LADY CHIEF JUSTICE OF NORTHERN IRELAND

BRITISH IRISH COMMERCIAL BAR ASSOCIATION ANNUAL LAW FORUM

AI & THE FUTURE OF THE LEGAL PROFESSION

1 MAY 2025

Good morning.

I want to begin by thanking the organisers of today's event for inviting me back to speak at your annual forum. Each year this event provides an important platform for thought-provoking discussion on common issues across all our jurisdictions. This year is no different, and I am honoured to be providing the opening address.

It is certainly a difficult feat to compile my thoughts on the topic of this year's conference into a 30-minute time slot. Despite AI being the subject of many legal debates and conferences, it seems there is always a new development to reflect on. That is because as AI continues to rapidly progress so does its influence on the legal sector. We need to keep up.

To begin, I want to now cast minds back to the somewhat humble origins of the globally recognised term, 'artificial intelligence'. It was initially coined by a young Assistant Professor at Dartmouth College named John McCarthy in 1955 when participating in a summer research project. McCarthy is said to have preferred the term 'artificial intelligence' over any other names which emerged in the field of 'thinking machines', due to its supposed neutrality.[1]

[1] Mark Deem and Peter Warren, *AI on Trial* (Bloomsbury Publishing, 2nd edn, 2025) page 20.

AI's potential influence on the legal system was prophesied some 20 years later in 1977, when researcher Anthony D'Amato produced a paper posing the following question: 'Can or should computers replace judges?'[2]

Here we are, nearly 50 years after this paper was produced, living in a time where computers have started to undertake the work of judges in some jurisdictions. In China, the introduction of 'smart judges' has given AI a prominent role in judgment writing. These programmes analyse evidence, provide legal interpretations and even propose draft judgments.[3] In Malaysia, AI has been used to determine sentencing decisions in criminal cases.[4] Co-Pilot, a Microsoft product to assist judges is also available. The same is also true with regards to the work of lawyers with the creation of Garfield, AI which guides litigants through the process of recovering debt of up to £10,000 through the English small claims court.[5] However, the question of whether computers, or to be more specific, artificial intelligence, *should* replace judges and lawyers is certainly where the heart of the debate lies.

I approach today's topic with what I hope can be described as some healthy scepticism. This is because whilst there are undoubtedly ways to use artificial intelligence to streamline and improve the administration of justice which we should embrace, it is important to remember that that same potential could cause serious problems and disadvantage those who rightly seek to rely on the courts and respect for the rule of law.[6]

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[2] Anthony D'Amato, 'Can/Should Computers Replace Judges?' (1977) 11 Georgia Law Review 1277.

[3] 'China's "Smart Courts" Initiative: A Case Study in AI Integration' (*Lexir Colombia,* 20 September 2024) <China's "Smart Courts" Initiative: A Case Study in AI Integration - Lexir LATAM> accessed 28 April 2025.

[4] Mahyuddin Daud, 'Artificial Intelligence in the Malaysian Legal System: Issues, Challenges and Way Forward' (2022) 39 INSAF 1.

[5] https://www.garfield.law/ (See also Lord Justice Birss, 'The Impact and Value of AI for IP and the Courts' (Delivered at the Life Sciences Patent Network European Conference in London, 3 December 2024)).

[6] See also The Right Honourable Dame Siobhan Keegan, 'Artificial Justice? The Integrity Problem Facing Judicial AI' (Delivered at the National Judicial Conference in Dublin, 17 November 2023).

Professor Richard Susskind, Special Envoy for Justice and AI to the Secretary-General of the Commonwealth and President of the Society for Computers and Law, summarises the position well in his latest book. He states, with a slight change of tone I think:

> "Those who are sanguine about the risks of AI have not thought deeply enough. We shouldn't merely be uneasy or disorientated. We should be in a state of high alert. But not so much that we don't force ourselves to glance briefly at the sun ... We are creating massively capable systems that could bring untold benefits. However these same technologies constitute, in a number of dimensions, a credible set of threats to our way of life …"[7]

As a result he has described balancing the benefits and threats of artificial intelligence – "*saving humanity with and from AI*" – as, "the defining challenge of our age."[8]

AI is not a one size fits all. Whilst it may assist with streamlining discovery and non-contentious business it is hard to see it being successfully utilised in areas of discretionary decision making and in providing sound legal advice in complex cases. There is also the issue of what is within the AI space in terms of information and who or what private interests controls that space. Regulation is another key factor as is the related need for transparency. There are also human rights implications to be considered along with the fundamental need to uphold the rule of law. These are all points which I can only briefly touch on and that we can discuss further as the day progresses.

Making decisions and providing legal advice are two jobs that in my opinion demand sensitivity to very human issues. With regards to decision making

[7] Professor Richard Susskind, *How to think about AI: A guide for the Perplexed*, (Oxford University Press, 2025) page 101.
[8] Ibid.

ethical questions such as *what* legal decisions can be made by AI, and more importantly, whether they *should* be made by AI have been heavily debated.

Some of my judicial colleagues have attempted to grapple with these questions. For example, Lord Justice Birss has indicated that the answer should be guided by ethics and human rights considerations. He differentiates between those decisions which might demand more human sensitivity, such as those affecting children or decisions about whether a person has committed a crime, where human decision making should be maintained, with decisions about small money claims for example which could be left to AI to handle at first instance with a right to appeal to human judges.[9]

Sir Geoffrey Vos adopts a similar approach, categorising decisions into three groups. First, there are the 'broadly mechanical' decisions, such as cases involving calculation of personal injury damages and loss of earnings, for which AI could be used to save money. Second, there are the more complex decisions or advice, which if left up to the devices of AI, would pose risks concerning transparency and lack of clarity about the reasoning adopted. Third, are 'peculiarly human' cases which Sir Geofffrey states are the most inconceivable to be left to a machine.[10]

This analysis is guided by common sense. To me there appear to be several limitations in respect of AI as it currently stands in relation to more complex legal decision-making and 'peculiarly human' cases. These are requirements for transparency, impartiality, human agency, upholding human rights and the rule of law. However, I also think there are some dangers in compartmentalising civil and commercial as cases less in need of human agency and a danger of two-tier justice where some are adjudicated by machines and some by humans.

[9] Lord Justice Birss, 'The Impact and Value of AI for IP and the Courts' (Delivered at the Life Sciences Patent Network European Conference in London, 3 December 2024).
[10] Sir Geoffrey Vos, 'Are rights sufficiently human in the age of the machine?' (Blackstone Lecture, Pembroke College Oxford, 27 November 2024)

Artificial intelligence's transparency issue is often colloquially described using the metaphor of AI as the 'inscrutable black box'.[11] In other words, the reasonable person might understand the inputs and outputs of the AI system, however, the inner workings such as the specific sources the information is derived from, the relevant weight given to those sources and the factors taken into account lead to questions about how it reaches the outcome.[12]

At the very foundations of legal decision-making is logical reasoning. It is the basic skill that we learn from day one and carry with us throughout our career. How does this compute with a technological tool that might be able to suggest a potential outcome for a case, but the process by which it has reached its decision remains unclear?

In essence, if AI is to be used for legal decision-making, there must be clear understanding of the algorithmic processes used, the factors involved, and an opportunity to challenge the decision.[13] Any absence of these critical components could be very detrimental for the rule of law. It poses risks to modes of public accountability and oversight and could contribute to feelings of inequitable justice and lack of due process.[14] Over-reliance on unsupported advice generated by AI could also lead to concerns over the impartiality of the judiciary.[15] I am reminded of the dicta of Lord Diplock in *Attorney General v Leveller Magazine* that:

> "If the way that courts behave cannot be hidden from public ear and eye this provides a safeguard against judicial arbitrariness or

[11] Mark Deem and Peter Warren, *AI on Trial* (Bloomsbury Publishing, 2nd edn, 2025) 45;

[12] Felicity Bell et al, 'AI Decision-Making and the Courts: A guide for Judges, Tribunal Members and Court Administrators' (2022) The Australasian Institute of Judicial Administration Incorporated <https://ssrn.com/abstract=4162985>

[13] Christopher L. Griffin, JR, et al, 'How to Harness AI for Justice: a preliminary agenda for using generative AI to improve access to justice' (2024) 108 Bolch Judicial Institute at Duke Law 43, 48.

[14] Richard M Re and Alicia Solow-Niederman, 'Developing Artificially Intelligent Justice' (2019) 22 Stanford Technology Law Review 242, 264–5; Bell et al (n 9).

[15] Bell et al (n 12), 35.

> idiosyncrasy and maintains the public confidence in the administration of justice."[16]

On the topic of information used by AI I note that Meta is facing a potential lawsuit in Northern Ireland over the alleged use of LibGen, a controversial online library which provides free access to millions of copyrighted texts, to train its Llama AI model. Meta have been issued with pre-action correspondence on behalf of author Richard O'Rawe who alleges serious and ongoing breaches of his copyright and data protection rights.[17] A number of Irish writers have publicly supported his decision. I will say no more however in case it crosses my desk!

Another question raised is bias and discrimination within decisions produced by algorithms, caused by data inputs which perpetuate unconscious biases which are inherent in legal or non-legal practices.[18] There have been several notable examples of this happening in recent years, such as the recruitment tool used by Amazon which was later discovered to have shown preference for male candidates,[19] or the Wisconsin Supreme Court case which found that an algorithmic tool named 'COMPAS' used to predict the likelihood of re-offending in the context of sentencing decisions was producing disproportionately higher risk scores for ethnic-minority offenders.[20]

Of course, the potential for removing exposure bias has already been subject to analysis by researchers, and it seems the answer lies in training and monitoring the data input used in AI tools. In particular, any inherent bias which perpetuates

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[16] [1979] AC 440, at 450.
[17] 'Meta facing Northern Ireland lawsuit over AI training material, Irish Legal News, 15 April 2025.
[18] David Uriel Socol de la Osa and Nydia Remolina, 'Artificial intelligence at the bench: Legal and ethical challenges of informing—or misinforming—judicial decision-making through generative AI' (2024) 6 e:59 CUP, 6 <https://doi.org/10.1017/dap.2024.53>
[19] Jeffrey Dastin, 'Insight- Amazon scraps secret AI recruiting tool that showed bias against women' (11 October 2018, *Reuters*) <Insight - Amazon scraps secret AI recruiting tool that showed bias against women | Reuters>
[20] Simon Maybin, 'How maths can get you locked up' (17 October 2016, *BBC News*) <How maths can get you locked up - BBC News>

minority discrimination can be removed if the data input reflects the range of legal problems facing people across socioeconomic, education, and geographic distributions.[21] So, dare I say that in theory, there is potential in the not so distant future for AI to be able to produce impartial decisions, supported by clear data that illustrates how it got to that decision. However, we're not at this stage yet.

A further and important limitation which Lord Justice Birss and Sir Geoffrey Voss also referred to was the lack of human approach and thinking in more complex cases. Attempts to capture the essence of legal decision making into a step-by-step algorithm fail to take account that complex questions of law depend on complex instances of human fact. As Lord Sales has elsewhere observed, this results in potential immunity, "to any appeal to have regard to extenuating circumstances, or to any plea for mercy."[22]

No matter how hard they tried AI-droids could never fully become human because at the end of the day they could never replicate the depth of experience (whether that be of judges, lawyers or otherwise) and feelings that humans share for each other.

Sir Geoffrey Vos, has interestingly suggested that, "It might, in theory, be possible to have a fundamental right to have material human consideration of decisions requiring empathy or emotional intelligence."[23]

I am also not entirely convinced that AI will be able to produce congruent judgments that uphold fundamental human rights and satisfy the essential requirements for the rule of law, which the late Lord Bingham once said has become the closest thing to a universal legal religion.[24] I would cast your minds back to Lord Bingham's eight guiding principles set out in his text simply

[21] Griffin, JR, et al (n 13) 47.
[22] Lord Sales, 'Algorithms, Artificial Intelligence and the Law' (The Sir Henry Brooke Lecture, 12 November 2019).
[23] Sir Geoffrey Vos (n 10).
[24] Thomas Bingham, The Rule of Law (2010).

entitled *The Rule of Law* which I will not rehearse out of the interests of brevity but which must always be kept in mind. Realistically if we are to implement justice by algorithm, an algorithm will need to be built which can take into account the wide variety of scenarios presented in any single case. As lawyers we would be relying on IT specialists to do this who do not have the required legal background to ensure the adequate protection of the principles governing justice. Both judges and lawyers will therefore continue to have a crucial role in safeguarding fundamental human rights and the rule of law which in my mind go hand in hand.

I pause to note that researchers at Ulster University have received funding from the UK's AI Security Institute to examine how AI could be responsibly integrated into judicial decision making. The initial phase of this research will focus on the courts in England and Wales with plans for collaboration between various stakeholders to develop ethical guidelines and policy recommendations for AI adoption within the judicial system which align with the rule of law and human rights standards.[25] I am sure I speak on behalf of all of us when I say I am looking forward to reading their findings with interest.

There is no doubt, as I have mentioned, that AI has its advantages and is currently already being used within the legal profession in many ways to ease workloads. Interestingly the Thomson Reuters Future of Professionals 2024 report entitled, 'AI-powered technology and the forces shaping professional work',[26] reported that 77% of respondents believed that AI will have a "high or transformational" impact on their work over the next five years. From the moment a client first contacts a law firm they may encounter chatbots to assist with preliminary communications via their website for example. AI is also being used to assist with legal research and case summaries, drafting and reviewing

[25] 'Ulster University researchers to examine AI in judicial decision-making (3 April 2025, Irish Legal News) <Ulster University researchers to examine AI in judicial decision-making | Irish Legal News>
[26] Thomson Reuters Future of Professionals Report, July 2024, page 8.

contracts, alternative dispute resolution and categorisation of documents through the use of technology assisted review platforms in cases involving extensive disclosure, to name but a few.

The common tenet of all these AI tools as they exist now is they cannot function without human intervention as it is evident that the relevant data needs to be fed by a human and the task assigned by a human. In a way, this creates a symbiotic relationship between lawyers and the technology with one relying on the other.[27]

This leads me to my next point which is when using AI it is crucial to ensure that we conduct our digital due diligence. We need only to look to two lawyers in America who chanced their arm by asking ChatGPT to draft legal submissions for them. The chatbot cited non-existent cases that were not spotted by the attorneys but the presiding judge. The pair received a $5,000 fine.[28] The same was true in a case before the First Tier Tax Tribunal in England in which a personal litigant sought to rely on nine cases before the Tribunal which were generated by AI and did not exist.[29] The Tribunal quoting Judge Kastel in the US case stated:

> "Many harms flow from the submission of fake opinions. The opposing party wastes time and money in exposing the deception. The Court's time is taken from other important endeavours. The client may be deprived of arguments based on authentic judicial precedents. There is potential harm to the reputation of judges and courts whose names are falsely invoked as authors of the bogus opinions and to the reputation of a party attributed with fictional conduct. It promotes cynicism about the legal profession and the … judicial system. And a future litigant

[27] Chay Brooks, Cristian Gherhes and Tim Vorley, 'Artificial intelligence in the legal sector: pressures and challenges of transformation' Cambridge Journal of Regions, Economy and Society 2020, 13, 135–152, rsz026.pdf
[28] *Mata v Avianca* 22-cv-1461(PKC).
[29] *Harber* v *The Commissioners for His Majesty's Revenue and Customs* [2023] UKFTT 1007 (TC)

> may be tempted to defy a judicial ruling by disingenuously claiming doubt about its authenticity."[30]

Therefore it is important to remember that such AI bots are prone to what has become known as hallucination which is what occurred in these cases.

Updated guidance has recently been issued to judicial office holders in England and Wales which has been circulated in Northern Ireland. Judges are advised that:

> "Until the legal profession becomes familiar with these new technologies, however, it may be necessary at times to remind individual lawyers of their obligations and confirm that they have independently verified the accuracy of any research or case citations that have been generated with the assistance of an AI chatbot." [31]

The same is true for personal litigants. The bottom line is that litigants are responsible for the AI-generated information they present to the court in the same way as any other type of evidence.

In light of all that I have said the requirement for robust regulation in this area is clear. The EU Artificial Intelligence Act began entering into force on 1 August 2024 and will take some two to three years to come fully into operation.[32] It aims to foster responsible artificial intelligence development and deployment in the EU addressing potential risks to citizen's health, safety and fundamental rights.[33]

Article 3(1) defines an AI system as:

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[30] Ibid, para 23.
[31] Artificial Intelligence (AI), Guidance for Judicial Office Holders, 14 April 2025.
[32] Artificial Intelligence Act (Regulation (EU) 2024/1689).
[33] https://commission.europa.eu/news/ai-act-enters-force-2024-08-01_en (See also recital one of the EU Act (n 34)).

> "A machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments."

The Act introduces a risk-based approach that lays down different requirements and obligations for the development, placing on the market and use of AI systems in the EU. The approach is encapsulated within a pyramid of risks which categorises AI activities from minimal risk to unacceptable risk. The use of AI in law enforcement is deemed as a 'high risk' activity.

Recital 61 of the Act states:

> "Certain AI systems intended for the administration of justice and democratic processes should be classified as high-risk, considering their potentially significant impact on democracy, the rule of law, individual freedoms as well as the right to an effective remedy and to a fair trial. In particular, to address the risks of potential biases, errors and opacity, it is appropriate to qualify as high-risk AI systems intended to be used by a judicial authority or on its behalf to assist judicial authorities in researching and interpreting facts and the law and in applying the law to a concrete set of facts. AI systems intended to be used by alternative dispute resolution bodies for those purposes should also be considered to be high-risk when the outcomes of the alternative dispute resolution proceedings produce legal effects for the parties. The use of AI tools can support the decision-making power of judges or judicial independence, but should not

replace it: the final decision-making must remain a human-driven activity…"

In accordance with article 27 prior to deploying a high-risk AI system in the area of law enforcement deployers are required to perform an assessment of the impact on fundamental rights that the use of such a system may produce. Moreover articles 8 to 15 set out that any system would have to comply with further risk management, data training and governance, record keeping, transparency, human oversight, cybersecurity, accuracy and robustness requirements.

Self-evidently it is only through regulation and establishing effective checks and balances that we can safeguard the rule of law.

In March the European Union formally proposed adding this Act to the list of legislation which will apply in Northern Ireland post-Brexit.[34] The decision on whether to add this landmark Act to Annex 2 of the Windsor Framework will be made by a joint EU-UK committee when it next meets. The move has been described by some as, "more symbolic than strictly necessary from a commercial standpoint, given that any company in Northern Ireland already intending to place AI products on the EU market must comply with the Regulation's requirements."[35] We shall keep watch with interest.

The Council of Europe's Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law opened for signature on 5

[34] Proposal for a Council Decision establishing the position to be taken on behalf of the European Union in the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as regards the adoption of a decision adding a newly adopted Union act to Annex 2 to the Windsor Framework, 24 March 2025.

[35] https://www.irishlegal.com/articles/uk-government-refuses-to-be-drawn-on-applying-eu-ai-act-to-northern-ireland

See also https://www.scottishlegal.com/articles/ai-businesses-in-northern-ireland-facing-tougher-regulation-than-rest-of-uk

September 2024 by European Justice Ministers in Vilnius. It was described as the first-ever international legally binding treaty in this field and has been signed by the UK, the EU and the USA amongst others. Its provisions aim to ensure that activities within the lifecycle of artificial intelligence systems are fully consistent with human rights, democracy and the rule of law. Article 4 addresses protection of human rights outlining that:

> "Each party shall adopt or maintain measures to ensure that the activities within the lifecycle of artificial intelligence systems are consistent with obligations to protect human rights, as enshrined in applicable international law and in its domestic law."

Article 5 in the same vein addresses integrity of democratic processes and respect for the rule of law outlining that:

> "Each party shall adopt or maintain measures that seek to ensure that artificial intelligence systems are not used to undermine the integrity, independence and effectiveness of democratic institutions and processes, including the principle of the separation of powers, respect for judicial independence and access to justice."

Furthermore, article 22 of the UK General Data Protection Regulation protects data subjects from automated decisions in certain circumstances.

At the recent Commonwealth Law Conference in April 2025 which I attended in Malta a declaration on the use of AI was adopted in which the Commonwealth Lawyers Association recognised, "the transformative power of Artificial Intelligence in reshaping our world, enhancing our capabilities, and improving our lives" and acknowledged, "the unprecedented risks and challenges it poses to life, individual rights, social justice, and global security." They formally committed to:

> "a collaborative, transparent and ethical approach in the development, and governance of AI technologies, endorsing only the use of AI-enabled systems and services that are proven to:
>
> 1. Ensure the Primacy and Sanctity of Human Life
> 2. Respect Ethical Principles and Human Rights
> 3. Adhere to International Security and Safety Standards
> 4. Promote International Collaboration and Governance
> 5. Adhere to International Privacy and Data Governance Standards
> 6. Promote Innovation and Sustainability
> 7. Respect for the Environment."[36]

Returning to the question I posed at the outset, 'Whether AI should replace judges and lawyers?', you will all be relieved to know that my view is that it should not. It is clear that AI is currently playing a role in the legal profession, especially in the commercial field, and will no doubt continue to do so into the future, particularly as technology evolves. Professor Richard Susskind interestingly opines that:

> "Not yet invented technologies, some of which are currently inconceivable, will have far greater impact on us in the 2030s that the tools we have today."[37]

We therefore do not know how our roles will change. Susskind predicts that whilst conventional lawyers will not be as prominent in society as today there

[36] Commonwealth Lawyers Association, Declaration on AI Statement, 9 April 2025.
[37] Professor Richard Susskind (n 7) page 171.

will be exciting new jobs for those lawyers who are sufficiently flexible and open minded to adapt to changing market conditions.[38]

I have outlined the concerns that I and many others share. However, some healthy scepticism should not overshadow the potential benefits of advancing technologies which I have touched on, particularly in commercial law with which you are all concerned. In my view there is no substitute for human agency particularly in more complex cases which a set algorithm would struggle to take account of and solve. There is simply no doubt that commercial disputes involve complex and wide-ranging issues which require the involvement of experienced, human lawyers and judges in order to resolve, and to protect and uphold human rights and the rule of law. But AI is the future and must be understood and utilised where it can assist lawyers and judges without undermining the justice system.

Thank you.

[38] Professor Richard Susskind, *Tomorrow's Lawyers: An Introduction to Your Future* (Oxford University Press, 3rd Edition, 2023) page 187.