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EDITORIAL

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Artificial Intelligence (AI) plays a pivotal role at the intersection of modern-day legal theory and legal practice. On the one hand, it encompasses automated reasoning, Natural Language Process (NLP) models, and computational legal theory, influencing and helping various aspects of legal operations. On the other, it also optimizes the judiciary with efficient, transparent, and rights-preserving procedures. Thus, AI is both seen as a research topic, a bureaucratic advantage, and a constitutional threat, which shows its significance in the legal landscape.

This issue of *e-Publica* stems from the VI Lisbon Meeting on Legal Theory organized by the Lisbon Legal Theory (Pedro Moniz Lopes and Jorge Silva Sampaio) on the subject of “AI and Judicial Decision”. The meeting took place on the 30th of June 2023 and included presentations by Bart Verheij (Groningen), Michal Araskiewicz (Krakow), Réka Markovic (Luxembourg City), Pedro Moniz Lopes (Lisbon) and Jorge Silva Sampaio (Lisbon), and comments by Sara Azevedo (Lisbon), Domingos Farinho (Lisbon), Alessio Sardo (Genoa), and Mathieu Carpentier (Toulouse).

The issue, however, largely benefits from papers that were not presented in the Meeting, such as those written by Alexandre Zavaglia and Rodrigo Canalli.

A brief summary of the papers and comments follows.

Pedro Moniz Lopes addresses the problems of non-redundancy and justification in analogical reasoning both in general and specifically in AI. The paper focuses on the concepts of “relevant similarity” and “sufficient similarity” in AI and suggests that programming Rosch’s two psychological principles of categorization into AI Systems would helpfully provide for flexible criteria to finetune the level of abstraction of categories formed in analogy-making. Alessio Sardo presents some fundamental disagreements, the main one being that analogy in AI is best described as statistical reasoning about similarities that defy the uniform treatment of abduction and induction presented by Pedro Moniz Lopes.

Jorge Silva Sampaio discusses whether AI robots can and should hold legal rights, exploring both conceptual and justificatory aspects of the issue. He concludes that legal positions like rights, not predicated on intentional action, can be bestowed by law upon entities lacking such capacity. At the

normative level, he explores reasons justifying the ascription of rights, focusing on the concept of interest. A suggested approach for the normative analysis required involves comparing robots' interests with those of humans to justify their attribution of rights. Mathieu Carpentier disputes the notion that AIs and robots cannot have active rights and draws attention to the distinction between having a right and actioning it. He concludes that robots can have active as well as passive rights and that the capacity to respond to normative reasons is not required in order to *have* rights, but only to *action* them.

Rodrigo Canalli offers a relevant insight on explainability of AI models for decision-making. He presupposes that the standard of explainability proves insufficient to meet the requirements for publicity and reasoning of judicial decisions and imposes a form of nakedness not required of human judges. He then contends that a more appropriate standard would be that of interpretable models for judicial decision-making, characterized as able to offer decisions that are referred to current law (legality), internally and externally coherent (consistency), and compatible with the decision of a human judge in a similar case.

Finally, Alexandre Zavaglia presents a thorough description of the process of creation of digital environments to operationalize workflows and the relationship/collaboration between its actors, for processing and monitoring judicial and administrative proceedings, software and strategies for online dispute resolution (ODR), for analyzing, managing and generating contracts and other types of documents, compliance services in general, among many other possibilities. While outlining the threats, he seeks to explore the use of these innovations in the strategic management of litigation, based on the experience of Brazil, one of the countries with the largest number of court cases in progress, and the characteristics of open data, in accordance with the principle of publicity of judicial acts laid down in the Brazilian Federal Constitution (arts. 5, LX and 93, IX).

The purpose of this issue is to present AI as both a theoretical as well as a practical subject and to conflate different viewpoints and concerns that may build up a common enterprise. Although tackling merely some of the many problems that AI poses in general – and in legal and judicial reasoning in particular – we sincerely hope that it may add up to the scientific endeavor that has lately stirred fruitful discussions both in legal academia as well as within lawmaking authorities.

The editors,

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