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Contribution to Consultation Paper

'AI and Human Rights'

Q5: How well are human rights protected and promoted in AI-informed decision making? In particular, what are some of the practical examples of how AI-informed decision making can protect or threaten human rights?

Analysis

Artificial Intelligence (AI), and in particular its subfields of machine learning and deep learning, may only be neutral in appearance , if at all. Underneath the surface, it can become extremely personal.

The benefits of grounding decisions on mathematical calculations can be enormous in many sectors of life. However, relying too heavily on AI inherently involves determining patterns beyond calculations and can therefore turn users, perpetrate injustices and restrict people's rights. AI in fact can negatively affect a wide range of our human rights.

The problem is compounded by the fact that decisions are taken on the basis of these systems , while there is no transparency, accountability and safeguards on how they are designed , how they work and how they may change over time.

Danger to Privacy

The tension between advantages of AI technology and risks for our human rights becomes more evident in the field of privacy law. Privacy is the most fundamental human right, essential in order to live in dignity and security. But in the AI world environment , including when apps are used and social media platforms, large amounts of personal data is collected- with or without our knowledge and can be used to profile us, and produce predictions of human behaviours. Data is collected on our health, political ideas and family life without knowing who is going to use this data, for what purpose and why.

Machines function on what human tell them. If a system is fed with human biases (conscious or unconscious) the result will inevitably be biased. The lack of diversity and inclusion in the design of AI systems is therefore a key concern: instead of making our decisions more objective , they could reinforce discrimination and prejudices by giving them an appearance of objectivity. There is increasing evidence that women, ethnic minorities, people with disabilities and LGBTI persons particularly suffer from discrimination by biased algorithms.

Studies have shown, for example, Google was more likely to display adverts for highly paid jobs to male job seekers than female . In May 2017, a study by the EU Fundamental Rights Agency also highlighted how AI can amplify discrimination. When data-based decision making reflects societal

For example, in the United States, a program called COMPAS is already being used by some judges to decide whether a person accused of a crime should be released on bail. The COMPAS algorithm trawls through the criminal justice system data to identify the characteristics of people who are more likely to re-offend. People applying for bail are then assigned a risk rating. Researchers found even though race was not something the algorithm took into account, Afro-Americans were more than twice as likely as similar white criminals to be classed as medium or high risk. That translates into more than twice as likely to be denied bail

The problem was with the data. This results that African- Americans faced more police scrutiny and are more likely to get heavier penalties associated with their poverty.

In Australia, the NSW police use a “secret algorithm” to decide who is placed on the Suspect Target Management Plan, a list which is closely monitored by police. Over half of those on the list are Aboriginal or Torres Strait Islanders. The data was wrong, given less than 3 per cent of the Australian population is indigenous.

A study by Israeli researchers that looked at how judges decided who was granted parole found the last prisoner before lunch had almost zero chance of being released. That’s compared to a 65 per cent chance first thing in the morning and again straight after lunch. The attraction of a computer here isn’t just that it doesn’t have an appetite. AI and other technologies genuinely offer powerful tools of analysis.

There is no overarching regulatory framework for technology in Australia, since politicians have no desire. Norbert Weiner’s *Cybernetics : Or Control and Communication in the Animal and the Machine* says “ *the world of the future will be even more demanding struggle against the limitations of our intelligence, not a comfortable hammock in which we can lie down to be waited upon by our robot slaves*”.

Whether Mr Santow’s message of “responsible innovation “will be embraced politically remains to be seen”. Professor Cannatacisaid mentions that Australian politicians “seem to have been shy to speak of the world human rights”. When he was asked, if Australia was lagging behind the rest of the world in regard to technology and human rights, his response was “ this country has no bill of rights and few constitutionally protected. The problem is the way Australia has approached human rights”.

In a play on President Kennedy’s famous words, he added “you should not ask yourself what you can do for business, but you should be asking yourself, what business can do for you?”

Recommendations

- a) Australia should have a Bill of Rights:
- b) “AI literacy” throughout the country. Each state should invest more in public awareness and education initiatives to develop the competencies of all citizens, and in particular younger generations, to engage positively with AI technologies and better understand their implications for our lives;
- c) Australia as a nation must change their structures to equip to deal with new types of discrimination stemming from the use of AI;
- d) Strict regulations, not tepid, to prevent AI from morphing in a destructive way;
- e) Moderates and Conservatives politicians must work together for the common good of AI.

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AI and Australian Human Rights

Q7. In addition to legislation, how should Australia protect human rights in AI-informed decision making? What role, if any, is there for:

- a) **An organisation that takes a central role in promoting responsible innovation in AI-informed decision making?**
- b) **Self-regulatory or co-regulatory approaches?**
- c) **A 'regulation by design' approach?**

Analysis

The current structured systems and rigid processes create barriers for most Australians : the websites, forms, call centre paradigm, significantly impacts and disadvantages people with different needs and abilities. And this impacts us all as we age.

The Australian government and many other organisations send letters and forms to people who cannot physically open them; to people who cannot comprehend the bureaucratic language. Letters, forms , and brochures point to complex websites and over-burdened call centres which cannot meet the needs of people who are non-verbal or who have cognitive impairment.

A self-feeding maze of complexity. Regardless of social status, education, or ability , when vulnerable, our humanity yearns for empathy and conversation. Yet most organisations, health sector and government alike, have told us that Australians can no longer afford conversations , Driven by budget and rationing philosophies , the first two decades of the 'online century' simply pasted an electronic veneer over the existing byzantine structures. This forced Australians to interact through a maze of complex websites , portals, understaffed call centres and thousands of online forms , none accessible. **Only the wealthy had the means to avoid these barriers.**

With multibillion dollars invested in technology and systems, the experience with people with disability is traumatic to the point of systemic discrimination. No amount of fiddling with website structures, apps , so called 'digital standards' and outsourcing call centres, changes that experience of deprivation and discrimination for Australians who are struggling financially.

This situation will not improve or change simply by using AI to repeat the same patterns of service delivery. Nor will AI improve by reverting to the manual patterns of the past by simply creating more

opportunities for direct face to face communication in the belief that this will provide the disadvantaged with a better service experience.

Report - Amnesty International Australia (AIA) – Australia Has A Poor Record On Human Rights

The Australian government unfortunately seeks to punish and deter people forced to flee persecution, hunger, violence and climate disasters , seeking safety for themselves and for their families , through its law enforcement agencies. There are currently innocent Aboriginal children in indefinitely in detention.

AIA has suggested this approach must be discarded in favour of a protection –based approach that links humanitarian assistance and foreign aid with domestic migration and refugee programs.

AIA recommends the following to the Australian government:

- a) Immediately end offshore detention , bring all refugees to a safe country including Australia;
- b) Make sure that the most vulnerable people are resettled , in Australia, our region and globally;
- c) Ensure refugees have access to other visas categories, in addition for the existing humanitarian visa intake;
- d) Support the prompt, fair and effective assessment of refugee applications in the region;
- e) Run effective search and rescue operations.
- f) Adapt Australia’s foreign policy settings to recognise the need for a coordinated regional response , including boosting Australia’s aid program to help neighbouring countries support refugees better and by providing humanitarian assistance when necessary

Liberty Victoria –Rejection of Uluru Statement –Turnbull and his Ministers

Liberty Victoria says *‘the Uluru Statement is the product of unprecedented , national consultation with Australia’s First Peoples- the very peoples who are to be recognised in our founding document. 1200 people took part in the First Nations Regional Dialogues around Australia , culminating in a National Constitutional Convention in May 2017’*. They call on the Australian government to recognise this statement , yet the Australian government has rejected . This only proves **‘NO HEART AND MIND’**, with the Australian government towards the First Peoples’ Rights. **Their struggles has carried on for 40000 years, yet politicians shelf policies for their benefit. Will AI improve and give recognition to the First Peoples’?**

Plenty of Talk, Little Details and Plenty of Promises - Australian Government

Hard data and detail to ensure rights for the asylum seekers, vulnerable, people with disabilities, and First Peoples is not available. **Will AI improve their oppression and suffering?**

AI Does Not Add Human Value

Research studies indicate that AI is severely likely to ‘disrupt’, the distribution of power throughout the world. It is likely to create new forms of oppression and disproportionately affect those who are most powerless and vulnerable. Human rights exist exactly to address power differentials and to provide individuals, and the organisations that represent them , with the language and procedures to contest the actions of more powerful actors , such as states and corporations. Even though some

claim that human rights are ill-defined, they have a more clearly defined meaning than often invoked ethical principles.

Recommendation

AI can improve Australia's human rights **'ONLY IF'** if asylum seekers, vulnerable, people with disabilities, migrants, and First Peoples, are not treated as **'BIGOTS' or second class citizens**, but as human beings for brotherhood and sisterhood in the nation. Technology per se, such as AI, will not bring about structural change. There has to be total structural change, to make AI workable for the common good, not only for the elite and rich. . Not hate or envy or division between white and black Australia, which is currently in the policy, which has to be revamped totally.