers or the general public.

Additionally, a significant portion (30%) favour moderate regulation, while a smaller percentage (16%) prefer light touch regulation. Only a small portion of respondents seem to support exhaustive regulation of AI. This may reflect a trend toward favouring innovation and adopting technology, which could be interpreted as a positive outlook rather than the doomsday scenario often portrayed by the media.

b. The Importance of Consistency, Coherence, Transparency, Accountability and Fairness

57% of respondents considered 'consistency' to be the most important characteristic for AI regulation, while 51% said 'coherence'. Respondents gave a lower weight of importance to 'stability', with only 30% considering it relevant. Coherence and consistency minimise the risk of regulatory conflicts that could negatively impact the various legal interests protected by regulation. On the other hand, the fact that little weight has been given to stability could imply that the respondents are aware of the evolving and changing nature of AI, and are open to flexibility that allows policy development in parallel with the protection of legal interests and regulation.

Respondents are similarly divided on the main regulatory goals regarding AI, with (1) data privacy and security at 66%, (2) ethical guidelines at 63%, (3) transparency and accountability at 61%, and (4) bias and fairness at 50%. Interestingly, the respondents rated 'explainability and interpretability' lower than expected, given that the audience is mainly composed of lawyers, who are traditionally inclined towards evidence and factual-based reasoning in legal argumentation. However, the respondents ranked 'continuous monitoring and evaluation' highly, which can be seen as a moderate preference. It could be said that the respondents accept that AI could function without explanation, as long as parallel efforts are made to understand, test and maintain control over these algorithms, and provided that they function safely.

c. The Challenges

Survey respondents highlighted several challenges in complying with existing AI regulations. These include:

- different regulatory regimes;
- ensuring core principles to apply to regulations;
- fast changing environment and rules;
- compliance and policies;
- a lack of education on several fronts: the tools, their use and their job impact;
- opaque systems that make it difficult to assess outcomes; and
- sustainability and the environmental impact of large language models.

IV. Guidelines on Best Practices for Bar Associations and Regulators

The IBA's AI Task Force was also tasked with considering whether the current rules of professional conduct¹² are sufficient or need fine-tuning to provide a resource for member bars to understand the implications and the available tools.

1. Research Overview

The IBA's AI Task Force first reviewed the approaches already taken by various bars and law societies in different jurisdictions regarding the effects of AI use on professional regulations. The survey has not been exhaustive, as bars and regulators continue to address the issue. Thereafter, the Task Force looked at the current IBA guidelines for the legal profession and identified the challenges in terms of the professional regulatory framework regarding the use of AI by private practitioners.

2. Findings

When approaching the rules affecting the legal profession, the main issue is how AI might affect lawyers' deontological (ethical) duties and whether new duties arise because of the use of AI in the provision of legal services. However, in the broader AI context, much of the discussion about ethics has not been lawyer-related, but rather to broader 'moral' is-

¹² Different jurisdictions may refer to professional 'ethics' as opposed to rules of conduct or other terminology. Regardless of the particular term, the reference is to the rules for which lawyers may be disciplined for violations.

issues relating to AI. Those jurisdictions that have directly addressed deontological issues regarding the principles governing professional practice of lawyers (ie, legal ethics) have focused on core issues (the ‘common denominators’) of client communication, honesty, competence, confidentiality, supervision, independence, and proper allocation of costs and fees. Some bars that have issued guidance have noted others, whereas some have not identified all of these.

The IBA International Principles on Conduct for the Legal Profession outlines core values and provides guidance for bars and regulatory bodies regarding the rules of professional conduct for the legal profession. It is not a model code with comprehensive rules, but rather includes core principles that establish common rules for professional conduct and the foundation for the ethical use of AI.¹³

In 2024, the IBA adopted commentary to specifically address technology in general and AI in particular:

A lawyer should keep abreast of changes in the law and be competent in their response to, awareness, and use of technology relevant to their practice. Technological competence is a spectrum, ranging from the effective use of electronic communications to engaging with Artificial Intelligence. Lawyers should aim to be conscious of the opportunities, risks, and ethical challenges that technology presents for themselves as well as their clients.¹⁴

The IBA International Principles on Social Media Conduct for the Legal Profession identify factors for bar associations and regulatory bodies seeking to establish ethical rules for use of social media by members of the legal profession and provide an overview of applicable principles for such members to be guided by. Of note are Principle 3 (Responsibility), Principle 4 (Confidentiality) and Principle 5 (Maintaining Public Confidence).¹⁵

The American Bar Association (ABA) has established a Task Force dedicated to addressing AI in legal contexts.¹⁶ This Task Force emphasises the importance of technological competence and ethical issues such as confidentiality and supervision, ensuring that lawyers are equipped to handle AI technologies responsibly and effectively within their practice. On the state level, New Jersey has issued guidelines that highlight critical aspects of AI use, including accuracy, honesty, confidentiality and the prevention of mis-

conduct. These guidelines are designed to ensure that AI tools are used ethically and that their outputs meet the high standards required in the legal profession. In addition, the State Bar of California provides comprehensive guidance on the use of AI in law.¹⁷

This guidance emphasises the need for confidentiality, competence, supervision and a thorough understanding of ethical considerations. The detailed recommendations help lawyers navigate the complexities of integrating AI into their practices. Also in the US, Florida’s ethical guidelines focus on key areas such as confidentiality, oversight, costs and advertising related to AI-generated work. By addressing these aspects, the guidelines aim to ensure that AI use in legal practice is both transparent and accountable. Most recently, the ABA has issued a Formal Opinion that states that to ensure clients are protected, lawyers and law firms using generative AI tools must ‘fully consider their applicable ethical obligations’, which include duties to provide competent legal representation, to protect client information, to communicate with clients, to ensure candour toward the tribunal and to charge reasonable fees consistent with time spent using generative AI.¹⁸

Canada’s Model Code of Professional Conduct does not directly address the use of AI. However, sev-

13 ‘International Principles on Conduct for the Legal Profession’ (International Bar Association, adopted on 28 May 2011, and updated on 11 October 2018 in English. The Explanatory Note at para 9.2 in the *Principles* was further updated in May 2024) <<https://www.ibanet.org/document?id=International-Principles-on-Conduct-for-the-Legal-Profession-2018>> accessed 13 August 2024.

14 *Ibid.*

15 *Mata v Avianca, Inc* [2023] SDNY 22-cv-1461 (2023) WL 4114965; Siddhartha Rao and Andrew Ramstad, ‘Legal Fictions and ChatGPT Hallucinations: “Mata v. Avianca” and Generative AI in the Courts’ (*Law.com*, 21 December 2023) <<https://www.law.com/newyorklawjournal/2023/12/21/legal-fictions-and-chatgpt-hallucinations-mata-v-avianca-and-generative-ai-in-the-courts>> accessed 8 August 2024.

16 American Bar Association Center for Innovation, ‘Task Force on Law and Artificial Intelligence: Addressing the Legal Challenges of AI’ (American Bar Association) www.americanbar.org/groups/leadership/office_of_the_president/artificial-intelligence accessed 13 August 2024.

17 State Bar of California, Standing Committee on Professional Responsibility and Conduct, ‘Practical Guidance for the Use of Generative Artificial Intelligence in the Practice of Law’ (The State Bar of California, 2023) <<https://www.calbar.ca.gov/Portals/0/documents/ethics/Generative-AI-Practical-Guidance.pdf>> accessed 8 August 2024.

18 American Bar Association, Standing Committee on Ethics and Professional Responsibility, ‘Formal Opinion 512: Generative Artificial Intelligence Tools’ (American Bar Association, 2024) <https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf> accessed 8 August 2024.

eral of the principles have implications for the use of AI.

In Australia, the ethics framework provides general ethical principles for AI use, with a strong emphasis on privacy and confidentiality. These principles guide lawyers in using AI tools responsibly, ensuring that client information is protected. The New South Wales Bar Association has issued specific guidelines on the use of generative AI. These guidelines emphasise competence, integrity and honesty, ensuring that AI technologies are used in a manner that upholds the highest ethical standards. In Victoria, the Supreme Court of Victoria has outlined principles for the use of AI in litigation, focusing on technological competence and privacy. These principles are designed to ensure that AI tools are used effectively and ethically in the legal process with appropriate accountability.

Ethical considerations for AI use issued by the Law Society of England and Wales focus on maintaining competence, confidentiality and independence. The guidelines ensure that lawyers uphold these core values while integrating AI into their practice

The Council of Bars and Law Societies of Europe (CCBE), provides a comprehensive guide on AI tools for lawyers, emphasising the importance of communication, competence and privacy. The guidelines help lawyers understand and manage the risks associated with AI, ensuring that these technologies are used responsibly in legal practice.

In Asia, AI is also the subject of selected ethical commentary. In Japan, the Ministry of Justice has issued a memo titled 'Relationship between AI-based Contract Review and Related Services and Article 72 of the Lawyers' Act', which described AI contract review as not being regulated as legal practice under

the statute, though the AI entity will have its own liability.¹⁹

The Dubai International Financial Centre (DIFC) has issued the 'Practical Guidance Note No. 2 of 2023 Guidelines on the use of large language models and generative AI in proceedings before the DIFC Courts' that specifically addressed client confidentiality and truthfulness to the Court and other parties, and competence to the extent of explaining appropriate AI usage, among other admonitions to comply with all other ethical obligations.²⁰

While not all country bars have issued guidelines or rules changes, a sampling of the blogs and commentary indicate that the concerns expressed here, and amplified in the materials in the appendix, indicate a recognition on all continents that practitioners need to be aware of ethical implications of competence, integrity and confidentiality.²¹

a. The Challenges

It appears to be difficult for national bars and law societies to deal with this matter in a simple and effective manner. The potential use of international guidelines could prove to be useful in this regard.

The application of those AI-oriented rules could face some difficulties. For example, how can the level of technical knowledge required for a lawyer to use AI be measured at different points in time? Should policies regarding the use of AI be required to any practitioner, thus, how can you prove their adoption? Can the use of certain AI systems be 'prohibited', if such systems proved wrong?

AI systems being of an international nature, plus the practice of law being more and more often of a global nature, raises the additional challenge of the harmonisation required among the rules affecting the legal profession issued by different jurisdictions.

V. AI and the Rule of Law

As a global association established shortly after the creation of the United Nations, with the principal aim of protecting and advancing the rule of law globally, the International Bar Association has a unique responsibility to sustain modern democracies and protect human rights.

Beyond the practical opportunities and challenges facing the legal profession today, the IBA should strive

19 Toshiyuki Arai, 'Lawyers' Supremacy over AI?: a Japan's Tentative Perspective - MOJ issues Guidelines on AI-based review of contracts and how that can be permitted under Article 72 of Lawyers' Act (prohibition on non-lawyer practicing law)' (*JDSUPRA*, 4 June 2024) <<https://www.jdsupra.com/legalnews/lawyers-supremacy-over-ai-a-japan-s-1138166>> accessed 8 August 2024.

20 DIFC Courts, 'Practical Guidance Note No. 2 of 2023 Guidelines on the use of large language models and generative AI in proceedings before the DIFC Courts' (DIFC Courts, 2023) <<https://www.difccourts.ae/rules-decisions/practice-directions/practical-guidance-note-no-2-2023-guidelines-use-large-language-models-and-generative-ai-proceedings-difc-courts>> accessed 8 August 2024.

21 See, for example, Simon Dippenaar & Associates, 'AI and the legal profession' (Artificial Intelligence, 22 March 2024) <<https://www.sdlaw.co.za/blog/ai-and-the-legal-profession>> accessed 13 August 2024.

to ensure that new technologies strengthen democratic institutions and safeguard fundamental rights.

In the context of AI policy, the IBA should support international efforts to strengthen the rule of law and speak up when threats to the rule of law emerge.

Central to the administration of justice is a legal system that is fair, accountable, efficient and transparent. Human decision-making and human accountability, expressed through the work of lawyers and advocates, judges and magistrates, and courts and tribunals is the foundation of law.

As more legal tasks are delegated to AI systems, it is vitally important to ensure that impact assessments of AI systems are undertaken prior to deployment and throughout the AI life cycle to ensure that these AI systems comply with the rule of law and do not diminish or distort the administration of justice. Emerging norms for the governance of AI also make clear that AI systems that fail to comply with international human rights standards should not be permitted. This includes the prohibitions on social scoring and mass surveillance contained in the UNESCO Recommendation on AI Ethics, as well as the various AI systems that are prohibited under the EU AI Act.

Opaque decision-making systems that produce results that cannot be replicated, traced, contested or proven are at odds with the legal profession, which seeks to determine the truth through open and transparent proceedings.

At the same time, AI may help improve the administration of justice. AI may lower the workload of courts all over the world and improve the processing of administrative tasks. AI may make legal education more widely accessible to more people and also improve public understanding of the legal system and the practice of law.

The need for human oversight and the expertise of lawyers during the transition to these new practices does not diminish. Indeed, in this moment the need for trained lawyers to critically assess these new technologies may be greater than ever. The International Bar Association should ensure that AI technologies advance the rule of law.

VI. Future Challenges

As the legal profession navigates the rapidly evolving landscape of AI, several critical challenges and opportunities emerge for the IBA, the rule of law, ac-

cess to justice and the global legal profession. These challenges underscore the need for continuous engagement, adaptation and proactive measures to ensure that AI's integration into legal practice enhances the profession while safeguarding fundamental legal principles.

By addressing these challenges head-on, the legal profession can enhance its services, uphold the rule of law and ensure that technological advancements benefit society as a whole. The IBA's role in providing guidance, resources and advocacy will be crucial in navigating this transformative era and maintaining the profession's integrity and relevance in the face of rapid technological change. Review of current codes of professional conduct is critical to ensure that black letter rules and commentary are updated appropriately.

AI's ability to perform complex tasks previously reserved for highly trained lawyers presents both a threat and an opportunity. Law firms that effectively incorporate AI can offer services at lower costs and improved efficiencies, potentially leading to better outcomes in legal proceedings. However, firms that fail to embrace

AI risk becoming uncompetitive, losing clients and struggling to attract and retain talent. This dichotomy highlights the necessity for the IBA to provide guidance and resources that help law firms of all sizes navigate this technological transformation effectively.

The regulatory landscape for AI is evolving, with the establishment of new governance frameworks in the EU and the US. International bodies such as the Council of Europe, the OECD and the UN are also establishing frameworks. These frameworks aim to ensure AI technologies are developed and used responsibly. However, the rapidly changing nature of AI poses a challenge to creating stable yet flexible regulatory frameworks that protect legal and ethical standards while promoting innovation. The IBA must advocate for regulations that balance these needs and that include the key principles for a good regulatory framework, while ensuring that AI's adoption does not compromise the integrity of the legal profession or the rule of law. At some point, the IBA may wish to assess the differences in regulation of AI in different countries and regions. Business is already borderless but has to navigate and comply with the different regulations in each country or region that it touches. It would make for more efficient business, trade

and economic wellbeing if efficient ways were created to navigate and comply with the differences in regulation between each country or region.

Effective AI governance remains a critical challenge, particularly for smaller law firms. Issues such as data governance, security, intellectual property and privacy require robust policies to manage AI tools responsibly.

The IBA can play a pivotal role in developing comprehensive guidelines and best practices that law firms can adopt. These guidelines should emphasise the importance of maintaining high standards of confidentiality and professional responsibility, even as AI tools become more integrated into daily legal operations.

The successful adoption of AI in the legal profession hinges on training and a cultural shift towards

innovation and change. Legal professionals need to be equipped with the knowledge and skills to use AI tools effectively while understanding their ethical implications. Additionally, fostering a culture that embraces technological advancements while maintaining core legal values will be crucial for the profession's future.

The International Bar Association should ensure effective implementation of the legal standards for AI governance. Moreover, promoting international collaboration among bar associations and legal professionals can help promote convergence and harmonisation for legal frameworks, leading to coherence and consistency. This collaboration will enable the legal community to be informed about the latest developments in AI regulation and provide guidance to address emerging challenges.