English Courses

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Lesson 3 : Artificial intelligence -2-

IA and Law

In recent years, there have been major advances in the field of artificial intelligence, marked by undeniable technical advances in data processing, increasingly efficient. The most notable concrete achievements include autonomous vehicles, military drones or software that can help doctors, judges or lawyers in their professional activities. Beyond the ethical or philosophical questions it raises, this robotization of life is a real challenge for the law, in the sense that the rules currently in force may prove inadequate or insufficient to frame this new reality of the contemporary world[1].

Some legal uses of AI

Artificial intelligence plays a considerable role in various areas of law, in civil law, in criminal law, in labour law; in commercial law… etc. We can look at some of these uses

a) AI and smart contracts

Smart contracts are computer protocols that facilitate, verify and execute the negotiation or execution of a contract. Smart contracts are designed to provide greater security than contract law enforcement and reduce transaction costs associated with contracting.

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[1] Artificial intelligence and law, under the coordination of Alexandre de Streel and Hervé Jacquemin, Collection du CRIDS, Editions Larcier, 2017.

b) Artificial intelligence and criminal law

Algeria's first step towards a legal framework for offences related to artificial intelligence was Law No. 09-04 of 05 August 2009 laying down specific rules on the prevention and fight against offences related to Information and Communication Technologies.

It is true that the term ICT is narrower than AI, and that this law cannot regulate all the offences that could result from the use of AI. It is also obsolete because it was promulgated in 2009, but ICT has experienced an unprecedented rise with the development of AI.

Information and communication technology offences are defined by law 09-04 as offences affecting automated data processing systems as defined by the Criminal Code and any other offence committed or facilitated by a computer or electronic communication system

c) AI and Labor Law

Among the most obvious and least problematic uses of AI is the performance of work in place of man. Digital platforms have gradually replaced people in all areas of daily life, saving them time and energy.

AI has also contributed to the promotion of remote work, which has made it possible to manage economic life and meet the basic needs of the population during the Covid-19 pandemic.

Labour law should be used as a legal tool to support the obvious transformations generated by the presence of AI in the company. It is therefore a question of thinking about ways to adapt our labour law in order to anticipate and allow a smooth transition to the new world.

d) Artificial intelligence and justice

Judicial systems around the world use artificial intelligence (AI) to analyze large amounts of legal data. The purpose of this data processing is to

- assist counsel in identifying precedents in jurisprudence

- allow jurisdictions to streamline judicial processes

- Assist judges in forecasting issues such as sentence length and recidivism rates.

The emergence of legal analysis and predictive justice has implications for human rights, as the opacity of AI systems can run counter to the principles of open justice, due process and the rule of law.

AI and criminal and civil liability

The point here is to ask the question about the liability generated by the damage caused by AI.

In criminal matters, liability falls to the manufacturer if a fault is established when the AI exercised dynamic control of the vehicle, or an error during the design.

Civil liability is even more complicated because civil law rules are not suitable in the context of AI, for several reasons including:

1: Responsibility for personal acts: the fault required to incur liability is a source of difficulty to the extent that an artificial intelligence system can perfectly well cause damage independently of any fault.

2: Responsibility for the thing: AI does not override the definition of the Thing because AI is intelligent and abstract while things are inert and malleable.