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Wait Before Hallooing

Some Remarks on the EU's Response to the Rise of Artificial Intelligence

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ABSTRACT

This essay examines the European Union's regulatory response to the rise of artificial intelligence, centring on the AI Act as a landmark piece of legislation. Drawing on historical parallels — notably from Roman law — Junqueira argues that the challenges of attributing responsibility for AI-driven harm are not unprecedented, and that legal orders have traditionally addressed comparable problems through incremental, rather than abrupt, normative developments. The essay analyses the AI Act's architecture of responsibility, which distributes duties across a network of roles (providers, deployers, importers, distributors) and attaches obligations to objective risk categories and use cases rather than to subjective intent. It highlights the Act's deliberate exclusion of systems used exclusively for military, defence, or national security purposes, whilst noting the dynamic character of this exclusion when systems are repurposed. The author situates the AI Act within the EU's broader constitutional identity and its aspiration to act as a normative power, arguing that the regulation reflects a commitment to democratic values, the rule of law, and fundamental rights. The essay further contends that the regulation of AI must be underpinned by a robust moral scaffolding that preserves the exclusively human nature of responsibility, particularly in judicial decision-making, where the irreducible singularity of human deliberation resists reduction to algorithmic pattern-matching. The text concludes by calling on the research community to develop principled doctrinal responses that prevent the EU's regulatory openness to moderation from becoming an unfruitful first step.

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