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## BERICHTE, INFOS, SONSTIGES

## Understanding the laws of robotics

We can use offers artificial intelligence responsibly. It all comes down to details and context. Monish Darda CTO of Icertis and member of the RDV editorial board in an interview with RDV.

**RDV:** Monish, please explain to the readers use cases of a contract lifecycle management software.

**MONISH DARDA:** All of us have, at some point or another, dealt with contracts. In an enterprise, every dollar in and out of the company has a contract behind the transaction! Contract lifecycle management (CLM) software drives the process of creating, negotiating, executing, and then managing this contract to ensure the intent of every business relationship is correctly captured and fully realized. At Icertis, we take this further by delivering contract intelligence: a new approach to CLM that applies artificial intelligence to structured contract data to surface unique insights that inform strategic decision-making. With contract intelligence, enterprises enable automation and efficiency, while also increasing revenue, reducing costs, ensuring compliance, and managing risk.

**RDV:** What role does Artificial Intelligence play in such software?

**MONISH DARDA:** To realize the intent of a contract, first the contract has to be fully understood, and the understanding correctly digitized. This usually starts with negotiation, where both parties have a good understanding of the intent in natural language (like English or German) but need a lawyer (a team of lawyers in many cases!) to convert this to a legally enforceable construct. Contract negotiation needs historical data across the enterprise (what contracts, what clauses were signed before), business outcome data across the enterprise (what risks did we take in the past and how did they work out, what risks can we take in the future for the outcomes we want, how did suppliers perform when a contract was negotiated in a particular way) and the organizations that are parties to the contract.

Once a contract has been negotiated, transactions must be monitored to ensure they follow the intent of the contract. In practice, this means ensuring the right discounts were applied, the right penalties were recovered, the contract was renewed in time, was amended correctly, etc. Enterprises managing thousands, if not millions, of contracts have a body of data that can be used to obtain deep insights into the workings of the business to make better decisions. For example, leaders could use contract data to determine if they are focusing on the right geography, product mix, suppliers, customers, payment terms, and jurisdictions – the list is endless. AI plays an integral part in these aspects throughout the contract's lifecycle and is particularly useful in improving business decisions by analyzing what has happened in the past, and predicting what may happen in the future.

AI has been deeply embedded in the Icertis solution for many years and we are continuously building an AI road-

map that leverages our rich data lake of 2 billion metadata elements across more than 10 million contracts to create exponential value for our customers. In contract management, innovations like generative AI will go far beyond simply drafting new contracts to have a much greater impact in the contract analysis, validation, and intent realization phases, which is something we are actively exploring.

**RDV:** Which social, cultural or economic opportunities do you associate with Artificial Intelligence? What are the risks?

**MONISH DARDA:** AI has parallels in the past: The printing press changed the social, cultural and economic fabric of the world, just like the television, the cell phone and the Internet. In the same way that these technologies democratized data, AI now has the potential to generate knowledge from data, and some would argue, even generate predictions about the future from that knowledge. AI presents the same opportunities to transform the world as the printing press, but the opportunities are now much bigger! With the Internet, anyone can find the right supplier to manufacture raincoats at a competitive price after hours or days of research. With AI, not only is this information available in seconds to everyone who can ask the right question, it has the potential to make the transaction happen automatically.

This kind of power also multiplies risks. With other technologies, humans convert data or knowledge into action. If that pivots to AI taking the action, the risks are far higher. For example, because all forms of AI today build exclusively on past data, actions are also "generalized" based on this data. There is no filter to determine which data may be pertinent for a particular case, so it can be argued that you risk losing "individuality." Though there are many other risks (ethical, social, legal, and even existential), I believe this is the biggest potential threat that gives rise to others. And of course, the risk remains that we as a society will use this technology irresponsibly, increasing the need for new regulatory guidance as AI continues to evolve.

**RDV:** Are the data protection laws in Europe flexible enough from your point of view or do they hinder digital developments such as artificial intelligence?

Monish Darda: Though I am no expert in the laws themselves, I have always perceived the data protection laws in Europe as mostly logical, with a deep respect for the individual, but difficult to implement in practice. I do not think they hinder digital developments like AI, primarily because they act as a filter for responsibility. With the right framework, the application of digital technology becomes more responsible, considered and careful. In my opinion, this is all goodness in the long term and that is why you see the rest of the world using the European laws to model their own.

**RDV:** How could innovative digital services or products be developed while protecting personal data? Do you have ideas on how this could be implemented?

**MONISH DARDA:** The concept of "personally identifiable information" or PII is one of the most important concepts in protecting personal data. For most digital services or products that employ AI, the data required for training does not need to be "personally identifiable" – in effect, it does not need to trace back to the person who created or owns that data. For example, if ChatGPT needs to write an essay on "Data Protection in Europe," it does not need to know that Dr. Schwartmann wrote his PhD thesis on March 21. The PhD thesis text, which is in the public domain, can become input to the AI training, but it does not have to trace back to individually identify the author.

Though contrived, this example illustrates how data can be synthesized without compromising the privacy of the individual. If you think about applications in medicine (the detection of cancer in a liver scan, for example) or in legal (the identification of specific case law that could help a specific case) and other industries, you will see that these applications can still be implemented without violating the privacy of the individual. There will always be exceptions, particularly when it is important that data is tied back to the individual or where the individual wants to share their data, and these must be approached differently. I suspect that the capability of AI to "unlearn" specific parts of the data used in its training will be a large topic of future research as this technology and its regulation evolves further.

**RDV:** The European Commission is currently working on a regulation for Artificial Intelligence. What would you like the EU lawmakers to do?

**MONISH DARDA:** I think Isaac Asimov's three laws of robotics (and especially the zeroth law, which is not that widely known) make fascinating reading! It will be great to see regulation that isn't focused on the application of AI, but regulation on what actions can be taken by the AI. This approach mirrors Asimov's laws of robotics, where the emphasis is on governing the actions, not on the use of robots. Focusing on actions can help foster an equitable, responsible and ethically strong foundation for governments and enterprises alike to adopt a technology that has the potential to change the future of humanity.

**RDV:** If you had to classify AI systems: Do you have examples regarding 1. low-risk systems that are ethically warranted (green), 2. systems that are useful but critical and permissible under risk regulation (yellow), and 3. systems that are of high risk and thus should be prohibited (red)?

**MONISH DARDA:** Though it is a simplistic interpretation, I believe the following table can provide a framework for the evaluation and governance of such systems. The world of course cannot be divided into Red, Green and Yellow – Gray is a dominant color in real life. But if we can handle more than 70% of the systems with a framework like this, it has the potential to be a good enough framework. And our learning will evolve over time, and we will learn to deal with the grays as we go along – just like we did with nuclear power. I call this the table for responsible AI.

System classification	Human Intervention	Autonomous Action	Impact on Human Life
Green	High	Low	Low
Yellow	Medium	Medium	Low
Red	Low	High	High or Medium

**RDV:** ChatGPT is a general purpose AI. ("General Purpose AI"). It tells harmless jokes and knows cooking recipes, but it also advises suicide if necessary and makes political assessments. Do we need to regulate it specifically as a "high-risk technology" and where should ChatGPT be placed in the table?

**MONISH DARDA:** There is nothing harmless about a spoon if it is used to hurt somebody instead of having soup. That does not mean there should be a law to regulate the use of a spoon. But a law that precludes the use of anything include a spoon as a weapon to hurt someone is definitely required. I think the technology itself, specifically ChatGPT, is not the problem – how it is used is the problem! For example, it can be "made" to advise suicide if it is given a lot of context and cues – by a human, as it happens! But then it can be made to say almost anything because it depends on what context is provided and how much context is provided. So, in that narrow sense, it has the latitude an author of a particularly disturbing book has – it is the choice of the reader to read it or after having read it, be affected by it. What we do of course need to regulate is how it is used, and the actions that can be taken because of its use in a particular context.

**RDV:** Under the GDPR, the duty and right of humans to make their own decisions also applies to commercially relevant decisions that affect rights, for example, in the selection of job applicants in employment law. The AI Regulation also provides for this duty for robotic decisions. Is this an approach with a future?

**MONISH DARDA:** I think in the near future, of course, this definition of human will remain as it has been for centuries. That's where the table I suggested above can be useful.

**RDV:** We'd like to go back to Asimov again. The robot laws do not take into account – if we see it correctly – that machines are not allowed to weigh their decisions. This is commonly known as the trolley problem. If we understand him correctly, Asimov was very concerned about this, and he didn't have a solution either. Even if computers were programmed to "decide" fairly, proportionately, empathetically, or creatively, and also to evaluate their decisions by human standards, the problem would remain.

**MONISH DARDA:** He has an interesting solution, although of course it is not really a solution that completely covers the problem. The zeroth law of robotics states that "a robot must not harm humanity or, through inaction, allow humanity to come to harm." This is the basis for the possibility of sacrificing some humans for the "greater good of humanity." In fact, Giskard, one of the robots in Asimov's robot stories, must kill a human for humanity and then terminates himself because he cannot live with the consequences of violating the first law. That's the basis of the Trolley Problem, with all the nuances of its variations.

**RDV:** But machines remain. One could determine and program the parameters of human decision, but that would not change the fact that it would be a simulated humanity. The simulated thoughts – if they are free of distortions and noise – are often better than human intuition. But the (legal) problem is the "artificial DNA" of the machine decision. It cannot make a legally acceptable weighing decision. Humans must make them on their own responsibility and – if one takes their responsibility seriously – do so.

**MONISH DARDA:** Agree! The problem is how we define humanity. If we argue that robots are human creations and therefore

not human, then that applies to the birth of a child, the transmission of natural knowledge to it and its upbringing to be able to make decisions that can be good or bad. That's what we're doing with AI - endowing it with the sum of human knowledge and training it to make decisions, good or bad. That's human, or at least it will be when it's sophisticated enough.

If we consider human intuition, it can be roughly compared to the "temperature" setting of ChatGPT. The higher the temperature, the more ChatGPT ignores the best answer based on its training. So instead of choosing the best answer, it introduces a sufficient amount of randomness that allows it to occasionally choose a "less than ideal" answer, or in other words, a more creative answer. In this way, one can adjust the creativity of ChatGPT's output - which is arguably (though much, much more refined) human intuition. Asimov describes a character named Golan Trevize, one of the few humans in the galaxy who can instinctively make the right decision even when there is insufficient data to make the decision and without knowing why! That describes AI, doesn't it?

**RDV:** But then the difference between humans and machines would be resolved in the result. This is a problem, considering the lack of control of the inferior human. Because the perfect decision of a machine (let's take the example of the strategy game "Go") is no longer verifiable for humans, it can - in legally relevant contexts - only be supportive. If the human being can no longer comprehend the machine decision, it is not legally usable, at least not when it comes to state intervention in the rights of third parties. The problem cannot be solved legally as long as one stands in the tradition of Immanuel Kant's human dignity. It is fundamental to the European constitutional tradition and jurisprudence, especially in Germany, but also at the ECJ.

**MONISH DARDA:** That's why laws evolve. When the first cars were on the roads, horse-drawn carriages had the right of way over cars, but that quickly changed! I would argue that Immanuel Kant's tradition of human dignity will eventually apply to machines, as the definition of "human" will eventually change.

**RDV:** Taking Asimov into account, what would you say to the following idea? Humans bear responsibility, robots do not. The human is free to do the right thing, even if it is the wrong thing according to the rule. The machine is not. Humans are responsible for the consequences of their decisions and actions, and also for the consequences of robots' decisions and actions. So there can be no responsible robot decision that the human has not made consciously and on his own responsibility. Let us illustrate this with an example from Clint Eastwood: In the movie "American Sniper", a sniper sees a child approaching a group of soldiers during a war. There remains a residue of uncertainty as to whether he is carrying a grenade. The sniper asks for the order to shoot the child. The superior officer cannot confirm the danger and refers to the rules for the kill shot with the words, "Your decision." The sniper shoots the child before he can throw the grenade at the soldiers, saving their lives. He follows the rule and chooses a way out of the dilemma of killing despite uncertainty and kills the child. This was wrong because you don't kill civilians unless you are sure they will attack. If you follow the movie, the decision was still right. No AI can make such a decision and be responsible for it. Nor is that the job of technology. Its job is to apply rules that humans give it through programming, based on transparent and problem-free programming on a reliable

database. On this basis, the computer can offer solutions to problems. Man, as the machine's counterpart, must be able to understand what the machine is suggesting to him. This probably does not make a decision easier, but more reflective. At the same time, it remains unchangeable that the human being must be able to decide on his own responsibility even against the rule. The machine cannot do that. But the soberly serving machine can offer a solution that makes people think. That's why we need them, because human intuition is a source of distortion and noise that machines can recognize and help combat. Humans cannot rid themselves of the freedom to do the (perceived) wrong thing, for whatever reason, and must take responsibility for it. In "American Sniper," the sniper breaks down from his responsibility and suffering over killing. This problem can be taken out of the military realm and applied to any emergency situation where you have to hurt people to save other people.

**MONISH DARDA:** The example of the sniper is very similar to the breakdown of Giskard in the Asimov story, because he can't live with his decision, but has to make that decision. A major argument against giving responsibility to machines is that "they cannot be punished" because they cannot feel pain or regret or gratitude or other emotions. This is true today, but at the rate technology is advancing, we must consider that humans will eventually be able to weave emotions and a "heart" into machines - perhaps by enhancing AI with a real human brain (or brains). The alternative metaphor is Murphy in Robocop - more robot than human, or more human than robot? He is considered the property of OCP, his maker, but has an abundance of emotions.

**RDV:** RDV co-editor Rolf Schwartmann recently wrote in the F.A.Z. about ChatGPT: "A neural network is programmed to optimize human decisions according to its needs. But technology can and must only serve humans. Man knows doubt and humility and must decide what is better for humanity." Do you agree with that, and if so, how can humanity stay in control?

**MONISH DARDA:** I don't completely agree. I think it's a little conceited (in a good way) to think that humans know doubt and humility, and technology will never do that. Even if that is true, the decision-making process in "must decide what is better for humanity" is very complex and usually ends up in the hands of a few or is influenced by a few, and is not necessarily democratic. And when that process is flawed (as it almost always is - see how wars start, or even things like the Brexit), the whole decision-making process breaks down. Let me give a parallel example - a cell phone is now an integral part of our lives. One could argue that it is such an addiction that this piece of technology is part of our lives. One could further argue that the relationship is symbiotic - the cell phone and its services become "smarter" by predicting our behavior the more we use it, making our lives better. And mobile technology, its use, applications and data are governed by regulations around the world. Extending this analogy, it is possible that a world will emerge where AI and humanity live in a symbiotic relationship governed by an inviolable contract, much like the 3 laws of robotics! The world is ultimately all about contracts and how their intent is fully realized.

**RDV:** Thank you for the interview.

*The interview was conducted by Andreas Jaspers, Rolf Schwartmann and Steffen Weiß.*