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Could an AI ever replace a judge in court?

Will an AI ever replace a judge   Will an AI ever replace a judge

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Xiaofa stands in Beijing No 1 Intermediate People's Court, offering legal advice and helping the public get to grips with legal terminology. She knows the answer to more than 40,000 litigation questions and can deal with 30,000 legal issues. Xiaofa is a robot.

China already has more than 100 robots in courts across the country as it actively pursues a transition to smart justice. These can retrieve case histories and past verdicts, reducing the workload of officials. Some of the robots even have specialisms, such as commercial law or labour-related disputes.

Chinese courts also use artificial intelligence to sift through private messages or comments on social media that can be used as evidence in court. And traffic police are reportedly using facial recognition technology to identify and convict offenders.

But these legal uses for AI are just the beginning of what may be possible in the future.

An aide to judges

China has a civil law system that uses case law to determine the outcome of trials. With just 120,000 judges to deal with 19 million cases a year, it is little wonder the legal system is turning to AI, law firm Norton Rose Fulbright says.

The Supreme People's Court has asked local courts to take advantage of big data, cloud computing, neural networks and machine learning. It wants to build technology-friendly judicial systems and explore the use of big data and AI to help judges and litigants resolve cases.

An application named Intelligent Trial 1.0 is already reducing judges' workloads by helping sift through material and producing electronic

"The application of artificial intelligence in the judicial realm can provide judges with splendid resources, but it can't take the place of the judges' expertise," said Zhou Qiang, the head of the Supreme People's Court, who advocates smart systems.

Eliminating bias?

But recent advances in AI mean the technology can do far more than sifting through vast quantities of data. It is developing cognitive skills and learning from past events and cases.

This inevitably leads to questions as to whether AI will one day make better decisions than humans.

All human decisions are susceptible to prejudice and all judicial systems suffer from unconscious bias, despite the best of intentions.

Algorithms that can ignore factors that do not legally bear on individual cases, such as gender and race, could remove some of those failings.

One of the most important considerations for judges is whether to grant bail and how long prison sentences should be. These decisions are usually dictated by the likelihood of reoffending.

Algorithms are now able to make such decisions by giving an evidence-based analysis of the risks, rather than relying on the subjective decision-making of individual judges.

Despite these obvious advantages, it is far from clear who would provide oversight of the AI and check their decisions are not flawed. And more cautious observers warn that AIs may learn and mimic bias from their human inventors or the data they have been trained with.

Making connections

But AI could also help solve crimes long before a judge is involved. VALCRI, for example, carries out the labour-intensive aspects of a crime analyst's job by wading through texts, lab reports and police documents to highlight areas that warrant further investigation and possible connections that humans might miss.

AIs could also help to detect crimes before they happen. Meng Jianzhu, former head of legal and political affairs at the Chinese Communist Party, said the Chinese government would start to use machine learning and data modelling to predict where crime and disorder may occur.

"Artificial intelligence can complete tasks with a precision and speed unmatchable by humans, and will drastically improve the predictability, accuracy and efficiency of social management," Mr Meng said.

Setting a precedent

It is as yet uncertain which of these technologies may become widespread and how different governments and judiciaries will choose to monitor their use.

The day when technology will become the judge of good and bad human behaviour and assign appropriate punishments still lies some way in the future.

However, legal systems often provide ideal examples of services that could be improved, while trials are likely to benefit from better data analysis.

The law often requires a trial to set a precedent – so watch out for the test case of AI as judge.

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