Artificial Law: Legal AI Systems and the Need to Satisfy Principles of Justice, Equality and the Protection of Human Rights

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Abstract : The discipline of law is quite complex and has its own terminology. Apart from written legal rules, there is also living law, which refers to legal practice. Basic legal rules aim at the happiness of individuals in social life and have different characteristics in different branches such as public or private law. On the other hand, law is a national phenomenon. The law of one nation and the legal system applied on the territory of another nation may be completely different. People who are experts in a particular field of law in one country may have insufficient expertise in the law of another country. Today, in addition to the local nature of law, international and even supranational law rules are applied in order to protect basic human values and ensure the protection of human rights around the world. Systems that offer algorithmic solutions to legal problems using artificial intelligence (AI) tools will perhaps serve to produce very meaningful results in terms of human rights. However, algorithms to be used should not be developed by only computer experts, but also need the contribution of people who are familiar with law, values, judicial decisions, and even the social and political culture of the society to which it will provide solutions. Otherwise, even if the algorithm works perfectly, it may not be compatible with the values of the society in which it is applied. The latest developments involving the use of AI techniques in legal systems indicate that artificial law will emerge as a new field in the discipline of law. More AI systems are already being applied in the field of law, with examples such as predicting judicial decisions, text summarization, decision support systems, and classification of documents. Algorithms for legal systems employing AI tools, especially in the field of prediction of judicial decisions and decision support systems, have the capacity to create automatic decisions instead of judges. When the judge is removed from this equation, artificial intelligence-made law created by an intelligent algorithm on its own emerges, whether the domain is national or international law. In this work, the aim is to make a general analysis of this new topic. Such an analysis needs both a literature survey and a perspective from computer experts' and lawyers' point of view. In some societies, the use of prediction or decision support systems may be useful to integrate international human rights safeguards. In this case, artificial law can serve to produce more comprehensive and human rights-protective results than written or living law. In non-democratic countries, it may even be thought that direct decisions and artificial intelligence-made law would be more protective instead of a decision "support" system. Since the values of law are directed towards "human happiness or well-being", it requires that the AI algorithms should always be capable of serving this purpose and based on the rule of law, the principle of justice and equality, and the protection of human rights.

Keywords : AI and law, artificial law, protection of human rights, AI tools for legal systems
Conference Title : ICAIAL 2024 : International Conference on Artificial Intelligence Applications in Law
Conference Location : New York, United States
Conference Dates : April 22-23, 2024