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Vanishing Justice: Exploring AI's Inherent Role in Decision Making

By: Mr. Chirag Rastogi

Abstract

This research investigates how accountability is changing in the context of decisions made by artificial intelligence (AI), with a focus on the idea of responsibility. Using artificial intelligence as a case study, the paper investigates the transformative dynamics of responsibility and the unforeseen repercussions of this conceptual shift on our wider moral framework. It also examines the challenges that arise for legal frameworks.

The examination of AI-based decision-making provides an illuminating example that highlights a common trend: the movement in the idea of accountability from individual to community. This transition requires a shift away from individual accountability and the establishment of a framework for collective risk mitigation. The restructuring of accountability in our social system raises crucial questions about the implications of this transition.

The observed dissolution of individual accountability from our experiential framework is an important aspect of our research. This erosion poses a major danger to the foundations of justice and law. The decreased ability to accept personal responsibility not only alters the ethical environment, but also presents impediments to the correct operation of legal institutions. This work contributes to our understanding of the intricate interplay between technology, ethics, and legal systems by shedding light on the delicate linkages between AI-based judgements, responsibility, and their broader implications for justice.

Keywords: moral and legal frameworks, artificial intelligence (AI), transformative dynamics, unanticipated consequences, accountability, and philosophy of responsibility

Overview

Artificial intelligence (AI) has expanded at an unprecedented rate over the last 10 years, influencing every aspect of our lives, from driving to shopping. AI appears to be the driving force behind every decision that people make, either directly (using decision-making algorithms) or indirectly (by influencing their choices). "We are invited to learn to deal with an artificial world, 'peopled' by myriad artificial agents that are becoming more and more smart and unpredictable,"

says Hildebrandt. It is possible that the decision-maker will be held responsible for the outcome.¹ Under current legislation, the accountability issue becomes serious and maybe intractable if and when the algorithm makes the decision.²

Virtual assistants such as Alexa and Siri demonstrate how far artificial intelligence, or AI for short, has come. It began with the modest abacus. Significant progress has been made, and more is on the way. However, every step into the unknown is accompanied by both dread and excitement. Undoubtedly, the excitement originates from the seemingly unlimited possibilities given by new technology, but the dread stems from the possible negative consequences of unrestrained AI growth, which is, for the most part, outpacing the rules. Numerous notable professionals in the technology sector have publicly stated their serious anxiety about the impending disaster that AI would bring (including, but not limited to, robots taking over the world). The phrase "Technological Singularity" is used to characterise the entire process, and with advocates such as Elon Musk and the late scientist Stephen Hawking, it's understandable why ignoring it may be risky. Is the law equipped to handle artificial intelligence? is the most often asked question.

Although there has been substantial discussion in the legal literature about responsibility for AI-based decisions, legislation alone cannot provide an appropriate answer in this circumstance. It appears that in this case, a broader viewpoint is necessary. Specifically, we propose considering the subject of accountability for AI judgements as part of a larger effort to rethink moral experience and our understanding of duty, with a system of social insurance against risks replacing individual accountability.³ But the example of AI-based decisions shows how the idea of responsibility as it exists now is limited to compensating for harm; it does not include attributing blame for an action to its perpetrator or imposing penalties for the conduct. A closer look at the concept of responsibility reveals three components: punishment for the conduct, restitution for the harm inflicted, and the attribution of an action to the perpetrator. The latter is becoming increasingly problematic as we are unable to firmly identify: 1) the offender and the specific crime for which they should be held accountable; 2) the appropriate level of retribution for the conduct; and 3) the amount of compensable damages. Because accountability is a vital component of law, the loss of the concept of responsibility leads law to progressively fade from our lives and be replaced by entirely new ties.

AI-based decisions, the foundation built on these critical components is shattered since it is practically impossible to identify the offender because the laws that regulate legal affairs do not apply here. First and foremost, not even the most advanced AI is legally accepted at this moment. Some first attempts have been made to achieve this, or at the very least, to allow for interpretation that does not prohibit subjectivity, as in the case of copyright⁵. Such efforts are insufficient to solve the issue since an algorithm cannot be viewed as a person, legal entity, state, an international organisation, or any other traditional legal topic under the principles of conventional legal

¹ Savulescu, J. and Maslen, H., 2015. Moral enhancement and artificial intelligence: moral AI?. *Beyond artificial intelligence: The disappearing human-machine divide*, pp.79-95.

² Razmetaeva, Y. and Satokhina, N., 2022. AI-based decisions and disappearance of law. *Masaryk University Journal of Law and Technology*, 16(2), pp.241-267.

³ Pérez, G.E.M., 2023. Exploring the Viability of AI as Judicial Replacements: a Cautionary Perspective. *JIPITEC—Journal of Intellectual Property, Information Technology and E-Commerce Law*, 14(4).

systems.⁴ Furthermore, when using AI to investigate occurrences, identifying the culprit becomes extremely difficult. If a self-driving car causes an accident on the road, who should be held responsible—the car manufacturer, the dozens-strong coding team behind the algorithm, or the system's creators? If the deep neural network's judgement results in a death, it is doubtful that the network, which gives a "automatic prediction of deterioration risks" for COVID-19 patients and directs clinicians' decisions, will be held legally accountable. We must adopt a fundamentally new approach and reconsider our core ideas about what justice and accountability are. This will assist to keep the law from becoming extinct and being replaced with a basic set of dangers.

Using Artificial Intelligence to Make Decisions

The development of artificial intelligence (AI) and AI-based judgements in all spheres of life is an inevitable and natural consequence of technical growth, rather than a purposeful choice based on morality. It's like a genie that has escaped from its bottle, and the odds are that it will take over our planet. The objective for today is to tame the genie and transform it into a tool that helps us rather than enslaves us (unknowingly).

In terms of decision-making, algorithms appear to outperform humans greatly. Algorithms appear to be impervious to human errors caused by physiology, emotions, or both. It cannot get inflamed or worn out. A machine that is unable to ignore that dark patch on your lung will read your X-ray far more accurately than a human physician who has just been into a fight with their family. AI is not influenced by human nature, thus it could be able to make conclusions that are more objective.

AI appears to be neutral. Ronald Dworkin describes the ideal judge as "a lawyer of superhuman skill, learning, patience, and acumen," with limitless time resources and encyclopaedic knowledge. This is Hercules, the judge. As a result, it can also help to ensure the impartial selection of those who will make decisions in court or arbitration. Furthermore, an algorithm can serve as a human stand-in at some stages of the administration of justice and other legal processes, therefore indirectly promoting impartiality in decision-making. For instance, it is anticipated that AI would be able to manage privacy infractions in international criminal cases. AI appears to be entirely correct. Moreover, it is predicated on ideas that are far more lucid and straightforward than the complex web of neuronal connections found in the brain. When confronted with their decisions, humans are not always able to provide coherent justifications. We make far too many quick judgements, influenced by our subconscious processes. The decisions made by an algorithm may be traced back to their source.

It is claimed that because AI employs real-time data and has ever-increasing processing capability, it can increase the correctness of leaders' decisions. Furthermore, because algorithmic

⁴ Park, H., Ahn, D., Hosanagar, K. and Lee, J., 2022, April. Designing fair AI in human resource management: Understanding tensions surrounding algorithmic evaluation and envisioning stakeholder-centered solutions. In *Proceedings of the 2022 CHI Conference on Human Factors in Computing Systems* (pp. 1-22).

decision-making may deliver higher-quality services at lower prices, it is projected to be extremely efficient and beneficial economically. We may also employ algorithms to help us make evidence-based decisions. As previously said, "intuitive decision-making can be replaced, or at least informed and supplemented by fact-based considerations" through the application of artificial intelligence. Artificial Intelligence produces findings that are more accurate since it is predicated on facts, evidence, and data that are automatically analysed rapidly and in vast amounts.

The data presented above suggests that artificial intelligence is the most trustworthy and secure instrument for making decisions. We are more likely to trust AI with a wider range of decisions because of its ability to process massive amounts of data quickly, make predictions with a significantly higher degree of accuracy, eliminate cognitive biases, and, ideally, do so without interruption or fatigue. As a result, humans tend to delegate an increasing amount of responsibility to robots. Is AI, however, exactly what it appears to be?

AI is typically biased, and its decisions may aggravate prejudice. Algorithms developed by someone with bias will likewise be biased. It is likely that the data we feed AI does not adequately reflect underprivileged populations or bears the wounds of previous discriminatory actions. An outstanding example of biases in AI designed for litigation are the racist AI's rulings based on a series of court cases where the statistics of white people's verdicts were against Black people. Significant racial disparities existed in the algorithm used to assess a defendant's chance of committing a crime. Black defendants were more likely to be incorrectly identified as prospective offenders, whereas white defendants were mislabeled as less likely to commit crimes. Algorithmic discrimination is far more widespread, and it has become a big issue in recent years.⁵

The main applications of AI are in less morally dubious fields like satellite trajectory planning, weather forecasting, and natural disaster prediction. However, AI doesn't seem to be trustworthy enough when it comes to allocating resources in the same kind of natural disaster. Because resources are limited, we regularly must make moral judgements about who to reject aid in order to safeguard others. Given that these situations are emotionally charged, and that individuals would rather be served by a loving human being than a "heartless machine," it appears that we cannot and should not hold algorithms accountable for moral judgements in situations that directly touch people's lives.

In *Bărbulescu v. Romania* (2017), The Romanian court failed to adequately evaluate the parties' rights and interests, hence the court decided that there had been a privacy infringement. The employing company, which was keeping an eye on interactions between employers and employees, was one of the players. This case is significant not just because the court overturned its earlier ruling but also because certain judges had second thoughts. Is AI capable of changing its mind?

⁵ Alon-Barkat, S. and Busuioc, M., 2023. Human–AI interactions in public sector decision making: “automation bias” and “selective adherence” to algorithmic advice. *Journal of Public Administration Research and Theory*, 33(1), pp.153-169.

The public's comprehension of the underlying presumptions of decisions and the trust that results from them is one of the most important components of the rule of law. The subtleties of the case as well as the logic and reasoning generated after considerable discussion, agreement, and study are often taken into account in precedent rulings. Regardless of how difficult the situation was, everyone can understand the underlying reasoning. On the other side, AI-based decisions typically lack reasons and comprehensive reasoning. This might happen, for example, because some AI systems, such as neural networks, have intrinsic properties that prevent their designers from determining the purpose behind their own inventions. Another element adding to the uncertainty is that firms who are unwilling to share the intricacies of their AI-based decisions commonly develop and use AI. Moreover, companies are frequently held responsible for compromising algorithm complexity and ethics in the sake of utility and releasing new products into the market quickly. Certain risks linked with using the algorithm cannot be demonstrated or denied if we do not have full access to its inner workings.

It is amazing to find that artificial intelligence is being used to aid with decision-making "in complex problems that involve uncertainty, large amounts of data, and are not deterministic." While AI can be useful for regular and simple tasks, not every doubt must be resolved. When someone is certain, the conversation ends. However, debate is an important component of justice-based legislation. Algorithmic and automated decision-making lead to a decrease of autonomy. People cannot develop ethically if they are unable to behave freely. Algorithmic decision-making will impede our objective of developing a society that is increasingly mature and based on ever-improving regulations. Overall, AI has the potential to limit freedom and endanger justice, particularly given the issues of responsibility that it raises. This raises concerns about the rule of law, which is built on fairness, liberty, and the recognition of human dignity. Mireille Hildebrandt characterised law as "aiming for justice, legal certainty, and purposefulness," which is fairly close to this antinomian understanding of the law. Justice is a subset of law, whereas responsibility is a subset of justice.⁶ The two remaining components suffer severe consequences from the loss of responsibility, finally disappearing.

The Subject of Accountability

In light of this, it becomes reasonable to consider responsibility in respect to AI-based decision-making. It is plausible to claim that artificial intelligence is blurring the lines between people and robots. The line between what a human decides to do and what a computer meant to assist them is getting harder and harder to draw. Computers, cellphones, and self-driving vehicles are just a few examples of how computers are progressively becoming to be cybernetic limbs or almost actual parts of our brains. An agent might be taken out of an instrument in the past. It doesn't seem feasible at this point. When your cyber eye malfunctions, are you or the eye at fault for putting yourself above and beyond the required degree of defence? In self-defense cases, courts typically consider the victim's "subjective perception of the attack," or their reasonable reasoning and convictions. For example, in the 2016 case of *State v. Jones*, Whitlee Jones murdered her

⁶ Chubb, J., Cowling, P. and Reed, D., 2022. Speeding up to keep up: exploring the use of AI in the research process. *AI & society*, 37(4), pp.1439-1457.

partner with a knife after he assaulted her, believing he would attack again. The court granted her protection from prosecution because she was acting in response to a legitimate fear of death or serious bodily harm.⁷ We have a number of legal techniques at our disposal to determine the extent of culpability in common scenarios like the one described above. For example, it must be determined whether the dense fog caused someone to misidentify an innocent youngster as a criminal, or whether a mental disorder impacted your decision, etc. Determining the amount of responsibility appears to be significantly more difficult, if not impossible, when the tool and the actor are linked.

Given how many people are involved in the creation, verification, and usage of AI, the circle of those accountable grows too large if we continue to look for human beings concealed behind algorithms. Furthermore, various persons may be assigned different pieces of an algorithm, and these individuals may eventually change careers. Subsequent modifications to the code may also occur, making it more difficult to determine who authored a specific area of the algorithm. Aside from that, people frequently rely on one another when there is shared accountability. Each member will be responsible for a small fraction of the team's overall obligations. This behavioural influence, for example, is demonstrated by studies done in two contrasting social contexts—alone or with potential extra third-party decision makers.

There are several parties involved in AI-based decisions, and the scope of their responsibilities is contested, making it difficult to determine who is ultimately responsible. This obscured the notion of accountability in the first place. Almost always, the user assumes all of the risks and duties. For example, if an application fails, a user who gave credit card information may face worry or financial loss. The end user takes additional risks since some of these losses may be recoverable, while others may not.

Determining what went wrong and who should pay the repercussions is a necessary step in taking responsibility. If not obligations are at issue, compensation procedures are at least included in court proceedings (mostly against the state, but sometimes against companies that manufactured the hazardous machinery or unintentionally distributed a faulty batch of goods). In the case of AI, we have difficulty determining who is at fault as well as recognising and making up for harm.

Recognising Damage and the Amount of Compensation

In terms of risk, the scenario involving self-driving cars seems to be the most representative. Since fully autonomous cars have become available, the famous tram problem—which has long sparked philosophical discussion—has gained further significance.

⁷ Molnar, P., 2019. Technology on the margins: AI and global migration management from a human rights perspective. *Cambridge International Law Journal*, 8(2), pp.305-330.

Philippa Foot discussed the "double effect doctrine," In her consideration of an ethical quandary in which an uncontrollable tram must be diverted into either the track where five people would be murdered or the track where only one will be killed, she highlights the difference between direct and indirect intent as well as the balance of good and evil. Since then, there have been continuous discussions about the least amount of damage and responsibility in instances where unavoidable undesirable consequences cannot be prevented. To further complicate the matter, Judith Jarvis Thomson proposed adding a moral quandary. In this scenario, the victim must choose whether to shove a huge stranger standing on a bridge into the route of the uncontrollable tram, where he would perish, or to do nothing at all. The topic has been reinterpreted in a variety of ways, but it has mostly remained theoretical until lately. Modern technology is adding more water to the utilitarian's wheel. Since utilitarian decision-making is the cornerstone of many AI technologies, the deontological stance is removed from the discussion.

AI forces us to attempt to "solve" the tram issue. Depending on automated abilities, instincts, gut feelings, or other factors, different persons will come to completely different decisions about what to do in a challenging traffic scenario. Not many people will evaluate the possible risks. How will these choices be made by the algorithm? What will be the main concept? One of two logics may underpin this approach: either a purely utilitarian one (potential damage assessment and/or evaluation of the relative value of the people's lives) or a random one based on a randomly generated number. Unlike other agents, the moral agents stated above are accountable for foreseeing and preventing unfair damage. What concept of unfair injury would AI use in the event that an autonomous vehicle needed to avert injuries in an accident? If AI begins to make "ethical decisions" in our daily lives, should we be concerned?

Some scholars believe that artificial intelligence can minimise harm while retaining ethics and/or openness. But what would the definition of ethical be? What exactly does the term "just" mean? Whereas algorithms need to be based on clearly established principles, human judgements are based on a complex synthesis of logical and intuitive reasoning.⁸ It is reasonable to assume that developing an algorithm that can handle a wide range of intricate logical and ethical problems is not practical, at least not right now. Its treatments must thus be founded on straightforward ideas intended to minimise damage. For instance, the computer will decide to steer towards a more robust automobile rather than a more sensitive one in a complicated traffic scenario. This will effectively punish drivers of more robust vehicles that are incorporated into autos. This may indicate that a careless driver of a Range Rover has a better chance of survival than a careless driver of a Volkswagen Beetle, which is contrary to how we today see fairness. At least two more concerns may occur as a result of attempts to algorithmize the minimal harm idea. To give algorithmic parameter sets, persons will need to be ranged. Because there will be only a limited amount of such sets, some people will most likely be excluded, making this discriminatory. The other challenge is that AI must have access to and comprehend a vast quantity of data in order to evaluate individuals using those criteria. On the one hand, persons may be required to reveal excessive personal information, such as their age, chronic conditions, disabilities, and even pregnancy. Nonetheless, a huge number of sensors and cameras will be required to monitor a driver's physical health, mental state, and sobriety.

⁸ Acemoglu, D., 2021. Harms of AI (No. w29247). National Bureau of Economic Research.

The conceptions of harm as defined by philosophy and law may differ significantly from those of machine learning practitioners. This may make it harder to determine culpability. Developers and clients (individuals, organisations, and governments) using AI must abide by any new, intricate, and comprehensive rules and regulations created specifically for these kinds of situations. However, given that these algorithms are primarily intended to simplify things, they are unlikely to be in great demand. The complexity of an algorithm is limited, as evidenced by the examples above. Will an algorithm outperform a human decision-maker in terms of speed and accuracy when dealing with complex ethical dilemmas, and will it even function? When self-teaching neural networks are integrated, the complexity increases even more.

Given the possibility that AI may be developed with the utilitarian objective of minimising harm, divorced from the complex ethical concerns that people learn over the course of their lives, algorithmic decision-making should supplement human judgement rather than replace it. The problem is that it doesn't seem like such cooperation is currently feasible.⁹ "The industry seems to be rapidly working to computationally replicate the judgement that was previously carried out only by legally trained humans," further states. When we talk about the implications of humanising algorithms, industry takes precedence over law and ethics. The day when fully autonomous AI that can make judgements but cannot be held responsible in court or on the road is drawing near. It stands to reason that as AI-based, statistically justified decisions grow less human, so will the idea of making apologies for harm done. In addition to failing to ensure justice as we know it in modern society, judgements driven by the principle of reducing harm eliminate the moral ground for compensation—the subject of choice's culpability. In general, the harm caused by AI-based choices may only be paid by insurance payouts and is not compensable under legal liability.

Absence of Law

The rising use of technology, particularly artificial intelligence (AI), in decision-making leads to a rise in the number of participants, making it practically impossible to allocate a fair amount of responsibility. The definition of obligation becomes ambiguous. This may be viewed first and foremost as a difficulty of individualising responsibility (the imputation issue) and defining who is liable in terms of the person who generates the negative consequences. Second, the question of what happens to the idea of restitution when there is no reciprocal link between those who inflict harm and their victims emerges, as does the extent to which guilt extends beyond space and time.

An algorithmic decision may include an infinitely large number of people, and it is not subject to any kind of accountability.¹⁰ The circle of persons impacted by AI-based judgements, however, may be infinite as the unfavourable effects could accumulate over time and impact a large number

⁹ Constantinescu, M., Voinea, C., Uszkai, R. and Vică, C., 2021. Understanding responsibility in Responsible AI. *Dianoetic virtues and the hard problem of context. Ethics and Information Technology*, 23, pp.803-814.

¹⁰ Liao, Q.V., Gruen, D. and Miller, S., 2020, April. Questioning the AI: informing design practices for explainable AI user experiences. In *Proceedings of the 2020 CHI conference on human factors in computing systems* (pp. 1-15).

of people. Under such circumstances, the actor-affected person connection requirement (the compensation issue) makes it hard to pinpoint the group of these individuals. Lastly, when considered separately from the idea of free causation (the retribution question), the concept of justice seems to have become obsolete. Ricoeur calls on us to restore judgement and preserve the concept of imputation, which is susceptible to attacks by solidarity and risk. Ricoeur bases this on the Aristotelian virtue of phronesis, or moral judgement conditioned by particular circumstances, which he claims is the foundation of the experience of law and justice.

Lloyd L. Weinreb's concept, which indicates that possessing rights is dependent on having the capacity for responsibility, is important in this regard. As a result, when the concept of responsibility is undermined, our rights become compromised. Weinreb maintains that the essential distinction between things and people is one of responsibility: whereas objects are liable for the results of their acts, people are answerable for the consequences of their decisions. Being right entails accepting responsibility for our acts; even if we have the choice to do something, we also have the freedom not to do it. In this perspective, rights exist as a "moral fact," alongside responsibility, rather than something we should or should not have.

This brings us to the conclusion that the replacement of accountability with risk insurance that was previously described, along with the progressive elimination of the possibility of facing retribution and imputation from our moral experience, may ultimately lead to a world in which laws are superseded and the apparently safe and secure domain of AI decisions turns into a lawless place.

AI-Powered Choices Under Current Indian Law

India has not yet established legislation to regulate artificial intelligence (AI) in specific. However, the Indian government is actively exploring a variety of AI governance and regulatory challenges. The National Strategy for Artificial Intelligence (NSAI), launched in June 2018, is an important step in this direction. The NSAI's mission is to employ AI to promote inclusive growth, social development, and economic success. It explains the government's strategic vision and proposes tangible initiatives in several areas, including research and development, capacity building, data infrastructure improvement, and assistance for AI-driven businesses.¹¹

Furthermore, in June 2018, the government think tank NITI Aayog released a discussion paper explaining the "National Strategy for Artificial Intelligence."¹² The study delves into a range of AI-related topics, including ethical considerations, privacy concerns, and the necessity for robust data protection. This paper is a fundamental work that will inform future policy formulations in the field of artificial intelligence, even if it is not legally binding.

¹¹ Thakkar, D., Kumar, N. and Sambasivan, N., 2020, April. Towards an AI-powered future that works for vocational workers. In proceedings of the 2020 CHI Conference on Human Factors in Computing Systems (pp. 1-13).

¹² Marda, V., 2018. Artificial intelligence policy in India: a framework for engaging the limits of data-driven decision-making. *Philosophical Transactions of the Royal Society A: Mathematical, Physical and Engineering Sciences*, 376(2133), p.20180087.

In 2020, the Ministry of Electronics and Information Technology announced a draft National Artificial Intelligence Policy, which was a significant step forward. This policy aims to promote India as a global leader in AI research, innovation, and adoption. It is noteworthy because it addresses the moral, legal, and regulatory challenges that come with the widespread adoption of AI technology.

Simultaneously, India is getting closer to enacting comprehensive data protection regulations. The Personal Data Protection Bill of 2019 was submitted in the Indian Parliament with the goal of regulating the processing of personal data, which is required for AI systems. Strong data protection policies must be put in place to ensure ethical and equitable AI development and implementation.

Furthermore, some Indian groups and industry associations have recommended ethical guidelines for AI initiatives, even if they are not legally binding. The aforementioned criteria stress the relevance of core principles that govern AI systems, such as transparency, fairness, accountability, and non-discrimination.¹³

Furthermore, industry-specific regulations that apply to some businesses in India, such as banking and healthcare, have an indirect influence on the adoption of AI applications. The Reserve Bank of India (RBI), for example, has created guidelines governing the use of artificial intelligence (AI) in banking and financial services. With the potential for change through new laws, regulations, and initiatives, it is critical to remain current on developments in AI governance and regulation in India. It is critical to stay current on AI-related policy in India by monitoring statements from business groups, political bodies, and regulatory authorities.

Case Studies on AI Prosecution.

Uber: Autonomous vehicles

On March 18, 2018, an automated car being tested by Uber Technologies Inc. struck and killed a woman in Tempe, Arizona. The car was entirely autonomous, despite the fact that a human "safety driver" was sitting in the front passenger seat at the time. Legally, one would act quickly to assess liability and potential remedies. Now, if the automobile had been controlled by a human driver and was under human control, assessing blame and taking legal action would have been straightforward, providing that the driver was demonstrated to be at least partially at fault. However, when it comes to artificial intelligence, things are not that straightforward.

¹³ Jain, P., 2018. Artificial Intelligence for sustainable and effective justice delivery in India. *OIDA International Journal of Sustainable Development*, 11(06), pp.63-70.

From a civil law standpoint, in order to win in a wrongful death action, the estate of the dead (maybe the remaining family members) would need to establish that Uber Technologies Inc. was negligent. Uber could easily dissociate itself from any guilt, though, if it were to defend itself and offer evidence that the artificial intelligence in the car was supposed to be indestructible. Then, the issue would be, "Is AI too smart to fail?"

The issues would be even more serious when it came to criminal liability; they would entail assessing if the human safety driver or passenger who was in the car at the time of the accident had criminal accountability and if charges should be taken against him and/or Uber. Corporate manslaughter and involuntary manslaughter are two conceivable criminal charges.¹⁴ A significant hurdle for the prosecutors would be achieving the rigorous criteria for proof in order for a criminal case to be successful. In the case that artificial intelligence surpasses human intellect and is able to programme itself flawlessly, what amount of culpability would Uber Tech have?

It's vital to keep in mind that any court verdict against Uber Tech may prevent other tech/AI businesses from researching the autonomous car concept out of worry that they will face a similar fate. In the end, this may even entirely impede the progress of the same technology, which would not be acceptable to everyone and create a challenge to the legal system. However, the same verdict would likely raise the conversation about stronger regulation in the AI business.

Sophia: The Incongruity in Law

Sofia is a social humanoid robot that has attracted substantial media interest since her debut. She has visited the world, impressing some but also unimpressing many, notably in the scientific community. Not only did Sophia get the coveted UN Title of "Innovation Champion" shortly after her activation, but she also got citizenship from the UAE in October 2017 and, as of March 24, 2018, she was granted honorary citizenship to Shambhala, the mythical realm in Tibetan Buddhism. Regarding her potential citizenship in the technologically superior African nation of Wakanda—yes, this is also a fictitious country; you don't need to Google its location on a map—we have not heard anything from her yet.¹⁵

Even while this is amazing, there are legal oddities in some of the specifics of these "accomplishments." Sophia is entitled to the same rights and obligations as other UAE citizens in relation to her citizenship. In theory, she has the same rights as any other UAE citizen, including the ability to vote, get married, and practise her faith freely. But this raises a lot of legal

¹⁴ Constantiou, I., Joshi, M.P. and Stelmaszak, M., 2024. Introduction to Research Handbook on Artificial Intelligence and Decision Making in Organizations. In *Research Handbook on Artificial Intelligence and Decision Making in Organizations* (pp. 1-15). Edward Elgar Publishing.

¹⁵ Pagallo, U., 2018. Vital, Sophia, and Co.—The quest for the legal personhood of robots. *Information*, 9(9), p.230.

and practical concerns about her capacity to exercise the rights and obligations that come with being a citizen. Would she be allowed to cast a ballot? If yes, to what extent would her choices be self-governing and independent? In the event that she deviates from her programming and violates the law, would she be held accountable? (For instance, data theft and manipulation within the nation). What would happen legally if, in a hypothetical situation, she broke the law while defying her programming? There are a lot of unanswered problems about how precisely the law would help a wild Sophia be subdued or exercise her civic rights.

Suggestions and Conclusion

It seems certain that AI technology will continue to permeate decision-making. This will have an impact on law specifically. AI has several clear benefits: it is effective, accurate in fewer morally dubious domains, largely error-proof compared to human decision-making, and helps combat systematic unfairness and inequality. However, there are a number of concerns linked with AI, including: (1) the difficulty in defining the harm that has to be paid; (2) the challenge of defining the scope of the offence and the topic of accountability; and (3) the apparent impossibility of a reasonable punishment.

Since Artificial Intelligence and humans are physically blending, it's getting harder and harder to determine who is responsible for what. AI in and of itself cannot be held accountable because it is neither a moral nor a legal topic. There are a lot of people involved in algorithmic decision-making, therefore the pool of potential subjects is too large.¹⁶ The utilitarian attitude, which casts doubt on the perception of pain and essentially dehumanises decision-making, seems to be prioritised in AI-dependent culture. Even the most advanced algorithms may not be able to adequately explain very complex scenarios. Any intricacy has bounds, but the expressions of human nature are limitless. AI will stop any deviations, which will restrict the court system's reach and result in unfairness. The

processes that are being discussed are consistent with the overall trend of change in the way that responsibility and the associated moral experience are conceptualised, as studied by Paul Ricoeur. This has to do with the ability to be a target of imputation and retaliation being removed from the framework of human experience and replaced with a system of group insurance against risks in place of personal accountability. Justice and the law are thus rendered unattainable as a result. In the end, legislation will not be necessary in the future of AI-based decision-making, when people are no longer required to make free and responsible choices.

Since humans are fallible, we built computers to aid in thought processes and to eradicate human mistake. We trust algorithms far more than individuals, and we take it for granted that clever robots are smarter than humans. We are surrounded by algorithms in every aspect of our lives, yet we are still oblivious to the negative ripple effect: we are beginning to think in an algorithmic

¹⁶ Lebovitz, S., Levina, N. and Lifshitz-Assaf, H., 2021. IS AI GROUND TRUTH REALLY TRUE? THE DANGERS OF TRAINING AND EVALUATING AI TOOLS BASED ON EXPERTS'KNOW-WHAT. *MIS quarterly*, 45(3).

manner. Machines are beginning to make us, and we are making them. AI reduces uncertainty, the need for debate, removes emotions, and eliminates aspects that are uniquely human in order to accommodate human imperfection. Because we rely so much on algorithms, we are forced to internalise and accept this "better" way of thinking. We could eventually cease debating for the sake of "rightness" and reasoning and stop learning to question. We must eventually give up on the concept of fairness in the human sense and accept the mathematically optimal choice as the equivalent of a just conclusion. After that, we'll turn into algorithmic fatalists.

The legal gaps that result from a lack of legislation might endanger not only human society but also our inherent rights. Legislators must go forward with laws that will control AI's behaviour and that of its creators, including the ability to penalise or rehabilitate them for breaching the law. AI will have advantages and disadvantages, just as fire and every other human invention. Our best and final line of defence against AI's detrimental impacts is regulation. Laws must be implemented as soon as possible to address any potential issues resulting from the improper application and impact of AI. This situation arises from the nature of the problem itself, which is anthropological in origin rather than merely legal, and whose resolution calls for a synthesis of the views of philosophy, science, and jurisprudence. Anthropologists hope that human justice will still be necessary even as we continue to discuss this. We would not want to reach a point when we stop seeing that anything is amiss and give up on pursuing justice.