THEME: Cyberspace, Privacy and Data Protection

PROJECT: From Private to Public: The inter-operability and governance of private sector algorithmic solutions in the public sector

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Primary Location: Mitchell Institute

This project looks at how private sector information technology and AI "solutions" from legal practice can translate to the public sector world of administrative justice.

The world of legal practice has long been an area for significant development in terms of bringing in new technology. Software that can scan documents for key words and phrases has already transformed the role of paralegals and legal assistants. There are predictions that lawyers and indeed even judges may soon be replaced, or certainly augmented, by algorithms and other technologies that can undertake functions presently carried out by humans alone. *The In-House Counsel's LegalTech Buyer's Guide* 2018 lists a huge range of products available in what is thought to be a $16 billon market in the USA alone. While motivations to promote AI have to date been largely commercial there is now an increasing pressure in the public sector to develop similar solutions. To date much of this has focused on risk assessment in the context of prison and probation services and in wider policing. But now there are a range of proposals to develop technology across a variety of areas throughout the administrative state in the UK and elsewhere.

This project looks at the development and interoperability of such technology as between the private and public sectors, and explores how values such good governance and human rights compliance as well as general administrative law principles, can be engineered into such applications. This will involve considering the 'publicness' of such deployments of technology, how these may differ from uses of technology in a private sector context, and whether and how existing models of production designed to serve the private interests of corporations and their owners, with, for example, their opacity in design as required by considerations of commercial confidentiality, can be oriented properly towards a public service ethos which should involve openness and accountability.

In particular, and following on from the context set by the Report of the UN Special Rapporteur on Extreme Poverty and Human Rights (2019) into the digital welfare state, it considers how features such as inadvertent bias, opacity in the way in which evidence is considered, patterns of historical discrimination and political partiality can be managed within systems operating within the public sector. It also considers the role of legal mechanisms from human rights to the GDPR, and how these interact with ideas of dignity, equality and efficiency.

Primary Academic Discipline: Law