



OPPORTUNITIES FOR LEGAL TECHNOLOGY IN THE IMPROVEMENT OF ACCESS TO JUSTICE AND DIVERSITY IN THE LEGAL PROFESSION BY 2030

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Introduction

This essay will focus on key issues in access to justice and diversity, and highlight solutions through developments in legal technology (LT) and machine learning (ML).

Universal access to justice is fundamental to the rule of law and is a tenet of democracy. It provides citizens with a voice and ensures that authorities and individuals are held accountable for their actions. Obstacles to accessing justice can be categorised as either operational or structural; those which hinder the effectiveness of justice or those which are inherent in the current system.¹

Diversity in the legal world is essential to a diversity of thought, which brings many benefits. Without diversity, lawyers are not able to represent and understand their clients properly and widely held implicit biases can lead to the law becoming exclusionary.

Ensuring Access to Justice for All

Solutions to operational obstacles

LT is already being used in law firms and courts to solve basic operational problems. The most common software currently used is a subset of Artificial Intelligence (AI), known as Natural Language Processing (NLP), which analyses and processes language in files.² NLP can cut down on time spent by lawyers researching by filtering for specific search topics beyond just certain words or phrases. This software could also be used to improve search

¹ Martin Abregú, 'Barricades or Obstacles: The Challenges of Access to Justice', in R V Puymbroeck (ed), Comprehensive Legal and Judicial Development (The World Bank, 2001) pp53-69, 57

² 'Natural Language Processing (NLP) Market Size is Projected To Reach USD 27.6 Billion By 2026 - Valuates Reports' (PRNewswire, 9 July 2020) <<https://www.prnewswire.com/news-releases/natural-language-processing-nlp-market-size-is-projected-to-reach-usd-27-6-billion-by-2026---valuates-reports-301091047.html>> accessed 28 February 2022

engines and advice portals (such as Citizens Advice or the Law Society), which could find the relevant legal advice or expertise for clients more quickly.

Optical Character Recognition (OCR) converts pictures of text into editable, digital files. This could be used to great effect with little cost, for example by clients sending key documents to counsel before hearings via mobile phone.

Cloud-based systems provide another opportunity. The ACSO report outlines that digital storage translates to a greater number of legal resources and instant access to them for information for consumers and clients.³

The courts have been slow to reform,⁴ and there is a 'desperate need'⁵ for digital investment to deal with rife operational issues. Although there are some reform plans in place, such as creating online divorce services, the Bar Council notes more investment is necessary. Notable recommendations include providing e-filing in all courts,⁶ and investing in 'tech ushers' to help courts utilise technology.⁷

Solutions to structural obstacles

There are many structural problems in access to justice. Examples are certain societal groups not knowing their rights, gaps in the government's civil society oversight or systematically inconsistent enforcement of the law. Technology can help to overcome these.

In a 2019 survey, 10% of respondents involved in legal proceedings found it 'difficult or nearly impossible to find the money required'.⁸ Furthermore, since the LASPO Act 2013,⁹ legal aid cuts in the UK have barred access to justice, affecting the most deprived and vulnerable members of society disproportionately, sometimes leading to disastrous consequences.¹⁰ These issues can be helped by LT advances. Monaco Solicitors uses an ML algorithm to create legal letters for clients without legal expertise. In this way, an ML tool can be used to advise those without access to legal aid or advice.¹¹

In an ideal world, small businesses and individuals could avoid legal action entirely by using better drafted contracts and tenancy agreements.

Legislate, an LT start-up, takes a different approach by using Knowledge Graph Technology (KGT) to help clients construct valid contracts and legal documents, ensuring levels of accuracy and reliability that ML might not be able to provide.¹²

Digital Comparison Tools (DCTs) could help consumers to compare the cost and quality of different legal services providers. This could give greater access to clients unable to afford

expensive legal help, reducing a very common barrier to justice accessibility.¹³

The justice system is in dire need of overhaul regarding rape and sexual assault. Only 1.6% of rapes recorded by Police in England and Wales in 2020 resulted in a charge or summons.¹⁴ This comprises a multitude of factors, not least including an unwillingness to report. Botler AI, a chat bot, is specifically designed to answer reports of sexual assaults without the common biases of relevant authorities. In the future, organisations could employ similar software to improve current shortfalls in reports of sexual assault and rape.

LT might also help structural access to justice problems in the public interest through raising funds and awareness. Crowd Justice, a UK start-up, is a fund-raising tool that provides a platform for people to donate to support legal costs and streamlines the provision of a lawyer to work on a case.¹⁵

Improving Diversity in the Legal World

A key aspect is ethnic diversity. The Supreme Court and the higher courts in the UK are significantly under-representative of minority ethnic backgrounds.¹⁶ Thus the ultimate power at common law level is at high risk of being skewed in favour of the white and male (and often privileged) perspective. The Judicial Appointment Committee is required to have 'regard to the need to encourage diversity' in appointments.¹⁷

- 3 The Association of Consumer Support Organisations (ACSO) Technology & Innovation Report 2021 <<https://acso.org.uk/sites/default/files/media/files/acso-tech-innovation-report-2021.pdf>> accessed 28 February 2022, 6
- 4 HMCTS has so far completed only 54% of its planned outcomes. National Audit Office, 'Transforming courts and tribunals – a progress update' <<https://www.nao.org.uk/wp-content/uploads/2019/09/Transforming-Courts-and-Tribunals.pdf>> accessed 28 February 2022, 6
- 5 The Bar Council, 'Spending Review Submission: September 2021' <<https://www.barcouncil.org.uk/uploads/assets/9510f10c-477f-402d-a6021eb0c64d7046/Bar-Council-Spending-Review-submission-2021.pdf>> accessed 28 February 2022, 6 Recommendation 4
- 6 *ibid* 6 Recommendation 9
- 7 *ibid* 3
- 8 World Justice Project, 'Global Insights on Access to Justice' <<https://worldjusticeproject.org/sites/default/files/documents/WJP-A2J-2019.pdf>> accessed 28 February 2022, 107
- 9 Legal Aid, Sentencing and Punishment of Offenders Act 2013
- 10 Bolt Burdon Kemp, 'Inequality within Britain's legal aid funding system' <<https://www.boltburdonkemp.co.uk/our-insights/campaigns/inequality-in-britains-legal-aid-funding-system/>> accessed 28 February 2022 and see Owen Bowcott and Amelia Hill, 'I couldn't fight to get my children back': the impact of legal aid cuts' (Guardian, 27 December 2018) <<https://www.theguardian.com/law/2018/dec/27/i-couldnt-fight-to-get-my-children-back-the-impact-of-legal-aid-cuts>> accessed 28 February 2022
- 11 Michael Cross, 'Virtual Lawyer seeks AI partners' (Law Society Gazette, 7 December 2020) <<https://www.lawgazette.co.uk/news/virtual-lawyer-seeks-ai-partners/5106697.article>> accessed 28 February 2022
- 12 For more, see <<https://www.legislate.tech/>> accessed 28 February 2022
- 13 Legal Services Board 'Striking the balance' (April 2021) <https://legalservicesboard.org.uk/wp-content/uploads/2021/04/Striking_the_Balance_FINAL_for_web.pdf> accessed 28 February 2022, 12
- 14 Caelainn Barr and Alexandra Topping, 'Fewer than one in 60 rape cases lead to charge in England and Wales' (Guardian, 23 May 2021) <<https://www.theguardian.com/society/2021/may/23/fewer-than-one-in-60-cases-lead-to-charge-in-england-and-wales>> accessed 28 February 2022
- 15 Crowd Justice Website <<https://www.crowdjustice.com/how-it-works/>> accessed 28 February 2022 and see recent success against Government's handling Covid-19 contracts: <<https://www.crowdjustice.com/stories/>> accessed 28 February 2022
- 16 BAME judges make up 8% of court judges, 4% of High Court judges and above. Ministry of Justice 'Diversity of the judiciary: Legal professions, new appointments and current post-holders' (September 2020) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918529/diversity-of-the-judiciary-2020-statistics-web.pdf> accessed 28 February 2022, 3
- 17 Constitutional Reform Act 2005 s64

This might be supplemented by AI software automatically collecting data, providing regular reports, and training itself to find bias. The Supreme Court has also promised to 'use digital and other outreach tools to attract and encourage applications' from broader selection pools.¹⁸

Rare's Contextual Recruitment System (CRS) aims to rebalance privilege and potential and is used by top law firms and universities in their application processes. Rare collects data on the disadvantage that graduates have previously faced, such as having caring responsibilities, having a minority ethnicity or having to work whilst at school or university. 61% more disadvantaged candidates are hired through CRS.¹⁹ By 2030, Rare and similar systems might be used more widely to level the playing field and increase diversity in the legal world.

Furthermore, '[t]wo thirds of BAME individuals [...] experienced racial harassment or bullying in the workplace in the last five years'.²⁰ To combat this, the McGregor report recommends that the Government should create a free online unconscious bias training tool for companies to adopt.²¹ The use of unconscious bias software could help firms become alert to issues with their practices to reduce the harassment that BAME lawyers receive and thereby encourage more applications and improve retention rates.

Another diversity issue is disability. Only 5% of lawyers are disabled, compared to the UK workforce average of 14%.²² Since the pandemic, surveys suggest 63% of lawyers would prefer to work more flexibly.²³ Physical disabilities can make getting to the office difficult and mental disabilities can lead to busy and overstimulating offices being impossible to work in. Thus, for disabled lawyers, more flexible working and more comprehensive LT suites for remote working access could make all the difference.

Conclusion

Access to justice can be improved through removing operational and structural obstacles. Through various technologies, operations in the legal system can be streamlined, leading to saved time and money. LT can also improve structural issues such as low rape conviction rates using data analysis, AI chat bots and integrated awareness and funding platforms.

A lack of diversity remains an issue in the legal world. Technology can help to mitigate this through more transparent and data-driven judicial appointments, contextual appointment systems in firms, unconscious bias software and through improved remote working access for disabled lawyers.

These changes will enable us to reflect in 2030, and acknowledge that the legal profession and its services have truly transformed.



18 UK Supreme Court, 'Judicial Diversity and Inclusion Strategy 2021-2025' <<https://www.supremecourt.uk/docs/uksc-judicial-diversity-and-inclusion-strategy.pdf>> accessed 28 February 2022, 12

19 See Rare website <<https://contextualrecruitment.co.uk/>> accessed 28 February 2022

20 Department for Business, Energy & Industrial Strategy, 'Race in the workplace: McGregor Report-Smith review' (February 2017) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594336/race-in-workplace-mcgregor-smith-review.pdf> accessed 28 February 2022, 18

21 *ibid* 19

22 Solicitors Regulation Authority, 'How diverse is the legal profession?' Key Findings (January 2022) <<https://www.sra.org.uk/sra/equality-diversity/diversity-profession/diverse-legal-profession/>> accessed 28 February 2022

23 People in Law, 'Almost two thirds of the UK's lawyers now want to work flexible hours' <<https://peopleinlaw.co.uk/almost-two-thirds-of-the-uks-lawyers-now-want-to-work-flexible-hours/>> accessed 28 February 2022