AI and Legal Ethics: Best Practices for Lawyers in Ghana

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Introduction

The rapid advancement of artificial intelligence (AI) is reshaping numerous sectors, and the legal profession is no exception. Technologies like large language models (LLMs), such as ChatGPT, Google's **Gemini,** OpenAI's **CoCounsel,** and Clio's **Duo,** are revolutionising how lawyers perform tasks that were once time-consuming and resource-intensive. From legal research and document analysis to drafting contracts and summarising meetings, AI has proven to be an invaluable asset, offering efficiency, accuracy, and productivity gains.

In Ghana, legal professionals are increasingly exploring ways to harness the power of AI to improve their practices. However, as AI tools becomes more integrated into legal work, lawyers must be mindful of the ethical considerations that come with it. While the benefits of these tools are undeniable, they also raise important questions regarding confidentiality, responsible use, and legal risks.

This article examines the best practices for integrating AI into legal practice in Ghana while upholding ethical standards, particularly focusing on confidentiality, responsible AI use, and risk management within the legal profession.

The Role of AI in Legal Practice

AI technologies, particularly generative models such as ChatGPT, are revolutionising the legal field by streamlining tasks that traditionally consumed vast amounts of time and resources. These models have become indispensable tools in many law firms, automating various tasks, enhancing productivity, and streamlining workflows. The following are some key ways in which AI is transforming legal practice:

1. **Legal Research and Case Analysis:** AI can rapidly sift through vast databases of legal texts, case law, and statutes, identifying relevant precedents and summarising key findings. This reduces the time and effort traditionally needed for research, allowing lawyers to focus on applying the information to their clients' specific needs.
2. **Regulatory Analysis:** AI helps lawyers stay updated on regulatory changes, compare legislations, and track legal trends, facilitating compliance and due diligence tasks.
3. **Document Drafting and Review:** Generative AI tools can create first drafts of legal documentssuch as contracts, briefs, and compliance reports. They can also help refine and polish these drafts, improving language, formatting, and even identifying inconsistencies or gaps.
4. **Summarising and Brainstorming:** AI tools can play a crucial role in summarising lengthy legal documents, such as court rulings, statutes, or regulatory updates, enabling lawyers to quickly grasp the essential points without having to read through the entire text. This is especially valuable when dealing with large volumes of information, saving time and allowing lawyers to focus on applying the content to their cases. Moreover, AI can assist in summarising meetings, generating actionable insights, and creating "how-to" guides, meeting minutes and to-do lists, which streamline administrative tasks and free up time for high-value work. AI can also facilitate brainstorming by offering alternative perspectives on legal arguments, helping lawyers explore different avenues for their cases and ultimately enhance their ability to craft persuasive arguments.
5. **Compliance and Due Diligence:** AI can be used to analyse large volumes of corporate documents, contracts, and regulatory filings, helping lawyers identify potential risks, compliance issues, and opportunities during due diligence or corporate transactions.
6. **Internal Communication and Task Management:** AI tools can summarise documents, internal meetings, case updates, or client communications, enabling legal professionals to stay on top of their caseloads and improve collaboration with colleagues by automatically distributing updates, reminders, and task assignments to ensure all colleagues are aligned and informed.
7. **Improving Client Service:** By leveraging AI tools in drafting litigation chronologies, analysing legal trends, and even onboarding new staff or clients, lawyers are afforded ample time to focus on high-value tasks and strengthen client relationships.

Ultimately, by integrating AI into their workflow, lawyers can boost efficiency, enhance the quality of legal services, and become better equipped to serve clients.

Ethical Considerations and Responsible Use of AI

Despite its advantages, the adoption of AI in legal practice introduces significant ethical concerns that must be carefully addressed to ensure responsible use, particularly regarding accuracy, transparency, confidentiality, professional integrity, privilege, and security. Lawyers must bear the
following in mind when using AI technologies for legal tasks:

Client Confidentiality, Privilege and Data Protection

Lawyers have a professional duty to protect client information, and AI can both support and jeopardise that responsibility if misused. The ethical duty to maintain client confidentiality is fundamental to the legal profession in Ghana, as outlined in the Legal Profession (Professional Conduct and Etiquette) Rules, 2020, L.I. 2423. When using AI tools, lawyers must ensure that confidential client information is adequately protected.

- **Risks of Data Breaches:** Many AI tools, including ChatGPT, are hosted on cloud servers owned by third-party vendors or external platforms, which introduces the risk of unauthorised access or data breaches. Lawyers must exercise caution when using AI tools to process sensitive client data. It is essential to ensure that AI tools used in legal practice are secure and that any shared data is protected by robust encryption and data protection protocols to safeguard client information.

- **Limited Data Sharing:** To maintain the integrity of attorney-client privilege and work-product protections, lawyers should be cautious when sharing confidential information with AI systems. AI tools should primarily be used as a first-pass or drafting tool, with the final review and approval conducted by a qualified lawyer. Lawyers should avoid uploading highly sensitive or privileged information into AI tools unless absolutely necessary. Wherever possible, anonymising data or limiting the sharing of personal and confidential client details can mitigate risks to confidentiality.
- **Confidentiality Agreements with AI Vendors:** Law firms should establish clear confidentiality agreements with AI vendors, ensuring that any data processed by AI tools is handled securely and that AI vendors do not repurpose or store client data for other purposes. Vendor contracts should include provisions regarding data ownership, indemnity, liability limitations, and audit rights to protect the firm from risks arising from inaccurate or risky AI outputs.

Work-Product Protection and AI

Work-product protection is a critical element of the attorney-client relationship and shields materials generated by lawyers in preparation for litigation from disclosure. While this protection does not have a specific statutory framework under Ghanaian law, it remains an important consideration when integrating AI tools into legal workflows.

- **Potential Vulnerability with AI:** Using AI tools to generate or draft work-product could inadvertently expose such materials to challenges, potentially undermining their legal protections. For instance, if AI tools are used to generate case summaries, litigation strategies, or other preparatory materials, there is a risk that these documents could be exposed or become subject to disclosure, thereby diminishing their protected status. Also, if an AI tool inadvertently uses public data to draft legal content and blends it with privileged or confidential materials, it could complicate the determination of what parts of the document or work-product are protected.
- **Mitigating Risks:** To prevent undermining work-product protection, it is essential to exercise caution when using AI in drafting or generating such materials. Lawyers should review AI- generated work-product closely to ensure it complies with applicable legal protections and does not inadvertently compromise the confidentiality of case-related materials. Additionally, law firms should establish clear guidelines on how AI can be used in generating work-product, and ensure that its use does not undermine the legal protections for such materials.

Human Oversight and Accountability

While AI tools enhance legal work, they cannot replace human judgement. Lawyers must ensure that AI-generated documents and research findings are reviewed carefully to meet the required standards of accuracy and professionalism. AI tools may misinterpret legal principles or present
incomplete arguments, and human oversight remains essential to ensure the accuracy, ethical compliance, and consistency with the law.

AI models are known for making errors or generating "hallucinations"—plausible-sounding but incorrect or misleading information. It is the lawyer's responsibility to review AI-generated documents and outputs thoroughly to identify and correct errors before sharing them with clients or using them in legal proceedings.

Informing Clients About AI Use

While there is no legal obligation under Ghanaian law to inform clients when AI is used, this practice is considered best in other jurisdictions, particularly in the United States. In these jurisdictions, transparency about AI's role in legal work is viewed as essential for maintaining trust. Firms may consider addressing the use of AI tools in the engagement letter at the beginning of the client relationship, rather than sending a separate update each time AI use is involved in a matter. This proactive disclosure helps clients understand how AI is being used in their cases and reinforces the lawyer's commitment to professionalism and confidentiality.

Training and Ethical Use of AI

To mitigate risks, law firms must ensure their staff are well-trained in the ethical use of AI tools. Continuous education on the limitations and risks of AI, coupled with an understanding of the regulatory landscape surrounding AI in the legal field, is crucial. Lawyers should ensure that all team
members, from interns or junior associates to senior partners, understand how to use AI tools responsibly and effectively.

Managing Legal Risks and Compliance

AI tools have the potential to increase efficiency, but they also pose legal risks. For example, AI-generated documents may inadvertently omit crucial legal clauses or fail to comply with local laws, potentially putting clients at risk. Lawyers must take steps to mitigate these risks.

1. **Ensuring Legal Compliance:** AI tools can be used to draft contracts and legal documents, but lawyers must ensure that these documents comply with local laws, industry regulations, and best practices. AI might generate contracts or terms that do not align with specific requirements under Ghanaian law. For this reason, AI-generated documents must be thoroughly reviewed and adjusted before being presented to the client.
2. **Data Privacy Laws and AI:** AI tools processing sensitive personal data must comply with data protection laws like the Data Protection Act, 2012 (Act 843). Lawyers must ensure that AI tools used in their practice comply with these regulations and that clients' data is handled in accordance with the law.

Best Practices for Integrating AI into Legal Practice

To mitigate the ethical challenges associated with AI, lawyers should consider the following best practices:

- **Prioritise Data Security and Confidentiality:** Use secure, encrypted platforms for AI tools and ensure client data is protected at all stages.
- **Implement Robust Human Oversight:** Always review AI-generated documents and research for accuracy. Maintain human judgement as the final decision-maker in legal matters.
- **Be Transparent with Clients:** Clearly explain to clients how AI tools are being used and their benefits. Ensure clients understand that AI is a tool that supports, but does not replace, the expertise and judgement of a lawyer.
- **Stay Informed and Adapt:** Keep abreast of developments in AI technology, ethical guidelines, and regulations surrounding AI use in the legal profession.

Conclusion

AI offers immense value to lawyers, significantly enhancing efficiency and capabilities in legal research, drafting, and client management. However, its integration into legal practice must be approached responsibly and ethically. By prioritising confidentiality, ensuring human oversight, and adhering to legal and ethical standards, lawyers can leverage AI to improve their practice while maintaining the trust and integrity that form the foundation of the legal profession

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