



## **UNESCO: Principles for the use of AI systems in courts and tribunals**

[Digital Governance Asia](#) (DGA) is pleased to provide input for the report on AI and international solidarity. We encourage the Independent Expert and the UN broadly to emphasize human rights recognition in AI governance mechanisms as they are currently forming in various settings, including at the UN's Global Digital Compact initiative, Summit of the Future, among other initiatives.

DGA is an Asia-Pacific based non-profit organization whose mission is to bring diverse stakeholders from the broader Asia-Pacific region together to address the challenges and opportunities in governance of emerging digital technologies, including e-commerce, social media, artificial intelligence (AI), and other algorithmic systems from a perspective rooted in agency and insights of the diverse Asia-Pacific region. Based on our values of connection, understanding, and justice, our vision is a region that thrives through sustainable digital opportunities, rights, and innovation. Our secretariat is powered by staff from APAC GATES, a rights consultancy based in Taipei. For more information please contact Mr. Seth Hays, Director of DGA at [seth@apacgates.com](mailto:seth@apacgates.com) or visit: <https://digitalgovernance.asia/> and <http://apacgates.com>.

We suggest that in addition to requirements to support human rights, the principles also consider the impact these AI systems may have on other rights. For example, some LLMs may infringe on the rights of copyright holders in an unfair and unjust manner. Some members of the public may be invested in respecting the rights of creators and have moral objections to the use of AI in their judicial proceedings and should have opt-out processes. On the principle of responsibility - not only should the users of the AI system be held responsible, including with some legal liability, but also the developers and deployers of the models and their constituent parts should be included in the nexus of responsibility. Finally – multi-stakeholderism is key for well-functioning AI governance. We encourage the use of public rankings, tests, certifications, and standards formed through standard setting bodies, professional associations and private enterprise be encouraged.

We encourage the inclusion of principles outside human rights, to include other rights, such as environmental rights, economic rights and dignity rights. This may be recognizing that LLMs infringe copyrights, pose significant environmental impacts, consolidate economic weight among a few corporations, or impose on freedom of choice and human dignity positions of individuals who may not wish to interact with or contribute to AI systems. Additionally, a principle on considering job losses due to adoption of AI in relationship to quality output. While efficiency gains are the goal, overall quality should not suffer. Finally, there should be a principle under transparency and explainability to avoid anthropomorphism of the AI tools and avoid vocabulary that reinforces such beliefs that AI systems have agency, understanding and consciousness.

Generative AI systems, as they currently exist in LLMs and diffusion models, should emphasize transparency of their training data. In particular non-consensual use of data, whether for privacy, IP, indigenous rights, or other moral claims, should be considered in the overall fairness of the tools creation and then deployment in the judiciary. Particularly in settings where decolonialization, or exploitation of indigenous peoples have been persistent, the use of AI systems trained non-consensually. Creators whose work was used to train LLMs, such as copyright owners, and other IP owners, should also have recourse when these tools are used in the judiciary.

Incident reporting should be a part of the overall governance framework and should be accessible broadly. When AI systems fail, or create harms, early reporting is important, even when for example, a complete investigation is not complete. Like in the airline industry, when critical failures emerge, grounding of certain airframes is necessary while investigations are ongoing. AI systems should not undermine trust in the judicial system, so an equally cautious and harm-prevention posture is warranted.

Rules and standards should be set by professional associations, standards bodies and private enterprises and institutions in a multi-stakeholder manner over time. Ranking, test cards, and certifications should be encouraged and widely used.

Given generative AI produces "hallucinations" or more apt, "confabulations" - the judiciary should create editorial systems and processes that identify and certify facts stated by these systems. Additionally, as previously mentioned, overall efficiency should be kept in mind, and AI systems that produce extra work, or slow work down, should be downsized or removed.