Expert Workshop on Human Rights and Algorithms in Decision-Making

May 2019, London.

On May 15, 2019 an expert workshop on human rights and algorithms in decision-making was held in London, in cooperation with Essex University – *The Human Rights, Big Data and Technology Project.* The workshop addressed the human rights implications of the use of algorithms in decision-making, discussed the case for a right to human decision-making and considered if and when a fully automated decision would be permissible or even desirable.

The workshop included members of academy and civil society: prof. Sarah Cleveland (Columbia Law School), Prof. Yuval Shany, prof. Alon Harel, Dafna Dror (The Hebrew University of Jerusalem), Tomaso Falchetta (Privacy International), Dr. Seeta Peña Gangadharan (London School of Economics), Prof. John Tasioulas, Dr. Maria Varaki (Kings College London), Joanne Kirkham (University of Paris II Panthéon-Assa), prof. Noam Lubell, prof. Lorna McGregor, Dr. Daragh Murray and Vivian Ng (The Human Rights, Big Data and Technology Project, University of Essex).

The first session included prof. Lorna McGregor and Ms. Vivian NG presentation on International Human Rights Law as a Framework for Algorithmic Accountability. The discussion focused on the question of the appropriate framework that would address the human rights impact of algorithms, across the full algorithmic life cycle, from conception to deployment, and could establish obligations of states to prevent human rights violations already in the design stage. While human rights law can provide a basic framework, it still has limitations; one of the prominent ones is that IHRL establishes obligations that apply to states but not to private companies.

The second session focused on automated decision making and the criminal justice system. Prof. Alon Harel presented some of the key questions underlying the debate in this context. For example, the implications in the aspect of governance and public authority. In light of private ownership of technologies in this regard, an important consideration is whether certain authorities should be governed and operated only by the government in order to conduct public authority. Second is the effect of automated machine decision on the individual; arguably, society should treat people as if they can change, and perhaps a person has a right to be different or to exceed from what the machine has allegedly predicted for him (a right to 'unbelong'). Yet another issue that arose in this regard is the effect on the individual as a decision maker in a democratic society, and whether as a society we want machines to deprive from us the power

to decide on others. Subsequently, Ms. Dafna Dror presented the issue of dehumanization of judicial decision-making and human rights. The court system could benefit in many ways from embedding automation in the court system. It can improve efficiency; override limitations that are inherent to human decision-making and potentially even extract misconceptions and biases. However automation also imposes some prominent challenges to a person's right to fair trial, because, among other reasons, the lack of transparency and systematic bias, as indicated for example in risk-assessment programs.

In the third session Prof. Yuval Shany presented the issue of autonomous weapon systems. The presentation has brought to discussion three main issues in this regard – the question of meaningful human control; the lawfulness of using autonomous weapons; and the sociological or moral aspect of the mere concept of machines having the ability to kill humans. One of the key issues which were discussed in this regard was the ramifications of use of force and lack of reciprocity in autonomous weapons. Finally, a fruitful concluding discussion included some main key issues pulled together from all the session held during the day, such as: automation and the evolvement of law; the challenge of automation in light of the broader impact the judicial authority has on society in terms of policy making; informational self-determination; the sociological reaction of discomfort to dehumanizing decisions or activities that has a significant effect on humans; accountability and safeguards; and whether there are some fields or categories that are more suitable and appropriate for automation than others.