Artificial Intelligence, Legal Change, and Separation of Powers

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A number of prominent contemporary legal scholars have recently argued in favor of replacing human legal decision-making with Artificial Intelligence, assuming the AI technology improves to a level they deem appropriate. I disagree, particularly as regards Article III judges, for four main reasons. First, human judges must strike a delicate balance between respect for precedent (the past), and adapting the law to unforeseen circumstances (the present / future), thus playing a role in shaping the law. Second, arguments for AI judges often seem inherently formalist, overlooking the teachings of legal realism that not all cases have a clear "right answer." Third, the loss of human judges would lead to a loss or diminishment of the human legal community, such that fewer people would be paying attention to the law, leaving the law more susceptible to being co-opted. Fourth, Article III judges play an important role as a check on the other two branches, a role which AI seems ill equipped to replace. In short, proposals to automate law both under-appreciate and undervalue the human aspects of law. The potential benefits of an automated judiciary are better achieved in other ways, and do not justify the risks.