Rise of the Machines?

By Sheena Gurbakhash, Guest Writer

Should we fear a day when justice will be dispensed by machines? If machines can be programmed to analyse our behaviour to know when we are prevaricating or lying, do we need judges? Who should be held accountable when artificial intelligence ("AI") and machine learning ("ML") systems fail? **Mah Xian-Zhen**, Executive Director and **Navrita Kaur**, Group General Counsel of OMESTI Group moderated a thought provoking discussion about the role of AI in the future of law and legal practice.

For the uninitiated, it might be pertinent to first define AI and ML. **Chan Kin Peng**, Founding Partner Kasatria & AWS Partner summed it up succinctly, defining AI as a discipline that enables machines to mimic intelligence based on data, while ML enables a machine to continuously learn based on inputs that it receives. Both AI and ML are already part of modern day practice. Lawyers today are all too familiar and grateful for technology that allows them to undertake text analysis and documentation review, and a range of other applications that allow them to research and find answers without having to wade through stacks of law reports or scrutinise multiple drafts.

Gregor Hohpe, Technical Director, Office of the CTO, Google Cloud is of the view that when it comes to skills like unbiased analysis and decision-making, machines are in many ways superior to humans both in terms of speed and their thoroughness. He is of the view that we should "focus on the things that humans are good at and let machines deal with the things we are not as good at". However, what is the cost of this convenience and what impact will it have on society in general, and on the legal profession in particular.

The reliance on technology in areas of sentencing is already the subject of controversy. **David Dinesh Mathew**, Messrs Steven Thiru & Sudhar Partnership cited the incident of Eric Loomis in the USA. In 2013, a man named Eric L Loomis was sentenced for eluding police and driving a car without the owner's consent. When the judge weighed Loomis' sentence, he considered an array of evidence, including the results of an automated risk assessment tool called COMPAS. Loomis' COMPAS score indicated he was at a "high risk" of committing new crimes. Considering this prediction, the judge sentenced him to seven years. Eric Loomis says his right to due process was violated by a judge's consideration of a report generated by the software's secret algorithm, one he was unable to inspect or challenge.

Yang Amat Mulia Tunku Zain Al-'Abidin ibni Tuanku Muhriz, Founding President, Institute for Democracy and Economic Affairs ("IDEAS") pointed out that there have been many points

in human development when people have been faced with disruptive technologies, and at each point they have managed to use technology and transcend without being rendered obsolete.

He is however of the view that ultimately a human must be accountable. He is of the view that to have cases judged by machines would be to deny the principle that every case must be judged on its merits.

No matter our reservations about the use of technology, there is no escaping it. **Babar Jan-Haleem**, Asia-Pacific Head: Big Data Analytics | AI | ML Segment, Amazon Web Services says, "If data is the new oil then ML is the refinery". The amount of data collected and analysed is increasing exponentially. Lawyers and their clients need to take on board that 52% of Fortune 500 companies that existed in 2000 no longer exist due to digital disruption.

If AI and ML can be relied on to 'write' submissions and rebuttals, analyse opposing counsel's submissions, and predict the outcome of litigation, then young lawyers in particular need to think about how they can use technology to compete. Technology will also impact how lawyers are trained. In some jurisdictions, bar associations are already requiring that as part of their continuous legal education lawyers stay abreast of technology.

But it is not all doom and gloom. If www.willrobotstakemyjob.com is to be believed, lawyers have little to fear, the profession has a 3.8 automation risk level. Paralegals (those who assist lawyers in doing research) however, should beware — with a 94% automation risk level they are in a word, doomed. In the immediate future, lawyers are 'safe'— what they need to do is discover how to leverage technology to do the grunt work while they focus on the more human aspects of practice.