

Keynote lecture Jeroen Soeteman, incoming President of the Netherlands Bar (NOvA),  
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## Who or what will be the lawyer of the future?

A so-called Knock upper is a person that was hired, for about a penny a day, to wake people up by shooting peas against their windows. Alarm-clocks were non-existent, or at least not reliable enough. In the UK and in The Netherlands, this was a job until about the 20's of the past century. About one hundred years ago, the profession of the Knock upper got knocked down by technology. You will feel it coming... Is the human lawyer the Knock upper of the 20's of our century?

Ladies and gentlemen, esteemed colleagues,

It is a great honor to join you today at the International Legal Ethics Conference. My name is Jeroen Soeteman, and I wear several hats within the legal community. As a Member of the General Council, the current Vice President and starting September 1<sup>st</sup> the incoming President of the Netherlands Bar (NOvA), I am deeply involved in shaping the future of our legal profession in the Netherlands.

In my practice as a criminal lawyer here in Amsterdam, I strive to uphold the principles of justice and advocate for the rights of individuals. Additionally, I am passionate about the intersection of technology and law, which I explore as a guest lecturer in 'Legal Tech and the Legal Profession' at Erasmus University Rotterdam.

The future of the legal profession undoubtedly involves the integration of AI into our daily practices. While AI can automate routine tasks and support data-driven decision-making, it cannot (yet?) replace the analytical skills, deep thinking, and human elements needed by lawyers. Therefore, as we embrace AI, it is crucial to ensure that it is used responsibly and ethically, safeguarding the principles of justice and advocating for the rights of individuals. The challenges facing today's legal professionals pave the way for the evolution of the lawyer of the future, who will likely be inseparable from AI. Today, I would like to take you through a number of challenges that need to be overcome, guided by the core values of the legal profession.

Before I delve into the lawyer of the future, I would shortly like to share some more information about the Netherlands Bar, or as we say the NOvA. The NOvA was established in 1952 and all lawyers in the Netherlands jointly form the NOvA. The NOvA is established by law, but does not receive any government funding. All costs incurred by the NOvA are being paid for by the lawyers through an annual financial. As a result, the NOvA is completely independent of the government.<sup>1</sup>

As of yesterday, there are 18.749 lawyers in the Netherlands, united in 5,558 law-firms. This year, 1,103 trainees start their training as a lawyer, a comparable number to previous years.

Additionally, 3,300 lawyers have solo practices, while 2,900 work at large firms with more than 65 lawyers. Notably, the majority of lawyers under 40 years old are women, while above that age, the majority are men. And the average age is 43.<sup>2</sup>

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<sup>1</sup> [The Netherlands Bar | Nederlandse orde van advocaten \(advocatenorde.nl\)](https://www.advocatenorde.nl)

<sup>2</sup> Jaarverslag NOvA 2023

“In a constitutional state the lawyer guarantees the effectiveness of the principle of access by the clients, to the law and to the judge.”<sup>3</sup>

This responsibility encompasses:

- advising clients
- representing them in legal proceedings
- providing assistance during interrogations and hearings.

The lawyer's ability to leverage knowledge, both in terms of knowing and understanding where and how to find relevant information, is paramount. Equally crucial is the capacity to actively listen (*I will get back on that one*), analyze complex legal matters, have the courage to ask difficult and painful questions, and make well-considered choices. These core tasks and attributes underscore the indispensable role of lawyers in upholding the rule of law and ensuring the fair and equitable administration of justice.

But how about the future then? What is the lawyer of the future?

*The lawyer of the future* is one of the strategic themes of The Netherlands Bar. The lawyer of the future looks beyond the horizon of current practice and is prepared for future developments such as legal tech, the digitalization of the judiciary, and the evolving legal society through professional training and continuing education.

But will that future-lawyer still be a human lawyer? The first attempt at a robot lawyer was made by the US-based company called 'DoNotPay'. Their robot lawyer aimed, so they claimed, “to democratize legal representation by providing free legal assistance and eliminating the need for expensive lawyers.” However, the experiment involving the robot lawyer representing a defendant in a court case was ultimately scrapped due to legal complications. The company faced threats of prosecution for unauthorized practice of law and was hit with a class action lawsuit for practicing without a license. As a result, the company settled the class action and repositioned itself as an artificial intelligence-powered platform to help individuals with legal and bureaucratic challenges, but not as a self-called lawyer anymore.<sup>4</sup>

So, one robot-lawyer knocked down.

Now back to the Dutch lawyers. In the interest of proper administration of justice, the lawyer ensures the legal protection of his client. In doing so, the lawyer is guided by the five core values laid down in Section 10a of the Act on Advocates: independence, partiality, competence, integrity, and confidentiality.

Let's return to the current lawyer and assume that the future lawyer will still be human. The core values are in themselves timeless and neutral with regard to technology. However, given the rapid and unforeseeable developments in the field of AI, they may become more important than ever. The Netherlands Bar examines whether some of these core values, including confidentiality and competence, need to be redefined or broadened. Because each core value poses significant

<sup>3</sup> Rapport “Dit is een Advocaat” (2013), blz.57

<sup>4</sup> [DoNotPay - Your AI Consumer Champion; AI-powered "robot" lawyer won't argue in court after jail threats - CBS News: An AI robot lawyer was set to argue in court. Real lawyers shut it down. : NPR; Legal AI startup DoNotPay reaches settlement in customer class action | Reuters/](#)

challenges for the future lawyer who utilizes AI. The Council of Bars and Law Societies of Europe (CCBE) highlighted in their 2022 'Guide on the use of Artificial Intelligence-based tools by lawyers and law firms in the EU' the values confidentiality, competence and independence. I would like to take you through the specific challenges related to some of these core values.

The lawyer is a person of trust and he observes confidentiality within the limits set by law and justice. The core value of confidentiality is essential to fulfil the profession of a lawyer. It is crucial that clients can exchange everything with their lawyer in full openness and confidence that it will not be shared with anyone, or anything. The interest of a client and of justice in general dictates that the lawyer cannot be compelled to give a statement in court about the information exchanged between him and his client. This falls under the duty of confidentiality that applies to the lawyer. To safeguard this duty, the lawyer has a professional privilege.<sup>5</sup>

The International Principles on Conduct for the Legal Profession of the International Bar Association, state the following: "*Lawyers should also take care to ensure that confidentiality and professional secrecy are maintained in respect of electronic communications, and data stored on computers. Standards are evolving in this sphere as technology itself evolves, and lawyers are under a duty to keep themselves informed of the required professional standards so as to maintain their professional obligations.*"<sup>6</sup>

The rise of legal technology has made communication more accessible, but at the same time, it has also increased the risk of breaching the professional privilege. The most obvious cause? There is much [much] more and faster communication possible between lawyer and client. In addition, with electronic communication, there is now a third party involved as a standard intermediary with access to the privileged information. With the rise of AI it would be possible to filter privileged communication. This could be something good, when used to protect the privileged information. However, (generative) AI also forms a new risk: inadvertent disclosure of privileged communication.<sup>7</sup>

But there is more to it. Recently at a meeting about AI, one of the lawyers proudly told the audience they used AI to anonymize the privileged data with confidential information. I asked if he had investigated who would have access to the data that was and if the client had given permission to do so. Both he had not thought off, but these questions should be on top of the mind of any lawyer using AI: where is the data going, whether part of a prompt or data I want to anonymize? Am I possibly breaching confidentiality here?

The lawyer is competent and is able to rely on sufficient knowledge and skills. The lawyer must be sufficiently competent to serve the interests of his client. In this regard, the legal expertise of the lawyer takes precedence. Based on current legal knowledge, he must be able to assess the substantive and procedural aspects of a case.<sup>8</sup> The first instance of a lawyer lacking sufficient knowledge of generative AI (but still using it) has already become a reality. You all might have heard of the Mata v. Avianca case in the USA, in which one of the lawyers submitted a federal court-filing containing non-existing legal precedents generated by ChatGPT. When asked by the court where he got this non-existent legal precedents, he 'confessed' he used Chat GPT – for the

<sup>5</sup> [Kernwaarden | Nederlandse orde van advocaten \(advocatenorde.nl\)](https://www.kernwaarden.nl/nederlandse-orde-van-advocaten)

<sup>6</sup> [IBA International Principles on Conduct for the legal prof.pdf \(icj.org\)](https://www.icj.org/publications/international-principles-on-conduct-for-the-legal-profession/)

<sup>7</sup> [Generating . . . Client Confidentiality Concerns in the Use of Generative AI Technology — New England Law Review \(newenglaw.com\)](https://www.newenglaw.com/articles/generative-ai-client-confidentiality-concerns-in-the-use-of-generative-ai-technology/)

<sup>8</sup> [Kernwaarden | Nederlandse orde van advocaten \(advocatenorde.nl\)](https://www.kernwaarden.nl/nederlandse-orde-van-advocaten)

first time in his life. He thought they were real, he said, also because he asked ChatGPT if the content that was generated was real and ChatGPT answered Yes. The lawyer got fined, but more importantly, the client lost the case.

This core value of competence may need to be redefined. It is not inconceivable that AI, which already provides significant support in legal advising, may eventually provide legal advice itself. It is also not inconceivable that AI may represent clients in certain legal conflicts and proceedings with or without the involvement of a lawyer. Although AI can analyse legal data much faster than any lawyer, AI is also highly dependent on the (quality of the) available legal data. Artificial intelligence is, in fact, not sufficiently capable of incorporating ethical, moral, and other human considerations that may be implicitly included in the data or taken into account by a lawyer in a legal advice. For this reason, the client's legal position must be safeguarded by a lawyer who can oversee the technology. But how can he do so? How can he value the outcome? These are questions to be answered, by us, by you, or together maybe.

So how do we do that? And what does The Netherlands Bar do?

The Vocational training for advocates is the professional training programme of the Netherlands Bar. The two-year training programme focuses on practical skills, ethics and the application of legal knowledge. The core values of the legal profession are explicitly embedded in the training.

The lawyers are allowed to use AI in their homework. Interesting fact is since then, for the first time we did not receive any complaints from trainees about the amount of homework in the training. Guess why...

One of the most celebrated moments in the AI revolution was when OpenAI announced that ChatGPT-4 scored in the 90th percentile on the bar exam and completed it in six minutes. However, Eric Martinez, a doctoral student at MIT, expressed doubts about the accuracy of this achievement at a New York State Bar Association event. Martinez highlighted the bar exam's grading method and the inflated improvement from its predecessor as reasons for scepticism. He also emphasized that GPT-4's struggle with essay writing compared to practicing lawyers indicates the limitations of large language models in tasks resembling a lawyer's daily activities. Additionally, Martinez raised questions about AI's potential impact on legal reasoning and the need to carefully evaluate the appropriateness of AI models in legal settings.<sup>9</sup>

While AI is and should be used to improve education and work, every AI training should be twofold. On the one hand, every student, trainee, and lawyer should learn to use specific AI tools, and on the other hand, the user should always be able to independently evaluate the tool (from input to output). At the moment, there is a risk - especially as the quality of large language models improves - that the convenience of the tools hinders the development of analytical thinking. This is something we should aim to prevent from preschool to lifelong education.

While the core values may be applicable to every (Dutch) lawyer, the potential challenges resulting from technological advancements, may vary for each lawyer.

The large law firms are currently experimenting extensively with AI for commercial purposes. Although Dutch firms have indicated some difficulty due to the relatively recent adoption of large

<sup>9</sup> [Why ChatGPT-4's Score on the Bar Exam May Not Be So Impressive - New York State Bar Association \(nysba.org\)](https://www.nysba.org/why-chatgpt-4s-score-on-the-bar-exam-may-not-be-so-impressive)

language models in Dutch, it is expected that these major firms can utilize AI where possible and have the capacity to handle the challenges arising from the core values.

But what about the lawyers who do not have sufficient resources to overcome the technological and ethical challenges of the lawyer of the future? For example, the legal aid lawyers or the 3.300 lawyers who have a solo practice? They are essential for ensuring access to justice. The Netherlands Bar is committed to keeping this group engaged for the benefit of access to justice. To enable this, we want to call on you to contribute, through interdisciplinary scientific research, to innovative approaches to address the challenges faced by small law firms and legal aid lawyers in adopting new technologies. This collaboration will be instrumental in ensuring that legal professionals have access to the necessary resources and training to benefit from technological advancements.

In conclusion, the journey towards a future where AI and the legal profession intersect is a delicate balance between innovation and tradition. Embracing AI as an ally in delivering innovative legal services requires a deep understanding of its capabilities, limitations, and ethical implications. Together, as legal professionals, we must navigate this new frontier with vigilance and ensure that the integration of AI aligns with our core values and the principles of justice. Access to justice is paramount, and as such, it is imperative that the use of AI enhances, rather than hinders, the equitable provision of legal services to all. For the Netherlands Bar, the next step is to establish a digitalization & AI project group that will assist in the transformation of the current lawyer into the lawyer of the future.

Will the lawyer of the future still be a human lawyer? I do think so. Using AI, and yet unforeseeable new technology. The lawyer will not be the person in the library seeking jurisprudence, reading laws from a century ago. But he will still be needed, I think, but mostly because of his soft skills. He will be emphatic, being the ear listening to the client without responding. He has compassion, respect, is curious, flexible and is about ethics and integrity. I think that lawyer will always be needed.

But I am not afraid, nor protective. If the robot lawyer, thanks to AI, is a better lawyer than me, please replace me. Who am I to oppose these developments? Let the robot lawyer enter the legal world. If it improves access to justice. If it better helps the citizen than I can, then I would gladly return to the dream job I had as a child: bookbinder. Although that is probably also a dying profession.