

DRAWING CONNECTIONS BETWEEN ARTIFICIAL INTELLIGENCE, COGNITION, AND LEGAL SKILLS

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Legal education and law practice are increasingly, and at times unavoidably, interdisciplinary pursuits. For example, the legal profession now faces challenges that can only be solved with knowledge of ethics, technology, and social science. Professors of legal research and writing are at the forefront of addressing these challenges, both in the classroom and through scholarship. The great breadth of innovative research and pedagogy from writing faculty across the country was on full display at the 2018 LWI Biennial Conference and was nothing short of inspiring to this new LWI member. Two sessions had a particularly strong impact on my developing research, teaching philosophy, and perspective on the future of the legal profession: (1) Dyane O’Leary’s presentation, “Artificial Intelligence Meets Legal Research,”¹ and (2) Mary Beth Beazley’s session, “FOMO and the Lawyer’s Brain: How Shallow Reading Hurts Deep Thinking.”²

Because I was finishing an article on the ethical implications of artificial intelligence (AI) in law practice, I was especially interested in attending conference sessions addressing emerging technologies and services for lawyers and law students. Although I couldn’t attend all the sessions on these topics, I was fortunate to see Dyane O’Leary’s fantastic presentation and workshop addressing AI in legal research. One frustrating aspect of writing in this area is the lack of access to some of the most transformative emerging legal AI services. Professor O’Leary gave participants a comprehensive, informative, and interactive look into not only what services are available, but also what they are capable of, and—to the extent possible—how they work.

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¹ LWI Biennial Conference, Milwaukee, Wisconsin (July 12, 2018).

² LWI Biennial Conference, Milwaukee, Wisconsin (July 13, 2018).

Legal research, argument development, and case outcome prediction are just a few of the areas of law practice that are being transformed by legal analytics and AI. Since Professor O’Leary’s session, I have started considering the most effective ways to account for this evolving practice landscape in my legal research and writing classes.

On a different front, I have recently considered how the ineffectiveness of certain legal writing processes might be explained in part by existing behavioral theories from non-legal fields. The “endowment effect,” for example, is an economic theory that helps explain irrational attachment to the status quo.³ This effect might inhibit effective legal research, drafting, and editing, all of which necessarily require critical thinking about legal precedent and one’s own evolving legal theories. At LWI, Mary Beth Beazley’s session addressing “How Shallow Reading Hurts Deep Thinking” gave me a new perspective on the psychological aspects of the processes by which lawyers develop legal arguments. Professor Beazley’s session shed light on the effect of technology on lawyers’ and law students’ analytical processes, and specifically, how reliance on digital platforms for information-related tasks can overcrowd short-term memory at the expense of the long-term memory development needed for innovative legal thinking.

Together, these sessions helped inform and connect two strands of my research that I previously thought were unrelated, leading to new questions regarding the combined effect of AI and behavioral theories on different legal skills. Thanks to the LWI conference and these sessions, many of these questions are now at the forefront of my research agenda. As legal AI services become capable of producing increasingly sophisticated outputs, how critically will lawyers scrutinize this new information and the algorithms and, by extension, the individuals or organizations producing them? Could automation of certain legal tasks relieve cognitive overload and enable deeper critical thinking by lawyers? Does AI’s reliance on data inherently overvalue precedent, reinforce systematic bias, or inhibit creativity and the development of novel legal theories? How should legal educators account for the increasing number and sophistication of services shaping this rapidly developing landscape? The LWI Biennial Conference made me feel even more fortunate to be part of the inspiring community of legal writing scholars and educators dedicated to confronting these challenges through interdisciplinary research; inclusive collaboration; and forward-thinking, practical

³ See generally Russell Korobkin, *The Endowment Effect and Legal Analysis*, 97 NW. U. L. REV. 1227 (2003).

skills-based legal education. I couldn't be more excited about continuing to engage with these issues with my new colleagues.