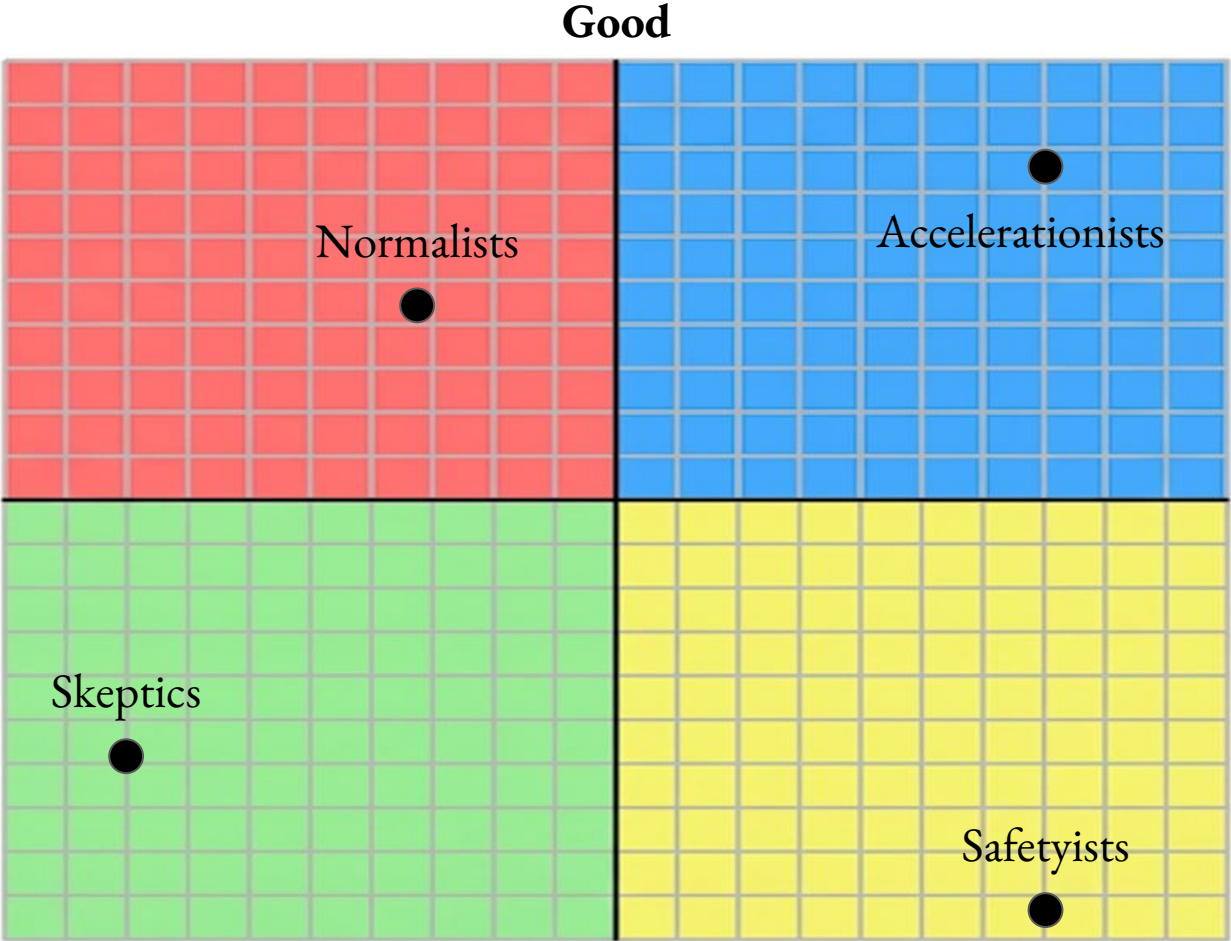


AI Policy and the Legal System

Justin Curl
Harvard Law School

@curl_justin



**Precedented
(internet)**

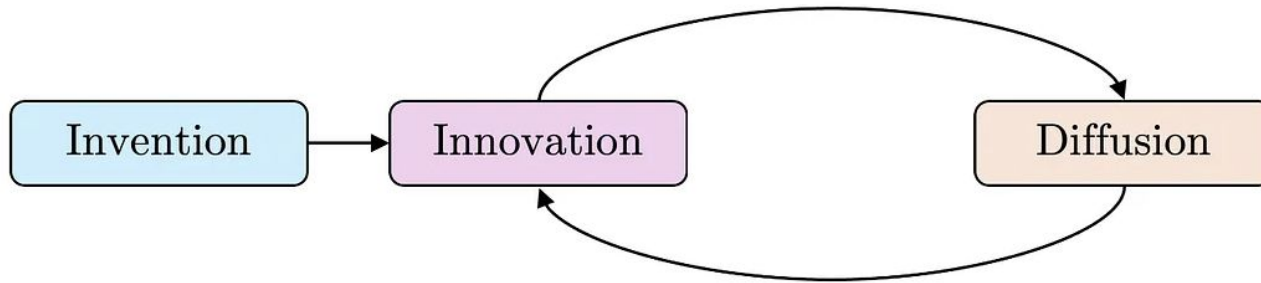
**Unprecedented
(machine god)**

Good

Bad

AI as Normal Technology, Narayanan & Kapoor (2025)

- Written as response to AI superintelligence view (AI 2027)
- AI should be guided by lessons from past technological revolutions
 - Societal impacts depend on diffusion, not innovation
 - External world creates upper limit on AI (forecasting, persuasion)
 - Human agency is central to the story of AI diffusion
 - Normal \neq not transformative (electricity)
- AI as Normal Tech worldview is three things
 - *Description* of current AI
 - *Prediction* about the foreseeable future of AI
 - *Prescription* about how we should treat it

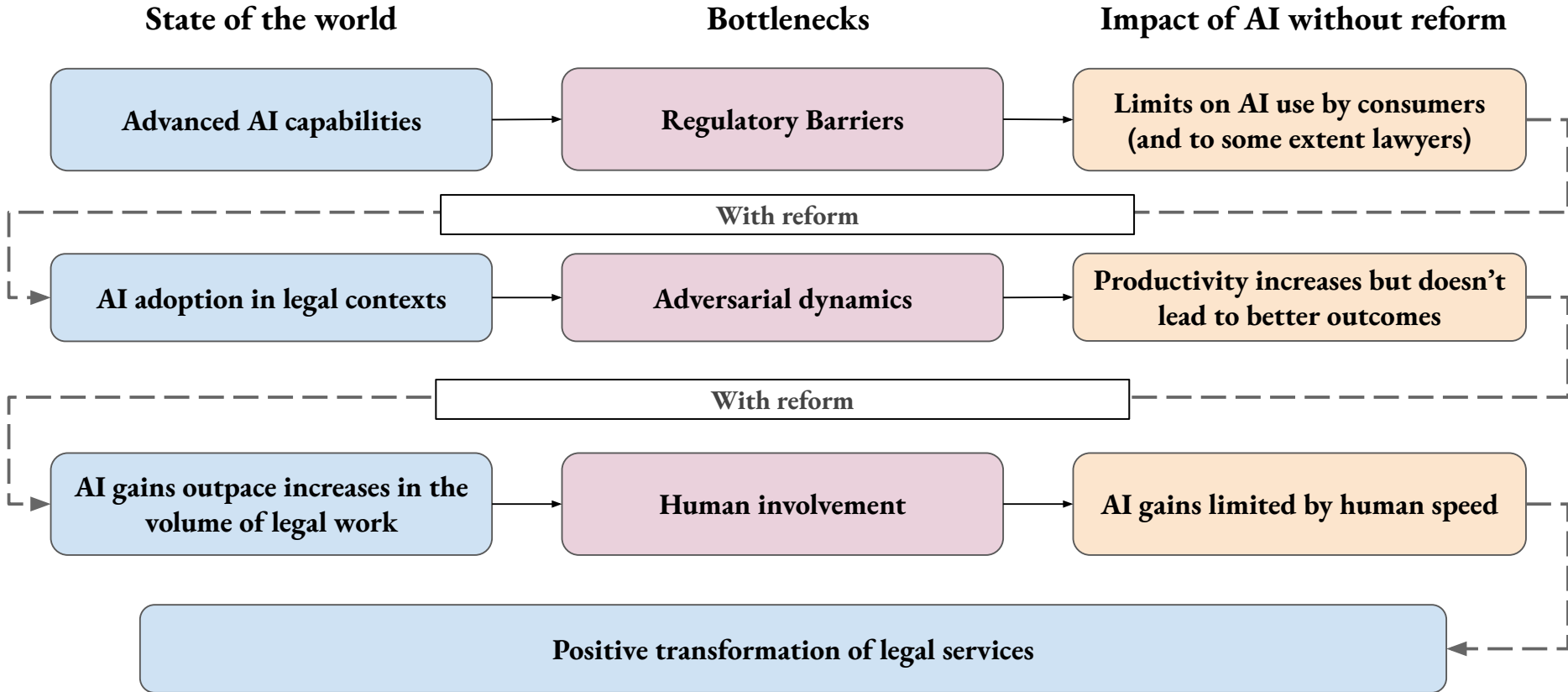


Stage	Methods / capabilities	Products / Applications	Early adoption	Adaptation
Example	LLMs Claude	AI code editor Claude Code	Individuals creating simple apps using AI	Retraining software engineers to Org + Claude Code
Appropriate metrics	Benchmarks	Uplift studies	Surveys	Economic indicators
Speed limits	Herding "Last mile" problem	Capability-reliability gap Dependence on diffusion	Learning curves Safety	Organizational changes Laws and norms

Part 1: AI's impact on the practice of law

Part 2: Law's impact on AI

AI won't automatically make legal services cheaper (2026)



State of the world

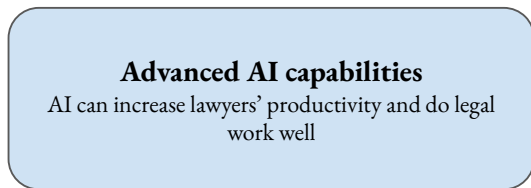
Advanced AI capabilities

AI can increase lawyers' productivity and do legal work well

Bottlenecks

Impact of AI without reform

State of the world



Bottlenecks



Impact of AI without reform

State of the world

Advanced AI capabilities

AI can increase lawyers' productivity and do legal work well

Bottlenecks

UPL regulations

Only licensed attorneys can practice law

Entity regulations

Only lawyers can own equity in businesses offering legal services

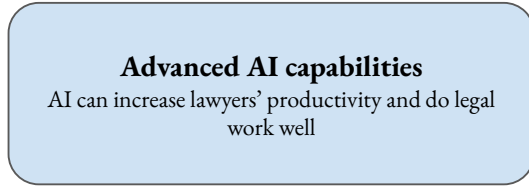
Impact of AI without reform

Limits on AI use by consumers (and to some extent lawyers)

Threat of liability chills experimentation
Capabilities aren't helpful without access



State of the world



Bottlenecks



Impact of AI without reform

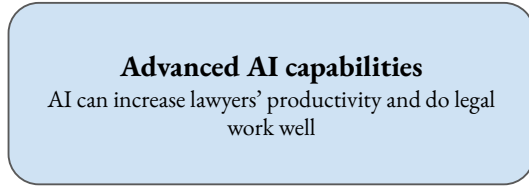


With reform

Examples: state courts update regulations; creation of regulatory markets



State of the world



Bottlenecks

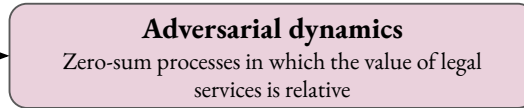


Impact of AI without reform

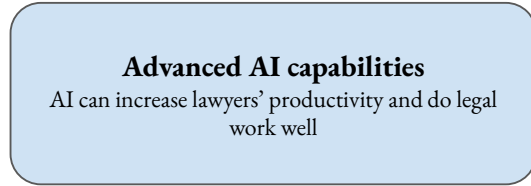


With reform

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State of the world



Bottlenecks

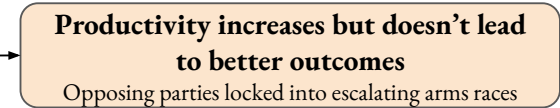
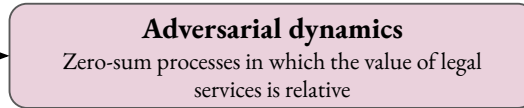


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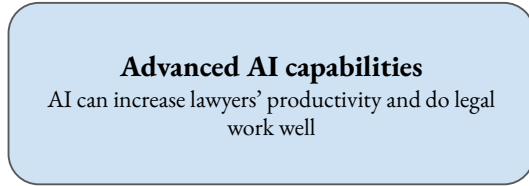


With reform

Examples: state courts update regulations; creation of regulatory markets



State of the world



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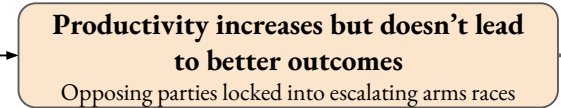
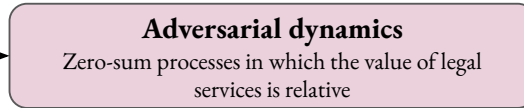


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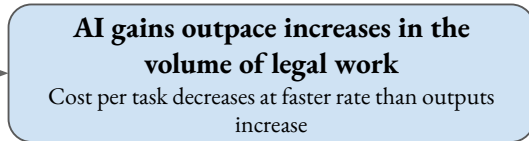
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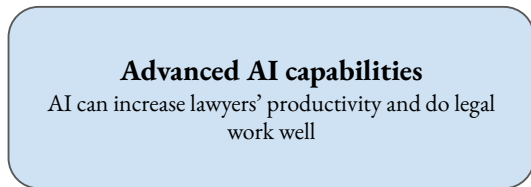


With reform

Examples: judges make litigation less adversarial; parties use arbitration as a parallel track



State of the world



Bottlenecks

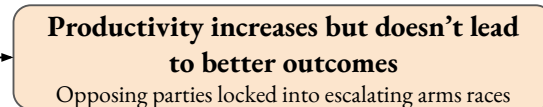
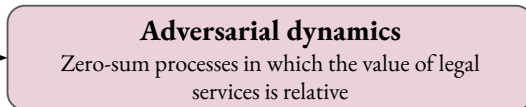
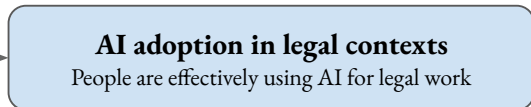


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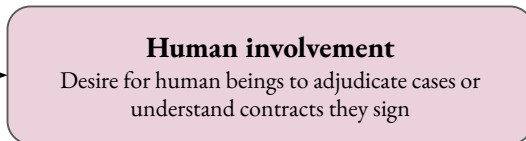
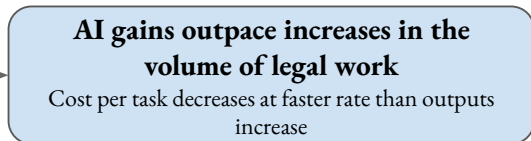
With reform

Examples: state courts update regulations; creation of regulatory markets

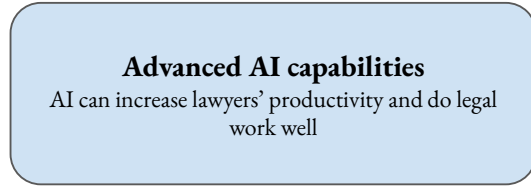


With reform

Examples: judges make litigation less adversarial; parties use arbitration as a parallel track



State of the world



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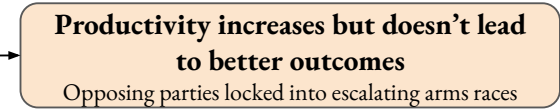
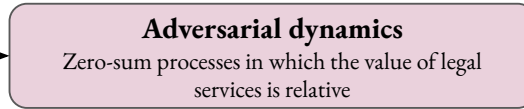


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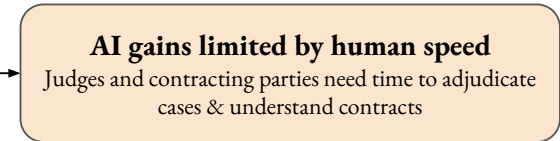
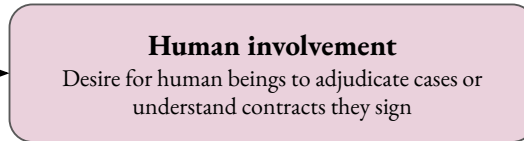
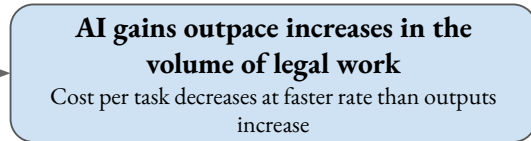
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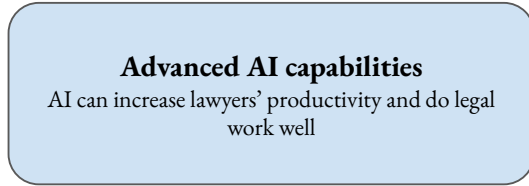


With reform

Examples: judges make litigation less adversarial; parties use arbitration as a parallel track



State of the world



Bottlenecks

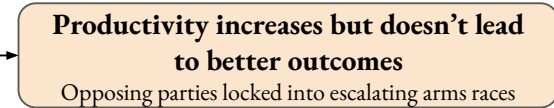
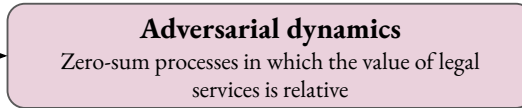


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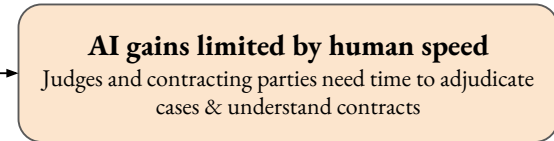
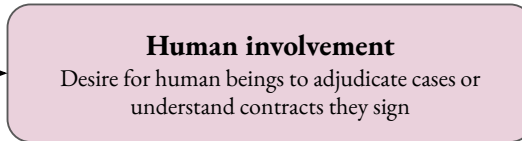
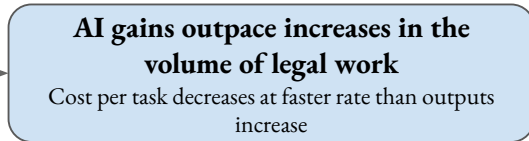
With reform

Examples: state courts update regulations; creation of regulatory markets



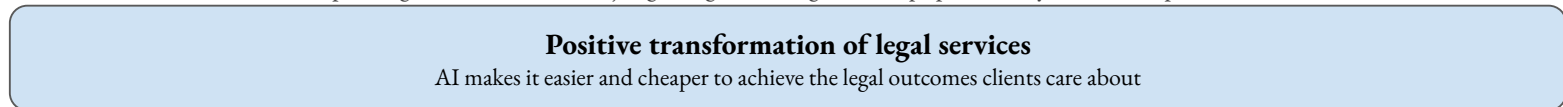
With reform

Examples: judges make litigation less adversarial; parties use arbitration as a parallel track



With reform

Examples: legislatures fund more judges; legal training better equips attorneys to move up the value chain



Part 1: AI's impact on the practice of law

Part 2: Law's impact on AI

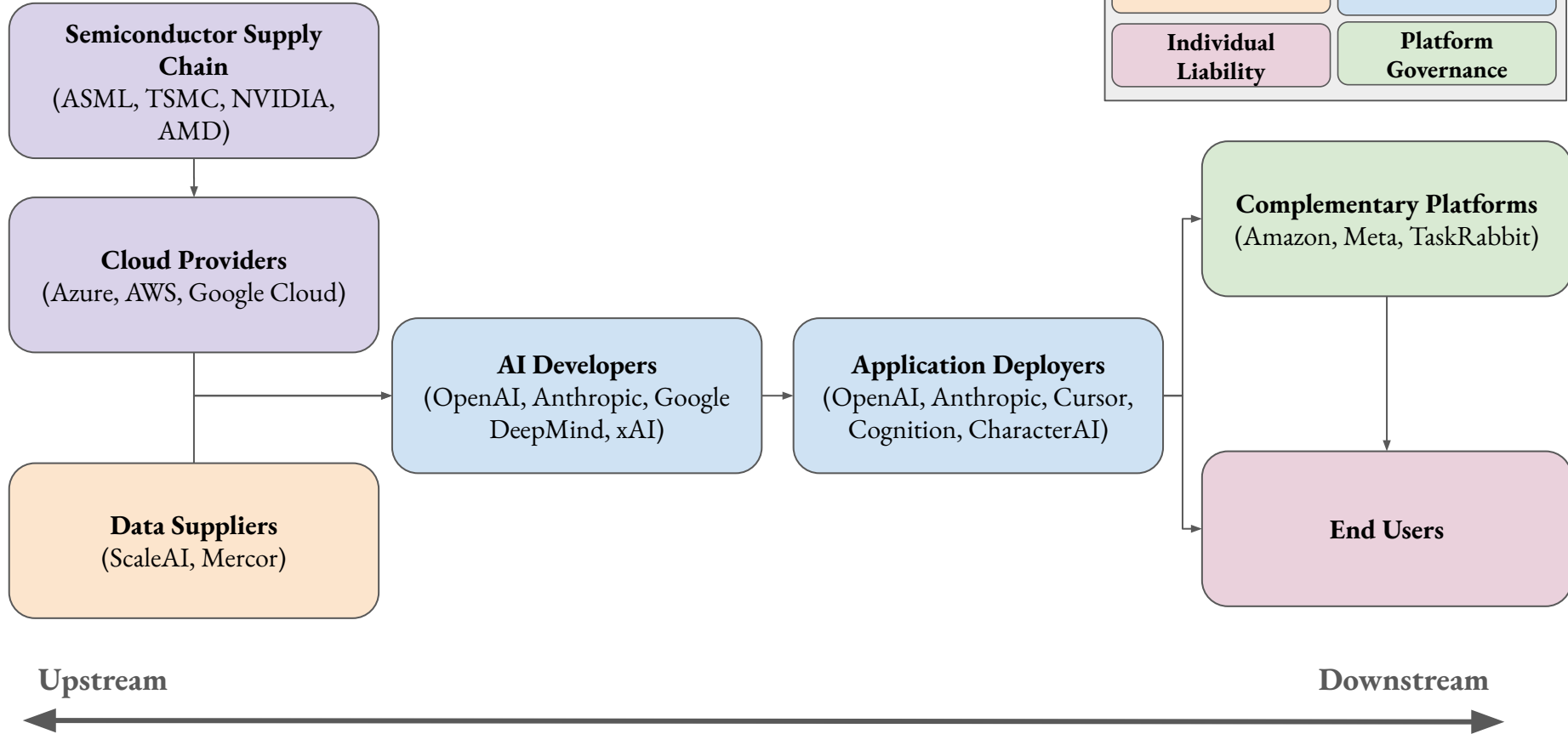
Mapping AI Policy: Where, Why, and How to Intervene (2026)

1. What is the harm you're trying to address (**Why**)
2. Which AI actors could you make responsible for the harm (**Where**)
3. For each harm:
 - a. What are the current tools and who can use them? (**How**)
 - b. How should we design new laws to fill the gaps? (**How**)

1: What is the harm you're trying to address?

1. Deepfakes and disinformation-related harms
2. Bias in automated decision systems
3. Privacy and surveillance harms
4. Economic harms and inequality from automation
5. Security threats (cyber and physical)
6. Psychological harms

2: Where in the AI ecosystem should you intervene?



3a: What are the current tools and who can use them?

General Laws

- Torts (negligence, product liability, Section 230)
- Antitrust (Sherman Act, FTC)
- Copyright (fair use, DMCA)
- Antidiscrimination law (Section VII)
- Unfair or Deceptive Acts or Practices (UDAP—*New Mexico v. Meta*)
- Computer Fraud and Abuse Act (*Amazon v. Perplexity*)

AI-specific laws: CA AB 853 (content provenance); CA SB 53 / NY Raise Act; TN Elvis Act

Case law: *In re RealPage* (antidiscrimination); *Raine v. OpenAI* (psych harms); *BIPA* (surveillance)

Enforcement: Federal agencies, FTC, state AGs, private plaintiffs

3b: What should you consider for new policy interventions?

1. Harm prevention (ex ante) vs. response (ex post)
2. Strengthening defense vs. restricting offense
3. Impact on concentration of power
4. More upstream interventions are more blunt
5. Enforcement feasibility (certainty vs. severity of penalties)
6. Allocate responsibility to the least-cost avoider
7. Is regulation the right tool?

These are not mutually exclusive. Ex: Open-weight models: 3 v. 2 and 5.