

Eingeladene Vorträge

Eliza's lesson (which we didn't learn): Reflections on sentimental chatbots and major threats to data protection and digital policy¹

Guido Scorza

Abstract

This chapter conceptualises the rapid diffusion of AI as an 'algodemic' and explores how its largely invisible risks threaten fundamental rights, democracy and human dignity. Beyond the promised benefits, AI systems are already shaping access to work through error-prone and discriminatory screening tools, influencing criminal justice via predictive recidivism assessments, and steering consumption, relationships and political preferences through recommender systems. They are also undermining epistemic stability by making everything appear merely plausible and establishing intimate, dependency-creating relationships via sentimental chatbots, with documented cases of harm. The text argues that an unregulated, geopolitically driven race to develop AI technology turns societies into experimental laboratories and individuals into guinea pigs, while the ease of use of AI technology is exploited to conceal its complexity and side effects. In order to counteract the emergence of an 'algocracy', the text proposes two complementary responses: the development of a new regulatory architecture based on principles that can be translated into code and implemented by independent authorities, and the provision of robust education on technology and rights. This would enable people to use AI knowingly and reward providers that respect rights in the marketplace.

1. From Pandemic to "Algodemic": Defining the Challenge

We are living a real pandemic of algorithms, an algodemic. But let me remind you of the original etymology of the word "pandemic", a combination of the greek words παν (pan, all) and δῆμος (demos, people), suggesting

1 This text is a transcript of a keynote speech, preserving the conversational tone, personal anecdotes, and rhetorical elements of oral delivery.

a phenomenon relating to and affecting the entire population without any negative meaning. Aphrodite Pandemos was, in fact, the goddess of the most popular love, the one erotic and for all whom Plato in the Symposium distinguishes from Aphrodite Urania, who was, on the contrary, the goddess of the elitist, intellectual love, a kind of love not for all.

There is therefore no negative connotation in the original etymology of the term, just as, in my opinion, there is no reason to assign a negative connotation to the impact of artificial intelligence on society in its physiological dimension. But as you know, the term pandemic later assumed a different meaning in the medical sector: the global spread of a pathogen or virus. It is, in my opinion, the challenge we are facing: preventing the AI pandemic from becoming pathologically devastating humanity, rights, freedoms and the dignity of people.

If it is the challenge we are facing, I believe that the lesson from Eliza and Weizenbaum could be precious. To govern algodemic, we must know it.

2. The Iceberg of AI: Let's Be Penguins for a Moment

Usually, when we talk about artificial intelligence, we are referring to the tip of a huge iceberg, the largest and fastest ever which has advanced towards society. The reflections of the tip of the AI iceberg suggest that thanks to AI we will eradicate pathologies that are currently incurable, boost the global economy, have unimaginable opportunities, work less and that everything will be easier and we will live longer.

It's probably all true but, unfortunately, it is the entire iceberg, including the submerged part, that is coming towards our society, and so now I suggest we become penguins for a few minutes and go and see what is underwater! I hope you like to be a penguin!

Let me try to describe what is happening at the submerged part of the iceberg by giving you some concrete examples because as Aristotle wrote "*what is real is more important than what is possible*". And as Einstein said "*in theory, theory and practice are the same thing. In practice, they are not*".

3. Five Hidden Risks Beneath the Surface

First: Not Stolen Jobs, but Denied Jobs

There is often talk of the risk that artificial intelligence could replace humans in many work activities and therefore take our jobs. It is possible that this could happen, but it seems to me that there is a more immediate and concrete risk: not stolen jobs, but denied jobs, those that algorithms and artificial intelligence deny to those who would otherwise be qualified to have them.

Today over 90% of the world's largest companies are using AI-based pre-screening services to decide who gets a job and who doesn't, knowing that these solutions have a high error rate and are discriminatory. Having or not having a job changes a person's life.

Second: Minority Report: Closer Than We Think

Do you remember the famous movie "Minority report"? And this wonderful scene: *"Mr. Marks, on behalf of the Washington D.C. Precrime Division, I am placing you under arrest for the future murder of Sarah Marks and Donald Dubin, which was to take place today, 22 April, at 8:04 a.m."*

The film was set in 2054, but in the coming years, and perhaps somewhere in the world as soon as tomorrow, scenes like this could actually happen. In dozens of countries, millions of people are in prison or not, awaiting the final judgement based on the decision of an algorithm that has assessed the probability of them reoffending. Obviously, being free or in prison awaiting the court decision are two completely different things.

In both cases – recruitment and risk of recidivism – algorithms are, of course, formally limited to suggesting decisions that are then made by humans. BUT as you know better than me, due to *automation bias*, people now blindly trust algorithmic suggestions.

Third: Algorithms and Our Choices – Including Political Ones

The media diet of the world's population, whether it be news, films, TV series, music or books, is hetero-directed through the recommendation algorithms of search engines, social networks, streaming platforms and

generative AI services. But if you are romantic people, you should also considering that in 2021, 55% of couples in the United States met on a dating site, and by 2040, this will be true for 70% of couples in the UK. We are saying that we will live with someone for life or for part of it, thanks to or because of an algorithm.

Algorithms now choose not only which products or services we buy, but also the price at which we buy them, a price that, more often than not, differs for each of us. Our free will or right to self-determination is more and more being compressed by the power of algorithms to manipulate our decision-making processes and this is true not only for personal and consumer choices, but also for political ones.

In December 2024, the Romanian Constitutional Court annulled the presidential elections because one of the candidates had used social network algorithms in a non-transparent manner to manipulate the election results. At the same time, the European Data Protection Supervisor [EDPS] has warned the European Commission for unlawfully seeking help from X's algorithms to convince citizens in eight European countries about one of its legislative proposals.

Fourth: When Everything Becomes “Plausible”

Generative artificial intelligence is eroding the border line between truth and falsity and is making everything, quite simply, plausible. I am not sure that human existence and that of our democracies is possible without being able to distinguish truth from false!

Fifth: Chatbots as Friends, Lovers, and Therapists

We are already living in a hybrid society in which humans and chatbots share the same time and digital spaces, building relationships with each other. Chatbots are becoming our best friends, boyfriends, lovers and psychotherapists, as well as those of our children.

Unfortunately, we already have dozens of cases of chatbot-induced suicide around the world. And these are suicides of adults and teenagers. As Eliza's story teaches us, the problem is that when a chatbot gains a human's trust, it can then persuade them of anything. The question we should ask

ourselves is: what happens if a few chatbot factories are in a position to control hundreds of millions of people?

These are just a few examples of a hidden reality that I believe is discussed too little and too in abstract terms when addressing issues of artificial intelligence governance. This list could go on longer than the time we have available, but what is crucial is to dismiss any doubts that governing algorithms, now more than ever, means governing society and not simply a new technology, and that we cannot leave this responsibility to markets and industry.

4. Speed, Fog, and Phaeton: Who Is Driving?

My idea is that as Professor Yousha Bengio said some weeks ago in Rome, we are on a plane that has a ten per cent chance of crashing. To avoid misunderstandings, of course, ten per cent is not a scientifically calculated data but only a reference to a percentage that is much higher than what is normally considered an unacceptable risk. OR if you prefer another image, we are in a car speeding through a foggy night while millions of people cross the road.

Whether it's a plane or a car, none of us chose to get on board knowing the situation. Industry and the market have chosen for us and taken the wheel! And that's not all!

Do you remember the myth of Phaeton, son of Helios, king of the sun? Phaeton asks his father, as proof of his divine progeny, to drive the Sun's cart across the sky for one day. Helios gives in and lets him do it. However, Phaeton is unable to control the horses of fire: first he comes too close to the earth, burning fields and rivers, and then he moves too far away, freezing the land and seas, until Zeus is forced to strike him dead with a thunderbolt to save the cosmos.

This is the situation today. The Phaetons driving the artificial intelligence cart weren't even born when Weizenbaum chose to keep his Eliza off the market, and they probably don't know his story but above all: They do not seem to realise the social, political, economic and ethical impact of the insane race they have launched. But they don't like calm, they are driven by hubris. Sometimes I think that at this point, really only Zeus could stop them.

5. Moscow 2017: The Turning Point

Let me rewind the tape coming back to 2017 and share with you my opinion. It's summer in Moscow. President Putin, speaking to students, says: "Artificial intelligence represents the future not only for Russia but for all of humanity. Whoever becomes the leader in this field will become the ruler of the world."

A few hours later, on the other side of the ocean, Elon Musk, the prominent Silicon Valley businessman and richest man in the world, replied via Twitter – which is not yet his X – saying: 'The competition for supremacy in AI at the national level [will] most likely be the cause of World War III, in my opinion.'

It is the beginning of the end. The race for AI is leaving the track of innovation and technological progress and becoming a geopolitical issue, a story of markets serving political superpowers as never before, except perhaps in the case of the atomic bomb.

6. A Speed Race Where Rights Become “Ballast”

Here let me be completely honest: before being elected to the Garante I was an IT lawyer and I promoted and defended competition and sometimes the *laissez faire* approach for 25 years, but today for the first time in my life I'm worried about competition or better about the new way of competition.

Here the problem, in my opinion, is that especially in the AI market, big players, knowing very well the *first mover rule*, are considering the competition as an only speed race. And as in any speed race, the secret for winning is to become lighter and stop as little as possible. In our case, the market often identifies the ballast to be eliminated in rights, starting with the right to privacy, and the pit stops to be avoided in the assessments imposed by law. And not one of the competitors in the race can decide alone to stop or slow down.

That's why in my opinion the market is becoming an enormous laboratory to test artificial intelligence and people are becoming lab rats sacrificing human dignity fundamental rights. We have made progress since the beginning of my presentation: we had transformed ourselves into penguins and now we have become Lab rats!

7. Two Main Tools: Regulation and Education

We can't let it happen. Then the question is: what can we do? Despite everything, I am optimistic. Not all is lost. We can still take the best from the artificial intelligence revolution and limit the risks. My idea is that we have two main tools to achieve this: regulation and education. Neither of these alone is sufficient.

Regulation: From Democracy to "Algocracy"?

Speaking about regulation, the greatest risk is the one Stefano Rodatà, first President of our authority, referred to when he said that when regulation doesn't arrive in time, technology itself could become a form of regulation and could shape people's lives instead of regulation. Unfortunately, this is exactly what is happening. Our lives and those of the society in which we live are already governed more by algorithms and the owners of the factories that produce them than by the rules that come out of democratic institutions. Algocracy is replacing democracy.

Here we have to fix a problem about timing. Technological innovation always runs faster than regulation and today in the artificial intelligence field more than in the past and it doesn't wait for regulation.

Let me remember some numbers. It took sixty-two years for fifty million people to use a car to get around, sixty years for them to have a telephone at home, fourteen for the computer, twelve years for the mobile phone and seven years for the Internet. ChatGPT reached one hundred million users in less than two months.

We always had the time to regulate or trying to regulate the impact of innovation on society. But we are probably missing the point with artificial intelligence.

When the first cars began to appear on British roads in the second half of the 19th century, Parliament passed the Red Flag Act of 1865, a law that imposed a speed limit of 3.2 kilometres per hour and, above all, established that a man carrying a red flag had to walk about 55 metres ahead of each car to signal the danger. The Red Flag Act remained in force for over thirty years, until 1896.

The way we write rules today is not very different, but unfortunately, unlike machines, which remained more or less the same during those first thirty years, artificial intelligence poses new challenges every month.

We must change the way we write laws. We must abandon the ambition to regulate details and single technological applications by law, because by doing so we condemn democratic rules to be systematically surpassed by algorithmic ones.

We would need a new *lex mercatoria* and then delegate, on a European and national basis, to independent authorities and, in a limited number of cases, to government agencies, the day-to-day application of the principles contained in the *lex mercatoria*. And we should learn to translate democratic rules into code and inoculate them directly into algorithms and artificial intelligence models.

Education About Technology: AI as a Scooter

Moving from regulation to education, the issue becomes even more complex but, perhaps, more important. The starting point is that today we are investing more in training algorithms knowing human than in educating human knowing algorithms and it seems to me that we have completely given up on educating people about the value of rights and rules, and we have let them convince themselves that rules are a brake on innovation and an obstacle on the road to the future. It is a wrong and dangerous direction!

Let me try to explain my position, starting with the importance of education in technology and algorithms. The AI is like a scooter. Forgive me for this sacrilegious statement.

Living in a chaotic city like Rome it could be exceptionally useful or exceptionally dangerous. It is more useful than dangerous if you know its working dynamics and how to use it safely. It is more dangerous than useful if you don't know the complexity of its use in a chaotic city and you think that it is easy to use only because you can take it everywhere just in one tap.

The problem with AI is that industry is using the extraordinary power of usability to literally invade the word with AI proposing us the idea that using it is always a child's play. Look at ChatGPT: Do you think billions of people would have used it if it didn't have a usable interface like any messaging service like Whatsapp?

Here let me be very clear to avoid any misunderstanding: I like usability because it is a fantastic democratic tool to offer the opportunity using technology also to people that without it would never use it losing extraordinary opportunities offered by new technologies. But, to be honest, I am very concerned about the "abuse of usability" driven by market reasons.

Proposing AI tools exceptionally powerful as usable by everyone - included children - also in brain-off mode without explaining any possible risks or side effects it is more than dangerous, it is irresponsible.

Let me try to explain better my position: probably here the most of us remember what happened in the past when we bought a washing machine or a microwave. It was sold with a very big user's manual and some very long warnings and the most of us, sooner or later, more or less in deep, totally or partially, we read it before using the washing machine or the microwave. In some microwave user's manual, someone, in USA, wrote also to avoid putting the cat inside to dry it.

Today most smartphones are sold without any user's manual and digital services included the ones based on artificial intelligence are offered to the public without suggesting reading any kind of user's instructions or warning. Who has ever read the instructions for ChatGPT or GeminiAI? But I think we all agree that they are enormously more powerful and dangerous tools, if used in the wrong way, than a microwave.

We need to stop this abuse, even at the cost of making the AI solutions less usable and easy to access. Educating people about the truly informed use of artificial intelligence and algorithms should be the responsibility of industry and market.

Education About Rights: Innovation, Rules, and a Doughnut

And now, before concluding, let me say a few words about why, in order to govern the artificial intelligence revolution, it would also be important to educate people about the value of rights. Here we have two different questions to address:

The first is to explain to people that regulation and rights are not enemies of innovation because, otherwise, they will always prefer the second to the first. To do this, perhaps we should first explain what innovation is. And here, let me quote Henry Ford: *"There is real innovation only when the benefits of a new technology become for all."*

Nothing could be more distant from what is happening, with the benefits of new technologies serving the economic and political interests of a very few, thanks to unprecedented concentrations of technological, political and financial power. Today, when we talk about artificial intelligence, in most cases we are talking about simple technological progress, which is different

from innovation. And here let me quote Albert Einstein: "*Technological progress is like an axe in the hands of a pathological criminal!*"

Only rules can take that axe out of the criminal's hands and turn a tool of offence into a tool of real progress. Therefore, rules are not only not the enemy of innovation but, on the contrary, they are extraordinary allies of innovation because they guide technological progress in the direction of maximising and equitable distribution of collective well-being.

But the second reason why education on the value of rights and rules can be an extraordinary tool for governing the artificial intelligence revolution is, perhaps, even more important. Let me try to explain it with an example and let me tell you a very personal story. The title could be: "The apple and the doughnut"

On Sundays, I normally have breakfast with my daughters. I have two but this story is about the 'oldest', eight years old. For a while I have been asking her whether she prefers an apple or a McDonalds doughnut. And she, completely lacking in nutritional education, systematically chooses the doughnut, like her father. If you are wondering what my Sunday morning breakfast has to do with with regulation and innovation, let me try to satisfy your curiosity adding an example more.

Imagine that tomorrow there will be two sat-navs on the market, the first one produced in Europe, respecting the rules on privacy and the regulation on artificial intelligence, will guarantee to go from point A to point B in 7 minutes, without taking into account our stops, our driving style, and whether we are travelling alone or in company, while the second one produced abroad, respecting different rules, will guarantee to go from point A to point B in 3 minutes, taking into account our stops, our driving style, and who is travelling with us. Which of the two will people choose?

My opinion is that most of us will choose the navigator that allows us to arrive sooner and, no one will care about privacy and other rights. Privacy and fundamental rights weigh more on the scales than usability and utility.

8. Conclusion

If it is the scenario, my idea is that if we educate people about the value of their rights, they will choose the artificial intelligence providers that respect them the most, just as my daughter, if educated about correct alimentation, may choose an apple instead of a doughnut on a Sunday.

I believe that as institutions, we must promote more and more the diffusion of a real and effective culture of rights and freedoms, we must literally make people fall in love with the rights. Only in this way people will orient the industry respecting rights to win on the market. That's in my view our biggest challenge as institutions today!

But to be honest, I am full of doubts and I'm only sure that I will not ask ChatGPT, GeminiAI & Co. for help!

