

ID: MSCA-19-Hildebrandt03

Discipline: Law and Criminology

Title: The new makings of law - on the cusp of legal practice and legal theory

Abstract: This research will combine ethnographic research with foundational research in legal theory. The ethnographic research will take place in law firms and/or courts where digital and computational technologies are introduced, developed and refined to serve as (1) efficient ways of transferring court documents, (2) decision support tools based on 'argumentation mining' and 'prediction of judgement', or as (3) algorithmic decision-making tools in line with non-discretionary competences. The inquiry in legal theory will investigate the assumptions regarding the nature or 'mode of existence' of modern positive law, confronting them with the assumptions underlying digital and computational applications. The idea is that participatory observation in legal practice should contribute to a better understanding of how these assumptions actually play out in the practice of legal decision-making. This should inform a potential reconfiguration of 'traditional' tenets of legal theory, such as the difference between easy and hard cases, the role of interpretation and discretion, the notions of authority and validity, and the difference between judgement and calculation. The research would interact with the ERC ADG research team on 'Counting as a Human Being in the Era of Computational Law'.

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