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IS ARTIFICIAL INTELLIGENCE CAPABLE OF REPLACING LAWYERS?

-Condoliza Akinyi

Artificial intelligence hereinafter referred as AI, was introduced officially in history in 1956 at a conference in Dartmouth college, this however, does not imply that ideas of artificial intelligence before then were nonexistence. In ancient Greek era, an attempt by one Daedalus to create artificial humans had been carried out. A great development of Charles Babbage in 1884 where he worked on a mechanical machine that exhibit intelligent behaviour like that of humans was marvelous, but this great invention was later abandoned by the scientist himself.¹ AI is a set of machine learning algorithms that learn from data and once trained, display intelligent behaviour typically assigned to humans. Training a machine learning model typically involves providing it with human- label training data.²

AI and law have attracted a plethora of writings in every sphere. There is absolutely no denial that AI is the booming norm in the market right now, and possibly the near future. After many years of hype about their potential, AI systems have recently shown themselves capable of outperforming humans in task at which humans have long had a decisive advantage.³ The elimination of human domination in financial endeavors with the replacement and supplementation of artificial intelligence and

¹ Mijwel, M.M., History of Artificial Intelligence Yapay Zekânın T arihi. *Computer Science univeristy of Baghdad, 1, 3-4 (2015)*

² Raaijmakers, S., Artificial intelligence for law enforcement: challenges and opportunities. *17(5)IEEE security & privacy, 74, 74-75(2019)*

³ W. Bradley Wendel, The Promise and Limitations of Artificial Intelligence in the Practice of Law, *72 OKLA. L. REV. 21 (2019)*.

machines is just a tip on the iceberg of all that AI is capable of.⁴ We are just at the beginning of the beginning of the age of artificial intelligence.⁵

AI is truly an interdisciplinary enterprise incorporating ideas, techniques and researchers from multiple fields including statistics, linguistics, mathematics, logic, neuroscience, robotics, electrical engineering, economics and philosophy just to name but a few.⁶ But what is AI and its relation to the practice and administration of law?⁷ what can AI do in law? This is a question when asked to lawyers, would instigate a multitude of response. AI is at no magnitude to be compared to lawyers thinking- one would say. Also, mention the words, "artificial intelligence" to a practising lawyer and the response you may well hear is, "don't tell me that a machine can do what I do."⁸ What do lawyers do? in the context of litigation disputes, we think of lawyers as highly trained and highly skilled professionals who identify the legal issues, gather the relevant facts and determine the likely outcome were a court to adjudicate the issue.⁹

The amount of reasoning and judgement required in solving a matter by just applying intuition and expertise human knowledge is limited to a small group of individuals- lawyers. Recent development in artificial intelligence- in particular, natural language processing and machine learning, have challenged the tradition of human expertise, and machines perform extremely complex task much better than humans.¹⁰ What was considered impossible in automation is now possible thanks to AI. The success of AI in automated and self driving vehicles which were only restricted to human skills is an evidence that AI is moving far and beyond human capacity.

⁴ Tom. C.W. Lin, *The New Investor*, 60 *UCLA L. Rev* 678, 681-82 (2013)

⁵ Tom C. W. Lin, *Artificial Intelligence, Finance, and the Law*, 88 *FORDHAM L. REV.* 531 (2019).

⁶ Rajiv Desai, *Artificial Intelligence (AI)*, DR RAJIV DESAI: AN EDUC. BLOG (Mar. 23, 2017), <http://drrajivdesaimd.com/2017/03/23/artificial-intelligence-ai/>

⁷ Harry Surden, *Artificial intelligence and law: an overview*, 35.4 *Georgia State university L. Rev* 1305,1306 (2019)

⁸ Ira D. Moskatel, *An Artificial Intelligence Approach to Legal Reasoning*, 4 *Santa Clara High Tech. L.J.* 133, 133 (1988).

⁹ Benjamin Alarie, Anthony Niblett & Albert H. Yoon, *How Artificial Intelligence Will Affect the Practice of Law*, 68 *U. TORONTO L.J.* 106 (2018).

¹⁰ Martin Ford, *Rise of the Robots: Technology and the Threat of a Jobless Future*, New York: Basic Books, 2015; Benjamin Alarie, Anthony Niblett, & Albert H Yoon, 'Law in the Future' (2016) 66:4 *UTLJ* 423.

For better or for worse when it comes to building a software, a nontrivial set of tasks undertaken by lawyers is subject to automation.¹¹ At this pace, should the legal lawyers be worried of being replaced by AI? This is a question that opens a platform of a paradigm of debate and discussions. Some are of the opinion that AI can overtake lawyers. John McGinnis is of the view that machine intelligence will cause a great disruption in the market of legal service with areas such as discovery, legal search, document generation, brief generation and prediction of case outcomes likely to be overtaken by AI.¹² Litigation is mainly about bargaining in the shadows of law where lawyers resolve disputes by persuasively positioning the outcome of the case if the court hears it.¹³ This is mainly done using lawyers knowledge, judgement and experiences. Machine learning has the potential to provide more objective predictions of how courts will decide discrete legal issues.¹⁴ Some, however, give a dissenting opinion and are of the view that law is a different field from engineering and computer which can be easily automated.

Law, unlike the field of engineering, was pioneered from the beginning when no industrialization existed. It is wrong to assume that just because AI solved one problem or performed one task, it is now capable of performing all tasks given to it, we have to understand that various fields have problems of different nature that require different approach in solving them. AI is designed to solve tasks with definite answers, either wrong or right. In matters of law that require intuition and application of the mind in solving legal problems, this can be a big bite for it to chew. Law should not be argued only on the basis of its legal service market.

When we Understand law as a coherent web of speech acts that inform us of the consequences of our actions, we can see the difference between mathematical simulation of legal judgment and the legal judgment itself.¹⁵ AI is crucial and much welcomed in the field of law in performance of tasks such as production of routine

¹¹ Daniel Martin Katz, 'Quantitative Legal Prediction - or - How I Learned to Stop Worrying and Start Preparing for the Data-Driven Future of the Legal Services Industry' 62 Emory LJ 909, 910(2013)

¹² John O. McGinnis & Russell G Pearce, 'The Great Disruption: How Machine Intelligence Will Transform the Role of Lawyers in the Delivery of Legal Services' 82 Fordham L Rev 3041(2014)

¹³ Robert N Mnookin & Lewis Kornhauser, 'Bargaining in the Shadow of the Law: The Case for Divorce') 88 Yale LJ 950(1979)

¹⁴ Daniel, supra note 11 at 936

¹⁵ Mireille Hildebrandt, 'Law as Computation in the Era of Artificial Legal Intelligence: Speaking Law to the Power of Statistics' 68:Suppl UTLJ 12,23(2018)

legal documents such as wills and residential real estate documents¹⁶, discovery practice for reviewing privileged documents and ‘hot docs’¹⁷ but a robot is not likely to replace your lawyers, at least not anytime soon.¹⁸

16 W. Bradley Wendel, The Promise and Limitations of Artificial Intelligence in the Practice of Law, 72 OKLA. L. REV. 21 (2019).

17 Dana A. Remus, The Uncertain Promise of Predictive Coding, 99 IOWA L. REV. 1691, 1701-05 (2014).

18 Steve Lohr, A.I Is Doing Legal Work. But It Won't Replace Lawyers, Yet, N.Y. TIMES (Mar. 19, 2017) <https://www.nytimes.com/2017/03/19/technology/lawyers-artificialintelligence.html>.