

INPUT PAPER ON THE IFP LEGAL TECH

ELSA INTERNATIONAL
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elsa

The European Law Students' Association

Legal Tech

Main Substantive Content

LegalTech is short for Legal Technology and rather than being an area or topic of law it refers to the use of technology and software to assist lawyers in the daily work on tasks such as document storage, billing, document review, accounting and electronic discovery. LegalTech may also be referred to as tools and platforms reducing or in some cases eliminating the need to consult a lawyer.

Different types of Legal Technologies include:

- Data flows, data safety, privacy
- Smart document generation i.e. platforms for drafting of wills, providing tools to assist with immigration document preparation, assisting in drafting automated contracts etc.
- Legal research
- Electronic discovery
- Providing tools or a marketplace to connect clients with lawyers
- Providing tools for consumers and businesses to complete legal matters by themselves, obviating the need for a lawyer
- The use of AI for contract analysis
- The use of technology assisted review (TAR) to conduct document review in a litigation or global investigations context
- Creation of 'smart apps'; using expert logic either to create internal efficiencies or to deliver advice to clients in digital format
- Smart knowledge management

The three dominant technologies underlying LegalTech are blockchain, artificial intelligence and cloud computing.

Blockchain is a distributed ledger technology used for storing information about transactions. The information is stored in blocks participating in the transactions, and the blocks are distinguished in their hash code by the information they store. The blockchain has no central authority and all information is open for everyone, thus allowing for complete transparency. Due to the decentralisation, there is no central database for hackers to corrupt, and hence, the blockchain is close to being immune to corruption, falsification and the like. Blockchain technology can be used to further human rights, and initiatives focus on e.g. stopping human trafficking or slave labour; creating sustainable, participatory and affordable housing and ensuring due process by providing bail funding for low-income prisoners unable to afford it.¹ In these initiatives, blockchain is used to raise and track funds as well as to create a verifiable information stream that can track individuals or claims of rights violations.

Artificial intelligence is in essence a technique enabling computers to mimic human behaviour. The artificial intelligence systems are powered by machine learning, i.e. techniques using statistical methods to enable machines to improve with experience. AI can be distinguished by being either general or specific. General AI involves machines thinking, feeling and joining in like people, which is the least developed part of AI.

¹ Stanford Graduate School of Business, Blockchain for Social Impact, <<https://www.gsb.stanford.edu/sites/gsb/files/publication-pdf/study-blockchain-impact-moving-beyond-hype.pdf>> 70

The AI used in LegalTech is instead specific AI which is the intelligence to perform particular tasks.² AI offers great opportunities in society as it can perform complicated maths within seconds, conduct legal document review etc. However, AI-based systems impact the right to privacy because they are highly dependent on the collection and use of large quantities of data which they use to make predictions. Further, such predictions are often based on existing social patterns of bias and discrimination.³

The Cloud enables applications to be run efficiently on third party servers and connected to users' computers via the internet, removing the need for extensive in-house storage.⁴

LegalTech has grown exponentially in the past years due to increasing costs of document review and time pressure placed by the client, thus incentivising the development and utilisation of LegalTech. The technologies offer exciting opportunities for the legal sector. They allow practitioners to solve more problems faster while gaining a deeper understanding of those problems through new forms of analysis.⁵ However, LegalTech is also associated with great uncertainty, thus researching and mapping the development of LegalTech is not only interesting, but also necessary for ELSA to stay proactive. It is imperative for future lawyers to engage with the challenges of LegalTech in order to remain relevant; it is predicted that LegalTech will disrupt the legal profession, and hence, ELSA should stay ahead of developments by dedicating ourselves to raising awareness on LegalTech during the next IFP cycle.

List of the potential Core Topics or Subtopics

Human rights and artificial intelligence: As outlined above, AI offers great challenges to human rights as it is built on utilisation of private data and generalisation of those, thus generating a risk for discrimination.

Liability for LegalTech: As robots and algorithms take over responsibility for more daily tasks, increased attention must be given to the implications of these developments.⁶ Will AI be individually liable? Does the usage of AI entail a higher standard of skill and care? Who is responsible for AI caused human rights violations? And many similar interesting questions are yet to be answered.

Regulation of LegalTech and AI: Due to the possible liability issues and the risk of human rights infringements, it is discussed how LegalTech and in particular AI can and should be regulated. Regulation here has to find a balance between safeguarding clients and lawyers on one hand and allowing for improvement and development on the other – a difficult challenge due to the everchanging nature of LegalTech.⁷

Why should ELSA promote this topic?

Aims

In implementing LegalTech as the IFP topic, we strive towards achievement of the following aims:

² LexisNexis, Lawyers and Robots? Conversations Around the future of the Legal Industry, <https://www.lexisnexis.com.au/_data/assets/pdf_file/0003/187644/Lawyers_and_Robots_Whitepaper.pdf> 10

³ World Economic Forum, How are today's biggest tech trends affecting our human rights?, <<https://www.weforum.org/agenda/2017/12/how-are-today-s-biggest-tech-trends-affecting-human-rights/>>

⁴ Deloitte, What's your problem? Legal Technology <<https://www.weforum.org/agenda/2017/12/how-are-today-s-biggest-tech-trends-affecting-human-rights/>> 8

⁵ LexisNexis, Lawyers and Robots? Conversations Around the future of the Legal Industry, <https://www.lexisnexis.com.au/_data/assets/pdf_file/0003/187644/Lawyers_and_Robots_Whitepaper.pdf> 20

⁶ LexisNexis, Lawyers and Robots? Conversations Around the future of the Legal Industry, <https://www.lexisnexis.com.au/_data/assets/pdf_file/0003/187644/Lawyers_and_Robots_Whitepaper.pdf> 17; see also Commission Staff Working Document, Liability for emerging digital technologies, {COM(2018) 237 final}

⁷ LexisNexis, Lawyers and Robots? Conversations Around the future of the Legal Industry, <https://www.lexisnexis.com.au/_data/assets/pdf_file/0003/187644/Lawyers_and_Robots_Whitepaper.pdf> 20

1. Finding possible ways to innovate legal profession from youth perspective
2. Introducing young people to developments in the legal profession
3. Raising awareness on the importance of technology for lawyers
4. Opening ELSA for cooperation - not only with law firms, but also firms connected with technology

Education of law students and young lawyers

LegalTech should be considered important for all law students and young lawyers because of the potential impacts of the LegalTech on the legal sector. Social networking, usage of digital tools and understanding of the impact of LegalTech on the legal industry are all of utmost importance for future lawyers. Hence, by raising awareness on LegalTech and educating our members in the field, we can significantly improve the educational profile and employability of our members in making them more holistically educated lawyers.

Establishing new partnerships

Focussing on LegalTech will firstly allow us to appeal to leading law firms, as all of these are facing the same LegalTech challenges and hence perceive LegalTech as a pertinent topic. Furthermore, a focus on LegalTech allows ELSA to establish new types of partnerships with technology-based firms and thus expand our horizons.

Impacting society

Law does not always adopt new technology enthusiastically, therefore, ELSA is in a unique position to follow and map the changes happening in the LegalTech sector and present our research to law and policymakers to make a concrete difference.

International and European Legal Background

Given that LegalTech is not an area of law, it does not have a legislative background per se, and there is no regulation aimed specifically at LegalTech. The following pieces of legislation may however influence the way LegalTech functions and develops:

- The General Data Protection (GDPR) and other data privacy regulations impact how LegalTech may process data.
- EU legislation on cybersecurity, such as the upcoming Cybersecurity Act (ENISA) and the NIS Directive, may limit the development of LegalTech.

Current Development

- Regulation of AI: Due to above outlined issues of AI, it is constantly discussed, if, how and to what extent AI should be regulated. You can read more about the approach of the Commission [here](#).

External Relations

(Law) Firms: *

- [PWC](#)
- [Deloitte](#)
- [LexisNexis](#)
- [Slaughter and May](#)
- [Clifford Chance](#)
- [DLA Piper](#)

- [Dentons](#)
- [McKinsey&Company](#)
- [Freshfields](#)
- [CMS](#)
- [Baker McKenzie](#)
- [Linklaters](#)

Other initiatives:

- [Lexoo](#)
- [European Legal Tech Association](#) (ELTA)
- [International Legal Tech Association](#)
- [Nordic Legal Tech](#)

Implementation of the topic

LegalTech can be implanted into all Key Areas as outlined below. Events specific to the topic could be:

- *ELSA Legal Hackathon*: This would take form as a competition, in which participants will work in teams to create technology-based legal solutions. Subsequently, teams would present their ideas to a panel, and eventually maybe even to partners of ELSA. Such competition could also a good opportunity for ELSA to cooperate with other students' organisations, such as [BEST](#) (Board of European Students of Technology).
- *Student LegalTech Accessibility Index*: This would be published as an annual report on the accessibility of legal technologies for law students and young practitioners in Europe. It would enable us not only to measure current state of technology accessibility, but also compare it year by year and assess ELSA involvement in the process of increasing the availability of digital tools. By establishing the index, we can also touch upon human rights problems, such as digital exclusion or access to proper education.

Academic Activities

- *Legal Writing*: The rapid pace of changes in technology affects the improvements in LegalTech. Therefore, conducting research to be up to date is crucial. Legal writing on the topic of LegalTech will enable law students and young lawyers to practice their legal writing and analytical skills, which are pivotal while working as a legal practitioner. Such legal writing can take the form of:
 - Legal Research Groups – conducting comparative research on a current topic of LegalTech.
 - Law Reviews – independent research on the impact of LegalTech on the legal sector.
 - Essay Competitions – giving us an opportunity to incentivise students by rewarding them for their research.
 - Policy Papers – looking into legislative gaps and potential issues.
- *Academic Competitions*: Mooting, negotiating and debating enable participants to expand their knowledge on a particular topic, while exploring many points of view and being open-minded to fully understand the problem. Legal Debates on LegalTech may be controversial, and will therefore, bring the attention of many young people to the issue which will initiate discussions. Academic Competition could take the form of:
 - Moot Court Competitions – these could explore e.g. liability issues for a lawyer using LegalTech.
 - Negotiation Competitions – negotiating new tech solutions for a law firm.
 - Legal Debates – debating topical issues of LegalTech.

- *L@W*: Through Lawyers at Work events, students may get a first-hand insight into how lawyers implement technologies in their everyday life and how different parts of the legal sector are impacted by the development of LegalTech.

Seminars and Conferences

- *General*: Seminars, lectures and panel discussions are some of the most commonly organised events within the Network. They are relatively simple to organise, and they have a high potential for improving the knowledge of participants. Organisation of those events focused on LegalTech, would be an exemplary case to increase the range of knowledge and understanding of LegalTech.
- *ELSA Webinars*: It is logical that we should use technology to spread awareness of LegalTech and what better way imaginable than through ELSA Webinars?
- *ELSA Law Schools*: An ELSA Law School concentrated on LegalTech would be unique and bring the attention of young professionals to the growing importance of using technology in the legal field.
- *ELSA Delegations*: ELSA Delegations to the sessions of institutions and organisations could give ELSA members and alumni a unique opportunity to get first-hand practical knowledge in the field, as well as experience in the international decision-making in the area.
- *International Conferences of ELSA*: As a core of International Conferences of ELSA is passing on the participants of this event strictly academic knowledge, organising and attending an International Conference of ELSA would embody the real contribution to the legal education.

Student Trainee Exchange Programme

- Due to the constant progress in usage of technology in the legal world, more law firms and organisations specialise in the field. Therefore, there is a growing number of traineeships covering the subject of LegalTech.

Recommended Timeline

The topic LegalTech will be implemented through the new IFP cycle, which is a three year advocacy campaign materialised by yearly human rights campaigns.

Year 1: Freedom of expression online

- *Survey*: A survey looking into the knowledge of society on the area of freedom of expression will be launched by ELSA International.
- *Video*: A video containing clips from each ELSA National Group will be created to generate social media engagement and raise awareness.
- *ELSA Day Webinar*: During the ELSA Day Webinar, the results of the survey will be presented, examined and discussed by experts within the field.
- *Report*: The survey and the expert comments will be published in a report.
- *Legal Research Group*: An International Legal Research Group on Internet Censorship will be launched to research the legal background for the results of the survey.
- *ELSA Law Review*: A call for submissions will be opened for the ELSA Law Review welcoming articles on the IFP topic.
- *STEP*: Special recognition will be given to IFP traineeship providers.
- *Events of the network*: Throughout the year, the Network will engage law students and civil society nationally and locally through their events and campaigns.
- *Concluding video and report*: All efforts will be summarised in a concluding video and report which can be used in marketing and further awareness campaigns.

Year 2: AI and human rights

- *Survey*: A survey looking into the knowledge of society on the area of freedom of expression will be launched by ELSA International.
- *Video*: A video containing clips from each ELSA National Group will be created to generate social media engagement and raise awareness.
- *ELSA Day Webinar*: During the ELSA Day Webinar, the results of the survey will be presented, examined and discussed by experts within the field.
- *Report*: The survey and the expert comments will be published in a report.
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Year 3: Big Data, legal research and privacy rights

- *Survey*: A survey looking into the knowledge of society on the area of freedom of expression will be launched by ELSA International.
- *Video*: A video containing clips from each ELSA National Group will be created to generate social media engagement and raise awareness.
- *ELSA Day Webinar*: During the ELSA Day Webinar, the results of the survey will be presented, examined and discussed by experts within the field.
- *Report*: The survey and the expert comments will be published in a report.
- *Legal Research Group*: An International Legal Research Group on Artificial Intelligence will be launched to research the legal background for the results of the survey.
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At the end of the cycle, ELSA will publish a concluding IFP report and video which will summarise the efforts made and impact achieved during the three year cycle.

Potential impact of the topic

Through the concluding video, report and the Student LegalTech Accessibility Index, ELSA can create a map of developments in the LegalTech sector. This will allow us, not only to cover historically what has changed and which legislative gaps were encountered but also to impact the future. This could be done in form of a manifesto, laying out the legal solutions to the spotted in the field problems, which should be discussed and possibly enacted in the future. This will allow ELSA to be more visible in the international environment as a legal expert in the respective area. Additionally, the manifesto, would ideally inspire international and European lawmakers to take a closer look at the solutions proposed by us.