THE DIGNITY OF LEGAL EDUCATION VS ARTIFICIAL INTELLIGENCE IN AUSTRALIAN LAW SCHOOLS

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In recent years, law schools have struggled to adapt in pace with advancements in artificial intelligence ('AI'). This article argues that schools should contextualise this effort within the larger battle for the dignity of legal education against a trend toward its reduction into a mere income-generating technique. The overarching endeavour, in other words, is for the moral value of legal education which derives from its commitment to the dignity of the humanity in students and members of communities who need their services. The dignity of legal education depends on law schools facilitating students' cultivation of character and capacities. It entails, moreover, guiding students toward fulfilling employment through which they can make positive contributions to their communities. Obstacles to these aims predate, but are complicated by, threats and opportunities associated with evolving powers of AI. Generative AI programs, in particular, can enable unethical conduct, hinder development of important skills, and tighten job markets. AI simultaneously presents possibilities for expediting essential legal services and enabling greater focus on human skills which it will not soon supplant. The problems intensified and potentially alleviated by AI concern an overarching need to uphold the dignity of legal education in its service to moral ends which law schools are increasingly pressured to treat as monetary means. Only if the trouble is confronted accordingly can schools deliver respectable responses for their students and their broader communities.

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I INTRODUCTION

It is now difficult to imagine working a day at law school without encountering 'ChatGPT' as a conversation topic.[1] The rise of various forms of artificial intelligence ('AI'), especially the 'generative' and 'predictive',[2] present challenges which scholars of legal education are insisting law schools must address.[3] This article argues that these concerns should be considered within the context of a pre-existing and broader trouble afflicting law schools.

That problem concerns the moral worth — or, in short form, the 'dignity' — of legal education. If we can speak of the dignity of legal education, this is because legal education is not, or at least should not be, a mere instrument to amoral or immoral aims. Legal education can only be dignified by its commitment to moral ends. Those moral ends are people — bearers of human dignity — who participate in it, especially students, and the members of the communities whom they will eventually serve.[4] Law schools, then, should focus on ensuring that students are facilitated in cultivating their character and skills as well as building livelihoods which contribute meaningfully to the community of human ends of which they are members. These aims have long been met with obstacles. They are further complicated by corresponding threats and opportunities which accompany advancements in AI.

Those who work in law schools are shouldering the increasingly exacting responsibility to defend the dignity of legal education.[5] This occurs in the face of demands which threaten it with accelerating

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[1] ChatGPT is one of many Generative AI programs, although presently the most well-known: see Matthew Kirschenbaum and Rita Raley, 'AI and the University as a Service' (2024) 139(3) *Publications of the Modern Language Association of America* 504, 507: '[T]he term [ChatGPT], perhaps as a consequence of insistent repetition, has come to mean nothing, something, and everything, all at once.' As Kirschenbaum and Raley explain, '[p]ractically, ChatGPT refers to a chat application built on top of an LLM (the Generative Pretrained Transformer), the technocultural authority of which derives in part from its accessibility and ease of use': at 507.

[2] Whereas the former kind of AI 'can generate many types of content in seconds' including text, images, and sound, the latter 'makes predictions about the future in order to guide decision-making in the present': Arvind Narayanan and Sayash Kapoor, *AI Snake Oil: What Artificial Intelligence Can Do, What It Can't, and How to Tell the Difference* (Princeton University Press, 2024) 2, 11. These 'are two of the main types of AI' although 'there is no way to answer … [h]ow many … are there': at 12.

[3] See below nn 4–8 and surrounding text.

[4] Similar concerns have been expressed regarding universities more generally: See, eg, George Williams, 'A University, Not a Corporation', *Meanjin (Essay Post, Summer 2004)* <https://meanjin.com.au/essays/a-university-not-a-corporation/>.

[5] Empirical findings about the intensification of efforts required from legal educators are often made in the context of research about their wellbeing and that of their students: See, eg, Rachel Field, Caroline Strevens, and Colin James, 'Investigating Whether Law Schools in the UK and Australia Are Workplaces that Support the Wellbeing of Law Teachers' in Abraham P Francis and Margaret Anne Carter (eds), *Mental Health and Higher Education in*

deterioration into a mere income-generating technique.[6] The need for law schools to adapt alongside continually advancing forms of AI, this article argues, further intensifies and complicates our endeavour to uphold and promote the dignity of legal education.

It follows that the issues surrounding AI in law schools should be addressed within the broader dignitary context. We must anchor responses to our commitment to the moral ends which dignify our work in the first place.

The article makes a new contribution to the literature on AI in legal education. Existing work identifies, analyses, and suggests responses to, implications of the former for the latter. This article addresses these issues together within the overarching endeavour to uphold the moral worth of legal education. Such a contribution has not yet been made, although scholars focus on and diagnose various concerns law schools need to address in response to developments in AI.

These include at least four categories of concern about the promotion of respectively professional ethical character, human and technical skills, and employment opportunities, as well as social contribution. Some express that the generative capacities of AI present new means to enable academic integrity and professional ethics violations.[7] Relatedly, many observe that an overreliance on AI has the potential to prevent students from learning important skills which these technologies will not supplant within the

Australia (Springer, 2022) 67; Caroline Strevens, Rachael Field, and Colin G James, 'Law Teachers Speak Out: What do Law Schools Need to Change' in Michael Legg, Prue Vines, and Janet Chan (eds), *The Impact of Technology and Innovation on the Wellbeing of the Legal Profession* (Intersentia, 2020) 131. Others demonstrate that law teachers' endeavours, to respond to the growing need to support students in skill and career development, consume a tremendous amount of unpaid working hours. See, eg, Matthew Parry, Henrietta Gilchrist, and Alexandra Hill, 'Employability in Practical Skills Modules' in Amanda Millmore (ed), *How to Include Employability in the Law School* (Edward Elgar, 2024) 69. The disproportionality of the amount of work that educators invest into their teaching relative to their contracted hours is neither limited to law schools nor Australian universities. See, eg, observations from the UK: John Ross, 'Overworked Academics 'Give Away One-Third of Their Time'', *Times Higher Education* (Web Page, 18 August 2022) <www.timeshighereducation.com/news/overworked-academics-give-away-one-third-their-time>.

[6] The word 'income' is consciously used here instead of 'profit', to avoid confusion, because universities are registered charities and, therefore, forbidden for adopting primarily profit-making purposes: see below nn 121–7 and accompanying text.

[7] Amanda Head and Sonya Willis, 'Assessing Law Students in a GenAI World to Create Knowledgeable Future Lawyers' (2024) 31(3) *International Journal of the Legal Profession* 1, 13–5; Marjan Ajevski et al, 'ChatGPT and the Future of Legal Education and Practice' (2023) 57(3) *The Law Teacher* 352, 362; Jonathan Choi et al, 'ChatGPT Goes to Law School' (2022) 71(3) *Journal of Legal Education* 387, 397–8 ('ChatGPT').

foreseeable future.[8] On the flip side, it is widely advocated that students must learn how to use AI in legitimate and appropriate manners.[9] From the perspective of promoting students' employment prospects, a legal education needs to foster both the enduring intellectual and professional skills which are least likely to be replaced by AI in the near future, as well as those which are necessary to engage constructively with these technologies.[10] It has also been emphasised that '*humane*' kinds of learning, concerning 'justice and fairness' bear critical importance for the law student as a potentially conscientious member of communities — especially in contributing to social challenges in responding to technological developments.[11] The relationship between AI and legal education is a complicated web of factors. To manage it appropriately, however, we must be conscious of how these factors concern the moral value of legal education, and therefore, address them mindfully of the moral ends it ought to serve. This paper builds upon the discussion by integrating the key challenges presented by AI for law school into their place within the struggle for the dignity of legal education.

The article advances such an approach through four parts. Part I introduces the concept of dignity as it denotes inherent and derivative moral value, embodied respectively in humanity and things which serve it — such as our conduct and character. Human dignity prescribes duties to cultivate human capacities in building character and skills to better uphold and serve humanity as a community of moral ends. Part II shows how law and education can be dignified by dedication to human ends. They can also be undignified by use as techniques for mere self-interest or detachment from moral ends. Part III argues that legal education can similarly be dignified or undignified depending on its commitments to the end-

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[8] Head and Willis (n 7) 13–5; Ajevski et al (n 7) 357; Choi et al, 'ChatGPT' (n 7) 397–8; Sandra Noakes, 'Needs Improvement': Positioning Good Practice Writing Pedagogy in the Australian Law School Curriculum' (2021) 47(1) *Monash University Law Review* 212, 225; Carolyn V Williams, 'Bracing for Impact: Revising Legal Writing Assessments Ahead of the Collision of Generative AI and the NextGen Bar Exam' (2024) 28 *Legal Writing: The Journal of the Legal Writing Institute* 1, 75; Justine Rogers, 'Teaching Soft Skills Including Online: A Review and Framework' (2020) 30 *Legal Education Review* 1, 10; Michael Legg and Felicity Bell, 'Artificial Intelligence and the Legal Profession: Becoming the AI-Enhanced Lawyer' (2019) 38(2) *University of Tasmania Law Review* 34, 58–9; Jordan M Blanke, 'ChatGPT: The Sky is Not Falling' (2024) 41 *Journal of Legal Studies Education* 39, 47; Inara Scott, 'Rising to Meet the Challenge of Generative AI' (2024) 41(1) *Journal of Legal Studies Education* 29, 37; Choi et al, 'ChatGPT' (n 7).

[9] Ajevski et al (n 7) 363; Head and Willis (n 7) 13–5; Legg and Bell (n 8) 58–9; Choi et al, 'ChatGPT' (n 7) 397–8; Brandon Mattalo, 'Artificial Intelligence: The Future of Pedagogy' (2024) 41(1) *Journal of Legal Studies Education* 49, 61; Sara Migliorini and Joao Ilhao Moreira, 'The Case for Nurturing AI Literacy in Law Schools' (2024) (12(1) *Asian Journal of Legal Education* 1.

[10] Ajevski et al (n 7) 363, 397–8. See especially Stuart Hargreaves, 'Words are Flowing out Like Endless Rain into a Paper Cup': ChatGPT & Law School Assessments' (2023) 33(1) *Legal Education Review* 69, 88–9.

[11] Daniel Goldsworthy, 'The Future of Legal Education in the 21st Century' (2020) 41(1) *Adelaide Law Review* 243, 262.

statuses of its students and the communities they will serve. It contends that ongoing concerns about law schools in Australia — regarding integrity and ethics, skills, career prospects, and social contribution — comprise an overarching challenge to upholding moral ends. That is, against the tide of demands to increasingly reduce legal education into a mere income-generating technique. Part IV argues that the incursion of AI advancements into law schools complicates and compounds the pre-existing overarching problem afflicting the dignity of legal education and should be treated as such. Concerns about these developments map onto the troubles identified as components of law schools' dignitary embattlement. If schools value students and communities as moral ends, then challenges presented by AI must be treated as merging and adding complexity into an older and broader problem. The alternative is a fragmentary approach that fails to effectively address essentially dignitary threats and opportunities as it treats them in isolation from the larger picture. Now is time, it is concluded, for law schools to reinvigorate their commitments to the moral ends which justify their existence in light of technological change and plan their futures accordingly.

A Dignity

Dignity denotes the inherent moral value we recognise in humanity as an end and the derivative moral value we recognise in that which upholds the former — such as conduct and character. We have moral duties to the dignity of the humanity in ourselves and others to cultivate our capacities in terms of character and skills. Human endeavours require prudence, not merely in pursuing self-interest and technical advancement, but to best uphold and serve the dignity of humanity.

1 *Moral Value*

Where the term 'dignity' appears, reference is made to a value which is not merely instrumental. Dignity refers to what either has inherent value as a moral end or what bears a derivative secondary value because it serves or upholds the former value. Such value contrasts with that which is recognised in whatever serves immoral or merely amoral ends.

This is why Immanuel Kant, seemingly paradoxically, attributed dignity to many entities. On one hand, he claimed that only 'morality', and 'humanity' for its capacity for morality, has dignity.[12] He famously wrote that every person, therefore, bears 'dignity' as a moral end in oneself, unlike things which can rightly be treated as mere means and can only have a 'price'.[13] On the other hand, Kant also attributed

[12] Immanuel Kant, *Groundwork of the Metaphysics of Morals*, tr Mary Gregor and Jens Timmermann (Cambridge University Press, 2nd ed, 2012) [4:435] ('*Groundwork*').

[13] Ibid [4:434]–[4:435]

dignity to good character and conduct,[14] as well as the law and its institutions.[15] All of these bore value for Kant because of their place in his moral system as upholders or servants of the dignity of humanity. That is, as opposed to things which are amorally valued because of their ability to be used prudently to serve one's own inclinations.[16] We need not take Kant's usage of the term 'dignity' as sole authority for its conceptualisation of both inherent and secondary moral value.[17] Moral, political, and legal thinkers use the term to attribute moral value to humanity and/or individual human beings,[18] morality or virtue,[19] God,[20] character,[21] conscience,[22] (self- and other-regarding) conduct,[23] certain activities like labour or commerce,[24] social standing,[25] as well as governmental authorities, offices, and institutions.[26] In each case, 'dignity' is used to denote either a moral value which is inherent or derived from its service to what is inherently morally valuable. Once we recognise something as inherently morally valuable, it follows that moral value also resides in what serves or upholds the former.

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[14] Ibid [4:435], [4:439]–[4:440]; Immanuel Kant, *Metaphysics of Morals*, ed Lara Denis, tr Mary Gregor (Cambridge University Press, 2nd ed, 2017) [6:466] ('*Metaphysics*').

[15] Kant, *Metaphysics* (n 14) [6:315], [6:327]–[6:329].

[16] Kant, *Groundwork* (n 12) [4:434]–[4:435].

[17] Paul Formosa and Catriona Mackenzie, 'Nussbaum, Kant, and the Capabilities Approach to Dignity' (2014) 17 *Ethical Theory and Moral Practice* 875, 877.

[18] Cicero, *On Duties*, ed MT Griffin and EM Atkins (Cambridge University Press, 1991) 41; Thomas Hill Jr, *Autonomy and Self-Respect* (Cambridge University Press, 1991) 170; Michael Rosen, *Dignity: Its History and Meaning* (Harvard University Press, 2012) 61.

[19] Cicero, *Tusculan Disputations*, tr JE King (Harvard University Press, 1927) 513; FR Lees, *The Text-book of Temperance in Relation to Morals, Science, Criticism, and History* (Trübner, 1871) 5.

[20] Thomas Aquinas, *Summa Theologica* (Christian Classics, 1981) 168 [1485]; Bernard Brady, 'The Evolution of Human Dignity' (2021) 10 *Journal of Moral Theology* 1, 5.

[21] Mary Wollstonecraft, *A Vindication of the Rights of Women* (Penguin Books, 1975) 127; Mary Neal, '"Not Gods but Animals": Human Dignity and Vulnerable Subjecthood' (2012) 33(3) *Liverpool Law Review* 177, 179–197.

[22] Thomas Deman, 'The Dignity of Conscience' (1953) 34(396) *Blackfriars* 115; Pope John Paul II, *Veritatis Splendor* (Catholic Truth Society, 1993) 63; John Finnis, *Natural Law and Natural Rights* (Oxford University Press, 2nd ed, 1980) 126.

[23] Friedrich Schiller, *On Grace and Dignity*, tr George Gregory (Schiller Institute, 1992) 377; Miriam Griffin, 'Dignity in Roman and Stoic Thought' in Remy Debes (ed), *Dignity: A History* (Oxford University Press, 2017) 47, 53.

[24] Martin Luther King Jr, *All Labor has Dignity*, ed Michael K Honey (Beacon Press, 2010); Nathan Oman, *The Dignity of Commerce: Markets and the Moral Foundations of Contract Law* (University of Chicago Press, 2016).

[25] Cicero, *On Duties* (n 18) 46; Rosen (n 18) 47.

[26] Ernst Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton University Press, 2016) 384–5; Duane Rudolph, 'Dignity and the Promise of Conscience' (2023) 71 *Cleveland State Law Review* 305, 308, 328; RN Spann, 'Privilege of Parliament' (1955) 27 *The Australian Quarterly* 46, 53–4.

This paper accepts the premise that the humanity in each person bears inherent moral worth. It avoids debating what is *the* ultimate bearer of moral value. It does not dispute that other entities may rightly be attributed dignity. Under many belief systems, human dignity can be seen as both inherent and derivative from supremely dignified sources, for example, by virtue of being imbued in all of us by endowment from God,[27] or of our capacities of reason or feeling.[28] We might not all agree on why humanity bears dignity, but those of us who accept that people warrant at least a basic level of respect by virtue of being human, in turn, recognise some conception of human dignity. This requires from us what Kant articulated in the 'Principle of Humanity', notwithstanding his particular views about the grounding of human dignity: 'So act that you use humanity, in your own person as well as in the person of any other, always at the same time as an end, never merely as a means'.[29]

This article neither aims to persuade amoralists of moral value nor that it is wrong to treat others as mere means to their own ends.[30] The premise is accepted that humans constitute moral ends. That value, human dignity, should be upheld. This does not change simply because dignity is a concept which generates different conceptions through interpretations across different systems of thought.[31] Still, one might object that whatever constitutes the 'humanity' in each human remains undefined and ask which aspects of a human must be honoured to uphold their dignity.

If humans constitute moral ends, then some aspects of our lives must warrant respect. We have capacities which, as Martha C Nussbaum claims, 'should be pursued for each and every person, treating each as an end and none as a mere tool of the ends of others'.[32] She conceives of 'a *threshold level of each capability*, beneath which ... truly human functioning is not available to citizens'.[33] At minimum, 'the social goal should be understood in terms of getting citizens above this capability threshold'.[34] This includes life,

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[27] Bonnie Kent, 'In the Image of God: Human Dignity after the Fall' and Mustafa Shah, 'Islamic Conceptions of Dignity: Historical Trajectories and Paradigms' in Remy Debes (ed), *Dignity: A History* (Oxford University Press, 2017) 73, 99, 87, 108–9.

[28] See Kant, *Metaphysics* (n 14) [6:400]. Cf Jean-Jacques Rousseau, *Discourse on the Origins and Foundations of Inequality among Men*, ed Victor Gourevitch (Cambridge University Press, 1997) 128.

[29] Kant, *Groundwork* (n 12) [4:429].

[30] For the view that '[t]here are no objective values': see JL Mackie, *Ethics: Inventing Right and Wrong* (Penguin Books, 1978) 15.

[31] *'Concepts* are abstract notions like justice and goodness, but people disagree about what justice requires and what constitutes goodness. That is, people have different *conceptions* of those ideals': Jacob Nebel, 'Does Dworkin's Moral Reading Rest on a Mistake?' (2023) 17 *Journal Jurisprudence* 25, 27.

[32] Martha C Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Harvard University Press, 2006) 70 ('*Frontiers*').

[33] Ibid 71.

[34] Ibid 71.

health, autonomy, emotions, senses, imagination, thought, practical reason, affiliation, play, and relations with non-humans.[35] We can 'imagine a life without the capability in question' and appreciate that such a life suffers from the viewpoint of concern for that person's human dignity.[36] This does not mean anyone lacks dignity for inability to, or obstruction from, realising or advancing their capacities. Rather, we should promote the respect for and cultivation of these capacities *because* people have human dignity.

2 *Character & Conduct*

If people bear human dignity, and moral capacities enabling them to recognise it, then their character and conduct may bear varying degrees of dignity depending on how well they uphold commitments to the moral end-status of themselves and others.[37] The conduct Kant promotes in his 'principle of humanity' is dignified and dignifies the character of the one performing it by virtue of upholding human dignity: 'we thereby picture a certain [...] dignity in the person who fulfils all his duties'.[38] In interpersonal dealings, or in how one treats oneself, they might conduct themselves with dignity or otherwise.[39] As Ronald Dworkin wrote, 'treating others with proper respect for the importance of their lives' is to 'act with... dignity'.[40] If one behaves disrespectfully to others, perhaps by bullying them, this conduct lacks dignity.[41] If someone accepts bullying from others, this conduct also lacks dignity.[42] Neither person lacks human dignity. Rather, the disrespect in their conduct, respectively, for the human dignity of others and oneself, makes their conduct undignified.[43] A pattern of such conduct would cultivate and demonstrate a character of the same moral quality. Depending on the extent to which one upholds human dignity we can attribute degrees of dignity or indignity to their character and conduct.

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35 Ibid 76.

36 Ibid 78.

37 See, eg, Formosa and Mackenzie (n 17) 877.

38 Kant, *Groundwork* (n 12) [4:439]–[4:440].

39 '[T]he idea of dignity as behavior that is dignified, reveals [another]: a perspective on dignity from which to treat someone *with dignity* is to treat them with respect': Rosen (n 18) 61.

40 Ronald Dworkin, *Justice for Hedgehogs* (Harvard University Press, 2011) 420–1 ('*Hedgehogs*').

41 Lying, for Kant, is a most undignified form of interpersonal conduct: Kant, *Metaphysics* (n 14) [6:429].

42 Kant, *Metaphysics* (n 14) [6:436].

43 While in *Metaphysics* (n 14), Kant writes that by lying one 'annihilates his dignity as a human being': at [6:429]; it only makes sense to interpret this as an 'exaggeration' in light of the rest of Kant's work including *Metaphysics*, and to really mean that '[t]hey do not throw away their humanity, but rather, through disrespecting it, treat themselves *as if* they have none': Samuel J Kerstein, 'Treating Oneself Merely as a Means' in Monika Betzler (ed), *Kant's Ethics of Virtue* (De Gruyter, 2008) 201, 218.

Even Kant, whose moral system is renowned for rigidity, recognised, in addition to perfect duties which must always be strictly observed, imperfect duties which one can only uphold by doing their best.[44] We need not adopt Kant's exceptionless prohibitions, however, to accept that human dignity requires effort to avoid undermining *and* to positively serve humanity as a moral end. Individual perfection is impossible insofar as circumstances sometimes morally necessitate ordinarily immoral conduct and limit the extent to which one can perform moral deeds.

Dishonesty, for example, typically renders one's conduct undignified and, if practised often and seriously enough, can cause deterioration of character. For Kant, lying categorically undermines human dignity even if aimed at obstructing an axe murderer.[45] That is because he conceives our humanity as solely based in our capacities for reason. Lying short-circuits this capacity by feeding it falsity. A more expansive understanding of human dignity, however, like Nussbaum's,[46] which recognises other human capacities as dignified, avoids reducing human dignity into absurdity. We might accept that prima facie, dishonest conduct is undignified because it hinders exercise of their capacity of reason and often produces harmful outcomes. We might also deem dishonest character undignified because its bearer lacks concern for that capacity and those consequences. This does not erase circumstances where interference with one's capacity to process truth is justifiable in defence of a human end (eg, preventing murder). It does not provide a straight line in advance to divide between all cases of acceptable and unacceptable lying or other presumptively undignified behaviours. Whether lying is justified in one case might be more obvious than in others. We conduct ourselves with dignity and display dignified character by honestly aiming to behave respectfully to human ends. Our moral capacities themselves are cultivated when we seriously apply them to such questions. In so striving, our conduct and character become more dignified.

3 *Cultivating Capacities*

The imperfect nature of many obligations to honour humanity extends to positive cultivation of our human capacities and active service to the humanity of others. If people, as bearers of humanity, are moral ends, we must strengthen our commitment to treating them as such and our understanding of what this means. This is done by sharpening one's moral reasoning capacities, which Kant categorises as 'conscience',[47] and attentiveness to 'moral feeling' which helps motivates accountability.[48] We must also build

[44] Kant, *Groundwork* (n 12) [4:421]–[4:424,], [4:429]–[4:430].

[45] Immanuel Kant, *Grounding for the Metaphysics of Morals with On a Supposed Right to Lie Because of Philanthropic Concerns to Lie* (Hackett Publishing, 1993) 65.

[46] Nussbaum, *Frontiers* (n 32).

[47] Kant, *Metaphysics* (n 14) [6:400].

[48] Ibid [6: 402].

'skills' for use in serving moral ends, for example, enhancing one's communication to engage more effectively with other members of the human community which Kant calls the 'kingdom of ends'.[49]

We can only improve so much with our finite time and resources. Each goal limits the extent to which we can pursue others. We should exercise our best judgment in pursuits which honour the humanity in others and ourselves. We need not adopt an impossible standard of perfection in performance of intrinsically imperfect duties. This would be self-defeating. Imagine spending so much time studying law that one learns nothing else. The point is to better oneself, and the endeavours we undertake, through advancement and application of one's capacities of morality and skills in commitment to human ends. This is what, as Part II shows, can dignify human activities and institutions of education and law.

4 *Self-Interest and Technique*

Upholding moral duty requires sensible judgement. That is, prudence, which should support but never supplant moral principle.[50] Prudence, and techniques through which we apply it, can be enacted contrarily to the moral value in humanity. One could pursue self-interest without regard for others, thereby defying their moral end-status. One could pursue technical advancement for its own sake, ignorantly inflicting harm upon humanity. Pursuits of self-interest and technique should be limited by, and anchored in, judgements premised upon the consciousness of the morality of ends.

Consider self-interest. One could apply prudential judgement in planning a vacation. Such an activity is, without more, morally neutral. It could be simply morally permissible rather than good or bad. It could, however, serve moral or immoral ends. One might aim to recharge and return refreshed to work more collegially after a busy period. One might devise an excuse to take advantage of their colleagues by holidaying during the busy period. The prudential judgment is exercised with dignity by reconciling self-interest with others' end-statuses in the former but not the latter case. One might claim that intensely self-interested pursuits, with only so much regard for others as needed to avoid one's plans backfiring, are justified by rewards attainable within a given (educational, legal, or social) system.[51] This argument, however, exhibits the indignity of encouraging the cultivation of skill and technique for the purpose of maximising the utility one can gain from others — rather than validating the internalisation of such attitudes. Morally valuable and invaluable activities are more successful when approached prudentially.[52] We *may* permissibly work prudently in pursuit of self-interest when this is compatible with others' end-statuses. Simultaneously, we have *duties* to use prudence to uphold moral ends.

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[49] Kant, *Groundwork* (n 12) [4:433].

[50] Ibid [4:415]–[4:416].

[51] See George Monbiot and Peter Hutchison, *The Invisible Doctrine: The Secret History of Neoliberalism* (Allen Lane, 2024) 5.

[52] Kant, *Groundwork* (n 12) [4:389].

The prudent person applies techniques towards chosen ends. This includes techniques of purely human action as well as using and creating inventions called 'technology'.[53] Techniques and technology are inherently neither morally commendable nor condemnable. The distinction between the morality capacities of humans and the *prima facie* amorality of 'things' like techniques and technologies is most appreciable when one considers the potential for shifting moral responsibility to non-human entities like AI. As Michael Wooldridge writes:

> An entity is a moral agent if it can understand the consequences of its actions and the distinction between right and wrong, and can therefore be held accountable for its actions. The prevailing view is that AI systems should not – and indeed, cannot be treated as moral agents. Responsibility lies with the people who build and run an AI system, not with the system itself.[54]

While we should prudentially pursue moral ends, we should ensure that our pursuits of prudence — in enhancing and using techniques or technology — are favourable towards or consistent with moral ends rather than, even unwittingly, to their detriment. It is problematic to pursue technical advancement for its own sake or without regard for ends to which they may be applied, lest they prove harmful to humanity.[55]

Consider the recent letter, 'A Right to Warn about Advanced Artificial Intelligence', signed by former and current employees of OpenAI and Google DeepMind.[56] In their occupations they contributed their skills with belief in 'the potential of AI technology to deliver unprecedented benefits to humanity'.[57] They now attest that:

> AI companies have strong financial incentives to avoid [the] effective oversight [needed to address] the serious risks posed by these technologies [which] range from the further entrenchment of existing inequalities, to manipulation and misinformation, to the loss of control of autonomous AI systems potentially resulting in human extinction.[58]

The employees' anxiety is about a situation in which techniques used to advance technologies, which they pursued hoping help humanity, became apparently serious, perhaps existential, threats to it. Such threats, they now fear, are escaping humanity's control, as individuals value self-interest above humanity hold the power. Perhaps the institutions and systems surrounding tech companies and workers fuelled an undertaking which insufficiently accounted for its implications for humanity. Such an endeavour was a product of sophisticated learning undertaken by professionals who now urge serious legal efforts

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[53] Jacques Ellul, *The Technological Society* (Vintage, 1964) 3–4.

[54] Michael Wooldridge, *The Road to Conscious Machines* (Pelican, 2021) 348–9.

[55] See Ellul (n 53) 10.

[56] 'A Right to Warn about Advanced Artificial Intelligence' (Public Letter, 4 June 2024) < https://righttowarn.ai/ >.

[57] Ibid.

[58] Ibid.

to restrain its consequences. To fund their projects, the brightest tech innovators rely on support from competing 'big tech' enterprises who prioritise profit over human dignity.[59] If humanity is becoming increasingly vulnerable to AI's capacities, as Sue Anne Teo argues, the threats should inform the responses human dignity demands today.[60] This foreshadows Part II's concern: the need to dignify education and law with moral commitment to humanity.

We are often obliged to prudently pursue advanced means but only for the sake of moral ends to which we apply them. If humanity matters, we should neither pursue solely self-gratification nor technique for its own sake. Morality and skill must jointly inform pursuit of advancement. This is true in contexts of law, education, and legal education which can both serve and undermine humanity.

B *Institutions and Systems*

Questions of character extend beyond manifestations of individual conduct. They also concern attitudes and practices of institutions and systems including legal or educational kinds, which Part II considers, and societies more broadly. This includes the neoliberal model. As Jessica Whyte demonstrates, its proponents couched their arguments in moral terms of concern with (a particular conception of) human dignity.[61] That is, the view that individuals should be left to pursue their own choices and that the market, by facilitating free exchanges, is the fundamentally morally valuable institution which should be protected rather than interfered with.[62] Decades of experience under neoliberalism cast doubt on its individualistic conception of dignity. Its fixation with free exchange marginalises other concerns about capacities such as, life, health, autonomy, affiliation, which demand respect if humans are truly moral ends.[63] Markets and commerce are not necessarily undignified but can be if they become pernicious to humanity.[64]

It is not aways problematic to pursue self-interest and commercial techniques to that end. However, when a person, institution, or system, views humans as *little or nothing more than* a means, self-interest or technique for its own sake, they displace the respect for humanity as their fundamental principle. This holds significance for our consideration of the dignity of law, education, and legal education which operate

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[59] See, eg, Parmy Olson, 'Supremacy: AI, ChatGPT, and the Race that Will Change the World' (2024) 271(26) *Publishers Weekly* 167.

[60] Sue Anne Teo, 'Human Dignity and AI: Mapping the Contours and Utility of Human Dignity in Addressing Challenges Presented by AI' (2023) 15(1) *Law, Innovation, and Technology* 241, 276–7.

[61] Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (Verso, 2019) 11–12, citing Friedrich Hayek, *Law, Legislation, and Liberty, Vol 2: The Mirage of Social Justice* (Routledge, 1998) 67.

[62] Ibid.

[63] See, eg, Monbiot and Hutchison (n 50) 5.

[64] See Oman (n 24) 160.

within a larger social order. Like individual human activity, these larger human endeavours can be characterised and conducted with varying degrees of dignity and indignity.

II EDUCATION & LAW

Law and education can derive degrees of dignity or indignity depending on the extent to which they honour humanity or are reduced to mere techniques either for self-interest or detached from concern for moral ends. This applies to education and its role in cultivating character and skills and enabling livelihoods which serve humanity. Education can be degraded into an exercise of learning techniques as if they were ends, or into a technique for reducing moral ends to mere means for self-interested aims. Similarly, law can be dignified by its commitment to moral ends or undignified if developed and applied oppressively to or mindlessly of the human ends it ought to serve. This appreciation of the dignities of education and law enables the enquiry into the potential embodiment of dignity in the endeavour of education in the discipline of law.

A *Education*

1 *Dignified Education*

Human activities of learning and education can either be dignified in their promotion of humanity as a moral end, or outright undermine, or fail to seriously uphold, this value. This pertains to our moral duties to enhance human capabilities. Francis Bacon explicitly attributed dignity to learning.[65] Kant also saw moral value in education. He recognised an imperfect duty to pursue it for the cultivation of human character and skills.[66] Most, if not all, of Nussbaum's capabilities are enhanced through educational endeavours.[67] Human ends benefit from cultivating capacities through education, which they can use to benefit other human ends.

Education is dignified when it cultivates moral character and skill favourably to humanity. As Johannes Giesinger emphasises, 'Kant thought of education as the realization of human dignity' borne in the human bearer.[68] Kant meant this when he wrote that 'the human being can only become human through education'.[69] Education should be undertaken in a manner which is most conducive to cultivating humanity, especially the promotion of respect for self and others.[70] Kant, therefore, discouraged

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65 Francis Bacon, *The Advancement of Learning*, ed Joseph Devey (Collier and Son, 1901) 31.

66 Kant, *Metaphysics* (n 14) [6:477].

67 Nussbaum, *Frontiers* (n 32) 322.

68 Johannes Giesinger, 'Kant on Dignity and Education' (2012) 62(6) *Educational Theory* 609, 612.

69 Ibid 616, quoting Immanuel Kant, *Lectures on Pedagogy* in Gunter Zoller and Robert B Louden (eds) *Immanuel Kant: Anthropology, History, and Education* (Cambridge University Press, 2007) ('*Pedagogy*') [9:443].

70 Giesinger (n 68) 616.

'dogmatic' styles of teaching, under which teachers simply lecture information into students' minds, preferring dialogue through which both exchange questions and answers.[71] Education is devalued when students are treated as passive depositories of knowledge, for example, by simply lecturing them and exacting demands from their capacity of memory.[72] It is enhanced when made engaging for students to actively participate through their capacities of reasoning and feeling.[73] As the student is encouraged to think ethically and empathically, while gaining skills which can serve humanity, they solidify their sense of respect for the humanity in others and oneself. Education is dignified when it honours the dignity of its participants and by extension the communities to which they contribute.

The humanising essence of Kant's message about education is helpful. He does not, however, provide an adequate understanding of the dignity of education, not least because he overlooks its potential to oppress or liberate members of the community of ends. His consciousness about education is hindered by elevation of reason above all capacities and racial and gendered prejudices.[74] Later scholars champion the role of education in advancing consciousness for overcoming of biases and understanding various problems afflicting human ends within societies in which they live.

Expressly focused on 'cultivating humanity', Nussbaum argues for education models which prepare students for 'global citizenship'.[75] This means development of capacities for, first, 'critical self-examination' concerning one's attitudes and background, second, conceiving oneself as a human connected by concern with all other humans, and, third, 'narrative imagination' through which we empathise by envisioning oneself in another's situation.[76] Paulo Freire advocates centring students and the social structures within which they operate in his approach focused on posing problems for them to address.[77] He observes that once students 'apprehend the challenge as interrelated to other problems within a total context, not as a theoretical question, the resulting comprehension tends to be increasingly critical and thus constantly less

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[71] Ibid, citing Kant, *Pedagogy* (n 69) [9:443].

[72] See, eg, Paulo Freire, *Pedagogy of the Oppressed* (Continuum, 2005) 72.

[73] One might insist on education as 'an activity worth doing for its own sake' and reject 'the reduction of liberal education to all practical ends, including moral ones'. This view, however, can only be contradictorily supported by moral claims such as that predicating the value of education on its promotion of moral ends 'will fail to respect the dignity of those who participate' by disregarding the value of 'contemplation … an activity that transcends all practical concerns'. Such a perspective is conveyed by: SF McGuire, 'Kant, Dignity, and Liberal Education in a Technological Age' in James Greenway (ed), *Human Dignity, Education, and Political Society: A Philosophical Defense of the Liberal Arts* (Rowman & Littlefield, 2020) 137, 138–9.

[74] See, eg, Huaping Lu-Adler, 'Kant on Lazy Savagery, Racialized' (2022) 60(2) *Journal of History of Philosophy* 253.

[75] Martha Nussbaum, *Cultivating Humanity: A Classical Defence of Reform in Liberal Education* (Harvard University Press, 1997) ('*Cultivating Humanity*') 50–84.

[76] Ibid.

[77] Freire (n 72) 72.

alienated'.[78] Approaches of scholars like Nussbaum and Freire promote the moral value of education in promoting humanity as an end. The dignity of education entails facilitating students' consciousness of human ends in relation to each other as members of the diverse human community and inquiring into the problems afflicting it.

2 *Undignified Education*

This dignified educational spirit contrasts with treating education as a means of instilling skills without promoting their direction towards mutually self-regarding and other-regarding human ends. Jacques Ellul observed this in 1954, arguing that advancing 'technique' for its own sake was becoming the defining problem of our societies.[79] One need not accept Ellul's entire thesis, however, to appreciate the problem he poses about fixation with technique in the educational sphere.

His words to this effect are worth quoting:

> The new pedagogical methods correspond exactly to the role assigned to education in modern technical society. ... According to [the associated] conception [of education], [it] *no longer has a humanist end or any value in itself*; it has only one goal, to create technicians.' ... Education ... *is becoming oriented toward the specialized end of producing technicians*; and, as a consequence, *toward the creation of individuals useful only as members of a technical group*, on the basis of the current criteria of utility — individuals who conform to the structure and the needs of the technical group.[80]

Here, Ellul explicates the degradation of education into means through which people are, in turn, reduced to mere means. He then highlights the damage to students' potential to serve humanity:

> The intelligentsia will no longer be a model, a *conscience*, or an animating intellectual spirit for the group, even in the sense of performing a critical function. They will be the *servants*, the most conformist imaginable, *of the instruments of technique*. [T]he human brain must be made to conform to the much more advanced brain of the machine. And education will no longer be an unpredictable and exciting adventure in human enlightenment, but an exercise in conformity and an apprenticeship to whatever gadgetry is useful in a technical world.[81]

Ellul's concern embedded is about miseducating students to use their intellect while allowing their moral capacities — conscience — to wither. The student is degraded by the reduction of their mind into mere means. Communities suffer the misadventures of the technical pursuits and deprivation of one's contribution to collective moral enhancement.

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[78] Ibid.

[79] Ellul (n 53) 81.

[80] Ibid 348–9 (emphasis added).

[81] Ibid 349 (emphasis added).

Education can be, but is not only, degraded by conscious pursuit of nefarious ends and harnessing of educational institutions to accomplish them. (Mis)education can serve as a technique of oppression against disempowered groups.[82] Powerful interests may seek to influence educational institutions towards designing teaching programs which ultimately serve their own interests at the expense of the dignity of human ends.[83] Opportunities are sought to seize private control of and profiteer from existing public educational services at the expense of deprived communities.[84] More subtly, though, obsession with usefulness can suffocate the humanity in education by detaching these considerations from human ends to which we ought to direct them. The answer to the question of 'efficiency to what end?' becomes 'efficiency'. Human dignity is aggrieved when education fails to ignite, or worse dampens, moral capacities.

B *Law*

1 *Claiming Dignity*

Law, like education, is a human endeavour which can be attributed with dignity or otherwise in relation to human ends. Legal thinkers write of the dignity of law,[85] its sources,[86] its officials,[87] its

[82] See, eg, Rajendra Chetty, 'Literacy Teaching in Disadvantaged South African Schools' (2019) 53(4) *Literacy*, 245, 247.

[83] See, eg, Dawn L Rothe, Dave Kauzlarich and Bruce Arneklev, '$ over Ethics: Higher Education and the Private Prisons Industry' (2022) 30 *Critical Criminology* 557. See also Monboit and Hutchinson (n 50) 70–71. In the present context, consider the potential implications of educational institutions entering into contracts with technology service providers. See Ben Williamson and Janja Komljenovic, *Behind the Platforms: Safeguarding Intellectual Property Rights and Academic Freedom in Higher Education* (Report, April 2024) 44: '[I]nstitutional contracts [with online programme management platforms] often preclude institutions from making significant decisions regarding their courses, curriculum, and content. Contracts often contain clauses that lock institutions into long-term arrangements, with platform proprietors making it impossible to withdraw from an agreement or to bear serious financial penalties if they do so. In such cases, universities lose their institutional autonomy to platform companies' strategic and business priorities'.

[84] See, eg, Milton Friedman, 'The Promise of Vouchers', *The Wall Street Journal* (online, 5 December 2005) <https://www.wsj.com/articles/SB113374845791113764>.

[85] Dwight Newman and Malcolm Thorburn, 'Introduction to: The Dignity of Law: The Legacy of Justice Louis LeBel' (2015) 70 *Supreme Court Law Review* 1, 2–3.

[86] Frank I Michaelman, 'Expropriation, Eviction, and the Dignity of the Common Law' (Working Paper No 12–37, Public Law & Legal Theory Working Paper Series, Harvard Law School, 2012); Jeremy Waldron, *The Dignity of Legislation* (Cambridge University Press, 1999).

[87] Newman and Thorburn (n 84) 2–3; Jeremy Waldron, 'Dignity, Rights, and Responsibilities' (2012) 43 *Arizona State Law Journal* 1107, 1121–2.

institutions,[88] its profession,[89] and its processes.[90] In so doing, they refer to the moral respectability which these components of a legal system do, or should, embody. Such claims must, even tacitly, recognise commitment to moral value, unless a legal system and its parts are deemed self-sufficiently morally valuable. Any dignity embodied in law must derive from its relationship with some understanding of an inherent value like human dignity.

Scholars of the relationship between morality and law, indicate that systems of law – in common law jurisdictions – profess their own dignity from bases of claims to their respect for human dignity. Legal systems must project either an image of dignity or John Austin's 'gunman' whose only authority is intimidation.[91] HLA Hart responded to positivism theory's bereavement of moral obligation to comply with legal authority by inserting an element of 'recognition' by legal subjects. He insisted that a legal system requires some sacrifice of individual self-interest to provide, at least, a minimum protection '*for beings such as ourselves*, [which] makes living with others worthwhile'.[92] Even Richard Posner's view, that goals of 'efficiency' and 'wealth maximisation' underpin our legal systems, relies on moral claims valorising 'man as a rational maximizer of his self-interests'.[93] Under these views, *something* about humanity warrants legal protection. One could hardly conceive of a theory which reasonably accounts for our legal systems without identifying any such claim (meritorious or otherwise) made by them to moral authority.

Dworkin makes this explicit. The fundamental moral principle of human dignity, he argues, underpins 'legitimate' legal systems, with more specific principles like 'liberty' being aspects of what it entails.[94] This does not mean that different conceptions of dignity cannot be embodied in different legal systems or even within the same system.[95] Other scholars' understandings centre upon certain capacities considered vital to human dignity. For Lon Fuller, rules purporting to be 'law' must comply with certain requirements without which they would constitute '*an affront to man's dignity*' by denying our capacity of self-determination.[96] For Jeremy Waldron, various components — including its sources and officials —

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88 *Balogh v St Albans Crown Court* [1974] 3 WLR 314, 320 (Denning MR); *R v Dunbabin* (1935) 53 CLR 434, 435 (Dixon J). See also *Morasse v Nadeau-Dubois* [2016] 2 SCR 232; *Code of Civil Procedure* (Quebec) art 58.

89 Adeno Addis, 'Justice Kennedy on Dignity' (2023) 60(3) *Houston Law Review* 519, 533 citing *Florida Bar v Went For It Inc* 515 US 618 (1995), 639, 643 n 37 (Kennedy J); Leah Teague, 'Civility Matters: Why Law Schools Must Teach Students to Disagree without Being Disagreeable' (2024) 76(1) *Baylor Law Review* 1, 11.

90 George Kellog, 'The Dignity of Litigation' (1891) 1 *Yale Law Journal* 115.

91 John Austin, *The Province of Jurisprudence Determined* (Humanities Press, 1965) 13–24.

92 HLA Hart, *The Concept of Law* (Oxford University Press, 1961) 176 (emphasis added).

93 See Richard Posner, *Economic Analysis of Law* (Wolters Kluwer, 3rd ed, 1986) 3–4.

94 Dworkin, *Hedgehogs* (n 40) 2, 320–2.

95 Dworkin, *Taking Rights Seriously* (Bloomsbury, 2013) 168.

96 Lon Fuller, *The Morality of Law* (Yale University Press, 1964) 162 (emphasis added).

which comprise 'law' bear dignity.[97] This 'status' as self-determining beings, capable of regulating our own conduct, is inherent in the character of law.[98] It manifests in the legal understanding of subjects as 'rights-bearers', capable of making 'claims', and its mode of governance through rules we can understand and apply as well as principles which honour our ability to exercise judgement about what is required in given circumstances.[99] One need not be satisfied with Waldron's or his colleagues' conceptions of dignity to appreciate that they give at least partial accounts of the claims made to respect for our dignity by legal systems through the ways in which they govern.

2 *Undignified Law*

Legal systems often fail to uphold human dignity despite their moral claims. The substance of Dworkin's critique of Fuller was that dignitary abuses, such as slavery, can be carried out through law no matter how good a legal system's procedures for making sure individual 'laws' are understandable and obeyable.[100] Theorists of relationships between law and gender, race, and class, argue that the law can operate to serve social structures which oppress disempowered groups.[101] Efforts to amplify private power through legal techniques, such as drafting contractual provisions, to enable hyper-exploitation of much less powerful parties, may either receive support from courts of law or be rejected on the basis of moral notions embodied in legal doctrines.[102] If legal systems make claims to authority based on respect for human dignity, then those responsible for how law is made, changed, interpreted, applied, and taught, have duties to contribute to holding those systems to account.

Dignitary harm can follow inducements to think of law in isolation from moral concerns notwithstanding that such tendencies preserve some moral claims upon which legal systems rely. It is a problematic attitude to treat law itself, or an immoral aim it enables, as an end rather than recognising that it can only be dignified by its service to moral ends. This does erase the basic 'legal fictions' which project moral legitimacy.[103] They remain present as decorative backgrounds to which one points to quieten the serious questioner, while law is emphasised 'as a 'specialty', 'withdraw[n] into itself'.[104] A contract teacher

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97 See above nn 86–7.

98 Jeremy Waldron, *Dignity, Rank, and Rights* (Oxford University Press, 2012) 52.

99 Jeremy Waldron, 'How Law Protects Dignity' (2012) 71(1) *Cambridge Law Journal* 200, 208.

100 Ronald Dworkin, 'Philosophy, Morality, and Law: Observations Prompted by Professor Fuller's Novel Claim' (1965) 113(5) *University of Pennsylvania Law Review* 668, 671.

101 Catherine MacKinnon, 'Feminism, Marxism, Method, and the State: Towards a Feminist Jurisprudence' (1983) 8(4) *Signs* 635; Richard Delgado, 'Is American Law Inherently Racist' (1998) 15 *Thomas M Cooley Law Review* 361; Olufemi Taiwo, *Legal Naturalism: A Marxist Theory of Law* (Cornell University Press, 1996) 7–8.

102 See, eg, the litigation history leading up to and including *Uber Technologies Inc v Heller* [2020] 2 SCR 118.

103 Mark Aultman, 'Technology and the End of Law' (1972) 17(1) *American Journal of Jurisprudence* 46, 46.

104 Ibid.

may respond 'just apply the law!' to a student's moral concern against enforcing an hypothetical contract. The student persists: 'the law is immoral!'. The teacher has nothing left but to extol 'freedom of contract!'. Even under the most technical theories, law embodies moral claims to respect for some conception of dignity. The weaker those claims, the greater the tendency to keep them as a last resort, and demand mere technical rule application.

Ellul explicates the indignity of such attitudes, arguing that the drive for efficiency produces 'a general transformation of means into ends'.[105] This results, damningly for humanity, in 'the loss by the law of its end and of its domain', such that 'law is detached from justice, [and, so] it becomes a compass without a needle'.[106] He writes:

> No longer is the preoccupation of the law and justice its measure. The law's concern is to apply new means to all accessible areas. The very being of the law is thus dissolved. In itself the law has come to represent nothing but a terminology and a travesty on tradition which happens to be useful to the new lords and masters. People who today hold the law in contempt are at least not deceived by false impressions. Nevertheless, in consenting to be robbed in this way, man renounces one of his highest vocations.[107]

Due to fixation with technicality, the dignity of the law suffers from failure to maintain and cultivate *meaningful* commitment to human dignity. The law can become undignified by being deployable as a technique for overtly nefarious aims, subtly to uphold oppressive power structures, or simply detached from concern for moral ends in pursuit of infinite technical advancement. Eventually, it loses any semblance of moral authority. If people constitute moral ends, those involved in law should be concerned with the impact on the former in its governance of the community of ends whom it governs.

3 *Professional Dignity*

A final point about the dignity of law concerns its profession. Law is a human endeavour practiced by human professionals. If only dignified by commitment to the moral end of humanity, then the degree to which law embodies such value depends significantly on professional character and conduct.

The High Court of Australia's former Chief Justice, the Hon Susan Kiefel, illustrates what the dignity of the profession in its commitment to the human value entails:

> Practising lawyers do not just run a business, selling their skills and services to clients in return for fees. [L]aw [practice] is a profession and this sets it apart from other, commercial, enterprises.

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105 Ellul (n 53) 229.

106 Ibid.

107 Ibid 300.

> [The profession] has standing in the community. It forms part of the legal system essential to our society and each lawyer has an integral role in that system. The courts within that system rely upon members of the profession. Lawyers have the trust and the confidence of their clients, that their interests will be properly protected and served.
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> The profession ... demands that persons practising within it conform to the customs and character of the community. To do so is to be acting ethically. ... The "community" spoken of is the legal community which serves the wider society. The higher values of that society inform those of the profession.[108]

Commerce is a fundamentally self-interested enterprise of exchange between presumably free people. Law, however, claims authority to govern people. The profession, then, relies on an elevated claim to respectability through its responsibility as custodians of the authority through which the community is governed.

Moral ends who are subject to law must be able to trust the profession which practices it to regard the system as having moral authority. This concerns its commitment to them as clients, and respect for them as members of a community, given that the profession bears tremendous impacts on people in influencing how law develops and applies to them. Lawyers are needed to uphold their client's dignity in the way in which David Luban theorises their role in preventing them from being 'humiliated', in other words, 'wrongly knocked down a peg'.[109] While the lawyer learns and uses techniques to serve their client, they must not render themselves mere 'technicians'.[110] They are governed by professional rules and their consciences should be active.[111]

The lawyer's 'higher duty [is] owed to the court and to the system of justice', Kiefel reminds, embedded in professional rules which 'emphasise the need to maintain the standing of the profession in the eyes of the community, if its role in the system of justice is to be maintained'.[112] These rules concern '[g]ood character connot[ing] moral or ethical strength, which is an amalgam of virtuous attributes or traits, which include integrity, candour and honesty'.[113] The professional commitment to such values, however,

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[108] Susan Kiefel, 'Ethics and the Profession of the Lawyer' (Symposium Paper, Queensland Law Society, 26 March 2010) ('Ethics'), [1]–[2].

[109] David Luban, *Legal Ethics and Human Dignity* (Cambridge University Press, 2007) 88.

[110] Ibid 19.

[111] Ibid 21. See also David Luban, 'The Inevitability of Conscience: A Response to My Critics' (2008) 93(6) *Cornell Law Review* 1437, 1438.

[112] Kiefel, 'Ethics' (n 108) [2].

[113] Ibid [3].

go beyond obeying rules and extend to honest 'self-analysis'.[114] The professional is obliged to cultivate the morality required of them.[115]

If lawyers have power over the development and implementation of law, they bear some responsibility in how it impacts upon moral ends. Moral concerns about legal education warrant serious attention, therefore, not least in their contribution to professional commitments, to the dignity of the moral ends in their clients and their communities.

III LEGAL EDUCATION IN AUSTRALIA

Legal education, like law and education, can bear degrees of dignity or indignity. Challenges concerning this are identifiable through the Australian context. The moral value which legal education can claim to embody will only be as solid as the commitments of law schools to the humanity in their students, and the wider communities who will rely on the latter's services. Perceptions of 'moral crisis' in legal education are not new.[116] The ever-present concerns about legal education in Australia — regarding integrity and ethics, skills, career prospects, and social contribution — all require attention for the sake of, and comprise an overarching challenge to uphold, moral ends. That means striving to resist the pressure toward reducing legal education into a mere income-generating technique. This is the background in which new challenges presented by the evolution of AI must be considered, the following section argues, because they compound and complicate existing dignitary problems, rather than constituting new ones.

A *Background*

Margaret Thornton argues that in recent decades, legal education is increasingly tendered to students as a source of income, in exchange for promising those students the opportunity to generate their own (future) source of income.[117] She observes that '[e]ver since law schools were incorporated into universities in the 19th century, the discipline of law has been haunted by a sense of dystopia'.[118] On one hand, '[t]he discipline law is still somewhat schizophrenic about whether it should prioritise academic or professional norms'.[119] This is complicated, on the other, by 'the neoliberal turn' under which 'legal education has come to be regarded not only as a source of capital accumulation for government, but also

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[114] Ibid [4].

[115] Ibid [5].

[116] Frank Bates, '"Like an Unwelcome Guest": The Moral Crisis in Modern Legal Education' (1984) 18(3) *Law Teacher* 181.

[117] Margaret Thornton, 'The Challenge for Law Schools of Satisfying Multiple Masters' (2020) 62(2*) Australian Universities Review 5*, *5*.

[118] Ibid.

[119] Ibid.

as a source of human capital for students/consumers'.[120] As students are 'charg[ed] high fees', Thornton contends, 'higher education [is] reconceptualised as a private good for which the user pays and the 'delicate relationship between student and teacher' becomes more like that of 'customer' and 'service provider'.[121] This trend could conceivably escalate to a point where legal education not only extracts income from students, but becomes little more than a technique to accomplish this with minimal regard for the outcomes for them or the members of their communities.

The shift is an ongoing process rather than an immediate, absolute, transformation. Universities are registered as charities.[122] They must operate as 'not-for-profit' entities.[123] All of their purposes must be 'charitable purposes' — chief among which for universities is the 'advancement of education' — 'that are for the public benefit', although 'incidental' or 'ancillary' purposes are not excluded.[124] Organisations do not lose their charitable statuses for charging fees for services or merely generating profits.[125] As GE Dal Pont explains:

> [In this context] private profit does not refer to the payment of wages or allowances to employees of, or other service providers to, the charity, but to the distribution of the profit and/ or capital of the institution to private individuals (or non- charitable entities), whether during the operation of the institution or on its winding up. [...] If [the profit] is applied to, or distributed for, the exclusively charitable objects of the [organisation], there is no application or distribution of private profit. This is so even if the association has generated the profit through the conduct of a business or has otherwise adopted business-like methods, or if it does not conduct any charitable operations on its own behalf but simply devotes its entire profits to the objects of another charity'.[126]

Universities must, at least ostensibly, continue to advance education in publicly beneficial ways, and avoid demonstrating an income-generating objective that could not be described as 'incidental to or ancillary to, and in furtherance or in aid of [charitable] purposes'.[127] Mary Burston suggested that, by 2020, however, 'meta-narratives of market rationality [already] preside[d] over the public institutional role of Australian universities' from her analysis of 'data on disproportionate student debt, marginal performance

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120 Ibid 6.

121 Margaret Thornton, 'The Law School, the Market and the New Knowledge Economy' (2007) 17(1) *Legal Education Review*, 2 ('Law School').

122 *Australian Charities and Not-for-profits Commission Act 2013* (Cth) ch 2 div 25 s 25-5.

123 *Charities Act 2013* (Cth) s 5(a) ('*Charities Act*').

124 *Charities Act* (n 123) ss 5(b)(i)–(ii), 6(1), 7(b), 12(1)(b). Public universities have their charitable purposes expressed in the statutes that create them: see, eg, *Griffith University Act 1998* (Qld) s 5.

125 See, eg, *Re Resch's Will Trust* [1969] 1 AC 514.

126 GE Dal Pont, *Equity and Trusts in Australia* (Thompson Reuters, 7th ed, 2019), 855 [29.80]. See also *Federal Commissioner of Taxation v Word Investments Ltd* (2008) 236 CLR 204.

127 *Charities Act* (n 123) ss 5(b)(i)–(ii).

in the social justice agenda, delegitimising of the economic and public benefit value of unconsumable non-science degrees in funding rationale, *and* [concerns about equity and exclusion] ...'.[128] The means of income-generation and the end of 'advancing education' for the 'public benefit', might advance toward inversion to a point where in practical, even if not legal, terms the former is secondary to the latter.

Concern with the dignity of legal education does not equate to blameworthiness of those who work to uphold it within law schools. Few, if any, law teachers or academics would advocate for the status quo or the transition into a private good model of legal education. Decisions about law schools are not always autonomous from university management or made in ideal economic circumstances. In addition to students and the general public, university management is one 'of the communities that [law schools] serve'.[129] As Thornton observed in 2000, 'university management and academic staff are [less likely to be seen as] engaged in a common enterprise'.[130] Those working in law schools face an uphill battle to tend to the educational needs of their students with a view to helping them build fruitful and socially beneficial careers.

Law schools are 'starved' of public funding and 'compelled to enter the market' to bring in 'more students [in] response to budget shortfall', which 'simply exacerbate[s] staff/student ratios and compel[s] changes in the range of offerings and modes of delivery'.[131] The public pays the price of the 'user pays philosophy' which 'discourages students from pursuing public interest employment, because such work is normally not sufficiently well paid to service a substantial education debt'.[132] This is notwithstanding that many law schools retain a significant amount of social justice-oriented content in their curricula and opportunities for students to participate in clinical projects aimed at advancing access to justice.[133] Individual and groups of law teachers, despite their endeavours to sustain enriching educational experiences, bear limited economic power within the institutions and beyond. The neoliberal shift consequently marginalises moral concern for communities.

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[128] Mary A Burston, 'A Complex Matter: Charitable Organisation or Corporate Institution?' (2020) 61(1) *Critical Studies in Education* 115, 128.

[129] See Niel Rees, 'How Should Law Schools Serve Their Communities (2001) 5 *University of Western Sydney Law Review* 111, 114.

[130] Margaret Thornton, 'Law as Business in the Corporatised University' (2000) 25 *Alternative Law Journal* 269, 270.

[131] Thornton, 'Law School' (n 121) 11.

[132] Ibid 3. Students themselves, when interviewed, have expressed this concern. See, eg, Grace Robbie, 'The Current Issues Law Students Must Overcome: Part 1' *Lawyers Weekly* (online, 19 August 2024) <https://www.lawyersweekly.com.au/biglaw/40387-the-current-issues-law-students-must-overcome-part-1>.

[133] See, eg, Bachelor of Laws (Honours) (Griffith University) (Web Page) <https://www.griffith.edu.au/study/degrees/bachelor-of-laws-honours-1619> ('At Griffith, you will learn the theory of law as a tool for social justice and change'); *Innocence Project* (Griffith University) (Web Page) <https://www.griffith.edu.au/arts-education-law/griffith-law-school/learning-teaching/innocence-project>.

Thornton illustrates a gloomy landscape. Tensions persist between the technical and scholarly visions lawyers and academics champion for legal education. They are increasingly accompanied by struggles to counter the ill-effects of schools' financial pursuits with support for students' career development and social contributions. Yet attempts are made to resist the reduction of legal education into mere technique. It is important to appreciate how these challenges converge into a struggle for the moral future of legal education before considering how they are complicated by developments in AI.

B *Character: Academic Integrity and Professional Ethics*

One challenge facing legal education in Australia concerns cultivating moral character insofar as this includes academic integrity and professional ethics. Universities invariably have academic integrity policies which at least forbid plagiarism, however so defined.[134] If law schools fail to uphold such policies, they will contribute to declining legal professional ethics.[135] Law schools in Australia are required to teach the compulsory 'Priestley 11' subjects which includes Ethics and Professional Responsibility ('EPR').[136] As Kiefel recognised, 'Australian universities recognise the importance of legal ethics to the practice of the law'.[137] Honesty, being a timeless concern, receives specific attention.

Lillian Corbin and Justin Carter, in 2007, deemed plagiarism 'increasingly pervasive in Australian law schools'.[138] Plagiarism is 'a matter of morals' and schools should combat it. This includes education 'about what it entails and alerting students to its significance by having students sign a statement that certifies that the work they are submitting is their own'.[139] Schools can suffer reputational damage if plagiarism goes unchecked and have a duty to '[encourage] their students to develop the characteristics of integrity and honesty that go into producing the kind of legal professionals that meet the admission requirements'.[140] The standards for admission as a lawyer require graduates to meet the relevant competency and character standards.[141] The honesty element entails that adverse academic integrity

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134 See, eg, University of Sydney, 'Academic Integrity' (Webpage, 22 August 2024) <https://www.sydney.edu.au/students/academic-integrity/breaches.html>.

135 See, eg, Lillian Corbin and Justin Carter, 'Is Plagiarism Indicative of Prospective Legal Practice' (2007) 17(1 & 2) *Legal Education Review* 65. See also Mary Wyburn, 'Disclosure of Prior Student Academic Misconduct in Admission to Legal Practice: Lessons for Universities and the Courts (2017) 8(2) *QUT Journal of Law and Justice* 314.

136 See, eg, *Law Admissions Consultative Committee Uniform Admission Rules 2015* sch 1, 11-12.

137 Susan Kiefel, 'Shaping Legal Minds — The Ethical Mind' (2021) (Closing Address to Queensland Symposium, Queensland Law Society, 19 March 2021), 3 ('Shaping').

138 Corbin and Carter (n 135) 53.

139 Ibid.

140 Ibid 55.

141 See, eg, *Legal Profession Act 2004* (Qld) ss 13, 30; *Legal Profession Act 2007* (Qld) ss 9, 21(1)(c), 31.

findings must be disclosed and may result in refusal of their application for admission.[142] Literature about academic integrity in Australia has focused on needs for appropriate definitions, communication, prevention, and disciplinary responses.[143] If students who plagiarise will likely continue similarly dishonest practices in their careers, then meaningful inculcation of EPR should be prioritised in addition to academic integrity policies.[144] In the 1990s, law reform bodies advocated for enhanced teaching of EPR by having students envision themselves in, identify, and respond to, dilemmas which arise in practice.[145] Educators like Des Butler design engaging means of accomplishing this.[146] Law schools should remain alert to the challenge of facilitating character development.

To surrender this concern would forfeit any dignity which could be attributed to legal education.[147] It is a matter of helping law students cultivate a standard of character which makes them respectable professionals within the communities of moral ends they will serve. That is, as opposed to reducing legal education to a mere income-generating enterprise, and training students as technicians who merely find and apply the law, or, worse, dubiously purport to do so, without regard for the moral ends, including themselves, who suffer the results.

The effort to promote moral character within Australian law schools, through academic integrity and professional ethics, however, is not self-sufficient for the dignity of legal education. Schools cannot meaningfully promote character in academic and professional contexts without regard to countervailing forces. Academic integrity and EPR violations often occur following skill and competency issues.[148] Law schools must address aptitude deficits if students and lawyers are frequently seriously beyond their depth. Any method for encouraging professional character will be suboptimal if students are not facilitated in finding careers which are conductive to it. Students will be sold short of their potential as citizens who use

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142 See, eg, *Re AJG* [2004] QCA 88, [4] (de Jersey CJ).

143 See Corbin and Carter (n 135); Colin James and Saadia Mahmud, 'Promoting Academic Integrity in Legal Education: "Unanswered Questions" on Disclosure (2014) 10(2) *International Journal of Educational Integrity* 3; Michelle Evans, 'Plagiarism and Academic Misconduct by Law Students: The Importance of Prevention Over Detection' (2012) 17(2) *International Journal of Law and Education* 99; Tracey Booth, Anita Stuhmcke and Jane Wangmann, 'There is Plagiarism…and Then There is Plagiarism: Academic Misconduct and Admission to Legal Practice' (2020) 27(3) *International Journal of the Legal Profession* 291.

144 See James and Mahmud (n 143).

145 Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System*, (Report No 89, 1999) [2.21], [2.77]; New South Wales Law Reform Commission, *Scrutiny of the Legal Profession: Complaints against Lawyers* (Report No 70, 1993), 134 [5.24].

146 Des Butler, 'Entry into Valhalla: Contextualising the Learning of Legal Ethics Through the Use of Second Life Machinima' (2010) 20(1) *Legal Education Review* 85.

147 See Kiefel, 'Shaping' (n 137), [3]–[4].

148 See, eg, *Legal Services Commissioner v Richardson (No 2)* [2009] QLPT 26, [6].

their capacities and skills to serve humanity more deeply if they graduate with the mindset that moral character matters only insofar as inscribed in professional rules. The dignity of education entails cultivation of moral character, through academic and professional ethics, as a vital, not sole, element.

C *Skills*

Australian law schools are pressured to prepare students to graduate with skillsets which are considered ideal for the professional, especially legal practice, careers they typically pursue. The 'traditional' law teaching method which prevailed into the 1960s, of transmitting doctrinal knowledge through lecturing, became recognised as insufficient to equip students for professional demands.[149] David Weisbrot observed, in 2004, that students and practitioners were concerned about 'the need to reshape legal education to provide the skills needed for success in practice' which go beyond knowledge and application of substantive law.[150] In 2008, Amanda Stickley lauded Queensland University of Technology's 'real world' approach to legal education, which focused on 'work integrated learning'.[151] Marcus Smith, in 2020, advocated for integrating greater focus on technology, especially emerging modes of communication and data analysis, into legal education to prepare students for contemporary demands.[152] The impetus to equip students with professional skills is a key focus in Australian legal education.

Professional skills are another element of legal education's dignity. Law schools would harm students by failing to help them gain techniques they will need as professionals. To do nothing else, however, would fail in responsibilities to students as moral beings studying a morally informed discipline. More lawyers would emerge with minimal regard for clients and communities. Law schools would sacrifice respectability if they treated students as customers and simply sold skills, sending legions of technicians to unquestioningly serve the avaricious. Legal education would bear significant responsibility for destruction inflicted on human ends by an excessively technical and self-interested profession. Technical learning, moreover, minimally helps in the absence of job availabilities. Skills development is a morally worthy element of legal education if pursued consistently with the humanity in students and communities.

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149 David Weisbrot, 'Taking Skills Seriously: Reforming Australian Legal Education' (2004) 29(6) *Alternative Law Journal* 266, 267.

150 Ibid 269.

151 Amanda Stickley, 'Providing a Law Degree for the "Real World": Perspective of an Australian Law School' (2011) 45(1) *The Law Teacher* 63, 64.

152 Marcus Smith, 'Integrating Technology in Contemporary Legal Education' (2020) 54(2) *The Law Teacher* 209, 211.

D *Careers*

Limited availability of fulfilling job prospects for students is another widely acknowledged moral problem. In 2016, Frank Carrigan accused Australian law schools of 'sell[ing] graduates down the river' by enrolling numbers of students drastically disproportionate to availability of positions for them in the legal job market.[153] During the previous decade, graduates,[154] academic and practicing lawyers,[155] judicial figures,[156] and a former Prime Minister,[157] have complained about this problem. The 'graduate glut' threatened many with inability to find any or adequate employment in the profession for which they invested years of study while incurring considerable debt.[158] Educators respond by promoting practical opportunities. Jeff Giddings and Jacqueline Weinberg found a widening gulf of inexperience-intensified inequalities across law graduate populations because 'workplace-based experiences (traineeships and articles of clerkship) that were once pivotal to the progress of law graduates from student to practitioner

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153 Frank Carrigan, 'Law Schools Sell Graduates Down the River', *Australian Financial Review* (online, 8 August 2016) <https://www.afr.com/companies/professional-services/the-law-schools-of-rapidly-diminishing-returns-20160808-gqnday>.

154 See, eg, Marie Iskander, 'The Deserving and the Under-served: A Comment on the Oversupply of Law Graduates, Diversity in the Legal Profession and Access to Legal Representation' (2017) 5(1) *Griffith Journal of Law and Human Dignity* 66, 73.

155 See, eg, Michael Douglas and Nicholas van Hattem, 'Australia's Graduate Glut' (2016) 41(2) *Alternative Law Journal* 118; Emma Ryan, 'Universities Must be "Held Accountable" for Law Grad Oversupply', *Lawyers Weekly* (online, 14 February 2018) <https://www.lawyersweekly.com.au/sme-law/22737-universities-must-be-held-accountable-for-law-grad-oversupply>.

156 See, eg, Michael Kirby, 'Unmet Needs for Legal Services in Australia: Ten Commandments for Australian Law Schools' (2016) 34(1) *Law in Context* 115, 115.

157 Namely, Malcolm Turnbull: see Emma Ryan, 'Frustration Grows over Unis "Cashing in" on Law Grad Oversupply', *Lawyers Weekly* (online, 20 February 2018) <https://www.lawyersweekly.com.au/sme-law/22768-frustration-grows-over-unis-cashing-in-on-law-grad-oversupply>.

158 See above nn 155–7, and accompanying text. See also Julie Hare, 'Arts, Business, Law Students Hit Hardest as Uni Fees Rise', *Australian Financial Review* (online, 24 September 2023) <https://www.afr.com/work-and-careers/education/arts-business-law-students-hit-hardest-as-uni-fees-rise-20230922-p5e6uj>; Caitlin Cassidy, ''It's Perverse': How Australia's Student Loan Scheme Traps Graduates in a Debt Spiral', *The Guardian* (online, 25 April 2023) <https://www.theguardian.com/australia-news/2023/apr/26/its-perverse-how-australias-student-loan-scheme-traps-graduates-in-a-debt-spiral>; Robyn Tongol, 'Protégé: Why is it More Difficult for Law Students to Secure Employment?', *Lawyers Weekly* (online, 20 December 2024) <https://www.lawyersweekly.com.au/podcast/41227-protege-why-is-it-more-difficult-for-law-students-to-secure-employment>.

are either no longer available or are much diminished in scope and scale'.[159] They propose guaranteed clinical legal experience opportunities, as operates at Monash University, to enable the less privileged and less well-connected students to graduate with more competitive resumes.[160] Francina Cantore argues more should be done to initiate pro bono activities, including advocating for government funding to enable such endeavours, which would help students build careers and help the underserved.[161] Worries about career futures, while being diligently addressed by many law teachers, are serious and unlikely to simply evaporate.

Employability must be taken seriously if schools consider students moral ends and want them to serve humanity in their communities. If we sell degrees to students who believe it will open doors into the profession, and this turns out false, schools share some responsibility for the outcomes. Although alternative avenues warrant thought, the consolation that many graduates find work elsewhere leaves many unsatisfied.[162] Graduates who struggle despite good legal resumes may find that prospective 'non-law' employers suspect they will find a legal job and leave. Anecdotes circulate about students working at supermarkets long after graduating.[163] Yet, Angela Melville counsels, 'worry less about law graduates who cannot obtain work in corporate law firms', and more about 'producing graduates who are willing to provide services to clients who are less able to access justice'.[164] She reasons that 'more competition for positions within the legal profession' serves that end.[165] Social justice lawyering jobs are scarce, however, because governments refuse to simultaneously solve the graduate oversupply problem and the access to justice crisis by deploying new graduates to deliver legal services to those desperately in need.[166] This brings us to the final factor in the equation of the dignity of legal education.

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159 Jeff Giddings and Jacqueline Weinberg, 'Experiential Legal Education: Stepping Back to See the Future' in Catrina Denvir (ed), *Modernizing Legal Education* (Cambridge University Press, 2020) 38, 38.

160 Ibid.

161 Francina Cantatore, 'Boosting Law Graduate Employability: Using a Pro Bono Teaching Clinic to Facilitate Experiential Learning in Commercial Law Subjects' (2015) 25(1) *Legal Education Review* 147, 171.

162 See, eg, Iskander (n 154) citing Carolyn Evans, 'Law School is Still the Best Bet for a Graduate Job that Pays Well', *Australian Financial Review* (online, 11 August 2016) <https://www.afr.com/policy/law-school-is-still-the-best-bet-for-a-graduate-job-that-pays-well-20160811-gqpz8n>.

163 For a British narration of the struggle: see Sarah May Buccieri, 'There Aren't Enough Jobs to go Around for Everyone', *BBC News* (online, 30 December 2024) <https://www.bbc.co.uk/news/articles/cx27924llwxo>.

164 Angela Melville, 'It Is the Worst Time to Be a Law Graduate: or Is It? Does Australia Have Too Many Law Graduates?' (2017) 51(2) *The Law Teacher* 203, 224.

165 Ibid.

166 See especially Iskander (n 154) and Kirby (n 156).

E *Social Contribution & Conscientiousness*

The 'careers problem' hinders students from making valuable social contributions to human ends. It dovetails into a situation, well-recognised by those concerned with the legal education system, where the underprivileged are underserved by the profession.[167] Two birds should be fed with one scone. Graduates struggling for desirable employment should be deployed to provide legal services to those in need. This largely has not occurred.[168] No evidence indicates that in recent years these problems have seriously dissipated.[169] Although the legal profession retains its status as such, private law practices are heavily influenced by profit-motives.[170] Legal aid is chronically underfunded.[171] Low- and middle-income members of the community are often unable to access legal services in serious matters for which people need representation.[172] They are deprived of a voice in the 'justice' system. As graduates suffer indignity from insufficient opportunities to contribute, communities suffer indignity from insufficient representation.

Some complain that Australian legal education tends to overly focus on black-letter law, problem questions, and technical abilities, while neglecting ethical, critical, and social though. Joshua Krook contends that law schools focus 'on employability graduate outcomes and skills' at the expense of 'the needs of students as holistic people, citizens, public advocates or members of their local communities'.[173] Schools consequently, he claims, produce graduates disconnected from the wider world in which law operates and affects people.[174] Surely law schools should enable students to graduate with consciousness

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167 Ibid.

168 Ibid.

169 But see Maxim Shanahan, 'Law Firms Hire Graduates at Near-Record Levels', *Australian Financial Review* (online, 20 September 2023) <https://www.afr.com/companies/professional-services/law-firms-near-record-hiring-of-graduates-20230815-p5dwlw>. Note, however, that this refers to 46 surveyed law firms hiring 1535 graduates, a decrease from 1560 in the previous year.

170 See, eg, Joanne Bagust, 'The Legal Profession and the Business of Law' (2013) 35(1) *Sydney Law Review* 27.

171 Nino Bucci, 'Australian Legal Aid at Risk of Turning People Away Unless $484m Extra Funding Provided', *The Guardian* (online, 21 November 2023) <https://www.theguardian.com/australia-news/2023/nov/22/australian-legal-aid-at-risk-of-turning-people-away-unless-484m-extra-funding-provided>.

172 See, eg, Law Council of Australia, *Independent Review of the National Legal Assistance Partnership* (Report, 27 October 2023) 11–12.

173 Joshua Atreyu Krook, 'Towards a New Law School Curriculum in Australia' (PhD Thesis, The University of Adelaide, 2021).

174 Laura Bullock, 'Law Schools Produce Students 'Disconnected' From Reality', *Lawyer's Weekly* (online, 6 April 2016) <https://www.lawyersweekly.com.au/news/18302-law-schools-produce-students-disconnected-from-reality>. See also Joshua Krook, *Legal Education, Privatization and the Market: The Decline of Justice, Fairness, and Morality in Australian Law Schools* (CreateSpace Independent Publishing Platform, 2016).

of moral concerns beyond academic and professional ethics, but we struggle to help them to think beyond more immediate necessities when opportunities are scarce.

Law students can make social contributions through building consciousness when they professionally interact with and shape the law they studied through its unavoidable moral elements. Students are exposed to moral and morally laden concepts including: justice; freedom of contract; (un)conscionability as it informs Equitable doctrines; care and reasonableness in tort; and proportionality in criminal defence. Law students *could* be trained simply as technicians to find, read, memorise, and apply rules through the ILAC (Issue, Law, Application, Conclusion) method. Their legal learning and activity, however, will be suboptimal without appreciating the moral claims which underpin and hold these components together. To make future lawyers more successful in practice, legal education can remind students that their moral capacities will help them – for example, to apply the notion of 'unconscionability' in multi-million-dollar estoppel cases. Yet law students' moral capacities should be cultivated not solely to prepare them to address moral requirements as conceived in presently existing law.

Encouraging thought about how moral reasoning occurs within legal interpretation and application, and how this might be confined within parameters imposed by the nature of the legal system, can inspire students into an especially dignified endeavour. That is, learning about law with commitment to appreciating its moral implications for human ends. In other words, how law might be applied as presently formulated, re-interpreted, reformed, or transformed to better uphold human dignity.

Through various avenues, 'lawyers have the chance to set norms and directions for public life'.[175] Power is exercised, for better or worse, through lawyers – who know and use law and, consequently, have influence.[176] Merit is found, then, in Nussbaum's extending the campaign for the cultivation of humanity through education into law schools to promote: 'critical examination', 'world citizenship', and 'narrative imagination'.[177] Students takes themselves as members of communities of moral ends, rather than individuals who merely acquire knowledge and skills to use for someone's self-interest in exchange for careers. They realise their humanity in the deep sense of self-legislating through appreciation and discernment of moral principles. They can use what they learn to enhance their lives and those of others. Through this social contribution the dignity of legal education can be realised profoundly.

This can scarcely happen if students lack the skills to use their moral capacities to help others and find employment to sustain themselves. We should not ignore Nussbaum's enthusiasm for 'paper-writing

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175 Martha C Nussbaum, 'Cultivating Humanity in Legal Education' (2003) 70 *University of Chicago Law Review* 265, 271 ('Legal Education').

176 This goes beyond law practice: see, eg, Cat Woods, 'How do Lawyers Fare as Presidents and Prime Ministers?', *Law Society of NSW Journal* (online, 7 August 2024) <https://lsj.com.au/articles/how-do-lawyers-fare-as-presidents-and-prime-ministers/>.

177 Nussbaum, 'Legal Education' (n 175) 269.

... in which the structure of the student's argument is carefully assessed and criticized, with serious comments by the instructor'.[178] Still, students will suffer a skills deficit if this sidelines problem questions, drafting, research, mooting, client interviewing, and technological training. Students need jobs, skills to get them, and facilitation in using both, to serve humanity. If, moreover, jobs are sparse, schools must find ways to contribute to creating them. The challenge is to uphold the dignity of legal education by harmonising concern for its most characteristically moral dedication with its practical commitments by promoting both while channelling the latter to serve the former.

The four foregoing matters are dignitary concerns. They cannot be addressed constructively in isolation from each another because they are parts of an overarching struggle for legal education's commitment to the human dignity in students and communities. This consciousness forms the backdrop of the ensuing argument that challenges presented by AI in law schools should be treated as complicators and amplifiers of the strands of an ongoing battle to hold legal education to its dignitary commitments.

IV AI IN LEGAL EDUCATION

Four key factors relating to AI attract attention with law schools. They complicate the threads which comprise the web of trouble for the dignity of legal education. These factors must be recognised as such to be meaningfully addressed. Otherwise, we will miss the opportunity to salvage legal education's moral worth. Schools will have failed to treat AI's threats as aggravating, and its opportunities as potential alleviators of, the degradation of legal education into a little more than a technique for extracting money from students in exchange for the hope of little more than a means to extract money from clients.

First, increasingly available inappropriate and harmful reliance on technology can worsen existing issues with moral character in academic and professional settings. Second, AI simultaneously presents hindrance, through overreliance, and potential to enhance cultivation, if harnessed appropriately, for skills and competencies which have long been subjects of concern. Third, impending contraction of job markets, and needs for technological aptitude, due to AI advancements, intensify pre-existing employability imperatives. Finally, AI presents opportunities and threats concerning students building social consciousness through legal education and contributing meaningfully to their communities.

If schools ignore potential for overreliance on AI to stunt cultivation of critical thought, while AI presents serious moral issues for law to resolve, legal education will morally deteriorate. We might potentially, however, dedicate more time and resources to such activities and enhance students' prospects in serving communities if AI's labour-saving potentialities are effectively and ethically utilised. Law schools have one way forward: to address the challenges presented by AI within the enduring and expansive endeavour of dignifying legal education.

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[178] Ibid 273.

A *Moral Character: Academic & Professional*

Legal education's character problem, concerning academic and professional honesty, is compounded by growing availability and abilities of generative AI ('GenAI') programs. They provide means for misrepresenting work generated through Large Language Models ('LLMs') as one's own.[179] Plagiarism is not new even if its scale is expanding and its magnitude is deepening.

Consider how the indignity of plagiarism is fuelled by the ability to have GenAI wholly or substantially author one's assessment. As Timothy Aylsworth and Clinton Castro argue, while many tasks may be acceptably delegated to AI, 'a line should be drawn in cases where the reliance on AI undermines capacities that are central to rational agency (humanity)'.[180] That includes exercises like 'writing a humanities paper' which call for exercise of the capacity of reflection on one's 'commitments and values' which is 'uniquely valuable' in a moral sense. 'By outsourcing this task to ChatGPT', they reason, 'you have not merely passed on an opportunity to become a better writer. You have passed on an opportunity to become a better person'.[181] This extends to legal essay and problem question tasks where students are required to analyse law with a view to evaluation and critique or to apply it to hard cases. Students who enrol in law school but refuse to seriously attempt such tasks forfeit opportunities to engage capacities which enable them to refine their understanding of how law does or could treat the moral ends whom it governs. The student simultaneously invites dishonesty to shape their character into one which lacks commitment to truth, learning, and undertakings assumed as a learner and professional. One embarks down the path to perpetrating dignitary harm against clients and communities, taking both as mere means, or hurdles, to self-interest, rather than ends who deserve better than deception and substandard services.[182] GenAI expedites the process of claiming credit for work one did not perform. Yet less efficient means

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[179] See Sarah Wachter, Brent Mittelstadt and Chris Russell, 'Do Large Language Models Have a Legal Duty to Tell the Truth?' (2024) 11 *Royal Society of Open Science* 1, 1: 'Popular LLMs … are text-generation engines designed to predict which string of words comes next in a piece of text. They are fine-tuned via 'reinforcement learning from human feedback' (RLHF) to make their outputs more human-like, persuasive and useful to users that ask them questions or provide prompts requesting generation of text, images, code, video or other media'.

[180] Timothy Aylsworth and Clinton Castro, 'Should I Use ChatGPT to Write My Papers?' (2024) 37 *Philosophy & Technology* 117, 24. Similarly, in legal professional contexts, legitimate uses of GenAI are recognised by those who warn against its misuse. See, eg, Chief Justice Andrew Bell, 'Truth Decay and its Implications for the Judiciary: An Australian Perspective' (4th Judicial Roundtable, Durham University, 23–26 April 2024) 33 [88].

[181] Aylesworth and Castro (n 180) 24.

[182] The student also insults the assessor, seeking to deceive them into awarding unearned grades, while wasting their time and labour on marking something into which one refused to invest their own.

have aways been, and remain, available; including paying someone to write one's essay.[183] We must recognise that AI increases enticement and facilitation towards, as well as dignitary harms resulting from, dishonesty in pursuit of ostensible self-gain.

Amplification of dignitary harm warrants attention. LLMs today, typically generate unsatisfactory standards in essays, problem question, and court submissions. Judges across jurisdictions catch lawyers tendering AI generated legal documents, citing false law and authorities.[184] Armin Alimardani's Australian study discovered that LLMs' reasonably managed 'short-answer and short essay questions' but 'their performance declined drastically when faced with the complexity of problem scenarios [akin to] real-world legal scenarios'.[185] American researchers, Jonathan Choi et al, find that 'ChatGPT would have been a mediocre law student [but] its performance [could] earn a J.D. degree from a highly selective law school'.[186] Alarmingly, 'a struggling law student [could conceivably use] ChatGPT to earn a J.D. [contrary to] her abilities or readiness to practice law'.[187] In another study, those researchers, including another colleague, instructed students to undertake lawyering tasks, and found that when using LLMs to assist legal analysis, 'the boost to quality ... inversely correlate[d] with baseline performance, with a substantial improvement for the worst performers but no improvements for the best'.[188] As Alimardani notes, in legal

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183 Caitlin Cassidy, 'Lures and Violent Threats: Old School Cheating: Still Rampant at Australian Universities, Even as AI Rises', *The Guardian* (online, 1 August 2024) <https://www.theguardian.com/australia-news/article/2024/aug/01/lures-and-violent-threats-old-school-cheating-still-rampant-at-australian-universities-even-as-ai-rises>.

184 In Australia, see: *Valu v Minister for Immigration and Multicultural Affairs (No 2)* [2025] FedCFamC2G 95, [35]; *Re Dayal* [2024] FedCFamC2F 1166; Josh Taylor, 'Melbourne Lawyer Referred to Complaints Body After AI Generated Made-up Case Citations in Family Court', *The Guardian* (online, 10 October 2024) <https://www.theguardian.com/law/2024/oct/10/melbourne-lawyer-referred-to-complaints-body-after-ai-generated-made-up-case-citations-in-family-court-ntwnfb>. In international jurisdictions, see: *Zhang v Chen* [2024] BCSC 285; Leyland Cecco, 'Canada Lawyer Under Fire for Submitting Fake Cases Created by AI Chatbot', *The Guardian*, (online, 1 March 2024) <https://www.theguardian.com/world/2024/feb/29/canada-lawyer-chatgpt-fake-cases-ai>; *Mata v Avianca Inc*, 678 F Supp 3d 443 (NY SD 2023) ('*Mata*'); John Naughton, 'A Lawyer Got ChatGPT to do his Research, but he isn't AI's Biggest Fool' *The Guardian*, (online, 3 June 2023) <https://www.theguardian.com/commentisfree/2023/jun/03/lawyer-chatgpt-research-avianca-statement-ai-risk-openai-deepmind>.

185 Armin Alimardani, 'Generative Artificial Intelligence vs. Law Students: An Empirical Study on Criminal Law Exam Performance' (2024) 16(2) *Law, Innovation, and Technology* 777, 812.

186 Choi et al (n 7) 396.

187 Ibid.

188 Jonathan H Choi, Amy B Monahan and Daniel Schwarcz, 'Lawyering in the Age of Artificial Intelligence' (2024) 109 *Minnesota Law Review* 147, 208.

services, 'expectations extend far beyond merely achieving a passing grade'.[189] If students become accustomed to submitting AI generated work as their own, and continue in practice, clients will unwittingly pay – serious portions of their incomes in cases of human persons and small businesses – for services which backfire. At the least, as Castel J noted in *Mata v Avianca Inc* (2023), '[t]he client may be deprived of arguments based on authentic judicial precedents'.[190]

This is disturbing for potentially life-changing matters involving persons' freedom, livelihood, reputation, privacy, bodily integrity, and families. Insult is added to injury when lawyers delegate professional undertakings to programs their clients could access. Litigants can gamble with GenAI authored court documents for free.[191] One pays professionals to do what one *cannot*.[192] It would be dishonest for a lawyer to elicit payment from someone who expects human judgement beyond what ChatGPT's advancing capacities can do. Those lawyers take clients as mere means to monetary gain in exchange for unnecessary, unhelpful, and potentially disastrous services.

Moreover, as Castel J wrote, the harms extend beyond the client:

> The opposing party wastes time and money in exposing the deception. The Court's time is taken from other important endeavors. [...] 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 [judiciary].

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189 Alimardani (n 185) 37. See also the empirical study presented in Paul Burgess et al, 'Using Generative AI to Identify Arguments in Judges' Reasons: Accuracy and Benefits for Students' (2024) 6(3) *Law, Technology and Humans* 5, 19: '[T]hat LLMs vary so considerably in their ability to accurately extract arguments … represents the key finding of this study. Being aware of this enables legal educators and lawyers to remain focused on the need for critical awareness regarding the human skill of identifying and extracting arguments. By retaining this focus, and by ensuring that we do not naively consider all LLMs to be 'good enough', these systems can be seen to provide benefit in different ways.'.

190 *Mata* (n 184) 448–9 (Castel J).

191 Cases in which this has occurred, or been strongly suspected, include: *LJY v Occupational Therapy Board of Australia* [2025] QCAT 96, [22]; *Kaur v Royal Melbourne Institute of Technology* [2024] VSCA 264, [26]; *Lakaev v McConkey* [2024] TASSC 35, [52]–[58]; *Finch v Heat Group Pty Ltd* [2024] FedCFamC2G 161, [137]; *Harber v The Commissioners for His Majesty's Revenue and Customs* [2023] UKFTT 01007 (TC), [21]. See also *Director of Public Prosecutions (ACT) v Khan* [2024] ACTSC 19, [39]–[44] concerning a likely AI-generated character reference tendered by the brother of a defendant.

192 Stuart Hargreaves, ''Words are Flowing out Like Endless Rain into a Paper Cup': ChatGPT & Law School Assessments' (2023) 33(1) *Legal Education Review* 69, 90: '[T]he key to effective Al use as part of legal pedagogy will be instil in students the idea that Al might be wrong, it might be biased, and it almost certainly can be improved upon – and that this will also be the reality of their professional practice. If they cannot improve upon an Al answer, then what do they hope to be paid for?'

> [F]uture litigant[s] may be tempted to defy a judicial ruling by disingenuously claiming doubt about its authenticity.[193]

GenAI surely compounds existing problems of dishonesty in law school and practice and ensuing dignitary harms to human clients and communities.

Law schools should not isolate the problem of GenAI as a tool for academic misconduct. GenAI intensifies the ongoing moral character concern, which already interrelated with others which together comprise an overarching struggle for the dignity of education. The way in which AI can feed dishonesty meshes with the ways in which it complicates issues concerning skill, employment, and social contribution and consciousness. Because dishonest practices are often deployed to hide incompetencies, if GenAI facilitates the former, it simultaneously enflames the latter – in turn hindering employability and ability to contribute services. Moreover, if students are despondent about their career prospects, especially while under financial and mental stresses, the priority of academic integrity may not weigh heavily in their minds. Students may be more inclined to cheat through AI if they lack the enthusiasm which can accompany growing social consciousness and contribution. The forest must not be missed for the trees.

B *Skills and Competencies*

The complication of AI for the moral challenge regarding skills entails both threats and opportunities. If a negative byproduct of AI is the stifling of cultivation of necessary skills, this complicates worries about students graduating without sufficient aptitudes. If, however, AI is appropriately harnessed to reduce time and labour cost, students may be able to focus more on cultivating indispensable skills – as well as character and consciousness. Efforts are needed to minimise the extent to which AI could fuel the problem of legal education simply promoting technique largely for its own sake and that of self-interest.

Serious skill and competency issues can be intensified through GenAI. As Carolyn V Williams observes, GenAI has 'potential to hide students' lack of skills'.[194] This extends beyond 'skills', in the technical sense, to competencies in conceptual understanding and enquiry. Amanda Head and Sonya Willis insist that law teachers not only need awareness of 'ethical risks' and constructive use 'given [GenAI's] strengths and limitations', but also to 'ensure it does not usurp students' comprehension of core legal principles'.[195] Alimardani reasoned that when students cheat through GenAI to pass assessment 'without any genuine effort and a true understanding of the subject matter', they 'miss the opportunity to gain an understanding of the foundational concepts of their field of study [and] fail to learn how to

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193 *Mata* (n 184) 466 (Castel J).

194 Carolyn V Williams (n 8) 1, 1.

195 Head and Willis (n 7) 15.

collaborate effectively with AI'.[196] This strikes the foundation upon which legal skills are built. If AI encourages students to avoid consolidating the skill of actively learning about moral and legal concepts and systems, their capacities in this regard may be stunted to the level of LLMs. Jordan M Blanke fears GenAI will reduce abilities 'to think critically', to '*analyze', 'evaluate',* and *'create*', as many 'will ultimately use ChatGPT as a crutch and a shortcut rather than as a tool to improve one's ability to think independently and at a high level'.[197] If students barely understand the legal system in which they operate and its key concepts, they will struggle to analyse and evaluate the rules and principles they to apply, in turn, leading to unchecked computer generated errors and failure to provide better service than someone trained solely in data-entry.

In writing and research, Williams submits that GenAI 'allow[s] students to circumvent what [educators] are attempting to teach them, albeit at their own peril'.[198] Sandra Noakes adds that 'machine-based systems' often fail to 'appreciate the "rich[ness]" and "treacher[y]" of "[t]he language of law"'.[199] Therefore, 'lawyers [still need] to be competent users of language', especially given that empirical research indicates that 'poor written communication causes problems for clients and lawyers'.[200] As Michael Legg and Felicity Bell remind, 'lawyers will need to be able to challenge or critique the results of technology, such as looking for biases or reliance on incomplete data'.[201] Acceptance of the erosion of key skills and competencies would degrade the student by stifling their human capacities in comprehension, reading, reasoning, communication, and even emotional intelligence. Insultingly poor service at clients' and communities' expenses, and declining employability, would ensue.

The following suggestion from Choi, et al, is instructive:

> [S]chools should consider how to prepare law students to use these tools most effectively in their practices while, at the same time, emphasizing to students that the fundamental skills of legal research and reasoning cannot merely be delegated to language models. While ChatGPT and similar tools

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196 Alimardani (n 185) 36–7.

197 Jordan M Blanke, 'ChatGPT: The Sky is Not Falling' (2024) 41 *Journal of Legal Studies Education* 39, 47 (emphasis added).

198 Williams (n 8) 1.

199 Sandra Noakes, ''Needs Improvement': Positioning Good Practice Writing Pedagogy in the Australian Law School Curriculum' (2021) 47(1) *Monash University Law Review* 212, 225, 250–251. Noakes cites several Australian cases concerning lawyers' poor writing skills which caused problems for clients, including *Fitness First Australia Pty Ltd v Fenshaw Pty Ltd* (2016) 92 NSWLR 128, and *Ecosse Property Holdings Pty Ltd v Gee Dee Nominees Pty Ltd* (2017) 261 CLR 544.

200 Ibid 225, 251.

201 Legg and Bell (n 8) 58.

> might help a lawyer work more efficiently, they cannot (yet) replace the need for a lawyer to locate, understand, and reason from relevant sources of law.[202]

While AI can aggravate serious skill issues, the ability to apply it for reducing efforts spent on monotonous tasks could conceivably be harnessed to sharpen our focus on indispensable aptitudes.

To whatever extent GenAI use may be permissible, its 'weakness in critical analysis tasks means that educators should place a greater emphasis on developing critical analysis skills.'[203] This might be facilitated by identifying in legal education, as Michael Legg and Felicity Bell, advocate in practice, 'appropriate uses of AI, especially where it offers productivity gains that can reduce the cost and delay'.[204] This could be effective if undertaken with sufficient technological and 'legal project management skills'.[205] Legg and Bell add:

> The current focus of legal education ... is not ... well-adapted to a landscape of rapidly developing legal technology. There is a general question in legal education about how to develop 'sound judgement' in lawyers, particularly sound ethical judgement. Consideration of this issue will take on even more importance with the automation of certain routinised forms of work, such as review of documents, which were previously part of the education of junior lawyers.[206]

Skills in exercising the human activity in judgement, then, should be cultivated beyond the mere prudential and technical, but grounded in moral thought, ultimately concerned with human ends.

It is apparent, then, that in legal education the skill issues, which include intellectual activities, cannot rightly be separated from the concerns of character and consciousness. This includes so-called 'soft skills' such as emotional intelligence, which, as Justine Rogers argues, may come to the foreground of desirable lawyering skills.[207] Legal education may be able to promote healthy relationships with AI which encourage technological skills for the sake of harnessing them towards the refinement of more essentially human skills.

Dan Hunter forecasted in 2020 that 'development of meaningful solutions' for AI's present shortcomings in 'legal areas that human beings typically excel', namely, 'judgment, emotional reasoning, [and] understanding ambiguity' are probable within 'the next 20 years'.[208] Several dignity concerns, however, surround the prospect of allowing AI to substitute for these human capacities in our legal

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[202] Choi et al (n 7) 397–398.

[203] Alimardani (n 185) 37.

[204] Legg and Bell (n 8) 58.

[205] Ibid 58.

[206] Ibid 59.

[207] Rogers (n 8) 10.

[208] Dan Hunter, 'The Death of the Legal Profession and the Future of Law' (2020) 43(4) *University of New South Wales Law Review* 1199, 1220.

systems, which are considered under the ensuing rubrics. For Hunter, '20 years is a long time, and the prospect of an artificial general legal intelligence is so far away that it is not worth worrying about, given the other challenges the legal profession faces'.[209] Given the challenges humanity faces, professionals being members of it, the dignity of legal education depends on not only on enhancing their skills but also on ensuring that they will have careers and consciousness which they can contribute as professionals and citizens to their communities.

C *Employability*

If, preceding the 2020s, law schools grappled with the insufficiency of available legal professional jobs for their graduates, developments in AI compound the problem. Hunter projected that, 'artificial intelligence and machine learning systems will take over a significant portion of lawyers' work by the end of the 2020s'.[210] Eventually, AI will subsume 'much of lawyering'.[211] He added that:

> because of automation, we are unlikely to see an increase in demand for graduates at large and medium firms consistent with population growth – technology-based efficiency gains will mean that fewer lawyers will be able to service more clients.[212]

More immediately, 'graduate numbers entering commercial law practice will be flat or declining, and firms will be looking to retrain technology-capable established lawyers into the emerging areas of technology-assisted practice'.[213] Students from 'non-elite' schools with fewer resources to invest in technological education will suffer because large commercial practices, which will have 'disproportionat[e] concentrat[ion]' of machine learning solutions, less frequently hire them.[214] We might hope that publicly funded legal services will expand and create more jobs. Yet Hunter predicts that 'in the very many under-lawyered parts of society, the huge unmet need for legal services will in time be met – but by computers, not by humans'.[215] This will be not only unsatisfactory from the perspective of graduates but also the underserved who find themselves up against the overserved who have solicitors and barristers, plus legal technology, to boot.

The significance of AI in the sphere of job opportunities can only be properly addressed with the consciousness of the ongoing struggle for dignity of legal education at the foreground. Only with this mentality can law schools who were already embattled with their students' employment desperation

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[209] Ibid 1220.

[210] Ibid 1199.

[211] Ibid 1199.

[212] Ibid 1203.

[213] Ibid 1220.

[214] Ibid 1221.

[215] Ibid 1204.

seriously increase and enhance their endeavours to ensure opportunities if they are to maintain any moral respectability. If schools minimise this concern, they will treat students as mere means to monetary extraction without regard for the poverty and humiliation many of them will endure. To look away while an existing employment deficit descends further would be an indignity and warrant indignation from students, and the communities who need their services.

Training in technological and other skills to enhance graduates' competitiveness in the job market is necessary but insufficient because ultimately the pool of opportunities in legal and related professions must expand. Last year, Richard Susskind warned: 'The bespoke specialist who handcrafts solutions for clients will be challenged by new working methods, characterized by lower labour costs, mass customization, recyclable legal knowledge, pervasive use of advanced technology, and more'.[216] He suggests worrying less about intakes of law students proportionately to job availability and underfunding of legal aid, and more about upskilling students for, and identifying ways for them to provide, the services of 'tomorrow's lawyers' – especially by innovatively harnessing technology.[217] Legal education cannot, however, respectably minimise the former matters because while students are already struggling for work, emerging changes threaten to leave even more of them behind. Schools must find ways to vigorously demand and possibly create jobs for students. One way would be establishing and expanding legal clinics within schools to employ some of their graduates – which could potentially compete with larger firms especially if schools can provide 'more-for-less' and capitalise on trends towards 'liberalisation' of legal services and legitimate uses of technology.[218] Staff and students could also organise to influence governments for increase funding for such endeavours and community legal centres. More is needed to facilitate students towards fulfilling careers which make contributions to humanity in their communities especially now that the problem is seriously compounded by AI.

Pursuing employment goals against the rise of automation without concern with other dignitary commitments would be insufficient. Students who are struggling for employment, especially those who are underprivileged, need opportunities to build social consciousness about the circumstances in which they labour – and in which they are often deprived of opportunities to help their communities. Rebecca J Kunkel recognises that portions of the legal profession are becoming proletarianised, increasingly through automation.[219] This especially true for students. We should promote consciousness about 'the real class realignment that is already taking place within the profession'.[220] The same should be done in

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216 Richard Susskind, *Tomorrow's Lawyers* (Oxford University Press, 2023) 3.

217 Ibid 2–3.

218 See ibid 12.

219 Rebecca J Kunkel, 'Artificial Intelligence, Automation, and Proletarianization of the Legal Profession' (2022) 56 *Creighton Law Review* 69, 70.

220 Ibid.

relation to the alignment in the school. This could fuel collective efforts of staff and graduates to establish new practices which, while competing in the market, operate on principles of humanity.

D *Social Consciousness & Contribution*

Advancements in AI technologies amplify law students' needs for increased social conscientiousness and prospects of contributing meaningfully to the collective conscience of their communities. This is partially because threats and opportunities presented by such developments to human dignity demand the attention of people who deeply understand existing principles and systems of law as well as their shortcomings. These are the people who should be able to impactfully partake in efforts to prevent AI from exacerbating detachment of law from commitment to moral ends and use and develop law to counteract ways in which AI can undermine moral ends. The moral respectability of legal education depends on its cultivation of professionals who can and do take meaningful concern for the service of law to moral ends, and, as is demonstrated through a few examples below, this is intensified by certain moral challenges presented by AI to society.

The sentiment expressed earlier about the need to foster social consciousness in law schools, as intensified today by AI is articulated by Daniel Goldsworthy: 'the substantive knowledge relevant to law students is ... invariably informed by the irreducible value human beings will continue to have to the law and legal processes'.[221] Few would suggest we could ever conscientiously entrust entire legal systems to AI. Some essentially moral concerns in legal systems must be reserved for human activity. Although the moral activity of cultivating social consciousness is important, it must be accompanied by determination to ensure that our graduates have career avenues through which they can use it.

Perhaps our concern with ensuring human ends can access essential legal services should give cause for cautious optimism about AI's potential to expedite and enhance access to justice for the underserved. Samuel Dahan and David Liang write that new 'direct-to-public (DTP) AI tools can [do this] by providing the minimal level of legal help for meeting basic legal needs'.[222] 'Open AI technology', they reason, can potentially 'determine whether someone has a legitimate legal claim, help lawyers increase the efficiency of their service delivery, and help litigants for whom litigation is otherwise out of reach'.[223] They might, to an extent, be correct, and if so, this would enable existing legal aid professionals to maximise productivity with their scant resources. The danger, however, is that governments will take AI's expediency benefits as an excuse to continue the starvation of public legal services. Legal education, then, while prudently

[221] Goldsworthy (n 11) 245.

[222] Samuel Dahan and David Liang, 'The Case for AI-Powered Legal Aid' (2021) 46(2) *Queen's Law Journal* 415, 417.

[223] Ibid.

recognising AI's opportunities, must promote social consciousness, not least about access to justice, and opportunities for students to practice it in the workplace.

Pre-existing needs to support students to cultivate their moral capacities, in terms of consciousness beyond academic and professional ethics, and promote socially constructive career opportunities, are intensified by threats forms of AI present to humanity. Lawyers and other legally educated professionals are essential for addressing these problems. When one ponders the dignitary implications of those identified below, it is hard to argue that our law schools bear responsibility for equipping students to confront them.

One concern is widespread deception about forms of AI, a phenomenon which Narayanan and Kapoor label '*AI Snake Oil*': 'AI that does not and cannot work as advertised'.[224] They warn:

> This is a major societal problem: we need to be able to separate the wheat from the chaff if we are to make full use of what AI has to offer while protecting ourselves from its possible harms, harms which in many cases are already occurring.[225]

Relatedly, AI is usable 'as a weapon of mass deception',[226] as well as to perpetrate privacy and harassment wrongs.[227] Automated systems, including those powered by AI, which governments and private companies have been used to abuse human dignity especially against vulnerable parties. One instance concerns Australia's 'Robodebt' scandal: an automated, whether or not AI, system was deployed to persecute welfare recipients with false accusations of theft and unanswerable threats of prosecution, resulting in outcomes as horrifying as suicide.[228] Harms inflicted through predictive AI, the kind which Narayanan and

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[224] See Narayanan and Kapoor (n 2) 2.

[225] Ibid 3.

[226] See Alejo Joes G Sison et al, 'ChatGPT: More than a "Weapon of Mass Deception"' (2024) 40(17) *International Journal of Human-Computer Interaction* 4853, 4867; Narayanan and Kapoor (n 2) 25 concerning GenAI in journalism. See also Xiaomei Bi, Xingyuan Su and Xiaoyan Liu, 'An Ellulian Analysis of Propaganda in the Context of Generative AI' (2024) 26 *Ethics and Information Technology* 60, 68: 'GenAI-assisted propaganda today [renders] it harder for individuals to distinguish between text generated by AI and text generated by humans, making them more susceptible to deception[.][It] has the capability to craft a more comprehensive alternative reality, potentially distancing individuals even further from actual social realities'.

[227] See, eg, Xiaodong Wu, Ran Duan and Jianbing Ni, 'Unveiling Security, Privacy and Ethical Concerns of ChatGPT' (2024) 2(2) *Journal of Information and Intelligence* 102.

[228] See, eg, Chris Felstead, Rosemary Stockdale and Helana Scheepers, 'A Dignity Perspective on the Potential Harm of AI Technologies: The Case of Robodebt' (2023) *ACIS 2023 Proceedings* 100. For similar case studies, see Narayanan and Kapoor (n 2) 49.

Kapoor find to most often constitute 'snake oil', in policing, healthcare, insurance, and hiring, inter alia, especially against marginalised groups, are alarming.[229]

The pair also warn that GenAI poses dignitary threats to livelihood:

> If [GenAI] leads to an economic transformation ... it probably won't be good news for labor, whether or not it eliminates jobs. [GenAI] relies on the invisible, drudging, low-wage work of millions of people to create training data [and] use of data found on the web without credit or compensation to the writers, artists, and photographers who created them.
>
> In the wake of the Industrial Revolution, millions of new jobs were created in factories and mines, with horrific working conditions. It took many decades to secure labor rights and improve workers' wages and safety. Similarly, there is a movement to secure labor rights, human creativity, and *dignity* in the face of encroaching automation. It is far from clear that this movement will succeed. It's up to all of us.[230]

Finally, scientific findings suggest that AI is consuming resources at a colossal rate and accelerating ecological destruction.[231] A conscientious law school would have to encourage students to consider the sustainability, from industrial, environmental, and other justice perspectives, of current trends in development and usage of forms of AI.

The matters identified above concern ways in which AI can intensify pre-existing dignitary threats. They require not just cultivation of social consciousness in connection with legal thought for future professionals. These professionals also need jobs through which they can put their learning into practice to solve these problems. It is inappropriate to simply applaud automation and innovation in legal services. Real people — today's law students — are needed to address real problems concerning AI's involvement

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229 See Narayanan and Kapoor (n 2) chapters 2 and 3. 'In contrast to generative AI is predictive AI, which makes predictions about the future in order to guide decision-making in the present. […] Predictive AI is currently used by both companies and governments, but that doesn't mean it works. It's hard to predict the future, and AI doesn't change this fact. […] The problem is that predictive AI is often sold as far more than [for 'por[ing] over data to identify broad statistical patterns'], and it is used to make decisions about people's lives and careers. It is in this arena that most AI snake oil is concentrated': ibid 34.

230 Narayanan and Kapoor (n 2) 35 (emphasis added). See Wooldridge (n 54) 276–7: 'Technology is neutral about how it is deployed. It is up to employers, governments, unions and regulators to start thinking about these aspects of AI – how it will affect those in work, and what counts as decent working conditions – as well as the issue of unemployment …'. See also Sarah Bankins and Paul Formosa, 'The Ethical Implications of Artificial Intelligence (AI) For Meaningful Work' (2021) 185 *Journal of Business Ethics* 725, 738.

231 See, eg, Shaolei Ren and Adam Wierman, 'The Uneven Distribution of AI's Environmental Impacts', *Harvard Business Review* (online, 15 July 2024) <https://hbr.org/2024/07/the-uneven-distribution-of-ais-environmental-impacts>; Elizabeth Kolbert, 'The Obscene Energy Demands of AI,' *The New Yorker* (online, 9 March 2024) <https://www.newyorker.com/news/daily-comment/the-obscene-energy-demands-of-ai>.

in afflictions against humanity. We neglect their dignity and that of their communities if we fail to help equip them in this regard.

V CONCLUSION

The understanding conveyed in this article will help law schools to plan and act to recreate legal education and salvage its future as a worthwhile endeavour. That consciousness is that AI's threats and opportunities bring to their doorsteps are not simply new challenges adding to any number of identifiable stresses. Rather, it is that they all affect pre-existing battles law schools have been fighting — all of which are parts of a larger struggle for the dignity of legal education. With this as our starting point, law schools might stand a chance in resisting the decadence of legal education in a mere income-generating technique at the expense of the humanity in their students and their communities.

This article began by explaining the moral concept of dignity which provides the language for referring to the moral value inherent in humanity and that which is derivative, such as in character and conduct. Our human dignity implores us cultivate our capacities as they concern character and skills to be applied toward the moral end of humanity. In human activity, we should be mindful, in our pursuit and application of skill and techniques, of the ultimate ends-status in ourselves and others, lest we directly undermine them or indirectly do so by simply valorising said means as if they were ends. The article went on to show how both human endeavours of education and law can be dignified or otherwise, in varying degrees, depending on their service or disservice to the humanity. Both can suffer the indignity of reduction to mere techniques for their own sake or for the degradation of people.

It was argued that legal education similarly is capable of bearing dignity, or otherwise, derivatively from the commitment of law schools to the humanity in its students and members of the community as moral ends. It demonstrated that legal education in Australia has been experiencing a series of ongoing problems which afflict its dignity. These are several strands of struggle regarding concern for students as moral ends in relation to their cultivation of ethical character and skills as well as their futures as professionals working fulfilling jobs in which they can serve humanity within their communities They present an uphill battle in face of the trend towards instrumentalisation of the law school as a monetary technique. Each challenge is, it was argued, intensified or at least complicated further by developments in AI. Such advancements demonstrably can enable unethical practices, the abnegation of the duty to cultivate essentially human skills, and make it harder for a significant portion of graduates in their search for employment. AI may also, by performing 'basic' tasks, free time for honing the finer human faculties and enable graduates to more expediently deliver essential legal services to those in need. A holistic response is needed given that the evolution of AI compounds and complicates an older and broader overarching dignitary struggle.

These concerns matter because our students and the members of the communities they will serve are people, who by virtue of humanity, are moral ends. Unless law schools are to capitulate to constantly

encroaching demands to reduce legal education to little more than an income-generating technique, they must neither isolate nor ignore advancements in AI. They should recognise that the need to adapt in response to developments in AI is part of a larger and pre-existing necessity to defend the dignity of legal education. They should do so as if humanity depends on such efforts. To a serious extent, it does.