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# Responsible Use of AI in Administrative Decision-Making Processes

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# Definitions

- **AI:** Ability of computers to perform tasks which if performed by humans will require human or cognitive intelligence.
- **Generative AI:** A class of AI systems and algorithms designed to generate new, often creative, and realistic content based on patterns and data used to train it.





## Query:

1. Who is **actually** the decision-maker where AI is utilized in administrative decision-making – the human or the machine?
2. Should the principle of procedural fairness mandate that decision-makers inform individuals when an AI technology is used in administrative decisions affecting their rights, and allow them the opportunity to challenge the decisions made by or with the assistance of this technology?

# Who is the decision-maker?

- *Haghshenas v. Canada (MCI)* 2023 FC 464
  - Application for immigration work permit was refused by IRCC
  - Processing of the application involved the use of Chinook software
  - Applicant challenged the decision on the basis that it was made by an AI software and not by a visa officer.

## *Held:*

- The decision had input assembled by artificial intelligence
- The decision was made by a Visa Officer and not by software
- Whether a decision is reasonable or unreasonable will determine if it is upheld or set aside, not whether or not AI was used



# Who is the decision-maker?

- *Haghshenas v. Canada (MCI) 2023 FC 464*
  - Regarding the use of the “Chinook” software, the Applicant suggests that there are questions about its reliability and efficacy. In this way, the Applicant suggests that a decision rendered using Chinook cannot be termed reasonable until it is elaborated to all stakeholders how machine learning has replaced human input and how it affects application outcomes. I have already dealt with this argument under procedural fairness, and found the use of artificial intelligence is irrelevant given that (a) an Officer made the Decision in question, and that (b) judicial review deals with the procedural fairness and or reasonableness of the Decision as required by *Vavilov*. Para 28.

# Does the principle of procedural fairness mandate disclosure when an AI is used in administrative decisions?

- It depends
- Procedural fairness is a cornerstone of the Canadian legal system and applies broadly across various legal and admin processes.
- Requires that where a decision maker relies on extrinsic evidence in arriving at a decision, the individual impacted must be informed of such evidence and also be given the opportunity to respond accordingly.
- Because AI is a Blackbox, individuals impacted by its decision ought to be made aware of the reliance on the AI tools and thus be given the opportunity to challenge the decision made by or with the help of such tools.

# What is Generative AI?

- a subset of AI capable of generating a wide range of new and original content, such as texts, images, music, videos, and more.
- trained using extensive datasets.
- “generative” – unique ability to create original, human-like contents.
- has ability to not just analyze but also create new legal information, making it a powerful tool for innovation and efficiency in judicial workflows.

# What is Large Language Models (LLMs)

- a subset of generative AI that focuses on processing and generating texts.
- trained on large volumes of textual data.
- generates textual contents from ‘highly accurate word predictions’ based on data patterns learned from their training.
- a “stochastic parrot”: operate by ‘intelligently’ parroting what they have learned from training data.
- lacks the ability to understand context and nuances beyond the training textual data.



# Large Language Models (LLMs)

- understanding the limitation of LLMs is important in determining what legal tasks can be performed using LLMs and which should rely on human intelligence.
- A very popular example of LLM is ChatGPT, an interactive LLM tool designed to dialogue with the user by accepting prompts from the user, and responding by convincingly mimicking human writing style.
- In the legal domain, ChatGPT has demonstrated its capabilities by successfully passing numerous law school exams and even bar examinations.

# Large Language Models (LLMs) in Law

- Legal LLMs are trained on huge legal texts – statutes, case law, and various legal documents.
- Can create legal texts and documents—such as contracts, pleadings, and memoranda—that are similar in quality and form to those drafted by legal professionals.
- Can rapidly analyse extensive legal documents, identifying relevant information sought within a vast volume of legal texts such case law, statutes, and secondary sources.
- Hallucination – can generate texts that appear plausible and coherent, but not necessarily be accurate.

# Potential Uses of Generative AI

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- **Legal Research**

- Gen AI tools can efficiently search through vast legal databases and general information sources to extract potentially relevant materials.
- By leveraging gen AI, you can not only extract information relevant to your research needs but also do so at a fraction of the time it would take to manually obtain same information.
- Gen AI can help in streamlining your research process and reducing the time spent on reviewing non-relevant materials.
- Another valuable aspect of gen AI in legal research is its language translation capability.

# Potential Uses of Generative AI



- **Legal Drafting/Writing**
  - Gen AI tools can greatly enhance the proofreading and editing aspects of legal drafting by identify grammatical and spelling errors, inconsistencies, and ensuring adherence to legal standards.
  - Can be used to restructure or redraft documents and adapt the tone to suit various contexts, ensuring professionalism and clarity.
  - They not only reduce the likelihood of errors but also ensure that documents adhere to high professional standards.

# Issues With the Use of Generative AI

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- **Hallucination**

- a phenomenon where AI tools produce textual outputs that, while seemingly plausible on the surface, are factually false, misleading, or inaccurate.
- can lead to significant challenges in discerning the accuracy of the generated contents.
- generative AI tools are trained on vast amounts of data, which, in the context of law, may include laws, case law and legal information from a variety of legal jurisdictions.
- accuracy and factual correctness are crucial in law, hallucinations can lead to erroneous and potentially unjust outcomes if not detected.
- Be vigilant in verifying the accuracy of information provided by counsel and individuals appearing before your tribunal.



# Issues With the Use of Generative AI



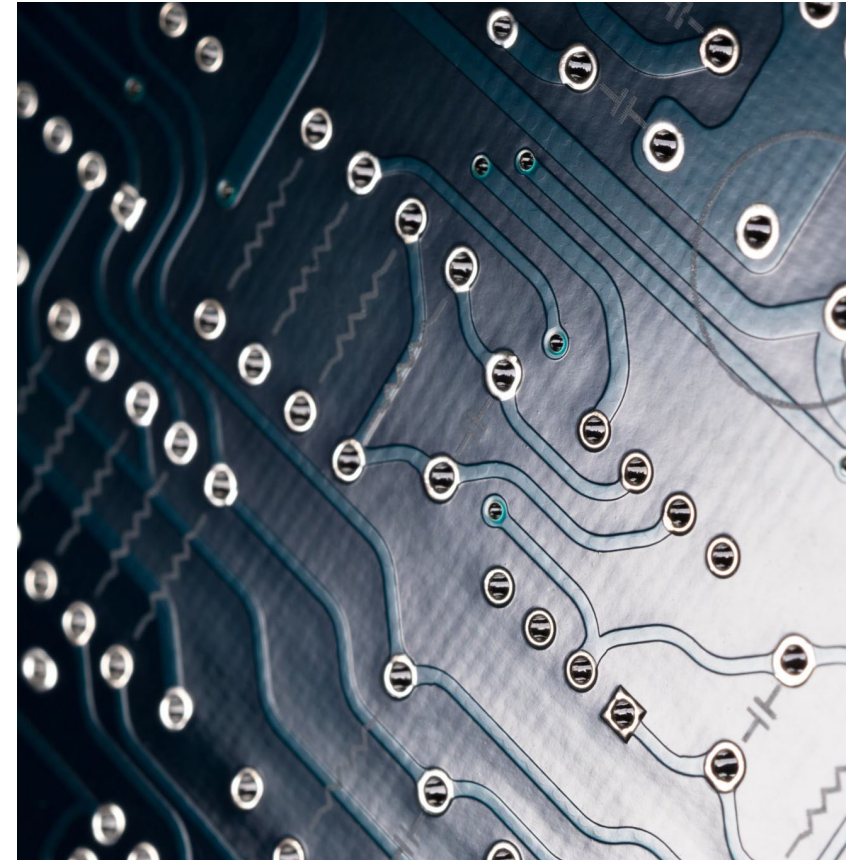
- **Confidentiality**

- general-purpose generative AI tools like ChatGPT are not specifically designed for legal professionals.
- confidential information entered into ChatGPT remains in the system and may be accessed by and shared with other users resulting in unauthorized disclosure of confidential information.
- Be careful with general-purpose generative AI tools like ChatGPT that are not specifically designed for legal professionals.

# Issues With the Use of Generative AI

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- **Bias**
  - there is no such thing as a bias-free AI
  - generative AI tools are trained on large amounts of data, they learn patterns from this data, including any embedded biases, and replicate these in their outputs.
  - awareness of bias comes with an obligation to diligently scrutinize the outputs from AI tools you use for any evidence of bias.



# Issues With the Use of Generative AI

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- **Technological Competence**
  - you must develop an understanding of, and ability to use, technology relevant to the nature and area of your work.
  - Gen AI is a technology highly relevant to many areas of legal work today, especially in legal research, analysis, writing, and drafting. Using these tools can significantly enhance your work.
  - continuing legal education in this area is essential, not only to gain a basic knowledge of the technology but also to stay updated with the ever-changing dynamics in the field of legal technology.





# Gen AI Demo

**ChatPDF**



# Thank You

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