BOOK REVIEW

Algorithms and Law, edited by Martin Ebers and Susana Navas (2020) Cambridge University Press, Cambridge, 297pp., hardback £85, ISBN: 9781108424820.

Law sails as tankers do: steadily and with difficulty in changing direction. The relative inflexibility of law enhances legal certainty as an essential requirement for the protection of rights and, eventually, the evolution of societies. Legal thought and legal analysis usually march at the same prudent pace. However, the technological disruption that artificial intelligence (AI) brings has created turmoil. The 'law tanker' suddenly started to behave as a dinghy in a hurricane. An institution as accustomed to serious, long and technical legal drafting as the European Parliament introduced a legal instrument with references to Mary Shelley's *Frankenstein*, *Pygmalion* and the story of Prague's Golem (see European Parliament, 2017). The legal debate tried to respond to unusual questions on the feasibility of an 'electronic personality' for robots to address liability – whether the phenomenon should be tackled with ethical (i.e., not legally enforceable) rules instead of regulation or even if an entire new legal framework was needed for AI.

Far away from these positions, some legal scholars rapidly framed the challenges that AI and new technologies pose to law. The editors of this book were among them. In a relatively short period, traditional legal thinking has become mainstream again, pushing *tabula rasa* to the edge. In a nutshell, current debate increasingly assumes that law is fit to tackle the challenges AI presents, though with changes. The book under review is an important milestone in this direction.

The reader will find in this collection a legal assessment of self-learning algorithms, primarily from the perspective of European Union (EU) law. In chapter 1, Sami Haddadin and Dennis Knobbe provide an overview of AI from a technical (i.e., non-legal) angle. It is a good opening for readers not familiar with the topic, one which underscores the realistic approach of the book. Chapter 2, by Martin Ebers, together with chapters 1 and 3, could have formed a separate part of the book because of their introductory character. They are rich in appealing questions. Chapter 2 first addresses those characteristics of AI that pose common challenges to all areas of law: the move from causation to correlation, the growing autonomy of AI systems and the problem black boxes pose for law, which requires transparent and reasoned decisions. The chapter introduces ethical questions on the interaction of algorithms and human beings and provides an overview of specific legislation that would apply to AI. Chapter 3, by Mario Martini, focuses on the opacity of machine-learning systems, discrimination and monopolization of market power and knowledge (for which the author proposes legislative measures).

The following chapters (4–10) tackle specific legal issues arising from the use of self-learning algorithms and robotics. In chapter 4, Diana Sancho focuses on automated decision-making, which is regulated in Article 22 of the European General Data Protection Regulation (GDPR). The author presents an expansive interpretation of the provision, interesting in view of the current technical reality whereby solely automated decisions (i.e., those literally covered by the provision) are infrequent. Chapter 5, by Susana Navas, and chapter 6, by Ruth Janal, explore tortious liability for autonomous systems, addressing the complexities that they introduce in determining the individuals liable for wrongs if compared, for example, with a normal product. In chapter 7, Gerald Spindler deals with algorithms in high-frequency trading against the backdrop of financial markets while assessing whether this sector can serve as model for others. In chapter 8, Susana Navas delves into copyright law. Taking an innovative stance, she offers convincing arguments for the protection of works created by autonomous systems. Chapter 9, by Brian Subirana, Renwick Bivings and Sanjay Sarma, introduces 'wake neutrality' of voice-recognition systems in open conversational commerce

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(such as Amazon's Alexa, Google Home and Apple's Siri), exploring options for the algorithmic enforcement of such neutrality. Finally, in chapter 10, Björn Steinrötter analyses the inconsistencies of EU law in respect of digital data as the EU fosters a high level of data protection under the GDPR while promoting free flow of data in the internal market.

The book accomplishes a difficult task. It is an excellent source for those who dive for the first time into the legal challenges that AI poses to law, but it also provides plenty of food for thought for the reader familiar with the topic. Although the book seems to address readers with a legal background, I would not be surprised if those involved with AI beyond law enjoy and profit from reading it. The book is written in such a clear manner that it allows an interdisciplinary understanding. However, clearness is not simplicity. The authors and editors should be applauded for the clarity with which they explore an extremely complex subject.

Reference

European Parliament (2017) *Resolution with Recommendations to the Commission on Civil Law Rules for Robotics*, Strasburg, 16 February, available at https://www.europarl.europa.eu/doceo/document/TA-8-2017-0051_EN.html (accessed November 2021).

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