

Should legal decision making use automated algorithms?

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Ideas about legal decisions present the view that in order for equal and fair judgement, automated algorithms are required. The implication of this is that as ai, algorithms are not in their nature, capable of understanding human emotion or character as it is something that requires a conscience and not just programming, as explained in Joseph Fletcher's Situation Ethics, that in order for a fair judgement to be passed, a basic understanding of love is required as it is the thing that governs all human actions whether that be a love or greed for an object or the obsessive love for a relative both of which require an administrator capable of both these emotions, otherwise known as a human. This is in conflict with Kantian Ethics which proposes that legal laws and decisions remain universal moral rules that are constant no matter the administrator as in this way an individual or company can be held responsible for their actions based purely from synthetic evidence without running the risk of human prejudice, as the decision remains unbiased and so justice can be more accurately served.

A utilitarian viewpoint can also be adopted as in this way algorithms are much better suited for legal decision making as they are able to more accurately assess large sets of data and complex calculations such as via the hedonic calculus at a much quicker pace ensuring that legal decisions can be dealt with efficiently reducing the amount of human error and allows for a much cheaper alternative. While automated legal decisions seem more compatible with the government need for a more cost-effective and efficient way of carrying out legal decisions it cannot be ensured that fair justice is accomplished and so algorithms should only be used as an aid for legal decision making, rather than the administrator as suggested by the European Commission Justice and Consumers.

Alternatively, The European Commission Justice and Consumers suggests that an automated process should only "produce what is in effect a recommendation concerning a data subject". On the one hand, automated legal decisions can be useful for bringing to light and processing important information relating to the particular case as its effective measures and efficiency allow for pressure to be alleviated from certain areas of the legal system. However ultimately it is within every human's right to a human determined legal decision as they have the right to deny and also the right to accuracy as "If the data used in an automated decision-making or profiling process is inaccurate, any resultant decision or profile will be flawed and [...] inaccuracies may lead to inappropriate predictions or statements". This seems a more practical solution to legal decision making as it supports the need for automated assistance with a vast moving and modernising world, accounting for the unreliability of algorithms with predictions based on inaccurate data, whilst also maintaining the importance of human justice through human representation in legal decisions. Overall, neither Fletcher's Situation Ethics nor Kant's Kantian Ethics are fully compatible with the need for a fair legal decision when it comes to be algorithmically automated, due to the limitations placed on human nature and rights and instead should be a combination of both approaches.

References

- Oxford A Level Religious Studies for OCR Christianity, Philosophy and Ethics
- https://ec.europa.eu/newsroom/article29/item-detail.cfm?item_id=612053