



香港大學

THE UNIVERSITY OF HONG KONG

Laidlaw Scholars Programme 2019-20 Research Proposal

1. Title of research project:

Artificial Intelligence and Tort Liability

2. Research question:

- 1) What are the current applications of AI in legal industry?
- 2) How will potential tort liability arise out of the different specific uses of AI?
- 3) What are the factors that would affect such liability?
- 4) Any suggestions for models?

3. Summary of the work to be undertaken by the applicant (e.g., background information, location, history, context, limitation, methodology, and timeline)

With the expanding AI industry, a lot of issues relating to its legal liability arise. How liability would arise depends on a number of factors (e.g. the type/use of AI, and the circumstances the incident occurred), but currently courts are still not equipped to deal with these situations due to the existing gap between law and its application to technology. A lot of details or issues are still under debate. For example, if there is a self-navigating car that injured a pedestrian, who should bear the burden? If there are latent defects in AI programs used in financial services, or for reviewing contracts that causes financial loss to customers, what are the liabilities and how to award damages?

Lacuna exists in current legal principles. Using where a robot car hits a pedestrian as an example, it would be difficult to place criminal liability as AI inherently lacks *mens rea* (the intention to harm). As for tort liability, it remains uncertain as to how to assign liability between the robot manufacturer, the AI programmer, and users. There are still many more tort issues such as negligence, product liability, employer liability, defamation, etc. that might occur when AI is becoming more popular. Any models or suggestions requires thorough investigation, as the law should not be so strict as to discourage technological advancement, but meanwhile it should not be so loose that deterrent or distributive functions of law could not be achieved.

In my proposed research, I would focus on AI and its potential tort liability. I

would look into details the limited cases that relates to AI through researching on online platforms, to explore any applicable principles and policy considerations in placing the liability in different areas of tort, to interview AI program developers/ AI program users and legal experts if feasible, and to construct a model on how the rules should be applied in different areas of tort/ how to minimize tort liability.