

The Good, the Bad and the Ugly of Artificial Intelligence: Governance and Liability

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Abstract for Conference

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Abstract - AI Advances and Judicial Defences – The Regulation of AI in the Courts

Artificial intelligence (particularly generative AI and agentic AI) provides the opportunity to improve efficiency in the judicial system, and in reducing court costs, promote access to justice.

While the efficient resolution of disputes is a central function of the courts, courts are not just dispute resolvers. Courts have an institutional and constitutional role whereby they determine and apply the law in a fair manner, and in doing so uphold the rule of law.

For the courts to perform those roles there must be trust and confidence in the judiciary, which is achieved through both the just and efficient resolution of disputes. Just meaning both according to law, but also through a system that affords open justice, procedural fairness and impartiality.

There are significant concerns about the use of generative AI in courts, including wasting the courts' resources, fairness concerns and undermining public trust in legal processes.

This paper examines how existing forms of governance applicable to the courts and the legal profession protect the administration of justice.

The paper is divided into two parts:

Protecting courts from within (including from government) such as when AI is suggested/mandated for use within courts. This part examines the nature of judicial power which must be exercised consistent with judicial process. This mandatory requirement provides guidance as to the standards AI would need to meet for use in the courts, or more likely the tasks within courts that AI use would be suitable for.

Protecting courts from without, such as when AI is adopted by court users in their interactions with the judicial system. Generative AI has been adopted by legal practitioners, parties, lay and expert witnesses. Court judgments have pointed to 'hallucinations' by generative AI tools that have led to court users referring to fictitious or 'fake' law. Concerns have also been raised about fictitious or 'fake' evidence (also referred to as 'deep fakes'). This part examines the courts' ability to protect their own processes, including through procedural and evidential requirements, sanctions, and lawyer's ethical obligations.

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CV – Professor Michael Legg

Michael is a Professor and the Director of the *Centre for the Future of the Legal Profession* at University of New South Wales (UNSW) Faculty of Law & Justice, Sydney, Australia.

Michael's research interests include the impact of technology and innovation on the legal profession and courts.

His publications include: 'Better than a bot – instilling ethical judgement into the lawyers of the future in the age of AI' (2025) 33(3) *Griffith Law Review* 273, "'Fake it 'til you Make it' – Not with AI and the Courts: Lawyers' Duties as Protections for the Administration of Justice' (2024) 98(9) *Australian Law Journal* 685, co-author of *AI Decision-Making and the Courts: A Guide for Judges, Tribunal Members and Court Administrators* (2nd ed 2023), a research project for the Australian Institute for Judicial Administration, *Case Management and Complex Civil Litigation* (Federation Press, 2nd ed 2022), 'The COVID-19 Pandemic, the Courts and Online Hearings: Maintaining Open Justice, Procedural Fairness and Impartiality' (2021) 49(2) *Federal Law Review* 161 and co-author of *Artificial Intelligence and the Legal Profession* (Hart, 2020). He has published 130 refereed law journal articles and authored 6 books.

Michael is a Fellow of the Australian Academy of Law. In 2026 he was named as an AI Visionary by Relativity <https://www.relativity.com/ai-visionaries/>. In 2020 he received the Article/Chapter (General) Award at the Australian Legal Research Awards. In 2017 he was awarded Academic of the Year at the Lawyers Weekly Australian Law Awards. He was previously the Director of the Law Society of New South Wales Future of Law and Innovation in the Profession (FLIP) research stream at UNSW from 2018 – 2022.

Michael is admitted to practice in the Supreme Court of NSW, Federal Court of Australia, High Court of Australia and in the State and Federal courts of New York.

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