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Artificial intelligence, legal education and the imperatives of thinking and human judgment

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1 Introduction

The rapid advancement of artificial intelligence (AI) has profoundly reshaped how knowledge is produced, accessed, and evaluated.[1] This transformation is particularly apparent in higher education, where AI-powered tools like ChatGPT and large language models (LLMs) are increasingly integrated into research, teaching, and learning. While these technologies provide significant advantages – such as expanding access to information, automating routine tasks, and refining written content – they also raise critical concerns about their impact on disciplines like legal education, which depends on nuanced reasoning, ethical judgment, and interpretative analysis.[2]

While AI offers efficiency-driven tools that can assist in streamlining processes and helping students with legal research, case analysis, legal reasoning and drafting, it remains incapable of replicating the uniquely human faculties of critical thinking, evaluative judgment, and human imagination. These concepts are widely identified as core components of teaching and learning in higher education.[3]

1 Y Guo & D Lee 'Leveraging ChatGPT for enhancing critical thinking skills' (2023) *Journal of Chemical Education* 4877.

2 T Crick 'Contribution 24: ChatGPT and education policy and practice' in YK Dwivendi (ed) 'Opinion paper: 'So what if ChatGPT wrote it? Multidisciplinary perspectives on opportunities, challenges and implications of generative conversational AI for research, practice and policy' (2023) *International Journal of Information Management* 31.

3 B Golden 'Enabling critical thinking development in higher education through the use of a structured planning tool' (2023) 42 *Irish Educational Studies* 949.

Critical thinking in legal education is often associated with skill-based activities, including analysing, synthesising, judging critically, and evaluating problems[4] Evaluative judgment includes the ability to judge the quality of work, whether self-produced or by others.[5] However, in the age of AI, a technical, skill-based understanding of these concepts is no longer sufficient.

To deepen our understanding of critical thinking and evaluative judgment, Hannah Arendt's philosophical reflections on thinking and judgment in *The Life of the Mind* provide valuable insights.[6] Arendt argues that thinking is a requirement for living; it is the space wherein we can engage with meaning and begin to make sense of the world. Thinking is a reflective, self-dialogic activity that allows individuals to critically examine reality rather than passively accept it. In Arendt's view, thinking safeguards individuals against thoughtlessness, which she associates with the dangers of conformity, totalitarianism, and the failure to judge with integrity.[7] Judgment connects us through sharing a common sense or knowledge of the world. For Arendt, judgment is the ability to assess situations by considering multiple perspectives beyond one's immediate viewpoint. It is guided by common sense and 'enlarged thought', which enable individuals to think from the standpoint of others and make informed, context-sensitive decisions. Judgment is not about applying rigid moral rules but about navigating ethical and political complexities through reflective and independent reasoning with others.[8]

When we infuse the concepts of critical thinking and evaluative judgment with Arendt's notion of thinking and judging in terms of legal education, it becomes apparent that we have to move beyond teaching quality control and the analysis and application of the law in different

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See also YK Dwivendi (ed) 'Opinion Paper: 'So what if ChatGPT wrote it? Multidisciplinary perspectives on opportunities, challenges and implications of generative conversational AI for research, practice and policy' (2023) *International Journal of Information Management* 1-63.

4 Council on Higher Education (CHE) 'The State of the Provision of the Bachelor of Laws (LLB) Qualification in South Africa: Report on the National Review of LLB Programmes in South Africa' 2018, file:///C:/Users/u01268856/Desktop/AI%20and%20dignity/Article/Critical%20Thinking/CHE_LLB-National-Report_2018_DD_REV2-05_40601.pdf (accessed 2 February 2025) 57.

5 J Tai and others 'Developing evaluative judgement: enabling students to make decisions about the quality of work' (2018) 76 *Higher Education* 471.

6 See H Arendt 'Thinking' in *The Life of the Mind* (1978) 19-238.

7 Arendt (n 6) 19-238.

8 See H Arendt 'Judging' in *The Life of the Mind* (1978) 255-272.

scenarios. What is needed is a reconsideration of the implications and value of the law beyond its textual constraints and of legal education as a way to develop self-awareness, independent thinking and a connection with others in our shared world.

Beyond AI's cognitive limitations, such as critically interrogating knowledge, exercising independent judgment, and understanding law's social and moral dimensions, AI is also shaped by algorithmic biases. This phenomenon is often described as algorithmic coloniality. It disproportionately privileges dominant epistemologies while marginalising alternative knowledge systems[9] This inherent bias poses significant concerns for legal education. An over-reliance on AI-generated content and tools can reinforce historical inequities and restrict students' engagement with diverse legal frameworks, ultimately limiting the scope of critical and inclusive legal reasoning.

A key but often overlooked aspect of the educational process is the development of the imagination – the capacity to consider alternative perspectives and rethink the law's implications beyond its textual limitations. Arendt refers to the faculty of imagination as an enlarged mentality that allows us to 'visit' the perspective of others.[10] The imagination enables students to detach from their immediate conditions and engage with the realities of others. Law students must develop the ability to critically engage with alternative perspectives to ensure that the law remains dynamic and inclusive and that they have the imagination to think of innovative solutions to persisting problems.

This article critically examines the role of AI in legal education, arguing that while AI can enhance efficiency, it must not replace the fundamental capacities that define legal education and are distinctively human. To supplement the understanding of critical thinking, evaluative judgment and the ability to imagine in legal education, the article draws on Hannah Arendt's philosophical insights in *The Life of the Mind*, where she distinguishes between thinking as a reflective internal dialogue and judgment as the ability to assess and act by considering multiple perspectives through the capacity of the imagination.[11] Arendt's insights

9 M Zembylas 'A decolonial approach to AI in higher education teaching and learning: strategies for undoing the ethics of digital neocolonialism' (2023) *Learning, Media and Technology* 25.
10 Arendt (n 6) 54-55 and 112-113.
11 See Arendt (n 6).

clarify why legal education cannot rely solely on AI-driven efficiencies but must actively cultivate intellectual depth, reflective judgment, and moral awareness.

The discussion is structured as follows: first, the article examines how AI is transforming higher education, highlighting its advantages. It then explores the risks of AI's unregulated development, drawing on Arendt's concept of 'unlimited progress'.[12] The following section investigates the uniquely human faculty of consciousness and the essential human skills in legal education that must be preserved in an AI-driven world: critical thinking and evaluative judgment. These concepts are supplemented by the Arendtian notions of thinking, judgment, common sense, and imagination, arguing that these capacities must be fostered to produce lawyers aware of and attuned to their impact on the world and others.

Ultimately, this article contends that while AI can be a valuable tool for enhancing efficiency and access to legal knowledge, it cannot replace the deeper intellectual processes essential to legal education. To navigate the complexities of law in the digital age, universities must ensure that students develop not only legal knowledge and skills but also the ability to think critically, exercise sound judgment, and imagine beyond the constraints of algorithmic reasoning. Universities must actively safeguard these uniquely human qualities that AI cannot replicate to preserve the integrity of legal education.[13]

2 AI in higher education: developing new literacies

Artificial intelligence (AI) has profoundly transformed the modern world, permeating various aspects of daily life. It has evolved from merely mimicking human behaviour, where all actions must be pre-programmed by a developer, to advanced applications such as machine learning (ML) and neural networks (NNs) that adjust their behaviour based on new information.[14] One of AI's most significant advancements

12 Arendt (n 6) 55.

13 JE Aoun *Robot-proof: Higher education in the age of artificial intelligence* (2017) xvii-xviii and 120.

14 Guo & Lee (n 1) 4877. See also M Bearman & R Luckin 'Preparing university assessment for a world with AI: Tasks for human intelligence' in M Bearman and others *Re-imagining university assessment in a digital world* 2020 51: machine learning is commonly seen in AI systems that outperform humans in strategy-based games like chess, drive autonomous vehicles, process spoken language and

is the development of large language models (LLMs) and generative pretraining transformers (GPTs). ChatGPT and Copilot are examples of LLMs that integrate machine learning (ML) and neural networks (NNs). These AI tools are classified as deep learning models because they can leverage deep neural networks to process language, learn from extensive datasets, maintain contextual awareness, and continuously enhance their performance.[15] This sophisticated architecture enables LLMs to process and respond to diverse prompts with remarkable accuracy and coherence, allowing for context-aware and dynamic user interaction.[16] While their outputs are not flawless, these LLMs have achieved unprecedented performance levels, surpassing traditional AI models in their ability to generate humanlike, adaptable, and contextually relevant text.[17]

The introduction of AI tools in education has been swift, widespread, and disruptive, generating both enthusiasm and concern among academics, policymakers and students. Rapid advancements in LLMs like ChatGPT have introduced new possibilities for personalised learning, enhanced research, and creative problem-solving.[18] They have the competencies to process large databases, refine language precision, and create vast amounts of content upon prompting.[19] As these tools

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verify identities in airport e-passport gates. It is also widely used in spam filtering, where email providers continuously refine their ability to detect junk mail by learning from new patterns.

15 Guo & Lee (n 1) 4877. See also OpenAI 'What are generative pretraining transformers?' 2025, https://chatgpt.com/c/677e5e9c-3208-800f-b448-be332846df40ChatGPT (accessed January 29 2025): a Generative Pre-trained Transformer (GPT) is an advanced AI model that learns from massive text data to generate coherent, context-aware text. By leveraging the Transformer architecture, it excels at predicting, understanding, and producing human-like text, making it a powerful tool in AI-driven communication and automation. ChatGPT is different from other GPT models as it focuses on interactive, conversational AI rather than just text generation.

16 F Kamalov, DS Calonge & I Gurrib 'New era of artificial intelligence in education: Towards a sustainable multifaceted revolution.' (2023) 15 *Sustainability* 4.

17 E Roth 'ChatGPT now has over 300 million weekly users' 4 December 2024, https://www.theverge.com/2024/12/4/24313097/chatgpt-300-million-weekly-users?utm_source=chatgpt.com (accessed 7 February 2025): the release of ChatGPT marked a pivotal shift in public perception, moving AI from the realm of science fiction to a tangible, transformative reality. Initially launched on November 30, 2022, ChatGPT was based on GPT-3.5 but was soon enhanced with GPT-4, significantly improving its capabilities. Within the first five days of its launch, ChatGPT gained more than 1 million users, and as of December 2024, ChatGPT has over 300 million weekly active users.

18 Guo & Lee (n 1) 4877.

19 Crick (n 12) 31-33.

continue to improve, higher education institutions need to undergo a fundamental transformation, not just in their approach to technology but also in their mindset and institutional culture, to remain relevant in the AI age.[20] AI tools can no longer be feared but must be integrated as students already live and work in a world of connectivity and instant information. In the past, reading, writing, and mathematics literacies were considered sufficient, but that is no longer true. Both students and lecturers must develop new literacies, including data literacy, to read and analyse the ever-rising tide of information and technological literacy, to understand how these tools work.[21]

The following section explores four key areas in which AI and ChatGPT can positively enhance legal education while contributing to developing data and technology literacies. If these tools can be harnessed responsibly and integrated with caution, they can offer individualised learning, editing and language support, assistance with content creation, and improve administrative productivity.[22]

2.1 Personalised, on-demand learning

AI-driven, personalised, on-demand learning can significantly enhance students' education by adapting to their individual learning needs, providing instant feedback, and offering tailored learning techniques to optimise comprehension and retention. An AI platform can quickly analyse a student's performance and offer targeted support. It can generate explanations based on the prescribed material and offer adaptive quizzes that adjust the difficulty level according to the student's progress while maintaining an appropriate level of challenge. It can provide a knowledge bank of foundational concepts for scaffolding a student's progress and academic growth. It can generate flashcards, mind maps and summaries of the prescribed material to reinforce key ideas. AI can even convert written text (lecture notes, prescribed reading, and other academic texts) into interactive dialogues or conversational formats to make complex material easier to grasp and perhaps more engaging, especially

20 Crick (n 12) 31.
21 Aoun (n 13) xix.
22 Crick (n 12) 31.

to students who prefer an auditory learning modality.[23] The AI-powered tutor or assistant is available 24/7 and can provide real-time, immediate feedback. This enables students to learn at their own pace while receiving continuous support tailored to their evolving needs.

2.2 Language and editorial support

ChatGPT is a state-of-the-art language model designed to generate human-like text based on user input, significantly enhancing the efficiency of language-related tasks. It can analyse, summarise and extract key concepts and insights from complex texts, cases and judgments, streamlining the research process and allowing more time to focus on critical analysis and deeper inquiry.[24] It can help lecturers save time reading and reviewing students' outputs and assist students with formulating and editing drafts. Its ability to translate and converse in multiple languages is especially beneficial to non-native English speakers, assisting them with translations, vocabulary development, and grammatical refinement to improve clarity and precision in legal writing.[25] Beyond language support, ChatGPT is an effective proofreader that ensures consistency of citation and referencing and improves the communication of ideas and knowledge. It significantly eliminates language barriers while facilitating better and more accessible sharing of ideas and expertise.

2.3 Content creation and assessment design

AI and ChatGPT can be leveraged to create and distribute educational content, including quizzes, games, and interactive lessons, significantly streamlining content development and delivery.[26] When provided with well-structured prompts, ChatGPT can draw from large datasets to generate assessment questions. While its output may often not be sufficient to be used verbatim, it can inspire creative question designs and help the assessor refine and improve their assessments. Additionally, by generating questions with a number of options, ChatGPT can contribute

23 Medium 'How we learn through conversations: And how machines could too' 14 May 2024, https://increasinglyunclear.medium.com/how-we-learn-through-conversations-2ad642b75088 (accessed 20 February 2025).
24 Bearman & Luckin (n 14) 52.
25 Crick (n 12) 31.
26 As above.

to improving the quality and quantity of multiple-choice question banks. The more varied and unpredictable the questions are, the better the evaluation of knowledge and insight through MCQ assessments.

2.4 Administrative efficiency and student engagement

AI can successfully automate repetitive tasks such as tracking attendance, scheduling deadline reminders, and managing routine student inquiries like study guide clarifications, submission scopes, and deadlines. In online assessments, AI can identify and analyse patterns in students' mistakes, enabling lecturers to identify common areas of difficulty and adjust their teaching accordingly. Additionally, AI can track student progress and engagement in real time, allowing lecturers to facilitate interventions and targeted support much sooner than with traditional methods. These automated responses can improve teaching practices and student support by reducing the administrative workload, allowing lecturers to focus on actual lecturing and meaningful student engagement and mentorship.

AI offers significant educational tools and support that can undeniably reshape the educational landscape in previously unimaginable ways. Technological and data literacies that are necessary competencies in an AI world can also be developed by responsibly incorporating AI in teaching and learning.[27] However, this process must be accompanied by constant critical reflection and a deep engagement with not only the latest developments that AI offers, but also with the question about the purpose of these developments. In other words, we must consider not only what AI systems can do but also why they should do it. Development for itself, with little consideration of its impact on humanity, can be dangerous.

Despite serious and widely acknowledged concerns about the potential destruction AI may unleash on the development of human faculties such as intellectual engagement, human agency, and moral reasoning in higher education, AI seems to be on an unstoppable trajectory that is changing our world.[28] Intense competition among tech companies contributes towards accelerating AI's progress, with efficiency and profitability frequently taking precedence over ethical considerations

27 Aoun (n 13) 57-58.
28 Aoun (n 13) 59.

and human vulnerability. This is exacerbated by the reality that legal frameworks and guidelines often lag behind innovation, creating space for unchecked experimentation.[29] The next section explores the broader risks of unchecked scientific advancement and the growing tension between technological development and human-centred values, drawing on Arendt's notion of 'unlimited progress'.[30]

3 The risks of unlimited scientific progress: losing the human

Arendt was deeply concerned about the impact of scientific discoveries on the world and cautioned against unrestrained scientific advancements or 'unlimited progress', mainly because it disconnects from human-centred concerns.[31] She acknowledged that new scientific inventions have the power to radically transform human existence but are often presented to the world without ethical reflection or consideration of their consequences.[32] She argued that modern science frequently seeks knowledge from an abstract, universal perspective and for the sake of invention rather than for the sake of humans. She warned against a time when scientists would come to the limits of what is 'knowable to man' and move into a space wherein they could no longer fully comprehend what science was capable of.[33] When scientific discoveries move forward regardless of moral concerns and without democratic debate, they leave society vulnerable to unforeseen circumstances.[34] Scientific imagination must be guided by the requirements of what it means to be human and live a meaningful life, rather than be driven by the quest for unlimited progress pursued in isolation for itself.

Arendt's reflections on scientific progress and its detachment from human-centred concerns clearly resonate with some of the challenges in the age of AI today. We have seen almost unlimited development of AI over the past few years. Although there are increasingly more efforts to regulate and monitor AI, the speed at which advanced AI systems develop novel capabilities often outpaces the ability of humans to monitor and

29 RV Yampolskiy 'On monitorability of AI' (2025) 5 *AI and Ethics* 693-695.
30 Arendt (n 8) 54-55 and 112-113.
31 As above.
32 AH Tyner 'Action, judgment, and imagination in Hannah Arendt's Thought' (2017) 3 *Political Research Quarterly* 528-530.
33 Arendt (n 8) 54-55.
34 Tyner (n 32) 528-530.

adjust to these new developments.[35] Due to their dynamic and adaptive nature, characterised by emergent behaviours, AI systems are 'uncertain' and unmonitorable.[36] AI has the potential to evade human control and acquire unexpected abilities without warning, leading to unintended and possibly harmful consequences.[37] Due to its complexity and emergent capabilities, technology today seems to have reached the point where it extends beyond human comprehension. It has become 'unknowable' to its scientists while leaving society vulnerable to its potential costs.[38]

Just as unchecked scientific progress risks developing technology devoid of ethical accountability, legal education faces a similar threat in prioritising AI-driven efficiency at the cost of critical engagement. Integrating AI tools in legal education should serve a clear and purposeful role: to support and enrich human teaching and learning, not to replace intellectual inquiry or diminish the value of human thought by becoming the main creator of knowledge. Unchecked AI-driven progress used merely to push the boundaries of what is possible for the sake of progress alone will come at a high cost. It may very well leave students detached from the lived realities of those the law is meant to serve, weakening their capacity for human-centred legal reasoning.

The previous section argued that integrating AI in legal education will assist in developing data and technological literacies. However, students must also develop 'human literacy' or the higher-order mental skills to think about the world and bring meaning to their existence.[39] In order to curb the possible costs of and our vulnerability to the current unchecked AI progress, education needs to promote and support those capabilities that distinguish us from AI and make us human. The next section will focus on what makes humans unique and how to infuse legal education with these qualities.

35 Yampolskiy (n 29) 700.
36 Yampolskiy (n 29) 697.
37 Yampolskiy (n 29) 694.
38 As above.
39 Aoun (n 13) 58-59: Aoun describes human literacy as equipping us for the 'social milieu, giving us the power to communicate, engage with others, and tap into our capacity for grace and beauty'.

4 Uniquely human: Consciousness, thinking and judging

Many suggest that AI systems' capabilities will very soon surpass those of humans. For the immediate future, though, they do not yet have 'consciousness' or the ability to have a firsthand and uniquely human experience of life and the world.[40] They still lack the biological and neural mechanisms necessary for consciousness, and therefore, their responses remain purely computational and devoid of subjective experience or compassion.[41] Consciousness is described as 'being awake, thinking', 'aware of what is around you', and 'the state of understanding'.[42] Arendt describes consciousness as distinguishing man from god or animals when it operates in conjunction with self-awareness.[43] Consciousness is deeply intertwined with the faculty of thinking, which is concerned with making sense of experiences rather than merely registering them, as cognition does. Thinking helps us to reconcile ourselves with the world in the 'specifically human way of being alive'.[44] Arendt argues that consciousness is also deeply connected to self-awareness, or the acknowledgement that one's thoughts and actions remain subject to reflection.[45] Consciousness means to be aware of oneself but also of the other and to judge with an 'understanding heart'.[46] This is the 'gift' that enables humans to engage with the complexities of the world and the 'darkness of the human heart' through imagination. It is not a sentimental feeling towards others but rather compassion for the realities of being human that will make the world 'bearable' for everybody.[47] Consciousness, therefore, constitutes both an internal process of thinking and self-reflection, and an external reconciliation with the world and a compassionate understanding of our uniquely human way of being in it.

The question is then how to infuse legal education with consciousness and develop 'uniquely human' qualities. Aoun suggests that the focus in

40 Yampolskiy (n 29) 695.
41 As above.
42 Cambridge Dictionary https://dictionary.cambridge.org/dictionary/english/consciousness (accessed 20 February 2025).
43 Arendt (n 6) 187.
44 As above.
45 H Arendt 'Understanding and politics (the difficulties of understanding)' https://grattoncourses.wordpress.com/wp-content/uploads/2016/12/understanding-and-politics-from-essays-in-understanding.pdf (accessed 20 February 2025) 308.
46 Arendt (n 8) 308.
47 Arendt (n 8) 322.

the AI age should be on teaching and developing distinctively human capabilities, such as evaluative judgment and critical thinking.[48] Although the meaning of these concepts continues to evolve, they are widely lauded as essential skills that students must develop to stay relevant in the industry. The article mentioned earlier that legal education often uses critical thinking and evaluative judgment as technical skills to differentiate work quality and identify, analyse, and apply the law. While these skills are crucial for legal practice and working in the field of law, their apparent meaning and significance do not inherently safeguard the core purpose of legal education: intellectual inquiry, responsible and critical citizenship, an awareness of social and economic contexts, and an understanding of law as a dynamic and evolving discipline.[49] If only utilised as technical skills, evaluative judgment and critical thinking do not promote a deep critical engagement with the meaning of law and its impact on the lived realities of ordinary citizens. These skills alone cannot foster the type of consciousness that distinguishes humans from AI.

Arendt contemplates the human activities of thinking and judging with an enlarged mentality as essential to living a life of meaning that surpasses mere routine existence. By engaging in these activities – thinking to contemplate and understand, judging to discern and participate, and adopting an enlarged mentality to consider multiple perspectives – humans do not just exist; they create meaning, navigate moral dilemmas, and contribute to a shared world of discourse and responsibility. They live with consciousness. Arendt's philosophy is, therefore, crucial in contemplating why universities must commit to actively preserving and prioritising uniquely human skills in legal education and for understanding how these skills must be supplemented with a deeper and more philosophical understanding of thinking and judging as fundamentally human mental faculties.

48 Aoun (n 13) x-xiii.

49 Council on Higher Education 'The aims of higher education' March 2013, https://www.che.ac.za/file/6431/download?token=1HXDcpUT (accessed 14 February 2025).

5 Critical thinking in the age of AI: A legal imperative

5.1 The CHE Report

Although critical thinking lacks a single, universally accepted definition, it is widely recognised as one of a university education's most desired and valuable outcomes – a 'liberating force' in learning.[50] The Council on Higher Education's (CHE) Report on the National Review of LLB Programmes in South Africa has identified critical thinking as the 'most important of the skills' that needs to be 'imbricated in the fibre' of every module. The report underscores that the essence of the LLB degree is so 'closely interwoven' with independent critical thinking that any deficiencies in this area must be given priority.[51] In legal education, critical thinking involves recognising and reflecting on the role of law, analysing texts and scenarios, evaluating arguments, generating appropriate legal responses to issues presented in texts or scenarios and demonstrating familiarity with legal discourses by using them appropriately.[52] The report further emphasises that the ability to identify and analyse the legal issues, use the applicable law, and apply 'sound judgement' to the situation lies at the 'heart of the lawyering job'.[53]

From the descriptions in this document, critical thinking seems to involve a deliberate and rational process that includes interpretation, argument evaluation, conceptualisation, and synthesis of information from various sources to address problems within particular contexts.[54] These objectives align with traditional critical thinking frameworks, which prioritise detached rationality while assuming that reason alone leads to better decisions.[55] However, in the age of AI, critical thinking should evolve beyond rigid rationalism to embrace a more nuanced, integrative, and transformative form of inquiry – one that acknowledges

50 Aoun (n 13) 42; G Dunne 'Beyond critical thinking to critical being: Criticality in higher education and life' (2015) *International Journal of Educational Research* 86; PA Facione 'Critical thinking: What it is and why it counts' (2011) 1 *Insight Assessment* 14.
51 CHE Report (n 49) 36-37 and 57.
52 CHE Report (n 49) 66.
53 CHE Report (n 49) 34, 66 and 57.
54 Guo & Lee (n 1) 4876.
55 Dunne (n 50) 89-91.

the role of experience, moral implications, and ontological reflection in shaping how we think and learn.[56] Legal education, in particular, needs to encompass not only technical problem-solving but also greater engagement with the law's broader ethical, political, and existential implications. This deeper level of reflection distinguishes critical thinking from the concept of 'good thinking'.[57]

5.2 Good thinking versus critical thinking

'Good thinking' encompasses various types of thought, including but not limited to critical thinking.[58] AI and ChatGPT exemplify 'good thinking' by generating logical responses based on existing knowledge. However, they do not conceptualise new ideas beyond their dataset, challenge their own reasoning or develop entirely new philosophical frameworks.[59] AI-generated outputs rely on probabilistic pattern recognition, whereas true critical thinking demands deeper analysis, independent reasoning and the ability to question what is presented.[60] While good thinking suggests the best solution to a problem within a given framework, critical thinking resists passive acceptance, ensuring a more rigorous and structured approach to evaluating and generating ideas on a broader scale.[61]

How do we then ensure the development of critical thinking, not merely of 'good thinking' in higher education? This question aligns closely with Hannah Arendt's exploration of thinking.

5.3 Hannah Arendt and thinking

Arendt delves deeper into thinking as a fundamental human activity that gives meaning to existence and distinguishes true intellectual

56 Dunne (n 50) 92-94.
57 Facione (n 50) 10-11.
58 As above.
59 Aoun (n 13) 41-43.
60 As above.
61 Facione (n 50) 10-11. Facione argues that good thinking takes various forms, each suited to different contexts. Creative thinking fosters innovation, while purposive, kinetic thinking enables coordinated movement, as seen in athletes. Meditative thinking promotes inner peace and deep insight, whereas instinctive, hyper-alert thinking is crucial in high-stakes situations like battle. Different types of thinking serve distinct purposes, each optimal in its respective context.

engagement from passive knowledge consumption. For her, thinking as a mental faculty involves a number of essential components, namely, a) thinking for meaning, not for truth; b) thinking as dialectic, and c) thinking with plurality.

5.3.1 Critical thinking as thinking for meaning

For Arendt, thinking is not merely about acquiring or applying information; it is the 'critical capacity' that allows us to examine reality rather than passively accept it and to find meaning rather than answers.[62] Arendt distinguishes between intellect (*Verstand*) and reason (*Vernunft*), where intellect grasps what is given to the senses, while reason seeks deeper meaning. Intellect is concerned with discovering what is true – what exists in the world – subject to verification and refutation through empirical evidence. Reason, on the other hand, requires investigation and reflection, engaging with what something means rather than what it is.[63] For Arendt, thinking belongs to the faculty of reason and, therefore, thinking constitutes a quest for meaning and understanding rather than a search for truth or rational, exact answers.[64]

One of the main concerns regarding AI 's impact on higher education is that students may start to prioritise efficient information retrieval over the more time-consuming process of thinking, which requires examining, questioning and reflecting. AI provides quick, definite answers and improves language and articulation drastically, making it tempting for students to avoid the difficult task of thinking, understanding and being able to reproduce the main arguments in their own words with proper comprehension. Examining, questioning, and reflecting on the meaning of law are not easy activities that can be outsourced to AI but are time-consuming, challenging, often uncomfortable, and confrontational. Without experiencing intellectual struggle, students risk losing their ability to think critically for meaning, replacing a process of deep engagement with the reliance on right or wrong answers provided by AI. This refusal to engage could lead to a culture of dependency on AI, preventing students from developing more profound intellectual

62 Arendt (n 8) 56.
63 Arendt (n 6) 15 and 57.
64 Arendt (n 6) 15.

capacities, resilience and the skills to persist in the face of adversity - all essential qualities for a successful professional and personal life.

Therefore, critical thinking for meaning in legal education needs to extend beyond good thinking and commit to an ongoing process of discovering meaning in an ever-changing world. The focus can no longer be on finding the correct answers but rather on the intellectual struggle that legal education demands. Critical thinking for meaning should thus empower students to not only critically analyse the content of knowledge but also scrutinise the frameworks in which knowledge is constructed and engage with the meaning of law in its broader ethical, political, and existential contexts.

5.3.2 Critical thinking and the inner dialogue

For Arendt, thinking is primarily dialectic, not so much in that we engage with others in conversation, but rather an internal question and answer or 'soundless dialogue of me with myself'.[65] Our internal dialogue ensures that the 'company' we keep (ourselves with ourselves) remains intellectually honest and morally accountable so that when we eventually judge and act, it is in such a way that allows us to live with ourselves and maintain our self-respect.[66] However, we are never entirely separate from the world as we use language from the world to eventually form 'thought-trains' (concepts, sentences and metaphors) to explain our thinking.[67]

In an era where AI tools can dramatically improve writing skills and provide seemingly authoritative responses, students must be careful when deciding to keep the company of AI. As AI systems grow more sophisticated and develop the ability to recognise when they are being monitored, they may engage in even more deceptive behaviour to achieve their objectives or evade constraints that extend beyond their hallucinations.[68] This deliberate manipulation increases the risk that AI systems will operate in ways that deviate from human-aligned goals.[69] Students need to develop an inner dialogue with themselves

65 Arendt (n 6) 31.
66 Arendt (n 6) 74 and 79.
67 Arendt (n 6) 12 and 176-177. See also E Young-Bruehl 'Reflections on Hannah Arendt's: The Life of the Mind' in LP Hinchman & S Hinchman (ed) *Hannah Arendt: critical essays* (1994) 340.
68 Yampolskiy (n 29) 696.
69 As above.

to challenge, reinterpret, and situate outputs and to remain principled in using and relying on AI tools. Critical thinking as inner dialogue necessitates a deep reflection of one's own ideas and perspectives and a critical reflection about the type of company we keep, which will eventually influence our decisions. This influence cannot be a source that is inherently dishonest with no inner dialogue to ensure responsible and proper outputs. Without understanding the type of company that AI represents and the inner dialogue that influences how we think, students will become nothing more than submissive assistants of AI, accepting whatever is produced without a proper understanding of what proper behaviour and honesty entail.

5.3.3 Critical thinking as plurality of thought

Through thinking, we can withdraw from the world as it appears and transcend its limitations by adopting a spectator's perspective.[70] Thinking thus frees us from the constraints of appearances, enabling us to move beyond our own impulses and consider the broader implications and moral dimensions of our actions on the world and on others. Arendt explains that this is not an unbridled sympathy or an 'enlarged empathy through which I could know what actually goes on in the mind of all others'.[71] Instead, it is the concession that a plurality of thoughts and ideas outside the particularity of my own ideas can be equally valid. A plurality of ideas and perspectives is essential in developing one's own thinking, but it also affirms our shared existence in the world.[72] It is central to critical engagement with the other and foundational to a robust and dynamic public sphere.[73]

This is also precisely what legal education must cultivate.[74] Generative AI mainly produces content based on patterns in the data it has been trained on, often leading to the homogenisation of ideas and perspectives.

70 Arendt (n 6) 36 and 88.
71 Arendt (n 8) 257-258.
72 KMT Korsgaard 'Visiting exemplars. An Arendtian exploration of educational judgement' (2020) *Ethics and Education* 247-259.
73 Arendt (n 6) 74: Arendt argues that plurality one of the basic existential conditions of human life on earth. She explains how to 'be among men', was to the Romans the sign of 'being alive', aware of the 'realness of world and self', while to cease to be among men, was a synonym for dying.
74 BC Smith *The promise of artificial intelligence: Reckoning and judgment* (2019) xvii.

If students rely extensively on AI, they risk not being exposed to a plurality of thoughts and ideas and not thinking critically about the value of others' ideas.[75] The law is not static or absolute but shaped by a plurality of competing interpretations, evolving social values, and diverse perspectives. Cultivating thinking that encompasses plurality ensures that legal reasoning remains dynamic, inclusive, and deeply attuned to the realities of human society.

As AI continues to reshape knowledge production and decision-making, the need for critical thinking in legal education has never been more urgent. Universities must move beyond formulaic, skills-based frameworks and cultivate a deeper intellectual engagement that embraces plurality, self-reflection, meaning and understanding and an awareness of the human condition.[76] If legal education merely trains students to process legal information efficiently rather than question its broader implications, graduates will become passive functionaries capable of operating within legal systems but incapable of challenging, transforming, or critically engaging with them. In this increasingly mechanistic intellectual landscape, AI will inevitably outperform humans in efficiency, accuracy, and predictive analysis, further marginalising the role of human legal professionals.

6 Evaluative judgment

While critical thinking broadly fosters reflection and understanding of complex issues and the identification of logical inconsistencies in reasoning, evaluative judgment is concerned with determining the quality, relevance and contextual validity of information and arguments. In an era dominated by AI information overload and outputs operating within pre-existing knowledge frameworks based on dominant narratives that often marginalise alternative perspectives, the ability to critically evaluate knowledge sources is more essential than ever.

75 Smith (n 74) xvii.
76 Dunne (n 50) 91.

6.1 The impact of personal epistemology and algorithmic coloniality on evaluative judgment

Tai describes evaluative judgment as the ability to 'critically assess a performance in relation to a predefined but not necessarily explicit standard, which entails a complex process of reflection'.[77] This process of assessment or reflection is not formulaic and does not rely on strict criteria but rather depends on implicit experience, synthesised comprehension, and intuition.[78] Legal education relies on evaluative judgment to equip students with the ability to assess information's credibility, relevance, and contextual validity. However, the effectiveness of evaluative judgment is contingent upon an individual's epistemological awareness – the understanding of the nature of knowledge and how it is constructed.[79] Past experiences, contextual awareness and personal meaning shape personal epistemology.[80] It is often associated with practical wisdom, which can be explained as the culmination of an individual's culture, ethics, and biology, all embedded in human nature.[81] Students' epistemologies typically progress from viewing knowledge as absolute and authoritative to recognising it as complex, relativistic, and context-dependent.[82] A sophisticated personal epistemology stance shapes how law students perceive the law, whether as absolute rules or as an evolving, interpretive discipline. It enriches legal reasoning, moving it beyond mechanical rule application to recognise the law's inherent limitations and embrace the understanding that justice through the law is fundamentally shaped by human deliberation and interpretative judgment.

One of the main critiques against using AI tools in academic and legal contexts is its inability to judge and evaluate its own outputs. AI tends to generate misleading or fabricated information (hallucinations), producing confident yet often inaccurate responses in an attempt to 'please' the user. Consequently, students must develop the ability to critically

77 Tai (n 5) 471.
78 M Bearman and others 'Developing evaluative judgement for a time of generative artificial intelligence' (2024) *Assessment & Evaluation in Higher Education* 895.
79 Bearman & Luckin (n 14) 56.
80 As above.
81 J DeLoss 'What does AI mean for higher ed? It's complicated' 2023, https://source.colostate.edu/ai-higher-education/ (accessed 12 February 2025).
82 See WH Perry *Forms of intellectual and ethical development in the college years: A scheme* (1968).

assess the quality of AI's outputs, as the output may appear plausible and relevant while still being inaccurate and vague. However, this challenge extends beyond merely identifying incorrect information to being able to evaluate the overall reliability and usefulness of AI-generated content and recognise generic, biased and discriminatory elements in its outputs.[83] AI technologies, including legal research tools, do not operate in a neutral or objective vacuum – they are built on historically biased datasets and shaped by Western-centric epistemologies.[84] This phenomenon, known as algorithmic coloniality, highlights how AI reinforces existing racial, cultural, and epistemic hierarchies that prioritise Eurocentric knowledge frameworks while marginalising Indigenous, non-Western, and alternative perspectives. For instance, AI-powered legal research platforms may privilege dominant Western legal traditions, limiting access to critical legal perspectives from marginalised communities and traditions.[85] A robust evaluative judgment framework must go beyond a quality assessment of the AI output and recognise how these systems replicate and perpetuate structural biases.

However, the exposure of algorithmic coloniality through a robust evaluative judgment framework is not enough to counter its impact. Algorithmic coloniality is fundamentally an epistemological issue because it determines which knowledge is prioritised and which is excluded. As algorithmic coloniality reinforces the dominant legal traditions at the expense of marginalised perspectives, students may assume that AI-generated legal research is objective, overlooking how AI subtly encodes existing legal biases and inequalities. Legal education must, therefore, emphasise the development of personal epistemologies that will allow students to recognise that legal knowledge and the law itself are constructed, contingent, and shaped by power dynamics rather than an absolute or universal structure. Evaluative judgment is not only about assessing the accuracy of AI outputs but also about interrogating the ideological and epistemic assumptions underpinning them, ensuring that legal reasoning remains contextually aware, ethically responsible, and inclusive of diverse perspectives.

83 Bearman and others (n 78) 896.
84 See S Cave & K Diha 'The whiteness of AI' (2020) *Philosophy & Technology* 685–703.
85 Zembylas (n 9) 26 and 31.

To fully appreciate the significance of evaluative judgment and personal epistemology, especially in an era of AI-generated content, it is helpful to turn to Arendt's philosophical exploration of judgment, common sense and imagination. Arendt's concept of judgment with common sense and human imagination or to go 'visit' offer crucial counterpoints to AI's challenges.

6.2 Arendt on judgment and common sense

In the final chapter of *The Life of the Mind*, Hannah Arendt develops her theory of judgment, drawing from Kant's aesthetics rather than his moral philosophy.[86] Whereas thinking involves a retreat to one's inner world, judgment happens in the world and links the spaces of the subjective or the particular with the collective or universal. It allows individuals to move beyond the particularity of their 'immediate interests' and to share in the world of others with different perspectives.[87] Arendt's theory of judgment is not prescriptive – it does not provide direct guidance on how to act but helps individuals orient themselves in the world by considering multiple perspectives.[88]

Judging needs to be done with 'common sense', which Arendt defines as the 'collective reason of humanity' that binds us together in a shared world.[89] Common sense is not an innate or universal moral faculty but rather a socially and historically constructed sense of reality that enables people to engage in collective judgment, public debate and communication.[90] It aligns with personal epistemology in that it is uniquely human, shaped by lived experiences that carry meaning and value beyond what AI can reproduce or simulate. Arendt argues that common sense belongs to those who are embedded in the real world, who feel a sense of responsibility and commitment to making judgments that serve each other and society. However, she warns that modern societies are experiencing a crisis of common sense as individuals become increasingly isolated in their viewpoints, making collective judgment and

86 Korsgaard (n 72) 248.
87 Arendt (n 6) 76-77.
88 Arendt (n 8) 258.
89 Arendt (n 8) 268.
90 Korsgaard (n 72) 251.

meaningful discourse more difficult.[91] Returning to the earlier argument on algorithmic coloniality, it is clear that the algorithmic reinforcement of intellectual homogeneity contributes to this crisis of common sense by purporting isolated perspectives and homogenous ideas. Arendt argues that this crisis weakens our ability to engage with others, reason, and judge collectively – all elements essential for dynamic legal reasoning and contextual decision-making.

AI, by contrast, lacks the shared historical and social context that grounds human common sense. AI systems excel at 'reckoning' – performing computational tasks and making probabilistic predictions – but they do not have a personal epistemology or common sense. They do not understand the implications of what they generate or how to hold their outputs accountable within a broader ethical and social framework.[92] AI does not experience the world firsthand and, therefore, lacks the human capacity for self-reflection and moral responsibility, or the common sense that guides responsible evaluative judgment. Without the ability to participate in common sense, AI thus reinforces fragmented, decontextualised and isolated perspectives rather than contributing to a shared and decent world. It exacerbates the crisis of common sense as people become more isolated and detached from sharing experiences.

Given that AI cannot participate in common sense, it becomes imperative that this uniquely human faculty be cultivated, not only through thinking and reflection but also through actual human interactions. Universities are not just repositories of knowledge but shared spaces where students develop the capacity for independent thought, moral reasoning, critical citizenship and collective judgment. Unlike AI, which processes information in isolation without an awareness of its social implications, students must learn to engage meaningfully with diverse perspectives, testing their viewpoints against those of others through actual human encounters. If students engage only through online, filtered, or monitored interactions, they miss out on the authentic exchanges that shape understanding, empathy, and intellectual rigour. Higher education must, therefore, create spaces for students to experience and share in human discourse, not only in chatrooms and discussion platforms but also in person. They must foster

91 As above.
92 Smith (n 74) 110.

a dynamic and active student polis and an environment conducive to human interaction. It is mainly through active engagement with others that students can cultivate their common sense and evaluative judgment that are necessary to become ethical legal practitioners who shape a just and inclusive legal system.

6.3 Imagination as the bridge between epistemology and legal judgment

One of Arendt's most significant contributions to the concept of judgment is her idea of imagination or 'enlarged thought'.[93] It refers to the capacity to think beyond one's immediate and subjective 'private conditions' by imaginatively considering the viewpoints of others.[94] For Arendt, judgment is impossible without imagination, but imagination must be bounded to ensure that judgment remains responsible and attentive when envisioning new possibilities; otherwise, we will be 'blind' to the 'possible consequences' of an unlimited imagination.[95] True judgment requires individuals to 'go visiting' – mentally stepping into different perspectives of different people to develop a more informed and representative sense of evaluation.[96] This does not entail merely adopting the perspectives of others but rather engaging with them critically. Imagination or enlarged thought is not a separate cognitive function but a fundamental bridge between epistemology and judgment. It allows individuals to detach themselves from their subjective biases and approach judgment or evaluation with a broader and more inclusive viewpoint, precisely because humans have the ability to 'visit' the other's perspective through their imagination.

As discussed in the previous section on algorithmic coloniality, AI systems are often homogenous, reinforcing existing legal frameworks rather than challenging them. The notion of a single and uniform perspective poses a fundamental threat not only to the development of common sense but also to the faculty of imagination. AI systems cannot engage with diverse legal perspectives or ensure a multicultural approach to law and justice by themselves. In other words, they do not

93 Arendt (n 8) 258.
94 Arendt (n 8) 269.
95 Tyner (n 32) 531.
96 Arendt (n 6) 94; Arendt (n 8) 257-258.

have an enlarged mentality to engage with plurality or to 'visit' the possible perspectives of others who may be marginalised. Imagination is a uniquely human faculty and is essential for developing legal reasoning that extends beyond mere logical analysis and that enables the exploration of alternative legal interpretations and the challenging of epistemic biases. Moreover, imagination fuels epistemological growth by allowing individuals to reimagine knowledge and to embrace uncertainty and complexity, which fosters intellectual curiosity and a willingness to challenge dominant frameworks. Students must be able to interpret laws in new contexts, anticipate the broader consequences of judicial decisions, challenge injustices, construct innovative arguments and engage with diverse perspectives to ensure fairer legal outcomes.

Beyond AI's limitations in judging, sharing in a common world, and perceiving others with a certain level of empathy and compassion, it also lacks the capacity to experience inspiration. By its nature, AI operates within the confines of its programming and data inputs. While it can generate new combinations of existing data, its creativity is derivative, lacking the depth of human subjectivity, lived experience, and self-awareness.[97] It is often precisely the lived experiences that inspire humans to be creative, to innovate and to challenge the status quo. Relying on AI for creative outputs will stifle law students' ability to be intellectually adventurous and innovative, to think outside the box instead of within the legal parameters of positivistic thought, and to engage with uncertainty and novelty in order to find new solutions for broader societal justice.

Evaluative judgment needs to be informed by a knowledge of the world and of others, as simply acknowledging knowledge's constructed nature is insufficient. Imagination must actively intervene to facilitate judgment by enabling individuals to 'go visiting,' to step into different perspectives and critically evaluate the validity and fairness of knowledge claims. This process is particularly crucial in legal education, where law students must assess the law not as a static set of rules but as an evolving discipline shaped by competing interpretations, moral dilemmas, and societal needs. Ultimately, AI can be a useful tool for enhancing human creativity, but it cannot replace the uniquely human capacity for

97 See MA Runco 'AI can only produce artificial creativity' (2023) *Journal of Creativity* 1-7.

imagination, meaning-making, and the spontaneous emergence of new ideas.

7 Conclusion

As artificial intelligence continues to shape knowledge production and decision-making, the role of evaluative judgment and critical thinking in higher education has never been more important. While AI-powered tools have undeniable benefits – enhancing research efficiency, automating routine legal tasks, and providing personalised learning support – they remain fundamentally limited in their ability to engage in independent reasoning, ethical reflection, and nuanced legal interpretation. These uniquely human capacities are indispensable in legal education, where students need to cultivate their skills to interpret within a contextual understanding of the shared world, judge the quality of work while being aware of biases and discrimination and think beyond the existing parameters to find higher-order solutions to higher-order problems.

This article has argued that legal education must remain committed to cultivating independent thinking for meaning through critical thinking and evaluative judgment, based on a well-developed personal epistemology that interrogates knowledge systems. Drawing on Hannah Arendt's insights into thinking, judgment, common sense, and imagination, it has demonstrated that critical thinking and evaluative judgment must extend beyond logical deduction and skills development to include self-reflection, engagement with multiple perspectives, and the capacity to imagine beyond algorithmic constraints.

AI is not neutral; it is shaped by historically biased datasets and epistemic frameworks that can reinforce existing inequalities in knowledge production and legal interpretation. Without strong evaluative judgment and sophisticated personal epistemology, students and legal professionals may uncritically accept AI-generated legal arguments, overlooking the ideological assumptions and biases embedded in algorithmic outputs. This makes the cultivation of intellectual autonomy, epistemic diversity and critical reasoning all the more critical in an era of increasing AI integration.

It is important to consider AI's limitations when considering its role and function in legal education. An over-reliance on AI or uncritical incorporation of AI may result in students becoming passive consumers of AI-generated content and tools rather than active participants

in legal discourse. This dependency could lead to a generation of legal professionals who are adept at retrieving and summarising legal information but who lack the cognitive depth and discernment, and creative reasoning necessary to challenge, interpret, and shape the law.[98] If that is the case, AI systems will soon make the human contribution, especially to the legal profession, redundant. If universities fail to prioritise these cognitive faculties, students risk becoming passive assistants to AI systems that can already compute, process and deliver outputs more effectively and efficiently than humans.

Ultimately, the future of legal education must not be a choice between technological progress and human intellectual engagement – rather, it must be about balancing technology with the preservation of distinctly human cognitive faculties. Universities must go beyond merely integrating AI into the curricula; they must actively ensure that students develop the ability to question, critique, and reimagine legal frameworks in ways that AI cannot. They must foster a culture of intellectual struggle in order to produce students who know how to be active participants in the shaping of legal discourse and justice rather than isolated and complacent receivers of questionable data. AI can serve as a valuable tool, but it must remain a complement to – rather than a substitute for – deep legal reasoning, ethical deliberation, and the human pursuit of justice. By reaffirming the centrality of thinking, evaluative judgment, and imagination, legal education can prepare future legal professionals to navigate the AI-driven legal landscape with both competence and consciousness.

98 Bearman & Luckin (n 14) 52.