

The Necessity of Judgement

Jeff Malpas

In 2016, the Australian Government launched an automated debt recovery system through Centrelink—its Department of Human Services. The system matches the tax records of welfare recipients with their declared incomes, as held by the Department, and then sends out debt notices to recipients demanding payment. The entire system is computerised, and many of those receiving debt notices have complained that the demands for repayment they have received are false or inaccurate, as well as unreasonable—all the more so given that those being targeted are, almost by definition, those in already vulnerable circumstances. The system is characteristic of a more general tendency to shift to systems of automated decision-making across both the public and the private sector, even when those systems are flawed, largely because such systems are taken to deliver greater efficiencies and economies. In fact, the shift is characteristic of a particular alliance between digital technology and a certain form of contemporary bureaucratised capitalism. In a completely different domain, new military technologies are being developed, though not yet deployed, to provide drone weapon systems with the capacity to identify potential threats and defend themselves. The development is spawning a whole new field of military ethics based entirely around the putative “right to self-defence” of automated weapon systems.

In both cases, the drone weapon system and Centrelink, we have instances of the development of automated systems that seem to allow for a

form of “judgement,” which appears to operate independently of human judgement. One might argue that any flaws that such systems currently present can be overcome either through the provision of more accurate information or through the development of more complex forms of artificial intelligence.

Within AI research itself, there has long been a debate around the extent to which human judgement, which is to say human thought processes, can be duplicated by artificial systems. For many years this debate focussed on whether such judgemental or human capacities could be duplicated using essentially computational or calculative processes. Although that debate has largely been resolved in the negative—so that contemporary AI no longer looks to model human cognition on computation, but rather to model artificial cognition on human cognitive structures—there still being a tendency, outside of the AI field, to assume that judgement can be understood as essentially reducible to a calculative or quantitative process. One version of this is found in the contemporary obsession with the reduction of judgement to the operation of systems of rules—whether as part of quality assurance mechanisms, audit processes, automatized approval or compliance mechanisms, or even some form of so-called “evidence-based” decision-making. One might say that this is partly a notion that derives from the Cartesian emphasis on number and quantity as at the heart of scientific thinking, although the most extreme version of this tendency is probably to be found, not in physics, but in economics, where the market itself becomes the pure model of rational judgement—objective, unbiased, and capable of resolving computational problems beyond the capacity of any human thinker.

What is enshrined in this conception of “nonhuman” judgement is just the

idea that judgement is itself a matter of computation or calculation as it operates over quantitative values. Yet several problems seem to affect this conception of judgement—widespread though it may be—of which two seem to be the most significant. First, if judgement always relies, ultimately, on already given values (even if those “values” are understood simply as modes of salience—so that a value involves a particular situational orientation), then it cannot be assumed that such values will always be identical with or reducible to quantitative values, because some values, perhaps the most important, are qualitative and resist quantitative reduction. This is especially so, despite utilitarian claims, with respect of ethical judgement. Second, one cannot derive any action-guiding judgement, that is any imperatival judgement, merely from an accumulation of facts, information, or data. This is not quite the same as the idea that one cannot get an “ought” from an “is,” but rather derives from the fact that facts do not, in themselves, bring with them any particular mode of orientation towards those facts.

To put this latter point another way, facts always require interpretation—which is to say that facts themselves require that they be taken up into judgement. There are, after all, a plethora of facts, and what facts are relevant, what they mean, and how they should guide us are all judgements and, as such, stand apart from those same “facts.” This point applies not only to facts but even to rules and procedures—there is no rule or procedure that is self-determining or self-interpreting as to its application (a point Kant makes, but which is also central in Wittgenstein, and, one might even say, *pace* is suggested by Godel's Incompleteness Theorem). This means that judgement has an inescapable *indeterminacy* about it—there is always more than one way of judging that is

supported by the evidence available. Judgement is not reducible to calculation or computation, to algorithm or rule.

The conclusion of all of this is that judgement is indeed indeterminate, but also that it is ubiquitous and essential. We might even say that seemingly automated systems of “nonhuman” judgement only function as systems of judgement inasmuch as they are themselves derivative of the judgements we make that allows such systems to operate in the first place. Judgement is ubiquitous and essential, but it is also fundamental. One cannot escape judgement—nor can one escape the responsibility that goes with judgement. This is in spite of the fact that the contemporary world seems increasingly to be one in which both the necessity and responsibility of judgement is all too often denied, refused, or forgotten.