Can AI support judicial quality and efficiency?

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My topics

✓ AI in court practice
✓ “Predictive” “justice”
✓ Ethical principles for the use of AI
✓ Challenges for courts

Courts have different processes

- Party relation
- Outcome unpredictable?
  - 1 title
  - 2 notarial
  + 3 settlement
  + 4 judgment
Courts have different processes that AI can support in various ways:

- **AI can structure information**
- **AI can help with research**
- **AI can support a solution explorer - maybe**
- **AI can (?) make predictions**

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<th>Party relation</th>
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Al can support a solution explorer - maybe
Groups 2 and 3: exploring solutions

Solution Explorer

- Free public legal information and tools, available 24/7
- Guided pathways
- Interactive question and answers
- Resolution or preparation for CRT process
- Quarterly updates on content
Possible AI for a Solution Explorer

- Use chatbot technology
- Voice recognition and form completion
- Content translation
- Forecasting possible outcomes
“Predictive” "Justice"

- Unpredictable court case outcomes are a risk
- Principle: past judgments are correct
- Secure data
- Correct data
- Trained algorithm
Predicting US Supreme Court outcomes: 70.2%

- Katz, Bommarito, Blackman
- Information about judges
- Past voting record
- Political, biographical
- No legal reasoning
- Claim 70.2% accuracy
Predicting ECHR outcomes: 79% accuracy

• Complexity reduction done in process and the decisions
• **Claim: 79% accuracy on average**
• Is 79% good?
  • Yes/no: 50% probability,
  • All cases: 84% probability

• **Judicial decision-making is significantly affected by the stimulus of the facts**

For legal analytics

- Citations analysis
- Comparing forums
- Judge profiles
- Workings are trade secret
European ethical Charter for the use of AI in judicial systems and their environment

✓ 1 Respect for fundamental rights
✓ 2 Non-discrimination
✓ 3 Quality and security
✓ 4 Transparency, impartiality and fairness
✓ 5 Under human control
Challenges for courts: AI under user control

✓ Preclude a **prescriptive approach**
   ---> The computer does not decide on its own

✓ Ensure that users are **informed actors**
   ---> Users understand what the AI does

✓ Users are **in control** of their choices
   ---> Users can decide what to do with the AI’s result
Challenge for courts: Non-discrimination

Prevent discrimination between individuals or groups of individuals

⛔️ Distinction we consider unfair
⛔️ Unfair treatment of different people

Risk assessments in custody, sentencing and parole (COMPAS and ARNOLD)

• Cause:
  🤔 Biased judges?
  🤔 Biased laws?
  🤔 Biased programmers?
  🤔 Lack of data?
  🤔 Bad algorithms?
Challenge for courts: judge profiles

- Profiling judges
- What for?
- By whom?
  - By others
  - By their own court (system)
- Ethical, legal principles:
  - Regulation, policy?
  - Ban?
Challenge: Transparency

• Current NL case law, NL Supreme Court and Council of State:
  
  • full, timely and appropriate disclosure
  • (ex ante or ex post?)
  • to assess the choices made and the data and assumptions used, so as to ensure effective legal protection against decisions based on those choices, data and assumptions, with the possibility of judicial review by the courts.

ECLI:NL:RVS:2017:1259
ECLI:NL:RVS:2018:2454
ECLI:NL:HR:2018:1316
Challenge for courts: Data Quality and Security

• Who controls the information?
• How much information is enough?
• processing judicial decisions and data, use **certified sources** and **intangible data** with models conceived in a **multidisciplinary** manner,

• in a **secure** technological environment...
IT: from tools to environment
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Your New Enterprise System!!
Can AI support judicial quality and efficiency?

- Yes, provided:
  - Judiciaries can deal with the challenges
  - Which needs changes
  - Governance
  - Work processes