STUDIA IURIS

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AI AND LEGAL LOOPHOLES:
BRIDGING GAPS OR EXPOSING FLAWS?
MESTERSÉGES INTELLIGENCIA ÉS JOGI KISKAPUK:
HIÁNYPÓTLÁS VAGY RENDSZERSZINTŰ HIBÁK FELTÁRÁSA?

İlke Karataş[1]

ABSZTRAKT ■ A mesterséges intelligencia (MI) átalakítja a jogi környezetet azáltal, hogy egyszerre képes feltárni és kihasználni a jogi kiskapukat. Ez a tanulmány a MI kettős szerepét vizsgálja: hogyan azonosítja a jogrendszerek ellentmondásait, illetve miként használhatja ki ezeket stratégiai előnyök érdekében; elemzi a MI jogrendszerekbe való integrációjának etikai, szabályozási és gyakorlati kihívásait. A tanulmány hangsúlyozza a MI által vezérelt megoldásokat a jogalkotás megerősítésében, miközben figyelmeztet a kockázatokra, például az algoritmikus torzításra és a szabályozási arbitrázsra; felhívja a figyelmet a transzparenciára, kiemelve az elszámoltathatóság és az emberi felügyelet szükségességét, továbbá kiegyensúlyozott megközelítést sürget a MI jogi szabályozásában.

Kulcsszavak: Mesterséges Intelligencia, jogrendszerek, szabályozási kiskapuk, algoritmikus torzítás, technológiai irányítás, gépi tanulás, szabályozási arbitrázs, etikus MI, átláthatóság

ABSTRACT ■ Artificial Intelligence (AI) is reshaping legal landscapes by both identifying and exploiting legal loopholes. This paper explores AI's dual role in detecting inconsistencies within legal frameworks and its potential to manipulate ambiguities for strategic advantage. It examines the ethical, regulatory, and practical challenges posed by AI's integration into legal systems. The study highlights AI-driven solutions for strengthening legislative robustness while acknowledging risks such as algorithmic bias and regulatory arbitrage. By advocating for transparency, accountability, and human oversight, this paper underscores the necessity of a balanced approach to AI in legal governance.

Keywords: Artificial Intelligence, Legal Systems, Regulatory Loopholes, Algorithmic Bias, Technological Governance, Machine Learning, Regulatory Arbitrage, Ethical AI, Transparency

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1. INTRODUCTION

Legal systems, by their very nature, are intricate frameworks designed to govern societal conduct and maintain order. However, these systems are not infallible; they are often punctuated by what are commonly referred to as "legal loopholes". These loopholes represent gaps or ambiguities within the law that, while not explicitly illegal, allow for actions that circumvent the intended purpose of the legislation. These lacunae can arise from a variety of sources, including flaws in the legislative drafting process, unforeseen societal developments, or the inherent limitations of language itself. As CSABA CSERVÁK notes, such loopholes are often the result of "*flaws in legislative processes or unforeseen societal developments*", highlighting the dynamic and sometimes unpredictable nature of lawmaking.[2]

The advent of Artificial Intelligence (AI) introduces a new dimension to this complex issue. AI, with its advanced analytical capabilities, can interact with legal loopholes in a dual capacity. On one hand, AI can serve as a powerful tool for detecting these gaps, meticulously analysing vast legal datasets to identify inconsistencies and ambiguities that might otherwise go unnoticed. On the other hand, AI's capacity for rapid analysis and pattern recognition can also be exploited to navigate and even exacerbate these loopholes, creating new challenges for legal and regulatory bodies. This duality necessitates a critical examination of how AI is reshaping the landscape of legal interpretation and enforcement.

This paper will explore this complex interplay between AI and legal loopholes. It will delve into how AI can be utilized to both identify and exploit these gaps, as well as how it can be employed to close them. The analysis will consider the ethical and practical challenges that arise from the increasing integration of AI into legal processes, emphasizing the need for transparency, accountability, and human oversight to ensure that AI serves the rule of law and societal justice.

2. THE ROLE OF AI IN DETECTING LEGAL LOOPHOLES

The capacity of Artificial Intelligence to process and analyse vast amounts of data makes it a particularly potent tool for identifying ambiguities and contradictions within legal frameworks. This capability stems from several key applications of AI, each contributing to a more comprehensive understanding of the intricacies of legal texts and their potential shortcomings.

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[2] Cs. CSERVÁK: Rule of Law and Constitutional Law. In: GRZEGORZ PASTUSZKO (ed.): *Rule of Law*. Warszawa, Instytut Wymiaru Sprawiedliwości, 2023, 181-274.

One of the primary ways AI aids in loophole detection is through legal text mining. This involves the use of AI systems to analyse extensive legal datasets, including statutes, regulations, and case law. These systems employ techniques such as Natural Language Processing (NLP) to parse legal language, identifying unclear provisions, outdated rules, and inconsistencies that might be overlooked by human analysis. For instance, AI can detect instances where different sections of a law contradict each other or where the language used is vague, leaving room for multiple interpretations. This is particularly valuable in complex legal systems where the sheer volume of legislation makes it difficult for human analysts to maintain a comprehensive overview.[3] Furthermore, AI can identify patterns and anomalies in legal texts that might indicate potential loopholes, providing a more systematic approach to legal analysis than traditional methods.

Another crucial application of AI in this context is predictive analytics. This involves using AI algorithms to anticipate areas where laws might fall short due to technological advancements or societal changes. For example, the rapid development of blockchain technology and cryptocurrencies has created new challenges for existing financial regulations. AI can analyse these emerging technologies and predict where current laws might be inadequate, thereby allowing lawmakers to proactively address potential loopholes before they are exploited. This predictive capability is particularly important in a rapidly evolving technological landscape where laws often struggle to keep pace with innovation.[4]

Moreover, AI is increasingly being used as a tool for legislative drafting. AI-powered tools, leveraging NLP, can assist lawmakers in drafting more precise and unambiguous laws. These tools can analyse draft legislation for potential inconsistencies, ambiguities, and loopholes, providing feedback to lawmakers before the law is enacted. This can significantly reduce the likelihood of unintended consequences and ensure that laws are more robust and less susceptible to exploitation. For example, AI can suggest alternative phrasing that is less ambiguous or identify potential conflicts with existing legislation.[5]

Currently, several regulatory bodies are already utilizing AI tools to review legislation for potential inconsistencies. These tools can analyse vast amounts of legal text in a fraction of the time it would take human analysts, allowing for a more thorough and efficient review process. This not only helps in identifying

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[3] K. D. Ashley: *Artificial intelligence and legal analytics: New tools for law practice*. Cambridge University Press, 2017.

[4] S. Zuboff: *The age of surveillance capitalism: The fight for a human future at the new frontier of power*. PublicAffairs, 2019.

[5] H. Surden: Artificial intelligence and law: An overview. *Georgia State University Law Review*, 2014 (4), 1115-1144.

existing loopholes but also in preventing new ones from being created. The integration of AI into these processes represents a significant step towards a more proactive and adaptive legal system.

3. The Exploitation of Loopholes Through AI

While AI offers significant potential for detecting and addressing legal loopholes, its capabilities can also be leveraged to exploit these very same gaps, often with greater speed and efficiency than traditional methods. This duality presents a considerable challenge to legal and regulatory frameworks, requiring a nuanced understanding of how AI can be used to circumvent the intended purpose of the law.

One of the primary ways AI facilitates the exploitation of loopholes is through regulatory arbitrage. AI systems, particularly those employed by corporations or high-net-worth individuals, can analyse complex regulatory environments to identify opportunities for avoiding compliance. For example, AI-driven strategies can be used to navigate intricate tax codes, identifying loopholes that allow for tax avoidance or minimization. These systems can rapidly process vast amounts of financial data and legal regulations, identifying optimal strategies for shifting assets or income to jurisdictions with more favourable tax laws. This capability allows for a level of sophistication in tax planning that is difficult for regulators to counter, often leading to significant revenue losses for governments.[6]

Another area where AI can be used to exploit loopholes is in the realm of smart contracts. These self-executing contracts, often deployed on blockchain platforms, are designed to automatically enforce the terms of an agreement when certain conditions are met. While this automation can increase efficiency and reduce the need for intermediaries, it also presents opportunities for exploitation. AI tools can be used to create smart contracts that rigidly adhere to the letter of the law while circumventing its spirit. For example, a smart contract might be designed to exploit a loophole in a financial regulation, automatically executing transactions that are technically legal but undermine the regulatory intent. The immutable nature of blockchain technology makes it difficult to reverse or modify these contracts once they are deployed, further complicating the challenge of addressing such exploitation.[7]

[6] J. Braithwaite: *Regulatory capitalism: How regulation reshaped the global economy.* Edward Elgar Publishing, 2017.

[7] P. De Filippi – A. Wright: *Blockchain and the law: The rule of code.* Harvard University Press, 2018.

Furthermore, AI is increasingly being used in algorithmic litigation. Legal AI tools can analyse case law and statutes to identify potential loopholes that can be exploited in legal arguments. These tools can craft sophisticated legal arguments that are designed to exploit ambiguities in the law, forcing courts to reinterpret existing statutes or create new legal precedents. This can lead to a situation where the law is effectively rewritten through litigation, rather than through the legislative process. The speed and efficiency with which AI can generate these arguments can overwhelm the capacity of courts and legal professionals to respond effectively, potentially undermining the integrity of the legal system.[8]

The use of algorithms by companies to navigate taxation systems provides a clear example of how AI can exploit legal ambiguities faster than regulators can adapt. These algorithms can identify and exploit loopholes in real-time, shifting assets and income to minimize tax liabilities. This creates a dynamic and constantly evolving challenge for regulators, who often struggle to keep pace with the rapid advancements in AI technology. The result is a situation where the law is constantly playing catch-up, struggling to address the loopholes that AI has already identified and exploited.

4. Closing Legal Loopholes: AI as a Solution

While the previous section highlighted the potential for AI to exacerbate legal loopholes, it is equally important to recognize its capacity to assist lawmakers and courts in closing these gaps efficiently. AI's analytical prowess, combined with its ability to process vast amounts of data, makes it a valuable tool for creating a more robust and adaptive legal system.

One of the keyways AI can help close loopholes is through real-time monitoring. AI systems can be deployed to continuously monitor legal frameworks and societal developments, identifying emerging loopholes as they arise. These systems can analyse data from various sources, including legal databases, news outlets, and social media, to detect patterns and anomalies that might indicate the emergence of a new loophole. This real-time monitoring capability allows for a more proactive approach to legal enforcement, enabling regulators to address loopholes before they are widely exploited. For example, AI can detect sudden shifts in financial transactions that might indicate the exploitation of a new tax loophole, allowing regulators to respond quickly and effectively.[9]

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[8] R. Susskind: *Tomorrow's lawyers: An introduction to your future*. Oxford University Press, 2017.

[9] A. Agrawal – J. Gans – A. Goldfarb: *Prediction machines: The simple economics of artificial intelligence*. Harvard Business Review Press, 2018.

Another crucial application of AI in this context is dynamic law simulations. AI can be used to create simulations of real-world outcomes based on proposed laws. These simulations can help lawmakers foresee potential gaps and unintended consequences before a law is enacted. By testing different scenarios and variables, AI can identify areas where a law might be vulnerable to exploitation, allowing lawmakers to refine the legislation and close potential loopholes. This approach is particularly valuable in complex areas of law where the interactions between different regulations can be difficult to predict. The ability to simulate the impact of a law before it is enacted can significantly reduce the likelihood of unintended consequences and ensure that laws are more robust and less susceptible to exploitation.[10]

Furthermore, AI can provide valuable judicial assistance. AI tools can analyse case law to identify patterns of loophole exploitation, aiding judges in developing more robust interpretations of existing statutes. These tools can identify cases where loopholes have been used to circumvent the intended purpose of the law, providing judges with the information they need to develop interpretations that close these gaps. This can lead to a more consistent and coherent application of the law, reducing the likelihood of future exploitation. AI can also assist judges in identifying relevant precedents and legal arguments, allowing them to make more informed decisions. This judicial assistance is crucial for ensuring that the law is applied fairly and consistently, even in the face of sophisticated attempts to exploit loopholes.[11]

As Csaba Cservák emphasizes, the rule of law requires legal systems to adapt and correct flaws. AI can play a crucial role in this process by providing the tools necessary to identify and address loopholes more efficiently. By continuously monitoring legal frameworks, simulating the impact of proposed laws, and assisting judges in interpreting existing statutes, AI can help create a more robust and adaptive legal system that is better equipped to address the challenges of a rapidly changing world.

5. Challenges and Ethical Considerations

The integration of AI into legal processes, while offering significant benefits, also presents a range of challenges and ethical considerations that must be carefully

[10] M. Hildebrandt: *Smart technologies and the end(s) of law: Novel entanglements of Law and technology*. Edward Elgar Publishing, 2015.

[11] L. M. Solan: *The language of statutes: Laws and their interpretation*. University of Chicago Press, 2010.

addressed. Balancing AI's capabilities with fundamental legal principles is crucial to ensure that these technologies serve the interests of justice and the rule of law.

One of the primary challenges is ensuring the transparency of AI tools. Many AI systems, particularly those based on complex machine learning algorithms, operate as "black boxes" making it difficult to understand how they arrive at their conclusions. This lack of transparency can undermine public trust in the legal system, particularly when AI is used to make decisions that affect individuals' rights and liberties. For AI to be accepted and trusted, it is essential that its decision-making processes are transparent and auditable. This requires the development of AI systems that are not only effective but also explainable, allowing legal professionals and the public to understand the reasoning behind their outputs.[12]

Another significant concern is the potential for bias in AI systems. AI algorithms are trained on data, and if that data reflects existing societal biases, the AI system will likely perpetuate or even amplify those biases. For example, if an AI system used to analyse legal texts is trained on data that disproportionately reflects the experiences of one demographic group, it may be less effective at identifying loopholes that affect other groups. This can lead to unfair or discriminatory outcomes, undermining the principle of equal justice under the law. Addressing this challenge requires careful attention to the data used to train AI systems, as well as the development of techniques to mitigate bias.[13]

Furthermore, it is crucial to recognize that AI should support, not replace, human judgment. While AI can provide valuable insights and automate certain tasks, it should not be seen as a substitute for human expertise and ethical reasoning. Legal decisions often involve complex considerations that go beyond the purely logical or analytical, requiring an understanding of context, nuance, and human values. AI should be used as a tool to enhance human decision-making, not to replace it. This requires maintaining human oversight of AI systems and ensuring that legal professionals retain the ultimate authority to make decisions that affect individuals' lives.[14]

The ethical considerations surrounding the use of AI in legal processes are multifaceted and require ongoing attention. It is essential to ensure that AI

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[12]   S. WACHTER – B. MITTELSTADT – C. RUSSELL: Counterfactual explanations without opening the black box: Automated decisions and the GDPR. *Harvard Journal of Law & Technology*, 2017 (2), 841-916.

[13]   S. BAROCAS – A. D. SELBST: Big data's disparate impact. *California Law Review*, 2016 (3), 671-732.

[14]   J. DANAHER: Automation and the future of work: A critical analysis. *The Journal of Law, Technology & Policy*, 2018 (1), 1-32.

systems are developed and deployed in a way that upholds the principles of justice, fairness, and the rule of law. This requires a collaborative effort involving legal professionals, technologists, policymakers, and the public to establish clear ethical guidelines and regulatory frameworks for the use of AI in the legal system. The goal should be to harness the power of AI to improve the legal system while safeguarding fundamental human rights and values.

6. Case Studies and Implications

DoNotPay, self-proclaimed as the "world's first robot lawyer", offered AI-driven legal assistance for tasks such as contesting parking tickets and drafting legal documents. The platform aimed to democratize legal services by providing automated solutions to consumers. However, in September 2024, the Federal Trade Commission (FTC) charged DoNotPay with deceptive advertising practices, alleging that the company misrepresented the efficacy and reliability of its AI services. The FTC's complaint highlighted that DoNotPay's AI chatbot failed to deliver legal expertise comparable to that of a human lawyer and that the company did not employ licensed attorneys to verify the accuracy of its services.[15]

In February 2025, the FTC finalized an order requiring DoNotPay to cease making misleading claims about its AI capabilities and imposed a monetary relief of $193,000. Additionally, the company was mandated to notify past subscribers about the settlement and the limitations of its services. This action underscores the necessity for AI service providers to substantiate their claims and ensure that their products meet advertised standards.[16]

Beyond regulatory scrutiny, DoNotPay faced legal challenges concerning the unauthorized practice of law. In March 2023, a class-action lawsuit was filed against the company, alleging that its AI-driven services constituted legal practice without proper licensing. Although a federal court dismissed the suit due to lack of standing, the case highlighted the ongoing debate about the role of AI in legal services and the potential for unauthorized practice. These developments

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[15] Federal Trade Commission, *FTC announces crackdown on deceptive AI claims and schemes* (September 25, 2024). Retrieved from https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-announces-crackdown-deceptive-ai-claims-schemes.

[16] Federal Trade Commission, FTC finalizes order with DoNotPay that prohibits deceptive 'AI lawyer' claims, imposes monetary relief, and requires notice to past subscribers (February 11, 2025). Retrieved from https://www.ftc.gov/news-events/news/press-releases/2025/02/ftc-finalizes-order-donotpay-prohibits-deceptive-ai-lawyer-claims-imposes-monetary-relief-requires.

emphasize the importance of regulatory oversight and the need for AI companies to operate within established legal and ethical boundaries.[17]

In February 2025, a significant legal incident highlighted the perils of unverified reliance on artificial intelligence within the legal profession. Three attorneys representing plaintiffs in a personal injury lawsuit against Walmart were sanctioned for submitting a court filing that included fabricated case citations generated by an AI program. The case involved allegations that Walmart sold a defective hoverboard, which allegedly caught fire and caused substantial property damage. The attorneys – Rudwin Ayala and T. Michael Morgan of Morgan & Morgan, along with local counsel Taly Goody of Goody Law Group – submitted a motion citing nine cases, eight of which were non-existent.[18]

U.S. District Judge Kelly Rankin of Wyoming emphasized the ethical obligation of attorneys to ensure the authenticity of their cited sources, stating: *"As attorneys transition to the world of AI, the duty to check their sources and make a reasonable inquiry into existing law remains unchanged."* Consequently, the court imposed fines totaling $5,000: Ayala was fined $3,000 and had his pro hac vice admission revoked, effectively removing him from the case; Morgan and Goody were each fined $1,000 for insufficient oversight of the filing process.

This incident underscores the growing challenges and responsibilities associated with integrating AI tools into legal practice. While AI can enhance efficiency, this case illustrates the potential risks of "hallucinated" outputs – fabricated information generated by AI systems. Legal professionals must exercise due diligence and verify all AI-generated content to maintain the integrity of legal proceedings and uphold ethical standards.[19]

The recent cases involving DoNotPay and Morgan & Morgan underscore the critical need for stringent oversight and ethical considerations in the deployment of artificial intelligence (AI) within legal services. DoNotPay's misrepresentation of its AI capabilities led to a $193,000 settlement with the Federal Trade Commission (FTC), highlighting the consequences of deceptive advertising in AI applications. Similarly, the sanctions imposed on Morgan & Morgan attorneys for submitting

[17] *ABA Journal*, Judge tosses UPL suit against 'robot lawyer' DoNotPay, saying law firm plaintiff was not harmed (November 21, 2023). Retrieved from https://www.abajournal.com/news/article/judge-tosses-upl-suit-against-robot-lawyer-donotpay-saying-law-firm-plaintiff-was-not-harmed.

[18] S. Merken, Judge fines lawyers in Walmart lawsuit over fake, AI-generated cases (February 25, 2025). *Reuters*. Retrieved from https://www.reuters.com/legal/government/judge-fines-lawyers-walmart-lawsuit-over-fake-ai-generated-cases-2025-02-25/.

[19] S. Merken, AI 'hallucinations' in court papers spell trouble for lawyers (February 18, 2025). *Reuters*. Retrieved from https://www.reuters.com/technology/artificial-intelligence/ai-hallucinations-court-papers-spell-trouble-lawyers-2025-02-18/.

AI-generated fictitious case citations emphasize the professional obligations of lawyers to verify the accuracy of information, regardless of the tools employed.

These incidents serve as cautionary tales, illustrating the potential pitfalls of integrating AI into legal practice without adequate safeguards. They highlight the necessity for legal professionals and AI developers to collaborate in establishing robust frameworks that ensure the reliability and ethical use of AI technologies. As AI continues to evolve, it is imperative that the legal industry prioritizes the development of standards and regulations that uphold the integrity of legal proceedings and protect consumer interests.

7. Conclusion

The relationship between Artificial Intelligence and legal loopholes is complex and multifaceted, characterized by a duality that presents both opportunities and challenges for the legal system. As this paper has explored, AI possesses the remarkable capacity to both detect and exploit legal loopholes. On one hand, AI's analytical prowess allows it to meticulously examine vast legal datasets, identifying ambiguities, inconsistencies, and outdated rules that might otherwise go unnoticed. This capability is invaluable for strengthening legal frameworks and ensuring that they are robust and adaptable to changing societal and technological landscapes. AI-powered tools can assist lawmakers in drafting more precise legislation, monitor legal systems for emerging loopholes, and aid judges in interpreting statutes in a manner that aligns with their intended purpose.

On the other hand, the same analytical capabilities that make AI a powerful tool for detecting loopholes can also be used to exploit them. AI systems can be employed to navigate complex regulatory environments, identify opportunities for tax avoidance, and create smart contracts that circumvent the spirit of the law while adhering to its letter. This capacity for rapid analysis and pattern recognition can allow for the exploitation of loopholes at a scale and speed that is difficult for regulators to counter, potentially undermining the integrity of the legal system.

The key to navigating this complex landscape lies in the development and deployment of ethical, transparent, and accountable AI systems. It is crucial that AI tools operate in a manner that is understandable and auditable, allowing legal professionals and the public to scrutinize their decision-making processes. Furthermore, it is essential to address the potential for bias in AI systems, ensuring that they are trained on data that is representative and does not perpetuate existing societal inequalities. Finally, it is imperative that AI is used to support,

not replace, human judgment, recognizing that legal decisions often involve complex considerations that go beyond the purely logical or analytical.

In addition to national efforts, the global nature of AI technology necessitates international collaboration to harmonize legal standards and practices. As AI systems and their applications cross borders, inconsistencies in national regulations can lead to regulatory arbitrage, where entities exploit differing laws to their advantage. Therefore, it is crucial for international bodies and governments to work together to establish shared principles and guidelines for AI governance. Organizations such as the Organisation for Economic Co-operation and Development (OECD) have already begun to develop frameworks for AI ethics and governance, advocating for values such as transparency, accountability, and fairness across jurisdictions.[20] The European Union's AI Act represents another significant step toward creating comprehensive regulations that address both the opportunities and risks posed by AI technologies.[21] By fostering international dialogue and cooperation, we can ensure that AI technologies are leveraged to enhance, rather than undermine, the rule of law globally while addressing the inherent challenges of regulating rapidly evolving technology.

In conclusion, AI's dual role in addressing legal loopholes necessitates a careful and nuanced approach. While AI offers significant potential for improving the legal system, it also presents considerable risks if not managed responsibly. The challenge lies in harnessing the power of AI to strengthen the rule of law and promote societal justice, while mitigating the potential for its misuse. This requires a collaborative effort involving legal professionals, technologists, policymakers, and the public to establish clear ethical guidelines and regulatory frameworks for the use of AI in the legal system. Only through such a concerted effort can we ensure that AI serves as a force for good, rather than a tool for undermining the very principles it should uphold.

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[20] OECD, Recommendation of the Council on Artificial Intelligence. OECD Legal Instruments, 2019, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449.
[21] M. Veale – F. Zuiderveen Borgesius: Demystifying the Draft EU Artificial Intelligence Act. *Computer Law Review International*, 2021 (4), 97-112.

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