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**TWO EPISODES OF CRIMINAL JUSTICE OF THE FUTURE:  
A FUTURISTIC FORECAST**

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Digitalization, development of Internet of Things (IoT) and the use of Artificial intelligence (AI), it would seem that these provide us in prospect mechanisms for eliminating the human factor from making such serious decisions as criminal justice. It seems that all of us are often visited by the idea that the hour is not far when living judges will be replaced by electronic analogs that can take into account not only evidence, but also the whole range of nuances that accompany sentencing in criminal prosecution cases.

However, what does this perspective conceal taking in the account the approaching decision-making opportunities based on Big Data and transition of justice, and especially (!) Criminal justice, «into the hands» of AI? Consider only two obvious prospects for criminal justice in the case of using BigData in the Post-truth conditions to determine the phenomenon of «Justice» (Episode 1), and in the case of passing decision-making opportunities about criminal prosecution from person to AI (Episode 2).

**Episode 1: Justice and objectivity of Big Data.** Of course, the onset of the Information Age has already become Higgs boson both for the reformatting of jurisprudence in general, and criminal justice, in particular. The universality and unity of understanding of the principle of justice, which underlies the social dynamics of the attitude to criminal law regulation, in theory, can and should lead to an understanding of the unity of the principles of crime and punishability by all judges. However, how can it be formed, taking into account the new forms of objectification of public opinion?

It must be assumed, but the principle of justice can be formed, and it is possible that this will happen in the near future, based on the analysis of BigData, which in turn based on the data of social networks and activity ratings of the TV audience. Elementary studies of public reactions to e or other personal or socially significant events, published court decisions and interpretations of such decisions can serve as attractors of emotional reactions and value judgments in the understanding of the principle of justice by society.

What are the threats concealed in this situation? In terms of Post-truth, the prospect of using Big Data does not promise anything positive from the point of view of a professional assessment of the phenomenon of justice, insofar as an objective analysis of the data does not involve studying the opinions of only professional audiences such as lawyers and philosophers. The validity of such studies suggests an assessment of the phenomenon of justice by people endowed with emotions regarding personal situations of

injustice, which will often be much more radical than the attitude to such a definition by professionals.

If the principle of the Rule of Law, until a certain time, will be able to keep within the framework of professional assessments, that the principle of justice today goes into the sphere of assessments by people: it is the contradiction of the natural-legal attitudes of society regarding the fairness of treatment with criminals and victims of crime, it acts as a trigger for individual and group deprivations. It is important to note that, as experience in recent decades shows, the level of such deprivations varies in the spectrum, from single acts of aggression against criminals or «unfair» judges to mainstream of oppositions of the government and population at the state level.

Consequently, the use of Big Data in determining justice is very doubtful, insofar as it will contain not a definition, but accompanying emotions determining the subjective reaction of people to injustice.

**Episode 2: Everything that you feel ... will be used. By whom?** Modern futurology, based on the analysis of the features and trends of the development of information technologies and new technologies in the field of biology and genetics defined by the 21st century (Yuval Noah Harari. «Homo Deus: A Brief History of Tomorrow», 2014/2016), suggests the possibility of obtaining AI of complete control over the human emotional sphere .

It is not a secret that already today an elementary psychological analysis of an account in a social network makes it possible to build a relatively correct psychological portrait of a person based on his neurotic complexes. Do we take into account the whole spectrum of «voluntarily» and «forcibly» data collected from us? These are databases of addresses, telephones, biomaterial for analyzes and photos for passports, locations (marks in ATMs and shops, gadget signals), photographing when approaching ATMs, and in the near future retina of eyes will be engaged when using it as a key. Here it is worth adding your step data from gadget repositories and pulse rate data from ID bracelets.

For now, for us, these are just Data sets ... In fact, these scattered data can be analyzed by an individual or a group of specialists for one purpose or another. Combining these data and comparing them is painstaking work today, which, in fact, is beyond the power of a person, because it contains a lot of data necessary for combining and comparing to one or another second response of investigated person.

The development of AI and the interpretation of human DNA gives the completely different meaning of the totality of the above Data sets: in seconds, you can get a complete biopsychic portrait of a person by matching the biochemical reaction to the events embedded in the DNA by comparing the body's response and / or facial expression and body pose with mental manifestations in certain locations, certain similar / identical situations.

Imagining the role of a judge with the possession of such possibilities of using data not of a person, but of AI, it is easy to see very apocalyptic consequences: the identity of the defendant, in fact, like the victim, loses meaning as such – punishment will be imposed to an organism subordinate to

the biochemical reaction of neural complexes acting in conditions created by the same biological organisms and environmental factors.

Can we say anything about guilt under these conditions, about the expediency of punishment? And the main question: what is the role of justice in general in case of a similar development of events?

**Instead of the conclusion.** The above assumptions are paradoxical as far as fantastic for people (just!) Of the beginning of the twentieth century: stories that a person's face can be seen and a voice heard simultaneously from millions of plastic boxes. Yes, and for us not so long ago, for example, evaluating the nominal capital of bloggers (the number of likes and subscriptions) as a selection criterion for participating in the lists of political parties could seem like a surrealistic fantasy. However, this is only an illustration of the seriousness of the estimates made by the report, for the possible prevention of scenarios of the development of criminal justice in the future that are dangerous for human development.

Only an awareness of the risks on the example of these two episodes already confronts us with a choice:

1) Understand such risks of development and make a rational decision and unify in advance all levels of justice in the criminal law system, relying on the unification of professional assessments and interpretations of legally significant phenomena and concepts, such as justice, humanism, humanity and value systems to be protected from non-professional assessments influenced by Post-truth. Such an approach may somewhat soften and "humanize" the potential transfer of justice to AI, which is quite likely.

2) Refuse to accept such prospects and ensure the impossibility of transferring justice to the area of activity of AI. Of course, such decisions must have the United Nations Millennium Declaration level, insofar as it is the content of many of the provisions of this declaration and the Okinawa Charter on Global Information Society (2000) that will have to be resisted. However, even here one should clearly assume the determining of spheres (mechanisms, separate components of the justice system) into which IoT can be used, insofar as its correct use taking into account Big Data's professional selection, it is the Internet of Things that can facilitate modern use by courts of all levels of the full range of information not only about the evidence base, but also about the order of the investigation, court hearing, socially important conditions of the crime and the administration of justice on previous instances.

*The report conclusions are fully applicable to justice in general. Criminal justice, in this case, serves only as a demonstrator of the possibilities of the deformation of justice in the future that will be the most painful for humanity and humanity.*