Hey, ChatGPT: How should we teach law to Generation AI?

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Abstract

Technology is no longer a tool but a skill. Teaching is a challenge in the age of Generative Artificial Intelligence (AI). However, the real problem seems to be not about what to teach but how to teach. So, this opinion piece aims to answer the following research question (RQ): How should we teach Generation AI? In this opinion piece, I share some teaching notes and propose five recommendations for AI use in education, especially in legal education.

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Introduction

In the information society, the question should not be only "What should we teach Generation AI?" (Waring, 2024) but "How should we teach Generation AI"? It is necessary to understand that there is a methodological turn in the epistemology to answer this question. Today, education is not just focused on the relationship between professor and student (Trigwell et al., 1999; Gillespie, 2005; Hoffman, 2014; Tan, 2019). There is a third element: technology (Giannini, 2023; O'Leary, 2020; Shomirzayev, 2020; Trammell, 2020; Or, 2023). In this study, one of the technologies discussed is Artificial Intelligence (AI).
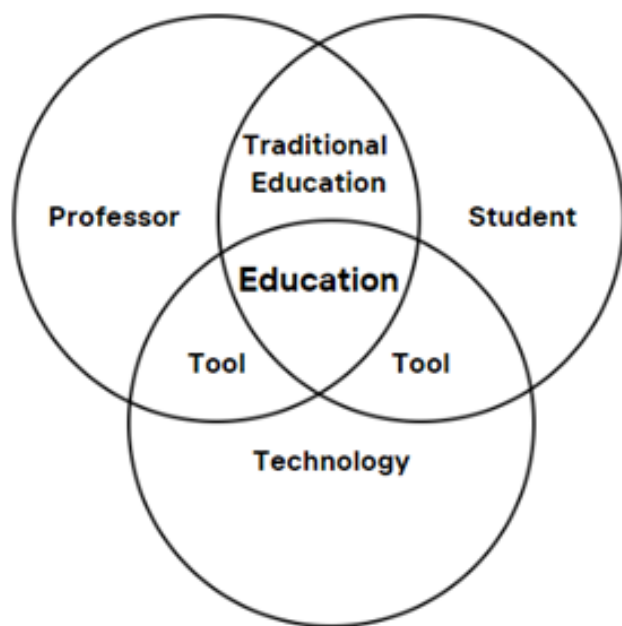

Figure 1: Education in an informational society.

Any educational practice must take technology into account (Stein, 1990; Jones et al., 2013; Smith, 2020; Barczentewicz, 2021; Jang et al., 2022; Rudolph et al., 2023). It is a variable the market demands (Esteve-Mon et al., 2020; Skantz-Åberg et al., 2020; Waring et al., 2020). Skills are created based on this demand (Albrahim, 2020; Trammell, 2020). Therefore, understanding and mastering technology is an indispensable skill for professionals, regardless of their field (Bond et al., 2020; Bedenlier et al., 2020; Sailer et al., 2021). This author will present ways of thinking about education based on teaching notes from a lecture in a tort law workshop.

How should we teach Generation AI?

AI is one of the different kinds of technology. First, in education, we must question what the students need (Ribeiro, & Passos, 2020; Carvalho et al., 2021). This need will be variable according to the discipline. I am a Professor of Law in Brazil. So, the competencies and abilities of Brazilian law students are defined by the Ministry of Education in the National Curriculum Guidelines for Undergraduate Law Courses. Even though the education system does not yet require AI skills, they constitute a market and professional demand. Their development is therefore highly

recommended. Mastering technology is one of the skills and abilities of the future lawyer (Davis, 2020; Boonin & Herrera, 2022) because it plays an important role in data protection (Santos Divino, 2019), legal design (Hagan, 2020), AI in courts (Ulenaers, 2020), smart city legal issues (Ismagilova et al., 2022), digital justice accessibility (Susskind, 2023), and others (Zou et al., 2019). There are several ways to develop this skill (Graben, 2021). In this opinion piece, I will demonstrate how to teach a law student to use Generative AI.

Do I need to use AI?

Developing technological skills is not just about mastering AI techniques. In law, other technological tools, such as electronic judicial procedures, must be mastered. Therefore, AI will only be necessary for legal education when it is indispensable for developing techniques and skills for its use. For example, I can use AI to learn and apply rules in a case. You can use AI to proofread a legal document. Furthermore, we can improve critical and legal reasoning using AI. Thinking about the future lawyer background, they need to understand how it can be used as a tool in legal practice to protect their client's rights. First, AI has been widely used in Brazil to support judges in decision-making (Maia Filho & Junquilho , 2018). So, it is important to know the entirely automated decision-making process, in order to verify and identify what is made by AI and what is made by the human and counterargue. On the other hand, AI may not be necessary for all educational acts. When a lecture is expository, AI may not be useful. AI is also not appropriate when we want to develop interpersonal relationships.

Recommendation 1: Only use AI in education when necessary.

Where and what can AI be used for?

AI can be used at different times in the semester, but the main ones are during the education process and grading exams. An example is the AI used to automate the marking of multiple-choice questions. However, it is important to emphasise that AI should not replace the professor in the assessment process. The AI will only be used as an "assisting tool". Furthermore, the law student can be supervised if the professor uses AI in the classroom. For example, AI can be used to analyse a database or identify statistical patterns in court decisions. On the other hand, if the professor authorises the use of AI outside the classroom, he must teach the law student how to use it, especially how to make more appropriate inputs.

Recommendation 2: Choose the right time to use AI.

How do I know the right time to use AI?

First, I must master how AI works. This is not a programming skill. The competence I'm referring to is one in which the professor knows AI functions, capabilities, and limitations. Why should I master how an AI works? First, I need to know what input to use. The more suitable the input, the better

the output. Moreover, I need to understand that Generative AI can give different outputs for the same input.

Knowing how AI works allows the professor to choose different learning methods and different times for its appropriate use. For example, the Brazilian legal system is based on civil law. Thus, we have a code for most legal disciplines. However, we have also adopted a system of precedents. Therefore, thinking about Brazilian law is a considerably complex task. To this end, we use the workshop at law school as a suitable method to avoid considerable theoretical study without practical application. The workshop predominantly uses the case study method.

In a tort law workshop, I used AI to analyse a case about tort liability in consumer relations. The aim was to use ChatGPT to:

a) Identify possible theoretical flaws in the outputs;

b) Identify mistakes in the AI's logical reasoning (Dai et al., 2019);

c) Identify how AI works based on the different answers to the same question (Vaswani et al., 2017);

d) Identify the adequacy of the answer to the Brazilian legal system (Law and precedents);

e) Identify the personal limitations (of law students) to AI; f) Identify that AI can be wrong (Perkins & Roe, 2024);

g) Develop a sense of responsibility in the use of AI (Bleher & Braun, 2022); h) Analyse and criticise the outputs;

i) Develop better outputs;

j) Develop human autonomy in the face of AI;

k) Develop skills to master legal methodology through the use of AI; and

l) Understand the impacts of using AI on law students and potential clients (Bao et al., 2022).

These objectives can only be achieved with proper digital literacy (Reddy et al., 2020; Tohara, 2021). Professors need to master the technology (Rojas-Osorio et al., 2024). They must be aware of its limitations (Ray, 2023), practical issues (Baidoo-Anu & Ansah, 2023), and ethical issues (Shope, 2021; Sobaih, 2024). About this latest situation (ethics), a New York lawyer cited fake cases generated by ChatGPT (Moran, 2023). In Brazil, a lawyer was also punished by the Superior Electoral Court for using the same tool (Guido, 2023).

From an experiential act, I identified i) the Unfamiliarity of some students with the existence of ChatGPT, ii) Unfamiliarity with ChatGPT's functionalities, iii) Difficulty preparing appropriate inputs, iv) Difficulty interpreting the outputs,

and v) Difficulty criticising the outputs. From this, I realised that the students needed more adequate training in AI, specifically Generative AI. Therefore, the three subsequent lessons were aimed at developing these skills. At the semester's end, some law students felt more comfortable using AI. However, some students stated that they did not like using AI as a tool because it was unpredictable.

Recommendation 3: Professors must be digitally literate.

If the professor does not master this skill, there will probably be consequences. First, the use of AI, even if supervised, may not be efficient. As a result, the objectives may not be achieved. Second, with no supervision, law students may develop inadequately or not develop the desired competence and skill. Finally, not knowing how AI works can lead to the exclusion of some students from the educational process.

Therefore, the right time to use AI in education is when both professors and students are digitally literate. However, we need to choose which type of activity I will use AI for.

How do I choose which type of activity I will use AI for?

In any type of activity, the professor needs to think about what competencies and skills he or she wants the student to develop. Even an exam is not suitable. We recommend using active teaching-learning methodologies whenever possible. I must use AI tools to achieve this if I want to develop critical reading skills. For example, we can use Socratic dialogue. On the other hand, if I want to use AI to improve my writing skills, I need to find an AI tool that matches my needs. It should be noted that mastering methodological activities requires planning. The professor will only be able to choose the type of activity best suited to the use of AI if they think critically in advance about what competence they want the student to develop.

Recommendation 4: The use of AI in education should be planned before the lecture begins.

We're looking for predictability. It allows us to anticipate possible challenges and overcome them before they happen. Moreover, even if it is impossible to solve them beforehand, planning will enable the professor to deal more adequately with unforeseen events. Therefore, luck is not an element in the educational relationship involving AI.

Another question that arises: What should be done when the student uses AI when it is not authorised? (Mohammadkarimi, 2023).

This question is directly tied to the type of activity that will be created by the professor. It can and will happen that a student delivers an activity done entirely by AI. How should the professor act in this situation? Firstly, if the professor has prohibited the use of AI and it is used in an exam, there is something methodologically wrong. The professor should rethink the teaching methodology if an activity can be carried out exclusively by AI without the student's input. This is a pain point for the professor. Many believe that

traditional education should stay. However, AI challenges traditional education (Dignum, 2021). So, if the aim is for the student to carry out an activity to develop a particular skill, that activity should be carried out so that the use of AI is not possible or, if possible, is minimal.

Recommendation 5: Avoid designing activities that can be done by AI alone.

I think this is the most difficult point: choosing activities that cannot be done entirely by AI. It is also important to highlight the difficulty of detecting the use of AI in academic work (Hassoulas et al., 2023; Chaka, 2023; 2024). That is why I mentioned earlier that there is an epistemological turn in education. We now need to integrate technologies as educational tools. However, we need to think about how to use them consciously to achieve the desired competencies and skills (Ifelebuegu, 2023). All these planning can prevent frustration on the part of the professor and ensure that the education is as effective and efficient as possible.

Conclusions and recommendations

It is believed that one of the ways of improving education (teaching and learning) is through experience reports. Teaching Tort Law with AI is a challenge. First, there is a need for digitally literate students. Secondly, there is no consensus on the AI use. Third, many students do not even have an ethical outlook on AI. Fourth, not all students have the electronic devices to use AI. However, teaching Tort Law with AI also brought positive results, as the students engaged with each other. In the end, some of the challenges were partially overcome. They developed interpersonal communication skills. They identified the problems that needed to be overcome. They demonstrated how to overcome these issues. Thus, some of these skills and competencies could not be developed in a traditional lecture.

The use of AI in education needs planning. Ideally, this planning should take place before the lecture begins. In this way, you can identify which students' skills and abilities will be developed, as well as the appropriate methodologies for their development. In addition, planning will make it possible to identify strengths and weaknesses and remedy them in good time. Finally, the professor will be prepared to deal with possible unforeseen circumstances. Given the above, the simple recommendations in this opinion piece are aimed at professors who intend to start or are already using AI in education.

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