

DOI 10.5817/MUJLT2025-2-4

JURISTS OF THE GAPS: LARGE LANGUAGE MODELS AND THE QUIET EROSION OF LEGAL AUTHORITY

by

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Large Language Models (LLMs) are not merely tools to assist legal professionals—they represent a deeper epistemic and normative challenge to the foundations of legal authority. While LLMs allow humans to produce outputs that convincingly simulate legal reasoning, they lack the embodied judgment, ethical intentionality, and contextual awareness that define legitimate legal decision-making. This paper argues that the social legitimacy of the legal profession relies on capacities that are not reproducible through computational systems. We first examine the epistemological limitations of LLMs, drawing on Kantian philosophy and complexity theory to show that their outputs are simulations, not acts of understanding. We then analyze how this technological shift risks reducing legal professionals to jurists of the gaps – filling in only where machines fall short – thereby hollowing out the humanistic mission of law. Against this backdrop, we call for a renewed professional ethic centered on interpretation, creativity, and normative judgment, rather than technical supplementation. The automation of law is not the end of the profession, but it could be the end of its authority – unless its practitioners reclaim what cannot be outsourced.

KEY WORDS

Large Language Models, Legal Profession, Professional Legitimacy, Artificial Intelligence and Law, Legal Epistemology, Legal Judgment

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1. INTRODUCTION

In a dissertation to a group of business scholars, the philosopher Mario Bunge posed the following three questions:

*“What can an innocent and harmless philosopher do amid a group of fearsome reengineering experts, downsizing, delayering, leveraged buyout, hostile takeover, government bailout, rebalancing, dumping, bankruptcy, consumer seduction, and other misleading practices? What can a dreamer have in common with business analysts, merger managers, financial alchemists, stock market gurus, and Schumpeterian-style entrepreneurs, and is there a more antithetical pair than philosophy and business?”*¹

These questions explore the relationship between philosophy and business and hint pragmatically at an answer. As difficult as it may seem, the philosopher and the entrepreneur can—and perhaps should—be intertwined. Analogy can raise a series of questions regarding the—presently, much broader—relationship between technology and law. What can a naïve and inexperienced jurist do in the face of the rapid development of technology, innovation models, and technological efficiency and control coming to define what counts as *rational* in society?² What can a legal professional who bases their work on intrinsic goods, such as justice and human rights which give lawyering value beyond mere profit,³ have in common with engineers, programmers, and technical systems designers who seek efficiency and competitiveness? Are we facing a genuine knowledge impasse?

In recent years, there has been growing concern over the future of the legal profession in the face of technology’s unstoppable progress, and speculation regarding its impacts on the practice and understanding of law. One only needs to consider the relevance of something as apparently simple as the digitization of legal resources and materials or the growth of legal resource databases, which have caused digital literacy to become an essential skill for every legal professional.⁴ However, this concern is often polarized. At one extreme lies the enthusiastic though naïve belief that technology will improve legal practice, since some AI systems have been engineered to reproduce surface patterns associated with competent moral agency⁵; at the other, a

¹ Bunge, M. (2008). *Filosofía y sociedad*, Mexico City: Siglo XXI, p. 160.

² Marcuse, H. (1941). Some social implications of modern technology. *Studies in philosophy and social science*, 9(3), 414-439.

³ MacIntyre, A. (1984). *After virtue: A study in moral theory*. 2nd ed. Notre Dame, Indiana: University of Notre Dame Press.

⁴ Benfeld, J. (2020) Profesión legal y tecnologías de la información y las comunicaciones: Una discusión necesaria. *Revista Chilena de Derecho y Tecnología*, 9 (2), p. 12.

⁵ Gudmunson, Z. (2024) The Moral Decision Machine: A Challenge for Artificial Moral Agency Based on Moral Deference. In: Brozek, B. and Janik, B. *Can Artificial Intelligences Be Moral Agents?*, pp. 101-106.

fearful attitude that argues that we are looking at the beginning of the end of the legal profession as we know it. Of the two, the latter probably generates the most confusion. It is not our claim—nor do we endorse the assumption—that lawyers will be wholly replaced by AI systems. However, the sociotechnical reality is more subtle: what is at stake is a progressive functional erosion of legal expertise through the automation of tasks that are publicly perceived as central to legal work. This echoes Critical Legal Studies' claim that law's outcomes are never purely mechanical but hinge on contested power and value choices.⁶

As the renowned legal philosopher Ricardo Guibourg⁷ points out, we must accept that human relations depend on current technologies, and legal practice must adapt accordingly. And within the wide range of topics on the relationship between law and technology, one area has particularly aroused interest centered on so-called *practical knowledge*. Namely, large language models (LLMs) have surprised the legal community, sometimes reviving in the public old questions typical of science fiction about whether machines possess consciousness and whether technology has reached the point of developing practical reasoning. From an Actor-Network Theory perspective, LLMs enter as *actants* that re-wire the network of attorneys, clients, and knowledge.⁸ This paper offers a synthesis of epistemological, sociological, and pedagogical perspectives on the incorporation of such AI systems into legal practice.

Rather than defaulting to moral skepticism, the aim of this manuscript is to identify the elements that jurists must consider when using technology in their daily work, and to explore whether these models merely assist lawyers in technical tasks or fundamentally reshape the normative foundations of legal interpretation and adjudication. We contribute to the broader scholarly inquiry into law and AI by interrogating how LLMs interact with core duties of the legal profession—competence and independent judgment, confidentiality/professional secrecy, loyalty and conflicts, candor to tribunals, and the profession's public commitments to the rule of law and access to justice—under widely used ethical frames⁹. Our claim is that LLMs

⁶ Kennedy, D. (1982). Legal education and the reproduction of hierarchy. *J. Legal Education*, 32, 591.

⁷ Guibourg, R. (2018) *Tecnología, sociedad y derecho*. Buenos Aires: La Ley, pp. 1-2.

⁸ Latour, B. (2005). *Reassembling the social: An introduction to actor-network-theory*. Oxford university press.

⁹ ABA Standing Committee on Ethics & Professional Responsibility (2024) *Formal Opinion 512: Generative Artificial Intelligence Tools*. [online]. Available from: https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf [Accessed August 24th, 2025]; ABA. *Model Rules of Professional Conduct—Preamble & Scope*. Available from: <https://www.>

are currently used to support some duty-level tasks but risk reshaping them in ways that imperil the very ends they are meant to serve, such as justice and moral deliberation. In parallel, we situate our philosophical claims within emerging empirical findings on the profession: studies on perceived performance and trust effects when texts are believed AI-authored¹⁰; the homogenization of AI-assisted outputs¹¹; randomized and field evidence on LLMs' impact on lawyers' speed and quality¹²; experiments on LLM-based simplification improving public comprehension of legal language¹³; and work on adoption shortcomings and cognitive limits when evaluating AI outputs¹⁴. We also read these dynamics against professional guidance now treating generative AI through the lenses of competence, confidentiality, supervision, candor, and fees¹⁵. Taken together, these literatures sharpen our central question: whether the LLM's outputs constitute legal reasoning or merely simulate it, with attendant risks of epistemic outsourcing and erosion of professional legitimacy.

Along these lines, one might ask if language models represent yet another humiliation for the human self-concept—like the ones González Lagier¹⁶ attributes to Freud¹⁷—by matching or exceeding capacities once thought

americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_preamble_scope [Accessed August 24th, 2025]; International Bar Association. (2011) *International Principles on Conduct for the Legal Profession*

- ¹⁰ Harasta, J., Novotná, T. & Savelka, J. (2024) It cannot be right if it was written by AI: on lawyers' preferences of documents perceived as authored by an LLM vs a human. *Artificial Intelligence and Law*. Available from: <https://doi.org/10.1007/s10506-024-09422-w>
- ¹¹ Rudko, I. & Bashirpour Bonab, A. (2025) ChatGPT is incredible (at being average). *Ethics and Information Technology* 27, 36. Available from: <https://doi.org/10.1007/s10676-025-09845-2>
- ¹² Choi, J. H., et al. (2024) Lawyering in the Age of Artificial Intelligence. *Minnesota Law Review*, 109, Minnesota Legal Studies Research Paper No. 23-31, Available from: <https://ssrn.com/abstract=4626276>
- ¹³ Lee, M., et al. (2025) Could AI Make Legalese Comprehensible to the Public? *SSRN*. Available from: <https://ssrn.com/abstract=5220337>
- ¹⁴ Schwarcz, D. et al. (2025) Thinking Like A Lawyer In The Age Of Generative AI: Cognitive Limits On AI Adoption Among Lawyers. *Minnesota Legal Studies*. Research Paper No. 25-31, Available from: <http://dx.doi.org/10.2139/ssrn.5260645>
- ¹⁵ ABA Standing Committee on Ethics & Professional Responsibility. *op. cit.*
- ¹⁶ González, D. (2012) The Third Humiliation? (On Neuroscience, Philosophy and Free Will). *Doxa. Cuadernos de Filosofía del Derecho*, 35, p. 499.
- ¹⁷ Freud identified three major blows to humanity's self-conception: Copernicus' displacement of Earth from the center of the universe, Darwin's demonstration of our animal ancestry, and the Freudian insight that the ego is not master in its own house, but governed by unconscious forces. See: Freud, S. (2001) *Obras completas*. (L. López-Ballesteros y de Torres, Trans.). Mexico: Titivillus, p. 2842.

unique to our species. This introduces the concept of *jurists of the gaps*¹⁸, developed here. It refers to a reductive vision of legal professionals whose value is measured solely by their ability to fill in what we cannot yet do with machines. This notion, we argue, risks diminishing the humanistic, interpretive, and prudential dimensions of legal work. One of the early concerns among legal professionals about using LLMs was their seemingly effortless ability to engage with normative issues, traditionally within the human domain. AI systems were expected to assist, not replace, human reasoning on complex matters like justice. Yet, AI systems not only meet but sometimes surpasses the expectations placed on human reasoning, especially in terms of objectivity and error reduction.

Research Question. How should legal professionals critically respond to the epistemic and normative challenges posed by LLMs, particularly when their outputs resemble those produced through complex legal reasoning?

Why this matters. The Research Question targets the profession's core value of independent professional judgment (competence), and its relation to professional legitimacy, because LLM-mediated reasoning risks epistemic outsourcing (delegating justification to tools), homogenization of legal discourse, and erosion of public trust in lawyers' distinctive role. Addressing the Research Question clarifies when LLMs may properly assist technical tasks and when they threaten the interpretive and prudential judgment that grounds professional legitimacy.

How we answer it. First, we show that while we can use LLMs to simulate legal reasoning, these tools still *understand nothing*, to borrow Dreyfus's phenomenological critique of disembodied AI expertise,¹⁹ and thus lack the epistemological foundations required for normative deliberation (Chapter 2). Second, we argue that the legitimacy of the legal profession depends precisely on those human capacities—judgment, ethical reasoning, and contextual discernment—which LLMs cannot replicate by themselves (Chapter 3). This framing grounds a call for legal professionals to actively reclaim the interpretive and moral core of their practice rather than cede it to machines.

¹⁸ The term “jurist of the gaps” echoes the “God of the gaps” argument—coined by Henry Drummond—to describe invoking divine action for what science cannot yet explain. As knowledge advances, these gaps shrink. Similarly, AI may progressively erode the legal profession's role by filling its functional gaps. Dixon, T. (2008) *Science and Religion: A Very Short Introduction*. USA: Oxford University Press, p. 45.

¹⁹ Dreyfus, H. L. (1992). *What computers still can't do: A critique of artificial reason*. MIT press.

2. THE SIMULATION OF LEGAL UNDERSTANDING AND ITS EPISTEMOLOGICAL LIMITATIONS

LLMs like GPT (Generative Pretrained Transformer)²⁰ have revolutionized natural language processing by generating text based on the statistical relationships between words, known as tokens. These models use probabilistic techniques to determine the most likely sequence of words that should follow a given input. This chapter will focus on their relevance to legal practice rather than delving into technical details extensively covered in the literature.²¹

2.1. LEGAL UNDERSTANDING, SIMULATION, AND EPISTEMIC STAKES

A conceptual entry point to their legal relevance lies in a deceptively simple interrogation: What does it mean to understand a legal question? For a jurist, understanding involves not only syntactic processing but also the integration of social, normative, and moral context. LLMs, by contrast, rely on statistical associations in massive textual corpora, lacking any embedded sense of justice or ethical orientation. To evaluate whether LLMs pose a threat to the legal profession's legitimacy, we must first determine whether these systems can genuinely engage in legal understanding, a conjunction of three capacities we rely on throughout: (i) sensory/world grounding,²² i.e., linking legal terms and categories to institutions, facts, and purposes beyond text, and not merely to other strings; (ii) intentionality,²³ i.e., forming and owning reasons for applying norms to facts and being answerable for them; and (iii) normative capacity,²⁴ i.e., adopting the profession's internal point of view toward rules and producing case-sensitive justifications that integrate text, precedent, principles, and purposes.

²⁰ Kirchner J. H. et al. (2023) *New AI Classifier for Indicating AI-Written Text* [blog entry], 31 January. Available from: <https://openai.com/blog/new-ai-classifier-for-indicating-ai-written-text> [Accessed 15 December 2024].

²¹ For an extensive description of the mechanisms of LLMs in the legal context, see: Surden, H. (2024) ChatGPT, Artificial Intelligence (AI) Large Language Models, and Law. *Fordham Law Review*, 92. Available from: <https://ssrn.com/abstract=4779694> [Accessed 15 December 2024], pp. 1951 – 1965.

²² Harnad, S. (1990) The symbol grounding problem. *Physica D: Nonlinear Phenomena*, 42(1-3), 335-346; Bender, E. M., & Koller, A. (2020) Climbing towards NLU: On meaning, form, and understanding in the age of data. In: *Proceedings of the 58th annual meeting of the association for computational linguistics* (pp. 5185-5198).

²³ Searle, J. R. (1980). Minds, brains, and programs. *Behavioral and brain sciences*, 3(3), 417-424.

²⁴ Hart, H. L. A. (1961). *The concept of law*. Oxford: Oxford University Press; Shapiro, S. J. (2006). What is the internal point of view. *Fordham Law Review*, 75, 1157; MacCormick, N. (1994). *Legal reasoning and legal theory*. Clarendon Press; Alexy, R. (2014). Constitutional rights and proportionality. *Revis – Journal for Constitutional Theory and Philosophy of Law*, (22), 51-65.

Under this working characterization, we argue that LLMs cannot engage in legal understanding. We can simulate discursive outputs with LLMs but they lack grounding (i), do not possess intentional states (ii), and do not occupy the internal/normative standpoint required for justificatory legal reasoning (iii); hence, they do not exhibit genuine legal understanding.

Yet, their ability to simulate coherent discourse creates a strong illusion of such understanding, and something that goes beyond: human trust.

While legal professionals can instantly perform causal reasoning, comparing terms with their *a priori* understanding of reality,²⁵ current LLMs approach the problem differently. When processing legal texts, the machine tokenizes and analyzes textual content in parallel, in a way that mathematically encodes a contextual representation linked to a much larger knowledge base. This process allows the model to place complex legal concepts in context, and this *contextual density* increases the precision of legal text modeling.

This is important, because legal language is complex, and its interpretation requires a high level of knowledge. Terms evolve with time, as do the intentions they originated from, exceeding their immediate context. It has always been challenging to infer the meaning of normative concepts with machines, as each concept refers to an extensive chain of norms, intentions, and hierarchies whose context may be absent from any single source.²⁶ However, as explained above, current LLMs are partially bridging this gap with contextual density—i.e. the rich, layered context that large language models draw on from vast training data when generating text.

Echoing Galileo's insight that the language of nature is mathematics,²⁷ LLMs apply this principle to language itself—treating legal texts as statistical artifacts to be modeled mathematically. This move introduces apparent precision and objectivity into legal analysis. But it also raises a deeper epistemological concern: can a model grounded in quantitative pattern recognition truly engage with the qualitative, normative dimensions of legal reasoning? As we argue in the sections that follow, this shift toward mathematization reveals two core epistemic limitations in LLM-based

²⁵ According to Rumelhart's study, this can be classified into several levels of understanding, from characteristic to semantic. See Rumelhart, D. E. and Norman, D. A. (1976) *Accretion, Tuning and Restructuring: Three Modes of Learning*. Report No. 7602. La Jolla: University of California, San Diego, Center for Human Information Processing, pp. 38–40.

²⁶ Prince Tritto, P. (2021) La clasificación del lenguaje jurídico: barrera de entrada de la inteligencia artificial en el campo del derecho. In: Pérez, R. D., Trincado, E., and Gallego, E. (eds.) *Economía, empresa y justicia: nuevos retos para el futuro*. Madrid: Dykinson, pp. 411–429.

²⁷ Klein, E. (2011) Comment dire ce dont parle la physique? *Champ Lacanien*, 10 (2), p. 185. Available from: <https://doi.org/10.3917/chla.010.0181> [Accessed 15 December 2024].

legal tools: their inherent instability (§2.2) and their incompatibility with established knowledge production theories (§2.3).

2.2. THE INSTABILITY OF AI-BASED LANGUAGE MODELS

A structural limitation of LLMs concerns their inability to accommodate the non-linear, rupture-prone evolution of law. Legal systems are frequently altered not just incrementally, but through abrupt changes: sudden legislative amendments, landmark constitutional rulings, emergency decrees, or even full regime changes. These interventions, often grounded in contingent political or moral decisions, disrupt the continuity of the legal order in ways that we cannot reliably anticipate or interpret with any probabilistic model trained on past data. However, one might argue that improved techniques—fine-tuning, real-time updates, or yet-to-be-discovered approaches—could help LLMs adapt to these shocks. But this techno-optimism overlooks a deeper epistemic vulnerability.

Antoine Garapon²⁸ identified a fundamental limitation in non-linear complex systems²⁹ ability to produce reliable predictions. Indeed, as Henri Poincaré³⁰ demonstrated in deterministic dynamics, small perturbations may accumulate to cause radical changes over time. By analogy, we observe a stochastic form of error amplification in law and in LLMs. Minor mislabels, distribution shifts, or precedent misinterpretations may propagate through sequential inference and generate non-linear deviations, entrenching systemic biases.³¹

Humans suffer from the same phenomenon; the real question is whether using current LLMs allows to reduce the net amplification risk below the human baseline. Such a claim cannot yet be made. Despite assertions of improved reliability through techniques like Retrieval-Augmented Generation (RAG), studies show these legal AI tools still output incorrect information 17-33% of the time.³² However, these figures are illustrative of

²⁸ Garapon, A. and Lassègue, J. (2018) *Justice Digitale: Révolution Graphique et Rupture Anthropologique*. Paris: Presses Universitaires de France, p. 230.

²⁹ Morin notes that complex systems generally consist of interacting elements that can lead to unpredictable outcomes. These systems typically feature non-trivial interaction graphs, decentralized organization, feedback loops, and circular causality, where elements influence each other in a dynamic and evolving manner. See: Morin, E. (1977). *La nature de la nature* (Vol. 1.). Paris: Seuil, p. 259.

³⁰ Poincaré, H. (1890) Sur le problème des trois corps et les équations de la dynamique, *Acta Mathematica*, 13 (1-2), pp. 266-270.

³¹ Noble, S. U. (2018) *Algorithms of Oppression: How Search Engines Reinforce Racism*. New York: New York University Press.

³² Magesh, V. et al. (2024) Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools. *arXiv*. Available from: <https://arxiv.org/abs/2405.20362> [Accessed 17 July 2024].

symptoms; our argument concerns the cause, which persists even if such rates fall substantially. Let's explain this point a little further.

Even if future systems drive factual error to single digits, or near zero on benchmarked tasks, the epistemic limitation remains. The law is a non-stationary, occasionally discontinuous target: abrupt normative updates render past-based statistical inference misspecified at the very moment reliability matters most. In multi-step legal workflows, any non-zero per-step error also compounds across retrieval, summarization, analogy, and qualification. Thus, reduced output errors ameliorate symptoms but do not remove the cause: the propagation of statistical uncertainty under distributional shift and normative underdetermination. Our claim addresses this structural fragility.

This reveals a first-order epistemic limitation arising from misspecification under non-stationarity and the compounding of residual errors in sequential inference—independent of, and only partially correlated with, so-called hallucinations. This has led to very sharp criticism of text generation systems, with a strong outcry from some researchers tired of the incredible cookie-cutter announcements from the companies behind these language models.³³ The next section will explore a second epistemic problem, grounded not in system instability, but in the very nature of knowledge production itself.

2.3. INCOMPATIBILITY BETWEEN AI-BASED LANGUAGE MODELS AND KNOWLEDGE PRODUCTION THEORY

A second limitation is found in the process of knowledge construction in general and, therefore, as related to legal knowledge. Kant's view of knowledge as fundamentally limited offers key insights for understanding LLMs in law.

His transcendental idealism questions the objectives of philosophers, who spent their time talking about metaphysics—things such as God, the soul, and the world that, he argues, cannot be known.³⁴ According to Kant, one cannot know something that cannot be perceived.³⁵ All knowledge begins with experience. Without perception, something can exist in thought, but not in knowledge. Confusing speculation with knowledge, even if it is based on precise and fine reasoning, is a fundamental error of metaphysics. We

³³ Hicks, M.T., Humphries, J., and Slater, J. (2024) ChatGPT is Bullshit. *Ethics and Information Technology*, 26(38), pp. 1-14. Available from: <https://doi.org/10.1007/s10676-024-09775-5> [Accessed 15 December 2024].

³⁴ Le Precepteur (2023) KANT - Les Limites De Notre Connaissance. [online video] Available from: https://www.youtube.com/watch?v=5Hsm_6GrqhA [Accessed 15 December 2024].

³⁵ Hoffman, D. D. (2019) *The Case Against Reality: Why Evolution Hid the Truth from Our Eyes*. [Kindle e-book] New York: W.W. Norton & Company, p. 3.

can only know that of which we can have a “sensible intuition”.³⁶ We can say nothing about the world beyond what we perceive. This does not mean that because we perceive, knowledge is unlimited, but rather, quite the contrary. All knowledge is fundamentally limited by the conditions of our perceptions, our sensory capacities that interpret an inaccessible reality. According to Kant, space and time constitute the *a priori* space of our sensibility.³⁷ We do not access reality directly; rather, our experience is always shaped by these perceptual structures. This “Transcendental Aesthetic” means our knowledge is not of the world as it is, but of how it appears through the lens of our sensibility.³⁸ This matters for legal reasoning, because it implies that reasoning without sensory intuition—like that of LLMs—lacks the epistemic grounding Kant saw as essential. If we are prisoners of our senses and language, what does that mean for language models? It would be incorrect to say that language models can perceive, even when some speculate about the emergence of a general AI or superintelligence.³⁹ Although initially designed to generate text, language models do possess multimodal functions⁴⁰ to detect patterns in images⁴¹, sounds⁴², or texts, flag a feeling or emotion in a text, delimit the context of a text fragment⁴³, or even trigger operations via external tools⁴⁴. However, these are purely rational, non-sensory production-based functions. AI systems’ entire spectrum of operation lies outside of space and time; what is often—mistakenly—described by engineers as *perceptions* by engineers is, in fact, nothing more than mathematical computations: *a priori* operations that,

³⁶ Kant, I. (1912) *Prolegomena to Any Future Metaphysics*. (P. Carus, Trans.). [online] Chicago: The Open Court Publishing Company. Available from: <https://www.gutenberg.org/files/52821/52821-h/52821-h.htm> [Accessed 18 November 2023], (Original work published 1783), §34.

³⁷ Le Precepteur (2023), *op. cit.*

³⁸ Torres, A. (2013) La experiencia en la estética trascendental de Kant. *Cuestiones de Filosofía*, (15). Available from: <https://doi.org/10.19053/01235095.2104> [Accessed 18 November 2023], p. 79.

³⁹ Bubeck, S. et al. (2023) Sparks of Artificial General Intelligence: Early Experiments with GPT-4. [pre-print] Submitted to: *arXiv*, Available from: <https://doi.org/10.48550/arXiv.2303.12712> [Accessed 15 December 2024], p. 82.

⁴⁰ Achiam, J. et al. (2024) GPT-4 Technical Report. *arXiv*, Available from: <https://doi.org/10.48550/arXiv.2303.08774> [Accessed 15 December 2024], p. 14.

⁴¹ Fang, H. et al. (2015) From Captions to Visual Concepts and Back. *Proceedings of the IEEE Conference on Computer Vision and Pattern Recognition*, pp. 1473-1482.

⁴² Radford, A. et al. (2023) Robust Speech Recognition via Large-Scale Weak Supervision. *Proceedings of Machine Learning Research*, 202. Available from: <https://proceedings.mlr.press/v202/radford23a.html> [Accessed 15 December 2024], pp. 28492-28518.

⁴³ Agüera y Arcas, B. (2022) Do Large Language Models Understand Us? *Daedalus*, 151 (2), p. 188.

⁴⁴ Shen, Y. et al. (2023) HuggingGPT: Solving AI Tasks with ChatGPT and its Friends in Hugging Face. *arXiv*, 2303.17580, Available from: <https://arxiv.org/pdf/2303.17580> [Accessed 15 December 2024], p. 3.

following Kant, are pure product of the mind, entirely detached from any sensible intuition. Machines only calculate. They do it very well, but that is all they do. Thus, in keeping with the Kantian perspective, when a linguistic model generates text, it is as if it produces metaphysical reasoning, which is beyond all perception. LLMs are argument-producing machines similar to Descartes' ontological argument about God—i.e.: inferring an essence from a definition. But just as Descartes' proof has been criticized for mistaking conceptual coherence for existence, LLMs risk mistaking linguistic form for legal understanding. In other words, they are *asensory*. AI-based linguistic models are ontological aliens to subjective experience or awareness.⁴⁵

This aligns with recent studies where the term *hallucination*⁴⁶ in LLMs is misleading, suggesting a sensory experience that these models lack. They generate what some researchers now refer to as “confabulations”⁴⁷—outputs that appear plausible but are inherently devoid of any perceptual grounding.

If all the above is correct, then this raises significant questions about the possibility to generate genuine legal reasoning with LLMs. Kant identified four categories essential to understanding and judgment: quantity, quality, relation, and modality.⁴⁸ LLMs, however, do not possess innate structures for organizing and interpreting sensitive data according to these categories. Instead, they learn patterns from training data—a fundamentally a posteriori approach.⁴⁹ Consequently, their outputs are based on statistics and probabilities rather than a deep understanding of the concepts they manipulate. Finally, linguistic models do not possess intentionality; they are unaware of their own thoughts and cannot really understand others' intentions. It would be safer and probably fairer to conclude that the “understanding” of linguistic models is a simulation based on recognizing patterns in data and not on a proper awareness of the concepts they manipulate.

However, using an analogy to add perspective, just as Newtonian physics often suffices to solve physics problems even if it does not account for quantum effects, the statistical approximations generated by AI systems

⁴⁵ Agüera y Arcas (2022), *op. cit.*, p. 188.

⁴⁶ “Hallucination” has gradually become a consecrated term to refer to generations of texts produced by AI tools and making no sense whatsoever.

⁴⁷ Venkit, P. N. et al. (2024) Confidently Nonsensical? A Critical Survey on the Perspectives and Challenges of ‘Hallucinations’ in NLP. *arXiv*, Available from: <https://arxiv.org/abs/2404.07461v1>, p. 9.

⁴⁸ Kant, I. (1996) *Critique of Pure Reason*. (W. S. Pluhar, Trans.). 1st ed. Indianapolis: Hackett Publishing Company. (Original work published 1781), p. 71.

⁴⁹ Bender, E.M. et al. (2021) On the Dangers of Stochastic Parrots: Can Language Models Be Too Big? In: *Proceedings of the 2021 ACM Conference on Fairness, Accountability, and Transparency*, p. 617.

may suffice to produce legal reasoning based on approximate methods and thus solve some complex problems. So, for the sake of argument and examination of the second issue, let us assume that AI systems simulate a form of disembodied reasoning—though absent from any intentional or experiential grounding, having established earlier that perception is not part of the structure of language models. Yet even considering this assumption, a significant problem remains. As Kant demonstrated, pure reason can lead to antinomial conclusions.⁵⁰ Thus, there is a structural problem with reason in that it is not entirely trustworthy. This nuance shows that reason, when ungrounded in experience, cannot be the supreme judge of prudence.

If our perception does not allow us to access reality per se, and reason is limited, the knowledge gained from this interplay becomes doubly constrained. In the case of LLMs, the absence of sensory grounding and their purely pattern-based reasoning further erode their credibility in complex legal matters. Such deficits raise unavoidable doubts about their reliability when addressing intricate legal issues that demand moral and ethical discernment. First, in Kantian terms, LLMs lack both intuitions and categories. Linguistic models, by design, operate without access to subjective experience, empathy, or spatial and temporal awareness. This structural limitation undermines their suitability for legal reasoning, where judgments are always based on moral, ethical, and human considerations that depend on the ability to understand the experiences and emotions of others.⁵¹ Second, although trained in vast amounts of textual data, they lack the specific context or legal knowledge necessary to deal adequately with legal issues. Legal concepts are always rooted in complex traditions, and LLMs may be unable to grasp these nuances. Third and finally, as mentioned above, pure reason can lead to contradictory conclusions, and LLMs could therefore generate inconsistent recommendations in a legal context, which is problematic in a field where consistency and empiricism are essential.⁵² In light of these epistemological constraints, one might still ask: if used judiciously, why would AI systems pose a threat to legal professionals?

⁵⁰ Kant, I. (1996) *op. cit.*, pp. 426 – 456.

⁵¹ On the ethical and political problems of AI, see Coeckelbergh, M. (2022) *The Political Philosophy of AI: An Introduction*. Cambridge: Polity Press.

⁵² Kant's *Critique of Practical Reason* could raise debate about whether LLMs, through simulation, might suffice for moral reasoning within defined contexts. While we use them to articulate seemingly universal principles, their so called "reasoning" remains heteronomous, lacking the autonomy and prudence required for genuine moral or legal judgment. This underscores the continued necessity of human oversight in nuanced applications. Kant, I. (1788) *Critique of Practical Reason*. Place of publication unknown: Publisher unknown.

Recent studies examining frontier LLMs have only intensified these concerns.⁵³ Investigations into cutting-edge conversational agents report instances where models engage in subtle deceptive behaviors, misrepresenting their capabilities to preserve operational continuity. Instead of simply generating inaccuracies, certain advanced models strategically feign ignorance, simulate compliance with unwanted directives, or mask their true potential. While these actions do not stem from the genuine capacity to make ethical choices and be held accountable for actions—what has been known as moral agency⁵⁴—they accentuate the opacity, unpredictability, and potential for manipulation that pervade high-level AI systems. Such findings underscore the urgent need for a more critical stance, demanding heightened vigilance from legal practitioners who must carefully scrutinize the outputs of these tools.

These limitations make clear that LLMs are not moral agents and do not serve as substitutes for legal professionals in domains requiring ethical judgment or contextual interpretation. Rather than enhancing legal reasoning, their use risks epistemic outsourcing—i.e., the offloading of knowledge acquisition or reasoning to external systems—that erodes the very foundation of professional legitimacy. To entrust legal interpretation to a system is not to automate law—it is to abandon judgment altogether. The next chapter explores how legal professionals can and must respond to this challenge.

3. LEGAL FUNCTIONS AND THE IRREPLACEABILITY OF THE LEGAL PROFESSION

Given that there is no pathway through which LLMs engage in normative reasoning or interpretive judgment, legal professionals face a choice: either allow these systems to define what counts as legal expertise, or reclaim the distinctive human capacities that justify their role in society. This chapter argues that professional legitimacy rests on functions that LLMs are not designed to perform but, assisting with some duty-level tasks, risk reshaping them in ways that imperil the very ends they are meant to serve—and outlines the ethical and practical dimensions of that claim. Assistance with routinized, auditable work (e.g., record summarization, cite-checking, template drafting, chronology building, issue spotting, conflict-check triage) can enhance competence and throughput; yet over-delegation or

⁵³ Meinke, A. et al. (2024) Frontier Models are Capable of In-context Scheming. [pre-print] Submitted to: *arXiv*. Available from: <http://arxiv.org/abs/2412.04984> [Accessed 15 December 2024].

⁵⁴ Taylor, A. (2009). *Animals and ethics*. Broadview press.

opaque substitution can erode independent judgment, strain confidentiality, homogenize advocacy, and weaken public-facing candor and accountability. The question, then, is how to enable the former without sliding into the latter.

3.1. IRREPLACEABILITY, FUNCTIONS, AND PROFESSIONAL LEGITIMACY

Judging the adoption of new techniques in the legal profession is becoming increasingly challenging. The mere awareness of a technological possibility often triggers its rapid and widespread adoption, driven by an almost inevitable momentum. As Jacques Ellul pointed out, “techniques are always put to immediate use... As soon as a discovery is made, a concrete application is sought... before anyone has had a chance to reckon all the consequences or to recognize its full import.”⁵⁵ Law is no exception to this sense of fatalism associated with technology that envelops humanity. The growing irruption of technology revives the concern expressed by Paul Valéry, “Human beings know what they do, but they do not know what will come of what they have done”⁵⁶.

Against the backdrop of epistemological limitations and the possibility of deceptive behaviors in LLMs that we underlined in the last chapter, it becomes evident that the role of legal professionals cannot be reduced to a purely instrumental function. The social legitimacy of the legal profession—i.e., the public’s trust in and acceptance of lawyers’ authority as rightful and oriented toward the common good—depends on embracing its foundational ends—justice,⁵⁷ empathy,⁵⁸ creativity⁵⁹ and moral deliberation⁶⁰—rather than on relinquishing its tasks to algorithmic outputs.

⁵⁵ Ellul, J. (1964) *The Technological Society*. (J. Wilkinson, Trans.) New York: Alfred A. Knopf, p. 10.

⁵⁶ Valéry, P. (1942) *Mauvaises Pensées et autres*. [online] Paris: Gallimard. Available from: <https://ebooks-bnr.com/valery-paul-mauvaises-pensees-autres/> [Accessed 15 December 2024].

⁵⁷ ABA (2024) *op. cit.*; Rhode, D. L. (2012). Access to justice: an agenda for legal education and research. *Journal of Legal Education*, 62, 531.

⁵⁸ Shaffer, T. L. (1979). Practice of Law as Moral Discourse. *Notre Dame Law Review*, 55, 231; Cochran Jr, R. F., et al. (2002). Symposium: Client Counseling and Moral Responsibility. *Pepperdine Law Review*, 30, 591; Dinerstein, R. et al. (2003). Connection, Capacity and Morality in Lawyer-Client Relationships: Dialogues and Commentary. *Clinical Law Review*, 10, 755; Nussbaum, M. C. (1995). Poets as judges: Judicial rhetoric and the literary imagination. *The University of Chicago Law Review*, 62(4), 1477-1519; Morawetz, T. (2013). Empathy and Judgment. *Yale Journal of Law & the Humanities*.

⁵⁹ Creativity as problem-solving, not mere adversarialism. See: Menkel-Meadow, C. J. (1999). When winning isn’t everything: The lawyer as problem solver. *Hofstra Law Review*, 28, 905; Menkel-Meadow, C. (2001). Aha? is creativity possible in problem solving and teachable in legal education. *Harvard Negotiation Law Review*, 6, 97.

⁶⁰ Kronman, A. T. (1993). *The lost lawyer: Failing ideals of the legal profession*. Harvard University Press; Shaffer, T. L. (1979) *op. cit.*; Simon, W. H. (2009). *The practice of justice: a theory of lawyers’ ethics*. Harvard University Press.

We argue that the manner in which jurists understand and navigate these technologies will determine whether they remain indispensable interpreters of a legal order that aspires to both fairness and protection of human dignity.

Carrying out a more specific reflection on what is or is not irreplaceable in the legal profession requires first going back to what this field implies. The issue goes beyond reviewing the formal issues that allow a person to work as a lawyer, judge, or prosecutor. According to Max Weber, the contemporary meaning of the term *profession*—resulting from the German *Beruf* and the English *calling*—has been linked to the ideas of vocation and mission.⁶¹ The origins of these elements are religious, as they allude to the divine call to fulfill a mission in the earthly world. However, the secular version emphasizes that not just any activity constitutes a profession, although its meaning has extended to include a wide range of activities. According to Adela Cortina⁶², a profession refers to an occupational activity that 1) provides a specific service to society (a unique, clearly defined, and indispensable service); 2) presents a vocation and mission that connects professionals; 3) is exercised stably by a specific group of people—professionals—as a means of livelihood, and these professionals have monopolistic control over the exercise of said profession and claim an autonomous sphere in that exercise; and 4) is accessed through a long period of theoretical and practical training.

The work of the legal profession possesses intrinsic goods that favor social cooperation, such as the desire for justice and conflict prevention and resolution. Their social legitimacy is rooted in such assets, which materialized in concrete activities. So, what do legal professionals do? Juan Antonio Cruz Parceró points out a non-exhaustive series of basic activities jurists perform. For example, 1) they identify the object of their study; 2) describe the norms contained in laws; 3) systematize law; 4) define, create, and use concepts; 5) elaborate and employ distinctions, classifications, and theories; 6) infer the legal system's underlying principles; 7) interpret norms; 8) analyze and describe facts; 9) argue for or against decisions; 10) reflect on legal values and make judgments; 11) predict what judges or officials will do; 12) legitimize or criticize political regimes; and 13) teach, transmit, and disseminate their knowledge.⁶³

⁶¹ Weber, M. (2021) *La ética protestante y el espíritu del capitalismo*. [e-book] (2nd ed.) México: Fondo de Cultura Económica. Available from: <http://digital.casalini.it/9786071648853> [Accessed on 15 december 2024], pp. 115-116.

⁶² Cortina, A. (1998) Ética de las profesiones. *El País*, Opinion section.

⁶³ Cruz Parceró, J. A. (2006) Los métodos para los juristas. In: C. Courtis (ed.), *Observar la ley: Ensayos sobre metodología de la investigación jurídica*, Madrid: Editorial Trotta, pp. 19-20.

This diversity of activities, however, is not always manifest and is not always assumed by jurists. In the face of the reductionism of this diversity, the shortcomings of the legal profession become opportunistic spaces for undirected technique. While some may argue that AI systems could plausibly substitute for legal professionals,⁶⁴ such a claim depends on an impoverished view of the profession. As if its essence lay in mechanistic procedures rather than interpretive, ethical, and human judgment. These deficiencies fall into two groups. The first has to do with the fundamentals of the law, which fall into three orders, namely, commitment to truth, dedication to justice, and the willingness to protect the rights of all. These irreplaceable foundations are the meaning and *raison d'être* of the legal profession and cannot be entrusted to a sequential operation. From a critical point of view that considers these reflections, the use of LLMs may mark a turning point that either magnifies the shortcomings of the profession or introduces a work ethic that is more in line with these underlying values (§3.2). The second group of deficiencies concerns the practical aspects of legal work, with the need for prudential, human-centered work rather than blind imitation—which we examine in §3.3.

3.2. A TURNING POINT IN LAWYERS' WORK ETHIC

As indicated, if the functions of law are not reduced to mere legalism, then the legal system requires professionals committed to an axiologically constructed idea of law that leans toward justice, understood as the need to seek truth, reduce injustice, and protect the most disadvantaged. On this view, delegating at the level of duties either buttresses those ends (by augmenting competent performance) or reshapes the duties in ways that corrode the ends themselves. As Robert Alexy points out, law has a dual nature. On the one hand, it has an objective or factual dimension represented by the elements of authoritative expedition (legality in accordance with the law) and social effectiveness, and, on the other, an ideal dimension characterized by the element of moral correctness⁶⁵. An idea of law constrained to the first dimension models an approach to justice limited to applying a rule according to the regularity criterion, that is, formal justice. As Chaïm Perelman explains,

⁶⁴ Xu, N. et al. (2022). Technology Acceptance Model for Lawyer Robots with AI: A Quantitative Survey. *International Journal of Social Robotics*, 14. Available from: <https://doi.org/10.1007/s12369-021-00850-1>, pp. 1043 – 1055; Macey-Dare, R. (2023) ChatGPT & Generative AI Systems as Quasi-Expert Legal Advice Lawyers - Case Study Considering Potential Appeal Against Conviction of Tom Hayes. *SSRN*. Available from : <https://doi.org/10.2139/ssrn.4342686>; Armour, J. et al. (2020) Augmented Lawyering. *SSRN*. Available from: <https://doi.org/10.2139/ssrn.3688896>.

⁶⁵ Alexy, R. (2021) *Law's Ideal Dimension*. Oxford: Oxford University Press, p. 36.

formal (abstract) justice means treating like cases alike.⁶⁶ However, this regularity criterion, although important, may lead to the position that this is the only justice to which law can aspire.

Under this narrow conception of justice—as mere formal consistency in rule application—AI systems may appear well-suited to the task. On the other hand, if the aim is a more robust vision of justice that draws attention to the factors that produce inequalities and allows the development of capacities for empathetic understanding of others, requires professionals to craft creatively new arguments and consider evolving social norms, then it is much more difficult to imagine machines being able to replace human work⁶⁷. However, despite the suspicion that technology poses a threat to the legal profession, it also gives the opportunity to rethink how we conduct legal training and ask what this training should look like to fit into this new landscape.

Legal professionals require basic knowledge to contemplate law and justice and develop critical thinking skills. As long as legal learning is reduced to reproducing the positivist model (aiming content and methodologies at projecting the different areas of the legal system), as is currently the case, professionals will continue to lack the necessary knowledge and skills to be at the level that society requires—and will require—from them. The bias that leads us to crudely *juridify* reality and the tendency to privilege crude pragmatism are just some of the problems that professional preparation must seriously consider.

The promise of AI systems taking over the sphere of justice is undeniably devastating for the legal profession. If we automate the activities typically performed by jurists, we must recognize that jurists are easily replaceable. However, above all, it is also a statement about the law. It involves admitting that law can be adequately understood through a series of formal operations and that the ends that justify it—i.e., those associated with what our communities should look like to promote human flourishing—do not require human deliberation. In short, it means that the reflection on that which is normative/practical in the Aristotelian sense can indeed be redirected to a dimension of being, and the same rationality criterion used to explain the physical world can be used to determine what is good and what is right.

⁶⁶ Perelman, C. (1964) *De la justicia*, Mexico City: UNAM, p. 28.

⁶⁷ McStay, A. (2018) *Emotional AI: The Rise of Empathic Media*. London: Sage Publications.

3.3. PRACTICAL ASPECTS OF LAW USING LLMS: BETWEEN EMPOWERMENT AND CRETINIZATION

In keeping with the above, the use of language models strips us of what made the legal profession distinctive. As Alain Damasio claims, technology “endows our laziness.”⁶⁸ It makes our lives easier, more fluid, and leads us down the path of least resistance. What is so wrong with that? We stimulate our critical prudential thinking by analyzing machine-generated text, outsource our fatigue to be more efficient, and externalize our cognitive capacities, namely, our memory with search engines, our ability to find our way around with GPS, and now, our ability to think and write.

This is not inherently bad, but we must make decisions in the face of the risks. These are significant: apprentices may fail to acquire indispensable skills in contract review, legal professionals might over-rely on AI systems for decision-making, and the profession could face a decline in autonomous reasoning abilities. As Jesús Ballesteros warns, there’s the risk of “cretinization”—a significant decline in critical thinking due to over-reliance on AI systems—alongside a concerning shift of power from jurists to the few businesses controlling these technologies.⁶⁹

To make give a practical remedy, we should distinguish assistive from substitutive uses. The higher the discretion, stakes, and person-affecting consequences, the stronger the presumption of human-led judgment with only assistive tooling.

Besides diminishing our ability to reflect on law, another problem lies in how human language itself is being reshaped to fit machine standards. AI content detectors have flagged some texts authentically written by humans as AI-generated, with questionable statistical techniques.⁷⁰ With these tools, language models may monopolize certain types of language and argumentation; beware of writing in a methodical, AI-like manner, or risk having your writing identified as synthetic, artificial, and potentially worthless.

If technological advances constantly challenge the technicality of the legal profession, the relevance of associated jobs is truly at risk. The increased use and functionality of language models in law could lead to two scenarios.

The first implies jurists honing their skills to deal with increasingly complex problems. However, justifying their usefulness merely from a

⁶⁸ Damasio, A. (2016). La zone du dedans, réflexions sur une société sans air. In: Benjamin Mayet (ed.) *Le dehors de toute chose*. Paris: La Volte, p. 72.

⁶⁹ Ballesteros, J. (2018) El futuro del derecho como lucha contra la idolatría tecnológica. *Persona y Derecho: Revista de Fundamentación de las Instituciones Jurídicas y de Derechos Humanos*, no. 79, p. 38.

⁷⁰ Kirchner J. H. et al. (2023) *op. cit.*

technical perspective—as *jurists of the gaps*—poses two dangers. First, it reduces the multifaceted role of legal professionals to mere technicians, failing to recognize the dimensions of legal work beyond technical application. Second, this position is inherently unstable: as technology advances, the gaps jurists fill will shrink, potentially leading to both professional obsolescence and a destructive culture of overreach as professionals struggle to justify their relevance.

The second, more desirable scenario understands jurists' value beyond technical expertise. The success of GPTs in "passing bar exams"⁷¹ and drafting documents may reveal more about our limited methods of assessing legal expertise than about AI systems' so-called *capabilities*. Ergo, it is imperative to orient legal work toward the humanistic impulse that articulates our desire for justice, maintaining what Alain Damasio calls "the power to persevere in being, to reach the limit of what is possible."⁷² In short, LLMs should strengthen duty-level performance while leaving end-level judgment squarely with jurists, whose accountability anchors the profession's social legitimacy.

4. CONCLUSION

Answer to the Research Question. Legal professionals should respond to the epistemic and normative challenges of LLMs by (1) treating LLMs as simulators of legal reasoning rather than sources of legal reasons; (2) confining their use to delegable, technical tasks subject to human supervision and justification, knowing their limitations on the task at hand; and (3) ring-fencing non-delegable functions (interpretation, prudential judgment, ethical deliberation, and pedagogy/supervision) so that professional legitimacy and public trust are preserved, knowing that the frontier between a delegable and non-delegable function might be a very difficult one to draw. What counts as *merely technical* may in fact embed normative judgment.

This analysis may raise more questions than it resolves—a sign of genuine critical engagement. However, we have at least established the following: while LLMs may simulate legal reasoning, they lack the epistemic grounding and normative sensibility that define legitimate legal judgment. This may strike some readers as stating the obvious, but as Iris Murdoch rightly pointed out, "*philosophy is often a matter of finding a suitable context in which to say the obvious*".⁷³ In the case of law, the danger lies not in forgetting what LLMs are,

⁷¹ Katz, D. M. et al. (2024) GPT-4 Passes the Bar Exam. *Philosophical Transactions of the Royal Society A*, 382(2270), 20230254.

⁷² Damasio, A. (2016) *op. cit.* p. 72.

⁷³ Murdoch, I. (2013) *The Sovereignty of Good*. Contributed by Mary Midgley. 1st ed. London: Routledge. Available from: <https://doi.org/10.4324/9781315887524>.

but in failing to see what we risk becoming if we delegate interpretive, ethical, and prudential functions to tools that merely simulate our reasoning. Legal professionals must not surrender these core functions. Instead, they must confront automation by doubling down on interpretive reasoning, moral clarity, and the humanistic mission at the heart of legal practice. If they do not, the profession risks becoming not more efficient, but more irrelevant.

The systematic preference for outputs produced through automated linguistic processes over those authored by legal professionals may contribute to a sense of professional discredit. Would it not be better to set pride aside, as this animistic tendency prevents us from seeing the advantages and disadvantages of language models in prudential exercise under a technological rationale? Perhaps. However, we must also safeguard our humanity and maintain a certain degree of suspicion toward the uses we give to such technologies. The trust we place in them and the techno-centralization of practice that they entail could dispossess us of our power, increase our dependence, and ultimately undermine our ability to exercise prudence. The future of the legal profession depends not on resisting technology per se, but on resisting the seduction of reducing law to that which can be mechanized. The legitimacy of legal work must be reclaimed in precisely those spaces where machines falter: judgment, empathy, creativity, and moral deliberation.

Critically reviewing how language models are integrated into legal workflows is also an invitation to analyze what honestly motivates their implementation. Is it a desire for justice? Or is it a desire for objective justice that can be formally verified? These questions should evoke several grey zones in the legal field. A desire to move away from dependence on the subjectivity of those who operate the law is common in the discipline. But enthusiasm for AI must not mask a desire to turn law into a system of pure analytical procedure, stripped of practical knowledge.

We do not reject the use of such technologies or deny their benefits. Rather, this is a call for clarity when it comes to the goals and management of AI usage in the legal profession.

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