

The Power to Say No

Activating the Missing Accountability Layer of the Solidarity Stack

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Every judgment, statute, regulation, and agreement relied on has been verified by the author against the primary record where the primary text is available, and against authoritative institutional and professional sources where a primary text is not publicly available in translation; secondary reports are cited as locators only. Citations follow OSCOLA conventions adapted for Indian, Thai, and European instruments.

Abstract

Across jurisdictions, courts are discovering the same defect in their own records: fabricated or hallucinated citations. A public database tracking judicial decisions that address fabricated or hallucinated AI content passed 2,000 entries in 2026, and the count is rising. This paper makes one claim about the Solidarity Stack, the framework for cooperative ownership and governance across the AI supply chain. The stack names governance as its top layer and leaves it an open question of internal coordination. What it lacks is the enforcement half of accountability: no institution within it can refuse a harmful deployment and make the refusal bind. The layer does not need to be invented. It appears through two institutional pathways: activation of an existing statutory or professional body where one exists and lies dormant, and construction of collective power where none does. History documents the second pathway repeatedly. The paper grounds the activation thesis in the earliest instance the paper's research identified, in English-language sources, of a court ordering a statutory professional regulator to govern AI: the Supreme Court of India's direction to the Bar Council of India in July 2026. It then presents a comparative map of refusal capacity across professions and jurisdictions, from the German works council's co-determination right down to the data workers of the AI supply chain whose collective representation is still being constructed, and states its central empirical finding: almost all professional-body responses to AI are soft, guidance that annotates existing duties without curing the absence of binding method standards, while the genuinely binding instruments come from co-determination statutes, collective bargaining, one transnational ethics code, and, increasingly, regulators outside the professions. The paper closes inside its own case study, Thailand, where a court issued binding AI pleading rules in late 2025 while the profession's council deliberates.

Keywords: Solidarity Stack; accountability; refusal capacity; professional self-regulation; statutory professional bodies; AI-fabricated authority; promulgation deficit; co-determination; collective bargaining; data workers; Thailand; India

1. Introduction: The Asymmetry

Begin with a number that was smaller when this sentence was first drafted. A public database maintained by Damien Charlotin tracks judicial decisions in which a court or tribunal addressed fabricated or hallucinated AI-generated content in more than passing reference. As of 5

September 2026 it recorded 2,022 cases, updating daily.¹ The database began in April 2025. Set aside any view of a single entry. The aggregate records something new in the history of adjudication: a steady flow of proceedings in which the machinery of justice has had to stop and ask whether its own inputs are real.

This conference gathers people building an alternative architecture for AI, and its convener has named it. The Solidarity Stack, introduced by Trebor Scholz and developed with Morshed Mannan, frames cooperative ownership and democratic governance across the entire AI supply chain, from minerals and compute to data, models, and platforms.² This paper makes one structural claim about the stack and spends its remaining pages on the consequences. The stack's own top layer is Governance, and its author presents it, candidly, as an open question: how could such a stack be governed internationally, with democratic oversight ensuring transparency, accountability, and participation, drawing inspiration from Project Cybersyn, democratic DAOs, and the SWIFT network. That is governance of the stack, by its members, as coordination. What does the architecture not yet contain? The enforcement half of accountability: an institution that can examine a deployment of AI, judge it harmful to the people the stack exists to protect, say no, and make the no bind on anyone. Two claims must be kept apart here. The descriptive one: the framework names governance as its top layer but leaves under-specified the institutional machinery through which accountability becomes enforceable at the point of deployment. The normative one, which is this paper's contribution: that missing machinery is an institutional capacity to prescribe standards, impose consequences, and, where necessary, make refusal effective. The gap is not news to the framework's authors. The same keynote observes that "even when laws are passed, enforcement is rare," concludes that no single instrument can counter structural power, and calls for "a bricolage of efforts that combine policy, worker representation, and cooperative practice." This paper supplies the bricolage element that call reaches for but leaves institutionally unspecified: the statutory professional body, where policy and cooperative practice are fused. The solidarity tradition rarely counts that body as its own. Yet it is already chartered wherever the professions are organised, and it is being built from below, by organising workers, everywhere it is not. The stack organises its layers by ownership of production; the enforcement half of accountability organises answerability at the point of deployment. These are orthogonal axes, and that is why an architecture can own every layer and still be unable to refuse at any of them. Refusal capacity is that missing independent axis. A stack without an enforcement layer is a value system, not a governance system. This paper supplies the missing layer's map.

The argument rests on a single asymmetry, and everything unfolds from it. A machine may verify, but a machine cannot be a respondent. The distinction needs one definition before it is used. Verification as checking is a capability, and capabilities can be delegated; India's own

¹Damien Charlotin, AI Hallucination Cases (database), <https://www.damiencharlotin.com/hallucinations/>, accessed 5 September 2026 (2,022 cases identified; the database's homepage tally runs slightly ahead of the queryable dataset). Author's archived snapshot on file [refresh count and access date at final]. On the profile of incidents, the database's own FAQ describes most cases as involving either self-represented litigants or lawyers surprised that an existing tool carried an AI component.

²Trebor Scholz, "The Solidarity Stack," keynote, Cooperative AI Conference, Istanbul, 11 November 2025, published Platform Cooperativism Consortium, 21 December 2025, <https://platform.coop/blog/the-solidarity-stack/> ("what Morshed Mannan and I call the Solidarity Stack"; the Governance layer posed as the question of international democratic oversight, with Cybersyn, democratic DAOs, and SWIFT as touchstones; "even when laws are passed, enforcement is rare"; the "bricolage" formulation; the Solidarity Stack Circles initiative; the Malgwi example at the Model and User layer). Verified against the primary text, 17 August 2026.

draft judicial AI regulations expressly permit machine verification of citations.³ Verification as attestation is a different act: a named person takes responsibility for a proposition before it enters a proceeding. Attestation is not a capability at all. It is the assumption of answerability, and no improvement in checking tools can perform it, because nothing that cannot be answerable can assume answerability. Responsibility is not a capability either. It is a status: the condition of standing before a tribunal, a disciplinary committee, or a client and bearing the consequences of the work. A system may perform the task without becoming the bearer of the responsibility attached to it; it cannot occupy the legal or professional position of the respondent against whom that responsibility is enforced. Responsibility cannot be delegated to something that cannot be held to account. The question for the solidarity stack is therefore not which tools to trust. It is which institutions can carry answerability for the use of tools, and whether those institutions have the power to refuse.

One objection must be met before the argument moves, because the readers best placed to raise it are in this room. The human-automation literature is clear that an individual supervisor's attention decays: individual human supervision degrades with reliance on automated aids. The result is both omission errors, where the human misses what the system missed, and commission errors, where the human passes through what the system got wrong, while monitoring itself falls off under load.⁴ Applied to lawyers, this is the standard objection to any "human in the loop" remedy, and it has been aimed at the legal profession directly: proponents promise to keep hold of the proofreading, and the evidence says they will not. The objection is sound. It is also the reason the missing layer must be institutional. A safeguard that depends on one professional staying alert is not a safeguard. A safeguard that makes that professional answerable to a body with the power to refuse is. Delegation to an autonomous system produces what Ian Kerr, following Milgram, called an agentic shift: the human stops feeling responsible for the decision.⁵ The person who loses that sense of answerability is the person this paper's test restores. The question is not whether the lawyer will check. It is who can be made to answer when the lawyer does not.

Sections 2 and 3 diagnose the problem those institutions must solve and what is at stake when they fail, including for whom. Section 4 states the activation thesis and its anchor case. Section 5 presents the comparative map, its method, and the paper's central finding. Section 6 takes the strongest objection this room can raise, that professional councils are engines of exclusion, and

³Supreme Court of India, Artificial Intelligence Committee, draft Regulations for Use of Artificial Intelligence in Courts, 2026 (published for consultation 3 June 2026; comment period extended to 15 July 2026; not notified as of this writing): machine citation verification expressly permissible, reg. 19(1)(d); absolute and non-derogable prohibitions, reg. 20(1)(b) to (d), placed beyond even the relaxation power in reg. 56; accountability resting exclusively on the officer, with opacity and hallucination barred as defences, reg. 8(1); the verification-dispensation proviso, reg. 8(3), first proviso; full responsibility of the submitting person for AI-generated material found false, reg. 43(6); AI Content Verification Authority, reg. 44. Archived copy A3.

⁴Raja Parasuraman and Dietrich H. Manzey, "Complacency and Bias in Human Use of Automation: An Attentional Integration" (2010) 52(3) Human Factors 381; the objection as applied to legal work is stated in Katie Szilagyi, "Regenerating Justice: ChatGPT and the Legal Minefield of Generative AI" (2025) 22 Canadian Journal of Law and Technology 109, SSRN Abstract No. 4976738. Szilagyi's earlier term for the same effect among experts is "technological gloss": Katie Szilagyi, Artificial Intelligence and the Machine-ation of the Rule of Law (PhD thesis, University of Ottawa, 2022), <https://ruor.uottawa.ca/handle/10393/44188>, at 57 to 59 and 147 [verified against the repository copy, 4 September 2026].

⁵Ian Kerr and Vanessa Gruben, "AIs as Substitute Decision-Makers" (2019) 21 Yale Journal of Law & Technology 78, 91 to 92 (the "agentic shift," after Milgram: an operator who defers to an automated system stops feeling responsible for its output).

answers it without flinching. Section 7 reads the city hosting this conference as a live case study. Section 8 concludes.

2. The Diagnosis: Enforcement Before Promulgation

Every mature profession runs on two kinds of standards. Outcome standards state what the finished work must not contain: a pleading must not cite authorities that do not exist, an audit must not certify accounts that misstate, a diagnosis must not ignore the presenting symptom. Method standards state how the work must be done so that those outcomes are reliable: what checking, what supervision, what independence of judgement counts as adequate professional control. Outcome standards are ancient. The prohibition on citing fabricated authority is as old as citation itself; no advocate in any legal system was ever free to invent a precedent. What has generative AI changed? Not the outcome standard. The economics of violating it. Fabrication that once required deliberate fraud now requires only ordinary negligence at scale, because the machine produces fluent, formatted, confident falsehood as a by-product of normal operation.

Here is the diagnosis this paper rests on. For most AI-assisted professional activities, the method standard remains under-specified or non-binding; the comparative evidence assembled for this paper suggests that binding method-level standards are exceptional rather than absent. On the material assembled for this paper, no bar council, medical council, or engineering board has enacted a binding rule stating what supervision of a generative system counts as adequate professional control: what must be independently verified, against which class of source, by whom, with what record. What exists instead is enforcement. Courts and regulators, confronted with fabricated authorities in filed documents, sanction practitioners one order at a time, and each sanction order quietly writes a fragment of the missing method standard after the fact: this reliance was inadequate, that verification would have sufficed. The profession's binding norms on AI are being written by its disciplinary cases, not by its governing bodies. Enforcement runs years ahead of promulgation. Call the gap the promulgation deficit.⁶

Two objections arrive at once, and both were pressure-tested in building this framework. The first: the duty always existed, so nothing needs promulgating. The answer is the distinction just drawn: the outcome duty always existed; the method standard did not, because the method it must govern did not exist. A rule that says "do not file fabricated authority" tells a practitioner nothing about whether machine cross-checking satisfies the duty of verification, whether delegation to a junior who used a chatbot preserves or breaks the chain of supervision, or what record of checking a tribunal will later treat as diligence. Those are method questions. Today they are answered only in sanction orders. A norm you can discover only by being punished under it fails the most basic rule-of-law test a profession can set for itself.

The second objection: surely someone is talking about this; guidance is everywhere. Correct, and that is the point. Section 5 documents the pattern; the summary belongs here. Guidance proliferates, and almost all of it is non-binding, fragmented, and outcome-focused. Bar regulators on four continents have issued documents mapping AI use onto existing duties of

⁶The rule-of-law literature on automation has asked what happens when the state delegates decision-making to machines: Monika Zalnieriute, Lyria Bennett Moses and George Williams, "The Rule of Law and Automation of Government Decision-Making" (2019) 82 Modern Law Review 425; Szilagyi, Machine-ation (n 4), which expressly sets aside "participation of lawyers within the legal system" as beyond its subject (at 11). This paper asks the prior question about the profession that argues before the state: what standard governs its own delegation, and who promulgated it.

competence and integrity.⁷ Mapping is not promulgation. A guidance note that says "your existing duties apply to AI" restates the outcome standard in a new context. It does not enact the method standard whose absence is generating the sanctions.

Nor is the method standard mysterious. It can be specified, and this author has specified one version of it in practice: a staged working method that reserves framing, verification, and strategic judgement as human-only acts while permitting machine assistance in between, paired with a four-step test of responsible use, framing diligence, supervisory adequacy, verification completeness, and judgement independence, published as a practitioner's standard and applied, matter by matter, in a live High Court practice.⁸ The point is not that this instrument is the answer. The point is a smaller one, and it costs the profession its best excuse: instruments of this kind can be written, replicated, and promulgated now by anybody with the authority to bind. The deficit is a choice, not a fate.

The promulgation deficit is not a lawyers' problem wearing a gown. It is the general condition of professional work in the AI transition: accountants, physicians, engineers, journalists, and the newest professions of the data economy all face tools that industrialise a class of error their outcome standards always prohibited and their method standards never anticipated. This diagnosis stands on ground others cleared: Pasquale on identifiable human responsibility behind automated systems; Ayres and Braithwaite on enforcement through self-regulation with teeth behind it; Parker on meta-regulation; Freidson on professionalism as a distinct logic of work; and Abbott on jurisdiction as the object of professional control.⁹ None of these supplies what this paper claims as its contribution: the location of the enforcement seat in a specific, existing, mostly dormant institution, the statutory professional body, together with a documented activation mechanism, a court order, a partial regulatory response, a historical failure, and a live register that makes the harm legible. Which institution, in each field, has the authority to close the gap, and what happens while the gap stays open, are the subjects of the next two sections.

3. The Stakes: Two Doors into the Record

Fabricated authority can enter the legal record through two doors, and the difference between them is the difference between a correctable error and a structural one. The distinction is not ultimately between Bar and Bench. It is between the two points at which fabricated authority enters an authoritative decision chain: the person who submits the material, and the person or institution that decides upon it.

The first door is the advocate's: a lawyer files a submission containing authorities that do not exist. This is the familiar case, the one that fills most of the database cited above, and the

⁷Bar Standards Board (England and Wales), Guidance on the Use of Artificial Intelligence and Other Technologies (in force 18 May 2026), <https://www.barstandardsboard.org.uk/asset/5E1BAA5C-614C-4105-AFAE9A9CCDF8D97B/> (archived E1);.

⁸Shivam Shukla, "System 1 Lawyering and the Governance of AI in Legal Practice: A Practitioner's Framework for Supervised Intelligence" (2026) SSRN Abstract No. 6484839, <https://ssrn.com/abstract=6484839>; and AI for Indian Advocates: The Practitioner's Standard for Supervised Intelligence (2026), ISBN 978-93-5782-312-8 (the Supervised Intelligence Method and the AI Responsibility Test).

⁹Frank Pasquale, *New Laws of Robotics: Defending Human Expertise in the Age of AI* (Harvard University Press, 2020); Ian Ayres and John Braithwaite, *Responsive Regulation: Transcending the Deregulation Debate* (Oxford University Press, 1992); Christine Parker, *The Open Corporation: Effective Self-Regulation and Democracy* (Cambridge University Press, 2002); Eliot Freidson, *Professionalism: The Third Logic* (University of Chicago Press, 2001); Andrew Abbott, *The System of Professions* (University of Chicago Press, 1988).

adversarial process is a distributed verification machine built to catch it: an opposing party motivated to check, a bench whose function is scrutiny, a discipline regime behind both. It fails sometimes. It is designed to succeed.

The second door is the decision-maker's, wider than the bench: it takes in courts, tribunals, and quasi-judicial administrative authorities. For this door the paper draws on the Indian record as evidence of a general mechanism, not a local curiosity. On 19 August 2025 a trial court decided objections to a court-appointed commissioner's report. Its order relied on four purported Supreme Court decisions. None of them exists; one of the fabricated citations prints an impossible year, "(1071) 2 SCC 68." The High Court heard the matter in revision, recorded that the citations were AI-generated, and affirmed the order anyway. In February 2026 the Supreme Court of India took cognisance: it stayed reliance on the tainted report, declared that a decision based on such non-existent judgments "is not an error in the decision making" but misconduct with legal consequences to follow, issued notice to the highest law officers and the Bar Council of India, and appointed a senior advocate as *amicus curiae*.¹⁰ Five months later the same Court decided a company appeal in which the National Company Law Tribunal had relied on six tainted authorities as if they were precedent and the appellate tribunal had failed to detect it. The respondent's own affidavit disclosed that counsel had cited none of the fake precedents; the tribunal had obtained them through its own research. The Court set both orders aside and held that a decision resting even in part on such material "is no decision in the eyes of the law."¹¹

Why does the decision-maker's door matter more than its frequency suggests? When the adjudicator is the source of the fabrication, the last checkpoint is the failure. There is no downstream scrutineer. Worse, the legal system then does what it is built to do. Finality doctrine can convert the error into *res judicata* between the parties, subject to appeal and review; the doctrine of precedent can carry the tainted decision forward as a citable authority, because the next actor cites the judgment rather than re-verifying its sources. The error migrates from the input layer into the doctrinal layer. Fabrication enters through a judgment and exits laundered as law. Call the mechanism precedent laundering. A fabricated authority that survives into a reported judgment is what one scholar calls sourceless information: text attributable to everybody and nobody, which a system built on attribution cannot metabolise.¹² In a precedent-based order the harm compounds, because the next court cites the judgment, not its sources. This is the strongest reason the asymmetry of Section 1 scales to the bench

¹⁰Gummedi Usha Rani v. Sure Mallikarjuna Rao, SLP (C) No. 7575 of 2026, Supreme Court of India, order dated 27 February 2026 (Narasimha and Aradhe JJ.): the four non-existent decisions relied on by the Trial court in its order of 19 August 2025, para 2; the High Court's finding that they were AI-generated, para 4; stay of reliance on the Commissioner's report, para 6; "not an error in the decision making. It would be a misconduct and legal consequence shall follow," para 7; notice to the AG, SG, and BCI, para 8; appointment of Mr. Shyam Divan, senior counsel, para 9. Primary PDF: https://api.sci.gov.in/supremecourt/2026/6571/6571_2026_6_22_68896_Order_27-Feb-2026.pdf (archived A2, digitally signed 28 February 2026). A further order of 5 May 2026 exists in the same matter [check for subsequent orders at submission].

¹¹Pooja Ramesh Singh v. Jammu and Kashmir Bank Ltd., 2026 INSC 668, Civil Appeal No. 11950 of 2025, Supreme Court of India, 2 July 2026 (Narasimha and Aradhe JJ.), reportable: zero tolerance, misconduct and serious-lapse holdings, and "no decision in the eyes of the law, irrespective of whether such material had a direct or indirect bearing," para 7; the six tainted authorities itemised against the NCLT's paras 44, 45, 47, 49, 51 and 53, para 15; the respondent's affidavit that the precedents were not cited by counsel but "obtained through its own research," para 16; "no decision at all... subversion of the rule of law," para 17. Archived certified copy A1 (digitally signed 2 July 2026). The Gadiya order (n 13) gives the SCC OnLine citation for this judgment as 2026 SCC OnLine SC 12583.

¹²Szilagyi, Regenerating Justice (n 4), Part IV(a) ("sourceless information"); on the compounding effect in a precedent-based order, compare Ronald Dworkin, *Law's Empire* (Harvard University Press, 1986) 228 to 238 (the chain novel).

unchanged: a machine that cannot be a respondent before a court certainly cannot be one behind it.

The door is wider than the courtroom. On 2 September 2026, in *Vijay Ghanshyam Gadiya v. Union of India*, the Supreme Court set aside an Order-in-Original by which an Additional Commissioner of Customs had imposed a penalty of ₹425.28 crore on a diamond trader, because the adjudicating officer's order rested on case law that was non-existent, carried fabricated citations, or did not support the propositions attributed to it, material the Court found appeared to be an AI hallucination; it applied Pooja's principle, set aside both the order and the Gujarat High Court's affirmance, remanded to a different officer of the same rank, and left action against the original officer to his appointing authority.¹³ Three things in that case matter to this paper. The decision-maker was neither judge nor lawyer but an executive adjudicator, which is why the second door must be defined by the office that decides and not by the courtroom. The appellate checkpoint failed too: the High Court affirmed the tainted order in January 2026 and the error travelled to the Supreme Court before any institution caught it, the documented instance the argument rests on. And the customs officer belongs to no self-governing profession with a statutory council, so the activation pathway has no subject here; but he is not institutionless. The Court left action against him to his appointing authority, and his order travelled through appellate review before the Supreme Court corrected it. His answerability sits in a public administrative hierarchy rather than in a profession. This is the third institutional location this paper calls the allocation route: where the law already places accountability in a hierarchy of office, the question is not whether a body exists to activate but whether the existing hierarchy reaches AI use adequately. Gadiya shows it reaching, late, through appeal and remand.

The cost of both doors falls where legal costs always fall hardest. The parties least able to protect themselves against fabricated authority are the ones who cannot audit what is filed in their own name or relied on in their own case: undertrials whose bail turns on precedent they will never read, rural litigants a day's travel from their own court file, low-income clients who purchased representation precisely because they cannot check it. An accountability layer for AI in professional work is not a professional courtesy, and it is not, at bottom, about professionals at all. The right at stake belongs to the person judged. The professional's discipline is instrumental to that person's dignity. That is why its design belongs at a conference about solidarity.

The decision-maker-side risk is not hypothetical drift; it has a lawful aperture, so precision here matters. In June 2026 the Supreme Court of India's Artificial Intelligence Committee published draft Regulations for the Use of Artificial Intelligence in Courts, a serious and in many respects exemplary instrument: it prohibits, absolutely and non-derogably, the use of AI to decide cases, assess bail eligibility, or evaluate credibility, and it expressly bars invoking a system's opacity

¹³*Vijay Ghanshyam Gadiya v. Union of India & Anr.*, 2026 INSC 947, Civil Appeal arising out of SLP (C) No. 15605 of 2026, Supreme Court of India, 2 September 2026 (Dipankar Datta and Sheel Nagu JJ.): Order-in-Original of 8 October 2025 by the Additional Commissioner of Customs, Surat, penalty of ₹425,27,99,100 under s. 114 Customs Act 1962 (para 2); the Court's own verification that the authorities relied on were non-existent, carried fake citations, or existed but did not lay down the ratio deduced, "a hallucination of AI" (para 4); application of Pooja Ramesh Singh (cited by the Court as 2026 SCC OnLine SC 12583) and the zero-tolerance / "no decision in the eyes of the law" principle (paras 5 to 7); "assistance can never be substituted for adjudication... AI may well serve as training wheels but entrusting it with the pilot's seat would be both imprudent and dangerous" (para 6); Gujarat High Court order and Order-in-Original set aside, proceedings revived before an officer of the same rank other than the original (para 8); action against the author of the order left to the appointing authority (para 11). Archived primary copy A-Gadiya (digitally signed 2 September 2026).

or hallucination as a ground for avoiding accountability.¹⁴ Then comes Regulation 8(3). The main rule requires that AI-generated output be treated as advisory and verified before use. The first proviso then permits the officer responsible for the tool to "dispense with the requirement of verification" for reasons recorded in writing. Two features of the text matter. The waiver is conditioned on recorded reasons, not on any external check. And the proviso sits in the general accountability regulation, with no words confining it to administrative as opposed to adjudicative functions. Read plainly: the one safeguard that catches fabricated material before it enters the record can be switched off by the very officer whose conduct it is meant to constrain, on reasons that officer records to himself. The criticism is aimed at the clause, not at the Court or its committee, whose draft is otherwise the most complete judicial AI instrument this map contains. But an aperture is an aperture. Verification is the audit. A waivable audit is a door, and this section has already described what walks through doors. The cognitive mechanics of why fluent machine output invites exactly this over-trust are developed elsewhere and are not repeated here.¹⁵

4. The Cure: Two Pathways, One Process

If Sections 2 and 3 are right, the cure must be an institution that can do three things: promulgate binding method standards before the sanctions write them, discipline the professionals it governs, and refuse, on behalf of the profession, deployments incompatible with the answerability its work requires. The solidarity stack does not need to design such an institution from a blank page. In most established professions it already exists, chartered in statute, holding disciplinary jurisdiction, asleep on this question. The contrast with the market is instructive. Private infrastructure around professional work is being built at speed: indexed repositories, persistent context, plumbing that outlives any single matter. The public infrastructure of accountability over that work already exists and sits unused. The market builds new plumbing; the profession declines to turn on its own. The thesis of this paper is that the accountability layer arrives by two pathways, and that they are one process observed at different moments.

The activation pathway. On 2 July 2026, in *Pooja Ramesh Singh v. Jammu and Kashmir Bank Ltd.*, the Supreme Court of India did something that, so far as the author has been able to document, no court anywhere had done before: it ordered a statutory professional regulator to govern AI. This is the earliest instance identified in the research conducted for this paper, which searched English-language sources for court orders directing a statutory professional regulator to govern AI and found no earlier counterpart.¹⁶ The Court, having set aside the tribunal decisions described above, declared zero tolerance for reliance on fabricated material at the Bar and on the Bench, held that "mere declaration of prohibitory action is not sufficient; there must be a consequential action following accountability," and directed the Bar Council of India, "being the apex statutory body," to constitute a committee, deliberate, and prescribe a guiding principle together with the disciplinary action that will follow its violation.¹⁷ The direction did not arrive from nowhere. Two months earlier, in the trial-court matter, the same Bench had

¹⁴Draft Regulations (n 3).

¹⁵Shukla, "System 1 Lawyering" (n 8).

¹⁶Pooja (n 11).

¹⁷Pooja (n 11): para 8 (consequential action following accountability); para 9 (the direction, verbatim: "we direct the Bar Council of India, being the apex statutory body, to constitute a committee and deliberate... and prescribe a guiding principle to prevent such occurrences, along with the disciplinary action that will follow a violation of the norms"). Quotation note: the participle is "being," not "as."

orally asked the Bar Council to constitute an expert committee including outside experts and report back.¹⁸ An oral request in May ripened into a written direction in July. The activation of a dormant body, observed in real time, has stages. The direction has begun to bite: fifteen days after the judgment, the Bar Council issued an omnibus digital-ethics circular under which every new entrant to the profession must swear, at enrolment, an affidavit undertaking not to create or circulate fabricated legal material using AI, with parallel undertakings from law students at admission and before internships.¹⁹ Activation at the gate, and prospective only. The roughly 1.7 million advocates already enrolled, and the Council itself, remain bound by no new instrument, and the committee the Court directed remains unannounced as of this writing. Nor is the design foreign to Indian policy: the national AI governance guidelines of November 2025 expressly route governance through existing sectoral regulators rather than a new omnibus statute, which is consistent with the profession's council being the legal sector's instance of that sectoral-regulator architecture. Note what the Court did not do. It did not draft the rules itself, and it did not petition Parliament for a new regulator. It reached for the institution that already existed, already held rule-making and disciplinary power over every advocate in the country, and had never been switched on for this purpose. That is activation, not construction, and it is available in every jurisdiction whose professions are organised through statutory self-governance bodies. This case establishes accountability capacity switched on by a court: a direction to prescribe binding standards and attach disciplinary consequences, followed by an entry-level undertaking. It does not yet establish a deployment veto of the German kind, the power to stop a particular use of AI before it happens. Accountability capacity can be the foundation from which refusal capacity develops, but it is not a universal prerequisite: a works council holds co-determination without professional discipline, and a bargained floor holds a refusal right without a regulator. Where the route runs through a statutory professional body, as in India, its first task is to build the conditions under which refusal can become a standing power, and India shows that task beginning, not finished. The claim is offered with its epistemics attached: the search that grounds it was conducted in English-language sources, and the author would be grateful to learn of an earlier counterpart.²⁰

The construction pathway. Where no statutory body exists, the same institution must be built, and the recent past supplies the demonstration twice over. In 2023, two American screen guilds confronted employers over generative AI with no statute behind them and only collective power in hand. The Writers Guild of America struck and won a memorandum of agreement establishing that AI-generated material is not literary or source material, that no writer can be

¹⁸"After trial judge cites AI-generated judgment, Supreme Court asks BCI to set up expert panel," Bar & Bench, 5 May 2026, <https://www.barandbench.com/news/litigation/after-trial-judge-cites-ai-generated-judgment-supreme-court-asks-bci-to-set-up-expert-panel-to-examine-issue> (oral communication; matter listed for late May).

¹⁹The norm is the Bar Council of India Circular No. BCI/D:4657/2026, 17 July 2026 (digital ethics and social-media conduct for advocates, law students and interns; rooted in the Advocates Act 1961 and the BCI Rules; standalone sworn enrolment affidavit for new entrants; undertakings from students at admission and before internships; covering AI-generated, deepfake and voice-cloned material; disciplinary consequences). The implementation directive is Circular No. BCI/D/4659/2026, 23 July 2026 (directing State Bar Councils and Centres of Legal Education to operationalise the 17 July circular). Both from barcouncilofindia.org (both available from the Bar Council of India, barcouncilofindia.org). Secondary reporting: TaxGuru, LawLeaf, The Cyber Blog India, 18 to 27 July 2026.

²⁰Two comparators are named so that the hedge is visibly earned. First, in January 2023 the founder of DoNotPay abandoned a plan to have a language model prompt a self-represented litigant in a United States traffic court after what he described as threats of prosecution by state bar authorities: regulator-adjacent pressure, no court order, no regulator activated (reported and footnoted in Szilagyi, *Regenerating Justice* (n 4), notes 172 to 177). Second, the Alberta joint notice of 6 October 2023 (n 34) mandated human verification of AI-assisted filings: a court instrument addressed to filers, again with no regulator activated. Neither is a court ordering a statutory professional regulator to govern AI; both narrow the claim to exactly that.

required to use AI, and that companies must disclose AI-generated inputs.²¹ SAG-AFTRA struck and won contractual consent and compensation requirements for digital replicas of performers.²² These were bargained instruments, binding on signatory employers, and in 2026 both floors did what bargained floors must do to count as institutions: they survived renewal. The successor agreements ratified this year preserved every AI protection and extended them, the writers adding a notice regime for the licensing of their work to train generative systems, the performers adding further restrictions on synthetic performers.²³²⁴ A floor that holds through a full renegotiation cycle is not an episode. It is a load-bearing structure. And the construction road has a governance frontier the guilds have only begun to walk. Who governs the knowledge infrastructure itself, the indexed repositories of accumulated professional judgement that make individual practitioners substitutable? That is a labour question before it is a procurement question, and it belongs on the association's table beside consent and compensation.

One process. The two pathways look like alternatives and are actually a sequence, and each has a name in the literature that this movement will recognise. The construction pathway is what Robert Cover called *jurisgenesis*, the making of legal meaning by a community before the state recognises it; in the AI-governance literature it is *countergovernance*, worker- and community-led resistance to governance that excludes them.²⁵ The activation pathway carries the opposite risk Cover also named: a state-empowered body can be *jurispathic*, extinguishing the very organising it was meant to recognise. History backs the sequence, imperfectly but repeatedly. Many professional councils were not simply handed down from above. They emerged from organising by practitioners, voluntary associations whose collective power the state later wrote into statute. The medical councils and bar councils of the twentieth century are, institutionally speaking, the successful conclusions of nineteenth-century organising drives. The stack's own next step confirms the sequence from the other end: its convener's call to form small circles, connect them through a global course, and grow them into "a democratic organization capable of leading collective, planetary action" is the construction pathway at hour one, assembling by hand, in the voluntary world, the standing capacity that statute already grants the organised professions.²⁶ And his insistence that real change "cannot come from the top down alone" contains the word this paper stands on: *alone*. Which yields the sentence this paper most wants to leave in the room: today's dormant councils are earlier rounds of the very organising this

²¹Writers Guild of America, Memorandum of Agreement for the 2023 WGA Theatrical and Television Basic Agreement (Article 72, generative AI), <https://www.wgacontract2023.org/wgacontract/files/memorandum-of-agreement-for-the-2023-wga-theatrical-and-television-basic-agreement.pdf> (archived D1a); 2026 Memorandum of Agreement (ratified with 90.38% in favour; term 2 May 2026 to 1 May 2030; preserving the 2023 AI protections and modifying Article 72 Paragraph G to add written notice to the Guild, with discussion and remuneration on request, where writers' work is licensed to train a commercial generative AI system), https://www.wga.org/uploadedfiles/contracts/2026_mba_moa.pdf (archived D1b).

²²SAG-AFTRA, 2023 TV/Theatrical Contracts (digital replica consent and compensation), <https://www.sagaftra.org/contracts-industry-resources/contracts/2023-tvtheatrical-contracts> (archived D2a, D2b); 2026 TV/Theatrical Contracts (ratified 91.42% to 8.58% on a 19.25% return, per the union's announcement of 4 June 2026; effective 1 July 2026 to 30 June 2030; building on the 2023 AI protections with further restrictions on the use of synthetic performers), <https://www.sagaftra.org/contracts-industry-resources/contracts/2026-tvtheatrical-contracts> (archived D2c).

²³WGA agreements (n 21).

²⁴SAG-AFTRA agreements (n 22).

²⁵Robert M. Cover, "The Supreme Court, 1982 Term, Foreword: Nomos and Narrative" (1983) 97 Harvard Law Review 4; Blair Attard-Frost, Ana Brandusescu, David Gray Widder and Christelle Tessono, "AI Countergovernance: Lessons Learned from Canada and Paris," Tech Policy Press, 20 February 2025, <https://techpolicy.press/ai-countergovernance-lessons-learned-from-canada-and-paris> (extending Rikki John Dean's concept of countergovernance to community- and worker-led resistance to AI governance).

²⁶Scholz (n 2).

conference exists to advance. The activation pathway and the construction pathway converge not on the same institution — a statutory regulator, a union, a guild and a works council are materially different — but on the same underlying capacity: collective, enforceable power over the conditions under which work is done and AI is deployed, moving the affected worker from individual vulnerability toward institutional standing. Where that capacity is housed in a chartered self-governance body, the movement already has a name for the form. A statutory professional body is a public-cooperative hybrid: chartered and accountable in public law, governed by its practitioner members, holding delegated power that neither a pure state agency nor a pure cooperative holds alone. The hybrid is also the design that keeps the second pathway from consuming the first. The solidarity stack's missing accountability layer is not foreign to the stack. It is the stack's own institutional form, matured, and in most professions, asleep.

5. The Map: Refusal Capacity Across Professions and Jurisdictions

If the thesis is activation, the empirical question is: activated where, dormant where, absent where? This section presents a comparative map of refusal capacity. Three capacities must be kept apart, because the paper's argument depends on their order. Answerability is the condition of a person or institution being the one against whom responsibility is enforced. Accountability capacity is an institution's power to prescribe binding standards, supervise, and discipline. Refusal capacity is the power to contest, condition, or stop a deployment before an output becomes a decision, including by making deployment contingent on binding conditions, as against the decision subject's power to challenge it afterwards. The three are not synonyms, and a body can hold accountability capacity without yet holding refusal capacity; the first is the institutional precondition for durable exercise of the second. The accountability layer is the institution that, holding accountability capacity, can convert refusal from an act into a standing power. What this section maps is institutional forms of refusal and contestability, some of them professional bodies in the strict sense and some not; the common object is the capacity, not the label.

A note on method and data. The map is doctrinal and documentary. Every instrument on it, statute, court order, gazetted regulation, ratified agreement, has been verified against the primary record and archived by the author, with paragraph and clause numbers recorded at archiving time; secondary reports are treated as pointers, not as sources. The map is maintained as a living instrument on the author's website; this paper is its launch document, not its container.²⁷ Its Indian incident base is the author's Register of AI-Fabricated Authority in Indian Proceedings, a dataset built under a stated protocol: each entry carries a stable accession number, a defect classification under a five-type taxonomy, the recorded consequence, and its sources; entries are verified against the court's own order wherever an order exists and is retrievable, with the order archived and the paragraph of the finding recorded, and entries resting on reporting of record are marked as such. The Register currently documents nine incidents, the majority of them verified against the court's own order and the remainder against reporting of record, each marked accordingly. Nine is a small number, and the paper says so plainly. It attempts something regulators in the jurisdiction have not: a systematic, incident-level record organised around this failure class. The protocol, not the count, is the contribution. It is also the thesis practised: making invisible failure legible is itself governance work, because

²⁷The Refusal-Capacity Map, advshivamshukla.in [finalize URL path at launch]. The Register of AI-Fabricated Authority in Indian Proceedings, advshivamshukla.in/register/ [this note and every Register reference are conditional on completion of primary-source verification of all nine entries before submission].

dormancy ends when harm becomes visible, and the Register exists to make it so. The map arranges instruments by institutional form and enforceability, rather than as a universal ranking.

Statutory co-determination. At the top sits an institution this movement rarely thinks of as a professional body at all. Under section 87(1) No.6 of the German Works Constitution Act, an employer may not introduce technical systems capable of monitoring employee behaviour or performance without the co-determination of the works council; adjacent provisions require consultation at the planning stage of AI deployment, entitle the council to expert assistance at the employer's cost when evaluating AI, and extend co-determination to the design of technology-mediated mobile work.²⁸ This is refusal capacity in its strongest form: a genuine *ex ante* veto, enforceable in labour courts. Its boundary is instructive. In January 2024 the Hamburg Labour Court declined to let a works council block employees' voluntary chatbot use through private browser accounts, because the employer had no access to usage data and so no monitoring capability; on the decision's own logic, employer-provided systems with accessible logs sit inside the veto.²⁹ On the material assembled for this paper, the strongest enforceable refusal power over workplace AI belongs not to any ancient learned profession but to the German works council.

The bargained floor. One rung down sit the screen-guild agreements already described: binding consent, compensation, and refusal terms on AI, won through collective bargaining, no statute required, and now renewed and extended through a full contract cycle.^{30,31} They bind signatories for their terms. This is refusal capacity too, won contractually rather than by statute, but it is time-limited: a floor that must be re-won each cycle.

The binding code cascade. One transnational instrument shows that a profession's own machinery can promulgate binding method standards when it chooses to. The International Ethics Standards Board for Accountants issued technology-related revisions to its Code, effective from 15 December 2024, addressing precisely the questions of reliance, independence, and control that generative tools raise.³² The Code binds through a cascade: member institutes of the international federation adopt it into their own enforceable codes. The Institute of Chartered Accountants of Scotland adopted the revised Code with effect from 1 January 2025; the Institute of Chartered Accountants of India adopted a revised Code of Ethics, its thirteenth edition, with effect from 1 April 2026.³³ This is accountability capacity, promulgation at method level, exercised by a transnational standard-setter. The cascade is adoption-dependent and uneven. It is the exception that shows the condition, and the reason is structural rather than cultural. The IESBA is a pure standard-setter whose mandate is confined

²⁸Betriebsverfassungsgesetz (Works Constitution Act, Germany), s. 87(1) No. 6; see also ss. 90, 80(3), and 87(1) No. 14 (design of mobile work delivered through information and communication technology), official text at [gesetze-im-internet.de](https://www.gesetze-im-internet.de/bvfg/13001001_87_1_6.html) (archived B1, B1b).

²⁹Arbeitsgericht Hamburg, decision of 16 January 2024, 24 BVGa 1/24 (BeckRS 2024, 547) (archived B2).

³⁰WGA agreements (n 21).

³¹SAG-AFTRA agreements (n 22).

³²IESBA, Final Pronouncement: Technology-Related Revisions to the Code (April 2023; effective 15 December 2024), <https://www.ethicsboard.org/publications/final-pronouncement-technology-related-revisions-code> (archived C1).

³³The IESBA revisions cascade into national codes by adoption. The Institute of Chartered Accountants of Scotland adopted the revised Code with effect from 1 January 2025. The Institute of Chartered Accountants of India issued its Code of Ethics, thirteenth edition (2026), applicable from 1 April 2026, whose Volume II is expressly “converged with IESBA Code 2024 edition” (Preface to the Thirteenth Edition), carrying the technology-related provisions into the Indian code by adoption rather than independent authorship; the same edition adds “Artificial Intelligence (AI) Consultancy” to the permitted management-consultancy services (First Schedule commentary, entry xxxii). Archived copy C2a.

to promulgation; the bars, medical councils and engineering boards in most jurisdictions are also market gatekeepers, and a body that controls entry has a standing interest in not binding its own members more tightly than it must. Where those two functions are fused, method-making may be deferred to the sanction orders that fall on someone else. Where they are separated, as in accountancy, promulgation precedes the sanctions. That co-determination is not static in its home jurisdiction: on 2 July 2026 the German Federal Government presented a reform package proposing to make it easier for companies to implement AI projects, expressly without abolishing works-council co-determination but aiming to accelerate it. No draft legislation has yet followed. Even the strongest institutional refusal power is politically contingent, and this paper states that contingency rather than assuming the veto will persist in its present form.

The guidance shelf, and the paper's central finding. The largest category on the map, by far, is soft activation: guidance that maps AI use onto existing duties. The Bar Standards Board of England and Wales brought such guidance into force on 18 May 2026, tying AI use to the barrister's existing core duties; the Solicitors Regulation Authority, Canadian law societies, the Australian health practitioner regulator, the Brazilian bar, more than two dozen American state bar bodies, and the Japanese federation have issued instruments of the same family.³⁴ This is accountability capacity exercised in its weakest form. A word on the sample before the finding. The comparative material assembled for this paper consists of instruments issued by professional regulators, statutory bodies, courts, and collective-bargaining agents across roughly twenty jurisdictions, identified through a systematic search of regulator websites, official gazettes, and academic and practitioner commentary published between January 2023 and September 2026, and maintained as a living instrument on the author's website; an instrument is included where it addresses AI use in professional or workplace decision-making and issues from a body with regulatory, disciplinary, or contractual authority over the relevant actors. On that material, professional-body responses to AI are predominantly soft, mapping AI use onto existing duties more often than they create binding, method-level standards. The barrier is not always the regulator's reluctance: in British Columbia, on 24 July 2026, lawyers voted roughly fifty-five per cent against a proposal to have their regulator certify AI programs for legal use, so in some jurisdictions the resistance is the members' own. Soft activation does not cure the promulgation deficit; it annotates it. A guidance note confirms that the old outcome duties apply and leaves the method standard exactly as unpromulgated as before. That is why the sanction orders keep arriving in jurisdictions whose regulators have already "responded"; the courts themselves now supply the case studies, including a 2026 English matter, cited by the Supreme Court of India itself, in which a junior lawyer's fabricated statutory quotation passed entirely unnoticed by the supervising partners of a major firm.³⁵ Meanwhile, apart from the accountants' cascade, the genuinely binding instruments on this map come from outside the professional bodies whose principal AI response is guidance: the German veto, the bargained floor, and, tellingly, general regulators reaching the question first, as when India's securities regulator amended its intermediary regulations in 2025 to make every regulated entity solely responsible for the outputs of the AI tools it uses.³⁶ The pattern is uncomfortable, and it is the

³⁴Guidance instruments (n 7).

³⁵Anthony Malcolm Cork & Anor v. Mark Smith [2026] EWHC 1199 (Ch), cited by the Supreme Court of India in Pooja (n 11), fn. 7 (fabricated statutory quotation by a junior lawyer "entirely unnoticed by the supervising partners"; self-referral to the SRA).

³⁶SEBI (Intermediaries) (Amendment) Regulations, 2025, inserting reg. 16C (every regulated entity solely responsible for the AI and ML tools it uses, including the output arising from them), with parallel amendments on the market-infrastructure

point. On the material assembled here, the institutions with the clearest professional mandate to promulgate are also the ones most often choosing the softest available instrument.

Information rights. Below guidance sit rights to know without power to refuse. The European Union's AI Act obliges employer-deployers of high-risk systems to inform workers' representatives and affected workers before workplace use; following the amending regulation that entered into force on 27 July 2026, those high-risk obligations apply from 2 December 2027 for standalone listed systems.³⁷ Spain's Workers' Statute, amended in 2021, entitles works councils to information on the parameters, rules, and instructions behind algorithmic systems affecting working conditions.³⁸ This is the informational precondition for refusal without a refusal power. Information rights are the veto's shadow: the same workers' representative body may hold a right to disclosure where German law gives it co-determination.

Documented dormancy. Below information rights sits the map's most populated professional stratum: accountability capacity held and unexercised, bodies with full statutory power and no use of it. Medical regulators have in places expressly deferred;³⁹ most bar councils outside the jurisdictions above have issued nothing binding; the pattern repeats across engineering and journalism. Dormancy is not absence. A dormant power is one court order, one organising campaign, or one scandal away from activation, which is precisely what Section 4's anchor case demonstrates. Honesty requires naming a second seat as well: a profession's council cannot reach the bench, whose instrument must be the judiciary's own, the draft Regulations and the conduct codes of judicial office, a different institution for a different chair.⁴⁰ And one pattern runs the professional-regulatory material on this map: the professional bodies generally moved last, after the courts or the legislatures that received their work.

The missing bottom rung. Below dormancy sits a stratum the map must name because this panel exists: workers with no body at all, dormant or otherwise. The AI supply chain runs on annotation, labelling, and content moderation performed largely in the majority world, work constitutive of every deployed model and organised, until very recently, through no institution at all: no council to be dormant, no code to be soft, no bargained floor. That is changing from below, on schedule with this paper's thesis. The African Content Moderators Union, established in Nairobi in May 2023 as the continent's first, the Data Labelers Association in Kenya, and a global trade union alliance of content moderators formed in 2025 are the construction pathway's newest and rawest instances, the nineteenth-century stage of the same process that produced the chartered councils above.⁴¹ The stack's own account already celebrates the motion: a Nigerian

and depositories side.

³⁷Regulation (EU) 2024/1689 (AI Act), art. 26(7), <https://eur-lex.europa.eu/eli/reg/2024/1689/oj/eng> (archived G1); Regulation (EU) 2026/1744 (in force 27 July 2026), art. 1 point 40, rewriting art. 113 third paragraph, <https://eur-lex.europa.eu/eli/reg/2026/1744/oj/eng> (archived G2).

³⁸Estatuto de los Trabajadores (Spain), art. 64.4(d), inserted by Royal Decree-Law 9/2021 of 11 May 2021, confirmed by Law 12/2021 of 28 September 2021, official consolidated text at boe.es (archived H1).

³⁹Federation of Medical Regulatory Authorities of Canada, Working Group on Artificial Intelligence and the Practice of Medicine, Artificial Intelligence and the Practice of Medicine (June 2022): the Working Group considered it premature for medical regulatory authorities to recommend minimum guidance to physicians on the use of AI in patient care. The clearest documented instance of deliberate regulatory deferral on this map.

⁴⁰Draft Regulations (n 3).

⁴¹Richard Mathenge, "Data Workers Organizing: The African Content Moderators Union," in M. Miceli et al. (eds), Data Workers' Inquiry (2024), <https://data-workers.org/richard/>; Thomson Reuters Foundation report on the ACMU (established Nairobi, May 2023), <https://www.context.news/big-tech/mental-trauma-african-content-moderators-push-big-tech-on-rights>; Computer Weekly on the Data Labelers Association (Kenya), <https://www.computerweekly.com/news/366619321/Kenyan-AI-workers-form-Data-Labelers-Association> (archived J1a to J1c).

content moderator who sued Meta and Sama over working conditions went on to co-found a tech worker cooperative in which moderators, labelers, and engineers train worker-owned models.⁴² This is the construction pathway building accountability capacity from nothing. A refusal-capacity map that stopped at the professions would reproduce exactly the exclusion Section 6 confronts. The bottom rung is where the stack's accountability layer is being built from the ground up, in real time, by the people with the least protection and the most exposure.

Refusal toward what. A map of refusal powers requires a criterion for their use, and the asymmetry of Section 1 supplies it: a deployment warrants refusal when it breaks answerability, when it removes, disables, or erodes the human who can be cross-examined on the output. Three questions operationalise the test. Who answers for the output? Can the output be examined? Does the deployment leave the profession able to supervise the next one? The allocation route of Section 3 answers the first question and only the first: it establishes a named office that answers for the output, as *Vijay Ghanshyam Gadiya v Union of India* illustrates by leaving action against the Additional Commissioner who made the tainted order to his appointing authority. But it does not by itself establish that the output can be examined or that the supervising craft remains capable of independent control. Locating answerability is necessary and not sufficient, which is why the allocation route cannot substitute for the professional or collective mechanisms mapped here. A failure on any of the three questions, machine as decider, machine as unexaminable input, machine as eroder of the supervising craft, is sufficient to raise a presumption against the deployment, unless the deficit can be cured by an independently verifiable safeguard. Where all three are satisfied, as they are in assistive, verifiable, respondent-preserving uses such as translation, transcription, retrieval, and citation checking, refusal is not accountability but protectionism, a distinction on which the whole of the next section depends.

Seven activation mechanisms are visible on the completed map, each with at least one verified exemplar: court-ordered activation (India); voluntary duty-mapping (the guidance shelf); transnational code cascade (the accountants); statutory co-determination (Germany); collective bargaining (the screen guilds, twice); statutory sectoral empowerment (Thailand's draft AI law, prospective);⁴³ and new-body creation (prospective only). An eighth, judicial practice direction issued to filers without any regulator acting, is documented on the living Map from a 2023 cascade across seven Canadian courts; it is fast, binding on the filer, and leaves the professional body exactly where it was.⁴⁴ The map's lesson for this movement is not that one mechanism is correct. It is that the mechanisms are a repertoire, and every profession and workforce in this room is standing on one of the rungs.

⁴²Scholz (n 2).

⁴³Draft Principles of the Artificial Intelligence Law (Thailand), consolidated by the Electronic Transactions Development Agency following public hearing, June 2025; not enacted as of this writing.

⁴⁴The eighth mechanism is documented on the living Map rather than argued here. Between June and December 2023 a cascade of Canadian courts issued AI notices to the profession without any regulator acting, among them: Manitoba Court of King's Bench (23 June 2023, disclosure of AI use); Supreme Court of Yukon (26 June 2023); the Alberta Court of Appeal, Court of King's Bench and Court of Justice, joint notice (6 October 2023, mandating a human verification step and authoritative sources); the Supreme Court of Newfoundland and Labrador (12 October 2023); the Nova Scotia Supreme Court (18 October 2023); the Superior Court of Quebec (24 October 2023); and the Federal Court (20 December 2023, declaration requirement, periodic revision, carve-out for non-generative tools). Each is footnoted with its PDF in Szilagyi, *Regenerating Justice* (n 4), notes 137 to 144.

6. The Objection: Councils as Cartels

The strongest objection to everything argued so far belongs to this room, and it deserves to be stated at full strength before it is answered. Professional councils are not innocent infrastructure. A long sociological tradition, from the closure theorists through Larson's account of the professionalisation project and Freidson's studies of professional dominance, reads them as monopoly devices: institutions that capture a market for expertise, raise the price of entry, exclude competitors under the banner of standards, and defend incumbent privilege while speaking the language of public protection.⁴⁵ The colonial genealogy of many councils in the majority world sharpens the charge: bodies chartered to control who may practice have controlled, historically, along lines of class, caste, gender, and race. A solidarity movement that spent decades building cooperative alternatives to gatekept institutions is entitled to ask why it should now help switch the gatekeepers on. And the objection has a second edge inside this movement's own commitments: the stack is, by its author's declaration, built bottom up, while a statutory body is chartered from above.

The answer begins by conceding the history and dividing the powers. A professional council holds two bundles that the objection runs together. The first is gatekeeping power: control over entry, credentials, and the right to practice, the bundle the closure critique correctly targets. The second is accountability power: the authority to set method standards for work already being done, to discipline breaches, and to refuse deployments incompatible with the profession's answerability, judged by the criterion Section 5 just stated. The activation this paper argues for is of the second bundle only. Nothing in the Indian Supreme Court's direction, and nothing in this paper's thesis, expands anyone's control over who may practice. It demands that the body which already disciplines practitioners promulgate the method standards its own disciplinary cases are currently writing after the fact, sanction by sanction. Left dormant, accountability power does not disappear; Section 2 showed where it goes. The real alternative to council-made method standards is not no standards. It is standards made by sanction orders, which is rule-making with all of the council's coercion and none of its deliberation, notice, or member voice. The choice is not between professional power and its absence. It is between the same power exercised prospectively by a deliberative body or retrospectively by punishment.⁴⁶ Conceded just as plainly: activation has a documented failure mode. In 2016 the Supreme Court of India recorded that a High Court's direction to the profession's statutory council to act against a convicted advocate had gone unheeded for ten years, and exercised the disciplinary jurisdiction itself;⁴⁷ the July circular now shows the half-success mode, activation at the gate with the body exempting its own enrolled membership. An honest activation thesis carries both. The switch exists, and it can be thrown partially, late, or not at all. That is why the operative pressure is not the order alone but the record that makes dormancy legible. Reach must be conceded too: self-represented litigants account for a large share of the documented incidents, in the database's first year the largest share (n 1), and no professional body reaches them; what the body's

⁴⁵Magali Sarfatti Larson, *The Rise of Professionalism* (1977); Eliot Freidson, *Professional Powers* (1986).

⁴⁶Mireille Hildebrandt, "Algorithmic Regulation and the Rule of Law" (2018) 376 *Philosophical Transactions of the Royal Society A* 20170355, at 8 (contestability as the procedural core of the rule of law); Daniel N. Kluttz, Nitin Kohli and Deirdre K. Mulligan, "Shaping Our Tools: Contestability as a Means to Promote Responsible Algorithmic Decision Making in the Professions," in Kevin Werbach (ed.), *After the Digital Tornado* (Cambridge University Press, 2020) 137.

⁴⁷*Mahipal Singh Rana v. State of Uttar Pradesh*, (2016) 8 SCC 335 (also AIR 2016 SC 3302), Criminal Appeal No. 63 of 2006, decided 5 July 2016 (Dave, Kurian Joseph and Goel JJ.); the Bar Council of Uttar Pradesh's inaction ten years after the High Court's direction of 2006; the Court exercising appellate jurisdiction under the Advocates Act in view of the statutory obligations of the Bar Council of the State of Uttar Pradesh as well as the Bar Council of India.

standard still does is set the norm courts then apply to everyone who appears, represented or not. And economics cuts against discipline: an activated body makes delegation costly while the market makes it cheap, and this paper does not pretend that fight is short.

Second, activation as argued here is conditional, and the conditions are this movement's own governance repertoire. A council activating its AI mandate legitimately would do so with published draft rules and open consultation, lay and public-interest participation in the drafting committee, transparent disciplinary criteria with appellate review, and scheduled revision as the technology moves. These are cooperative governance norms applied to a statutory body, and they are precisely what the public-cooperative hybrid framing of Section 4 implies: the public half supplies enforceability and universality; the cooperative half must supply democratic method, or the hybrid degenerates into the cartel the objection fears. The honest formulation, which the author has used from his first address to this community, is that the real argument is about which of a council's powers deserve activating and which deserve democratising first. This paper's answer: activate the accountability bundle now, because the promulgation deficit is generating harm daily; democratise the gatekeeping bundle as the condition of the councils' continuing legitimacy; and never confuse the two.

Third, the constituency of activation is wider than the profession's upper tier, and naming it matters at a labour conference. The people most exposed when a chamber adopts AI badly are not senior counsel. They are the juniors who draft under delegation, the clerks who file what they did not compose, the paralegal and registry workers whose output is the first to be automated and the last to be governed. A council that promulgates supervision standards is, among other things, writing the working conditions of the profession's own lower rungs. That is why activation is a labour demand inside the profession and not only a quality demand upon it. Recent scholarship on AI-exposed work reaches the same neighbourhood from the other side: analyses of workforce vulnerability to AI identify the strength of professional association among the factors that determine whether workers can shape their own automation, and warn that effective oversight of AI depends on the very expertise its adoption erodes, so that a profession which automates unsupervised is spending the capital its supervision runs on.⁴⁸ That literature reaches toward collective refusal and leaves the institutional design untaken. This paper takes it.

Fourth, the construction pathway is itself the democratic rejoinder built into the thesis. If Section 4 is right that councils are congealed organising, then the movement's relationship to them is not supplication but inheritance: these are institutions earlier generations of organised practitioners won, and the demand that they exercise their powers for the profession's protection rather than its enclosure is an owner's demand, not a petitioner's. And where a council proves unreformable, the bottom rung of the map is a reminder that the power was built once from nothing and can be built again. The objection, taken seriously, does not defeat the activation thesis. It supplies the terms on which activation deserves this movement's support.

⁴⁸Nolan C. Lovett, "The Tragedy of the Cognitive Commons: How AI Could Disrupt the Regeneration of Professional Expertise" (2026) Human Resource Development Review, advance online publication, DOI 10.1177/15344843261470602 (accepted 6 July 2026; manuscript HRDR-25-0324; author at the Research Centre, NATO Special Operations University). Version of record: <https://journals.sagepub.com/doi/10.1177/15344843261470602>. Open-access author copy: https://digitalcommons.odu.edu/efl_fac_pubs/212/. The Validation Tether ("effective AI oversight depends on the expertise AI adoption may undermine") and the Internalized/Distributed Mastery distinction are stated in the abstract and Part IV; verified against the version of record, 11 September 2026.

7. The Live Case: Bangkok

This conference is not meeting near its subject matter. It is meeting inside it, and the sequence unfolding in this city over the past year compresses the whole framework of this paper into one jurisdiction.

The sequence began at the top of the judiciary. In September 2025, the President of the Supreme Court of Thailand issued recommendations on the use of AI in the courts, promoting cautious, ethical adoption under human oversight, published in the Royal Gazette on 22 October 2025.⁴⁹ The operational instrument followed within weeks: the Civil Court in Bangkok issued its Regulation on the Use of Artificial Intelligence in the Preparation of Pleadings or Any Other Documents for Submission to the Court, B.E. 2568 (2025), effective 17 November 2025.⁵⁰ Its obligations are, in this paper's vocabulary, a binding method standard issued by a court for the practising profession: human verification of all AI-assisted facts and law before filing, disclosure and clear marking of AI-generated content in prescribed form, and accountability resting entirely with the person signing, machine error affording no defence. India's draft judicial regulations now mirror the last rule almost exactly, providing that a person submitting AI-generated material found false bears full responsibility and cannot rely on its AI character as a defence;⁵¹ two jurisdictions, one principle, arrived at independently within months, and a Canadian tribunal reached the same principle in private law in 2024 when it rejected an airline's submission that its chatbot was a separate entity answerable for its own words.⁵² Diffusion down the Thai judicial hierarchy has begun, with a provincial court issuing its own notification in 2026.⁵³ And running alongside the courts, the profession's own body has entered the process: in October 2025 the Lawyers Council of Thailand announced a working group with the Faculty of Law of Thammasat University and the national Electronic Transactions Development Agency to develop AI guidelines for lawyers and legal advisors, with completion then expected within months; as of this writing the finalised guidelines had not been published.⁵⁴ Behind all of

⁴⁹Recommendation of the President of the Supreme Court of Thailand on the use of artificial intelligence in the courts (September 2025), described in Tilleke & Gibbins, "Thailand Civil Court Issues Rules on AI-Generated Court Filings" (3 December 2025), <https://www.tilleke.com/insights/thailand-civil-court-issues-rules-on-ai-generated-court-filings/>; the Thai-language Gazette text was not available to the author in translation at the time of writing, and the proposition rests on this and the other institutional analyses cited.

⁵⁰Regulation of the Civil Court on the Use of Artificial Intelligence in the Preparation of Pleadings or Any Other Documents for Submission to the Court, B.E. 2568 (2025), effective 17 November 2025. The four principal obligations (assessing the appropriateness of the tool; human verification of all facts and law; disclosure and marking of AI-generated content; full responsibility of the signatory, with AI error no defence) are set out in Tilleke & Gibbins (n 49), and confirmed in Nishimura & Asahi, "The Use of AI in Legal Practice: Ethical and Legal Frameworks in Australia and Thailand" (16 February 2026), <https://www.nishimura.com/en/knowledge/publications/20260216-119136>, and Baker McKenzie, "Thailand: 2026 AI Regulatory Landscape for Businesses" (March 2026). The Thai-language primary text was not available to the author in translation at the time of writing.

⁵¹Draft Regulations (n 3).

⁵²Moffatt v. Air Canada, 2024 BCCRT 149 (Civil Resolution Tribunal of British Columbia, 14 February 2024, Rivers, tribunal member), paras 27 and 44: the airline's submission that its chatbot was "a separate legal entity that is responsible for its own actions" was "a remarkable submission"; the operator is responsible for all the information on its website. The principle that responsibility follows the office, not the authorship of the output, is the fiduciary logic professional ethics has always run on, and it is the same one the Civil Court Regulation (n 40) and the Indian draft Regulations (n 3) state for filings.

⁵³Provincial diffusion of the Civil Court approach is described in Baker McKenzie, "Thailand: 2026 AI Regulatory Landscape for Businesses" (March 2026); the individual provincial notification's primary text was not available to the author in translation at the time of writing.

⁵⁴Lawyers Council of Thailand, working group with the Faculty of Law, Thammasat University, and the Electronic Transactions Development Agency, announced October 2025; as of the date of writing the author has not identified a published final set of guidelines, which is itself the open question the section treats as most informative.

it sits a draft national AI law, consolidated by the same agency after public hearings, that would create sectoral empowerment mechanisms if enacted.⁵⁵

Read through this paper's framework, Thailand is a live experiment in sequencing. The courts moved first and moved hard: binding, method-level, disclosure-based rules of exactly the kind Section 2 found missing almost everywhere, issued not by the profession's council but by the institution that receives the profession's work product. Court-led activation of practice standards, ahead of the professional body, is the Indian pattern inverted in one respect and repeated in another: in India the court ordered the council to act; in Thailand the court acted and the council is now deliberating in the space the court defined. Whether the Lawyers Council's forthcoming guidelines land as soft annotation or binding promulgation is, at the time of writing, the single most informative open question on the entire map, and it will be answered in this city, among institutions a short ride from this conference hall.

8. Conclusion: Kept by Use

This paper has argued that the solidarity stack lacks the enforcement half of accountability, an institution that can refuse a harmful AI deployment and make the refusal bind on the principled criterion of answerability; that the missing layer already exists in two institutional forms, the dormant statutory body awaiting activation and the workforce building the same capacity from below, with a court order from India and the screen guilds demonstrating the two; and that the map of refusal capacity, from the German works council's veto to the Nairobi moderator's newly founded union, is best read as a repertoire rather than a ranking, with every profession in this room standing on an identifiable rung.

The paper ends where its author's two off-duty obsessions, history and the weight room, converge, because they agree on the one law that compresses the whole argument. History shows that institutions sleep: powers chartered in statute can lie unexercised for generations until something, a court, a scandal, an organising drive, switches them on. Training shows the harder truth: a strength you stop exercising does not wait for you. It quietly stops being yours. Refusal capacity obeys the same law, and its deepest form is cognitive before it is institutional: automation quietly retires the habit of disagreement, so the first strength to fade is the one that notices there is anything to refuse. A council that never says no becomes, functionally, a council that cannot. A workforce that never organises remains a workforce that may not. A movement that builds every layer of the stack except enforcement will discover, at the moment enforcement is needed, that the muscle it never trained is gone. The map does not settle what enforcement looks like for workers who hold answerability but lack collective standing, including tribunal clerks and data annotators; it names the construction pathway as the route, but does not determine how far existing public hierarchies, as illustrated by *Vijay Ghanshyam Gadiya v Union of India*, reach AI use in practice. Those are questions for the next iteration of the instrument, not this one. The map presented here is maintained as a living public instrument, and it grows by one row for every answer to a one-line question: your profession, your country, and whether any body in it could refuse an AI deployment. Active, dormant, or nothing yet. The compiled map returns to this community before we meet in Bangkok, and after. A capacity is kept by use. There is no other way to keep it.⁵⁶

⁵⁵Thai draft AI law (n 43).

⁵⁶Methods note. This paper was drafted under the author's Supervised Intelligence Method: the argument, structure, and every settled formulation are the author's (legal framing); a language model was used to expand and draft prose within that

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