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HOW JOURNALS ARE RESPONDING TO AI

To formulate the OLR's stance and strategy regarding the use of AI, the OLR established an AI Research and Working Group to conduct an extensive review of the practices of both legal and non-legal journals and examine their respective AI policies, where available. This comprehensive environmental survey aims to provide insights and identify best practices from existing strategies so as to facilitate the development of a well-informed approach for the OLR.



2.1 Legal Journals

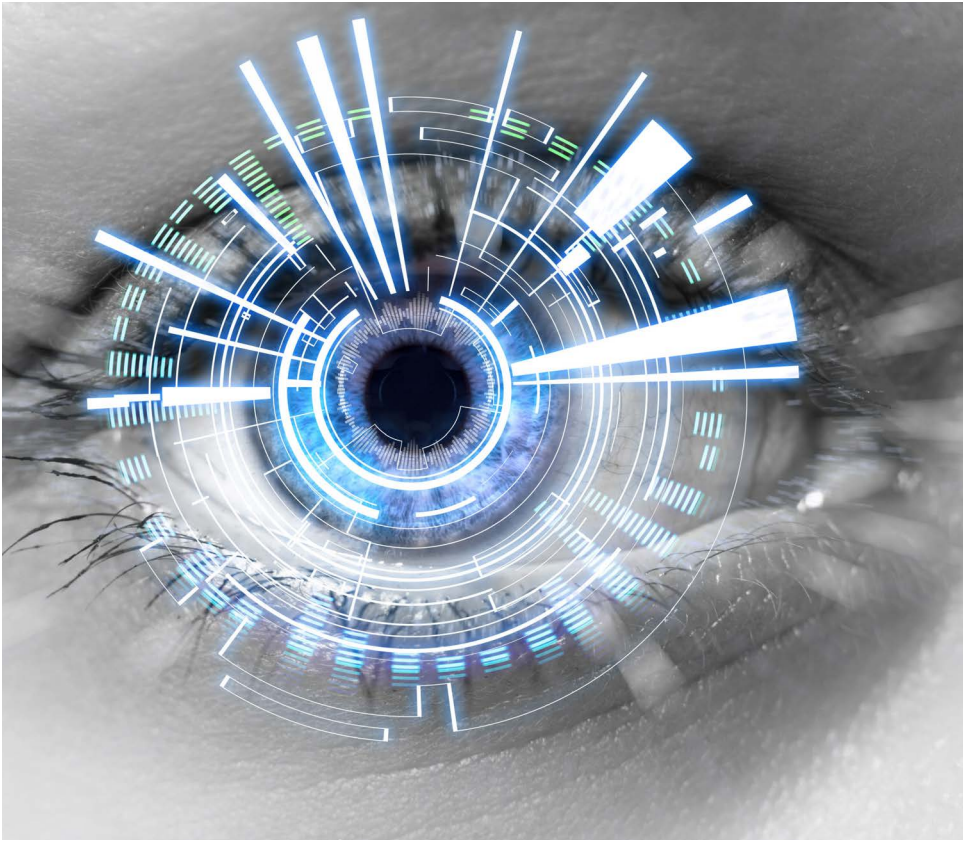
At the time of writing, no legal journals in Canada, with the exception of those published by the University of Toronto Press (UTP), have policies or offer guidelines regarding the use of AI. The UTP publishes an array of journals, including several legal journals, which are subject to the UTP's policies on AI tools. The legal journals that are subject to these policies include the University of Toronto Law Journal, the Canadian Journal of Criminology and Criminal Justice, and the Canadian Journal of Women and Law.¹² Importantly, the UTP has stated that an AI tool does not meet its definition of authorship and “may not be listed as an author on any scholarly work published by UTP.”¹³ Authors publishing through the UTP are further required to disclose whether they have used AI tools as part of their research process and, if so, to provide a description of how these tools were used.¹⁴

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Similar to their Canadian counterparts, international legal journals themselves do not appear at the moment to have policies regarding the use of AI. Instead, these policies are typically established by their publishers. For example, Cambridge University Press, which publishes the *European Constitutional Law Review*, and Sage, which publishes the *Maastricht Journal of European and Comparative Law*, have implemented AI policies similar to those of the UTP. Cambridge University Press and Sage require authors to declare and explain how AI was used. They further state that the use of AI must not breach their respective plagiarism policies and that authors are responsible for the accuracy of their research, including any AI outputs relied upon in their work.¹⁵ Other legal journals and publishers, such as the *European Journal of International Law* and Wiley, require their authors to observe high standards of publication ethics, as established by the Committee on Publication Ethics (COPE).¹⁶

2.2 Non-Legal Journals

Journals in the humanities, social sciences, and natural sciences have taken comparable policy approaches to generative AI. Notably, the COPE released an AI position statement in February 2023 that has been adopted by journal collections including the World Association of Medical Editors, the Journal of the American Medical Association (JAMA) Network, Oxford University Press, Wiley, and the American Psychological Association (APA). These collections represent thousands of journals covering the social sciences, humanities, and natural sciences. Such broad adoption suggests the emergence of certain generative AI policy guidelines respecting authors, four of which are listed below.



1. Several non-legal journals have barred AI from authorship. The COPE statement, for instance, argues that AI tools cannot meet the requirements for authorship because they are non-legal entities that cannot take responsibility for submissions or manage intellectual property agreements. Non-legal journals published by Springer, Sage, and Taylor & Francis have also prohibited AI authorship.
2. Many policies compel authors to disclose their use of AI. The COPE statement requires the disclosure of the kind of AI tools used—and how they were used—in a “Materials and Methods” or other similar section of a given submission. Similarly, the publishers Elsevier and Cambridge University Press require declarations in the manuscript’s “Acknowledgements” or similar section. In addition, the APA requires that authors upload the full AI output as supplemental material to their submission to ensure transparency.

3. Some policies have tiered disclosure requirements based on the level of AI contribution to a submission. The European Journal of Analytical Philosophy delineates three AI contribution levels with increasing disclosure requirements: negligible, modest, and substantial. Others have suggested five levels of AI contribution: negligible, minor, modest, major, and essential.
4. A few journals require disclosing potential biases arising from the AI models used. The Canadian Journal of Philosophy, for instance, requires declaring any relevant competing interests or potential bias that may arise from an AI algorithm.

Some medical journals, including JAMA, the British Medical Journal, and the International Committee of Medical Journal Editors, of which the Canadian Medical Association Journal is a member, have also issued guidelines for AI use by peer reviewers. Those policies can be summarized as three trends:¹⁷

1. Peer reviewers are not permitted to upload manuscripts to AI software if confidentiality cannot be guaranteed.
2. If confidentiality can be guaranteed, peer reviewers must disclose their use of AI and its nature.
3. Peer reviewers are ultimately responsible for ensuring that the content of their review is correct, complete, and unbiased.