

EDITORIAL

The term ‘artificial intelligence’ (AI) is now much in vogue, although ‘algorithmic intelligence’ is a phrase that is to be preferred.¹ We have reported on a number of books that cover this area over the years, both legal and non-legal, including in this volume – illustrating that the legal sphere narrows by the day – we do not anticipate that any of the non-law books reported in the journal will ever find their way into a law library.

Algorithmic intelligence is far from being a reality by one definition, yet is constantly being used in everyday life; in many cases, without, it might be argued, any justification. For instance, in the United Kingdom,² Argent (Property Development) Services LLP has installed facial recognition technology in the area it owns around the King’s Cross area of London. This has caused the Office of the Information Commissioner to investigate its use.³ This is a serious issue of public concern,⁴ and raises issues regarding the security of such personal information. It also illustrates that all of the words written by authors of all the books and articles and reported on in this journal have been wise, but that is all.

¹ David Harel, *Computers Ltd. What They Really Can’t Do* (2000, Oxford University Press), 194. In March 2012 Professor Harel wrote a new preface to the reprint, indicating that the underlying points made in his text remained: <http://www.wisdom.weizmann.ac.il/~harel/ltd.html#turingPreface>; Professor Zdenka Kuncic refers to ‘synthetic intelligence’, ‘In search of smarter machines’, *Financial Times Magazine*, August 3/4 2019, 23.

² This occurrence is not restricted to the UK, for which see Matt Potter, ‘San Diego’s street lights that spy’, *San Diego Reader*, 20 February 2019, <https://www.sandiegoreader.com/news/2019/feb/20/san-diegos-street-lights-spy/#>.

³ Dan Sabbagh, ‘Regulator looking at use of facial recognition at King’s Cross site’, *The Guardian*, 12 August 2019, <https://www.theguardian.com/uk-news/2019/aug/12/regulator-looking-at-use-of-facial-recognition-at-kings-cross-site> and <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2019/08/statement-live-facial-recognition-technology-in-kings-cross/>; see also Big Brother Watch, ‘Facial Recognition ‘Epidemic’ in the UK’, 16 August 2019 at <https://bigbrotherwatch.org.uk/all-media/facial-recognition-epidemic-in-the-uk/>.

⁴ Especially if lip-sync technology is used to determine what people are saying: Martin Bentham, ‘Britain could have Big Brother surveillance society worse than George Orwell’s 1984, government watchdog warns’, *Evening Standard*, 27 August 2019 <https://www.standard.co.uk/news/uk/britain-risks-having-surveillance-society-worse-than-george-orwells-1984-government-watchdog-warns-a4221851.html>.

As pointed out by Professor Zdenka Kuncic, algorithmic intelligence ‘remains limited to specific tasks and relies on a lot of carefully curated data, as well as computer programming, to optimize how its

algorithms execute the task at hand’, and ‘struggles with meaning and context’ in which decisions ‘are made in a deterministic way based on hard-wired sequential instructions’ where AI ‘merely grinds through the datasets it is presented with.’ Professor Kuncic concludes that “‘artificial consciousness’ is unlikely to arise from algorithmic artificial neural networks’ because neuroscience has revealed that recognizing patterns and parsing sentences occur unconsciously in the brain.⁵

Aspects of algorithmic intelligence are already being used in daily life, regardless of the laws presently in place, or any future laws.

We are not living in a world that is free of algorithmic intelligence. Forget those that predict that algorithmic intelligence will be used in the future. Different versions of what we take to be algorithmic intelligence are with us now (strong AI, weak AI, machine learning [that is, software code that ‘learns’], and deep learning), and we are made to interact with such software whether we like it or not. An overall ‘artificial intelligence’ of the future, much beloved of commentators, is, we are constantly informed, creeping up on use now. Forget the future. We are living in the future.

For this reason, as excellent as all the articles and books written by lawyers, technicians and philosophers might be, unless politicians act to regulate the use of software, we are leading into a future that promises to be even more repellent than hitherto. We are no longer able to lead an anonymous life, and worse is to come.

The failure of the legal profession to understand the ramifications this has on evidence and proof is profound.

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⁵ ‘In search of smarter machines’, 22 – 23.

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The Review seeks and encourages original submissions from judges, lawyers, academics, scientists and technicians; students in relation to postgraduate degree work and versions of dissertations, where the student has passed the relevant course and the dissertation has been marked. The IT industry, certification authorities, registration authorities and suppliers of software and hardware are also encouraged to engage in the debate by submitting articles and items of news.

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