Artificial Intelligence and its Role in Legislative Practices

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Abstract: One of the most significant challenges faced by the average person is understanding the general context of the legislation that applies to them. The legal discipline has certain characteristics that make it almost esoteric for those who are not part of it, however, it is necessary to know the legal norms as comprehensively as possible. People today are no longer just "from a village/town/province/country", but have become something almost universal within the frameworks of globalization and the vast library the Internet offers at nearly zero cost. Artificial intelligence (AI) is a technology that is beginning to fundamentally change society, and within this "sea of transformations", the law – and legal and political practices in general – cannot avoid contact and change. There is no area of law not being altered, but in my opinion, the most significant place where transformations will be recorded is in legislating and drafting normative acts. Legislative operations are always complex and rarely bring satisfaction to those subject to regulation, given the relationship between the rights and obligations set out by normative acts. At the same time, it is challenging to legislate in an increasingly complex society, where enduring and situational interests intersect, where there are poor-quality mechanisms in legal documentation, and where the concept of legality is not always correctly perceived in the political environment. AI should offer a greater understanding of legal concepts to both ordinary citizens and legislators, precisely through its extensive library and its demonstrated synthesis and analysis capabilities. Therefore, the use of AI in the legislative process will become increasingly necessary as its capabilities grow, primarily to produce faster syntheses of legal documentation, essential for correctly understanding the context that justifies the need for new legislation. I believe that in the coming years, no country will escape this change, and AI will help eliminate some of the poor-quality practices that do not offer countries and citizens better prospects for wealth and professional development.

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1. Introduction in General Theory of State and Regulation

In a state that respects the rule of law, no one is above the law, not even the Government. It is, therefore, crucial that checks and balances are embedded in the constitution to prevent the executive from exerting undue control. The essence of legality is that action by the state and its agents is both in accordance with and authorised by the law (JUSTICE, 2023, p. 10). For this reason, neither the use of Artificial Intelligence in the entire legislative process nor the application of normative acts can violate the principles of law, if it is desired that the state and society maintain the balance that underpins the economic and personal development of citizens, public institutions, and businesses. Even though this new electronic tool offers broad perspectives for action and the enforcement of one's own interests – both for governments and other actors with political, legal, or financial power – it will still be necessary to uphold the sacrosanct principles of the rule of law, in order to prevent major regressions that could ultimately lead to social upheavals or even reckless geopolitical actions.

The essence of the concept of "rule of law" is straightforward: it involves the adoption of legislative acts that are accepted by absolutely all individuals within a country, without any special or generalised immunity. Explained in this way, all players in the social, economic and political arena will adhere to the norms issued by various centers, whether national or local, based on their material and territorial jurisdiction (Bingham, 2010, pp. 27 – 28). Compliance with legal norms should be conducted – at least theoretically – without any hesitation or questioning their text (Barnett, 2002, p. 74). It is, therefore, presumed that legal norms are always very clear, very well balanced, and, most importantly, can be amended at any moment deemed appropriate, following simple procedures known to each citizen (Barraud, 2016, p. 6). Obviously, public administration also has the same obligation in its process of organizing the enforcement of laws and in terms of their concrete implementation. However, public administration institutions will face the practical effects of AI sooner than parliaments, and therefore they will be the first to need to alert lawmakers regarding the changes that will need to be constantly made to the normative acts that will regulate the use of this technology.

Nonetheless, reality and basic human caution necessitate a different approach, as there are two issues regarding the quality of regulation that must always be considered and everywhere: what is the purpose of the regulations (in plain language, who benefits the most from them), and what are the procedures for adopting and amending these regulations.

For sure, any person will understand from the outset the necessity of comprehending the real purposes of a normative act, as it can be expressed directly and unequivocally. The purpose, as the general theory of legal acts states, is an essential element of human will, without which these acts would not be valid, and thus it is easier to detect (Millard, 2022, pp. 24 – 26). Since each of us pursues a specific purpose in our actions, it is easy to understand the intrinsic link between legislation and the objective that political power aims to achieve through the adoption of these legal norms.

However, procedural aspects are of greater importance. Often forgotten or overlooked, they are what give substance to the adoption of normative acts, and most debates arise precisely in relation to the types of procedures used either for adoption or for modifying certain essential aspects of legislation. Most of the time, these are "under the media's radar", which does not always understand them very well and requires detailed explanations to provide the public with a genuine understanding of what is happening in the plenary halls of parliaments and governments. Nevertheless, due to their complexity and subtlety, these procedures offer the occasion for lively intellectual debates, wherein the entire capacity for argumentation is weighed to persuade the majorities in political-administrative bodies to adopt various legislative measures (Keesey, 2018, pp. 41 – 42). This text attempts to briefly analyze – due to space constraints imposed by the editor – some issues related to the relationship between legislation adopted by parliaments and Artificial Intelligence. If we were to extend the analysis to the possibilities of action for public administration and the relationship it will develop with AI, we would quickly arrive at a minimum 100-page essay, which compels us to show respect and self-restraint towards the reader: the depth of the author's thought is not lacking, but it cannot always be expressed in a few sentences, rather in hundreds of very long paragraphs.

Once again, it is necessary to emphasise that legislative procedures are viewed more from the perspective of the steps to follow and the various voting operations, including delaying the vote (when the minority lacks voting power but has sufficiently plausible arguments to prevent a swift vote). Generally, this includes matters related to the quorum for sessions or voting. Without contradicting this aspect – for which there is ample practice, confirmed by my personal experience – we must highlight that the pre-voting stage of the legislative procedure is more significant.

What comes before voting procedures within the legislative process? The set of operations and preliminary procedures leading up to the votes can be summarised under two main headings: the necessary documentation for adopting or amending (including repealing) normative acts, and the drafting of the specific act itself.

As we shall see, in both scenarios the capabilities that Artificial Intelligence (AI) offers are – and will certainly be – used to create normative products that, at least theoretically, should be very good. In fact, if we closely analyse a significant portion of what today's AI providers offer their clients, we will notice that they largely fit into both options, with some results that have already produced certain legal consequences (Sanders and Schneier, 2023).

2. Legislate Process' Principles

Legal theory in the realm of legislation highlights that the process of drafting legal norms must be supported by data, information, and the conclusions of scientific research. This rule, found in almost all legislations is based on the idea that the legislator must draft normative acts based on preliminary economic, sociological, and psychological investigations and studies, scientific documentation, and specialized research in the field where the regulation is taking place, in order to thoroughly understand reality and identify the goals of legislative policy. The proposed solutions must be scientifically grounded and argued, and when multiple hypotheses can be considered for resolving issues, several possible alternatives will be presented. The scientific basis for a law must mandatorily include a description of the actual situations to be transformed into legal situations; an analysis of the value judgments regarding the determination of the actual situations that need to be transformed, changed, or supplemented, which are in contact with the value judgments; the social cost of the legislative reform and its appropriateness. Scientific research must also underpin some short, medium, and long-term legislative forecasts and eliminate opportunistic or inadequately researched legislative actions. Comparative research of the legislation from other states can also be utilised (Marinese, 2008).

As can easily be observed, it is straightforward to identify the main characteristic that a normative act must possess, namely the scientific approach to an issue that needs regulation. Hence, we are dealing with a matter of almost mathematical nature, where all hypotheses of a situation need to be precisely identified, along with all elements that have contributed to its emergence, as well as all the consequences it entails both in the short

and long term. In fact, an essential aspect of a normative act is its ability to remain effective over the long term, sometimes for decades or even longer, which means that the legislator, at the time of drafting the text, had a profound capacity for synthesis and long-term thinking (Chevallier, 2015). The principles of law which remain the most enduring over time, especially those in the realm of private law, are normative acts that are written/adopted in violation of these principles. They cause problems in practice from the moment they come into force, requiring subsequent modifications.

3. Artificial Intelligence and its Legal Potential

In this broad description, what would be the role of Artificial Intelligence? Firstly, it is a relatively new technology, created with the aim of providing intellectual support to humans – although, when installed on mechanical devices, it can very well take on tasks of a physical nature, as a recent news report about replacing 100,000 jobs with 750,000 robots demonstrates (The Business Standard 2024).

If we carefully analyse the concept underpinning the entire idea of "artificial" intelligence, we find humanity's aspiration for perfection. In fact, the entire history of literature and human myths centres on the idea of humans becoming perfect, or being able to achieve perfection, with the aid of a magical potion, a wondrous/enchanted instrument (sword, ring, etc.), an older person who provided good advice, or very often, the invaluable support of a horse.

The value of the advice given by a wise elder or that of a horse – both beings endowed with a soul – is more valuable to the hero than various enchanted objects. In the same paradigm, artificial "intelligence," as it is, seeks to rise to the level of a "soul", capable of understanding, surpassing the state of an object, which is handicapped by the absence of this soulful element (Campbell, 2008). Although this might seem like a digression from the subject of this study, the truth is that the full scope of Artificial Intelligence cannot be understood without grasping the reasons for its emergence, even in legislative process. Humanity wanted to fly, so it invented the aeroplane; it wanted to jump from the air, so it invented the parachute; it wanted to dive hundreds of meters underwater, so it invented diving gear. Similarly, Artificial Intelligence emerged as an assisting tool akin to those in stories, in the guise of "wisdom", enabling a person's cognitive and work capabilities to reach a level beyond physical limitations. As we can easily observe, the most significant contribution Artificial Intelligence makes is of an individual nature, allowing its operator to obtain benefits both for themselves and for the community they lead or serve (as happens in various fairy tales where slaying a dragon liberates an entire country).

Legal acts always have an initiator – at least one person, who, regardless of the title given in legislation, will also draft the bill. And draft laws must also – at least theoretically – aim for the highest quality in terms of regulation, long-term projection of legal situations, based on the analysis of various data sets available to the initiator of the normative act (Karpen, 2019). In practice, researching the issue that the initiator seeks to regulate primarily falls on them, and in this regard, they must collect data from various sources, both available on the Internet and in printed formats or recorded on media that have not been digitised. The time frame that legislators have for various bills must also be taken into account, as sometimes it is compressed into a period of just a few days, while in other situations there is no real pressure from deadlines. At the same time, ignoring the aspect of party interests makes the analysis of legislation superficial – as a result of these interests, some bills advance through parliamentary procedures very quickly, while others can be delayed for months or even years, which affects not only the entire national legislative framework but also the idea of adequate documentation, as each day brings some changes to human society.

Collecting the necessary data for drafting a regulatory act is a challenging, laborious operation that requires a significant amount of time and always raises a problem: which data are more relevant than others? In a period when the Internet itself offers an "ocean of information", it results that the collection operation is difficult, and the human mind struggles to process the obtained data. This is precisely where Artificial Intelligence can intervene – and it will undoubtedly do so increasingly in the coming years.

AI-powered tools and algorithms now have the capability to gather, process, and interpret massive volumes of data at an unprecedented speed and accuracy. Through advanced algorithms, AI can collect data from diverse sources, including IoT devices, social media platforms, and online interactions. This enables public servants and dignitaries to access real-time, high-quality data, leading to more informed decision-making. Moreover, AI has facilitated the integration of structured and unstructured data, allowing public institutions to gain a holistic view of their administrative behavior and citizens (Stagnate Research 2023).

As mentioned above, an important element in the necessary documentation for adopting a legal act is contact with the legislation of other countries. Typically, this was only accessible in very small proportions before the development of the Internet, and what was available usually belonged to just a few major countries. The emergence of the Internet has provided a large dose of available legal acts in multiple languages, but there is a problem: the general understanding of the texts, which – considering the legal traditions of each country, as well as their linguistic peculiarities – are difficult to translate accurately, at least by non-professional high-level translators. The advent of electronic translations via browsers has alleviated part of the problem (Hutchins 2003), but not as much as lawyers drafting the legal texts would like, and even less so for politicians who genuinely wish to contribute to the development of their own countries.

However, with recent developments, we can observe that transcription tools powered by AI, equipped with sophisticated speech recognition algorithms make the process of transcription of qualitative data tasks significantly easier for researchers since such tools can transcribe data by automatically converting audio or video recordings into written text (Christou 2023).

In practice, Artificial Intelligence is capable of producing competent documentation based on the electronic sources available on the Internet. We could make a reasonable observation here regarding the quality of regulation: in countries where archives are becoming increasingly digitised, documentation can be more extensive, with a quality level that should be maximal.

Unfortunately, as judicial practice has shown, there is also the risk that some AI providers might create situations that fit a particular argumentation. Thus, only in 2023 we have the 55% of US lawyers that they use AI for case documentation (Juro 2023); likewise, British judges are permitted to use this technology in their reasoning of decisions (The UK Judicial Office 2023), and there are also instances where ChatGPT invents certain arguments (cases with the value of judicial precedent) to support a lawyer's argumentation in a trial (Case 22-cv-1461 2023).

The issue of documenting jurisprudential aspects is not specific to the common law system; it is significant in any legal system, and AI can greatly assist those trying to better understand the process of drafting – but particularly of amending – a legislative act. In practice, legislators often assume that the impact of the laws they enact on everyday life is purely positive, while negative aspects are considered accidental or possibly the result of misapplication of the law.

Therefore, it is generally difficult to convince a legislator – government or parliamentary party (or a member of these types of institutions) – that their legislative act is fundamentally flawed from the outset (Enright 2019), that it primarily causes disruption in people's lives, and that the negative and unwanted effects will be visible almost immediately. The psychology of a politician in a parliament should therefore not be ignored, as they act both convinced of the legislative power they possess and constrained by one of the most important interests of any party: that of not being seen as the author of any errors (political or otherwise) that could be punished by the electorate in the next elections (Weinberg 2011).

The role of Artificial Intelligence in the documentation work necessary for drafting normative acts would involve a broad analysis – but primarily the collection – of as many judicially deduced situations as possible. This is crucial because a person ends up in court when other administrative or mediation procedures have failed, indicating high levels of dissatisfaction and a lack of understanding from those enforcing the legislation perceived as inadequate by citizens. Practically, AI could better identify – with its synthesis capacity – the most common behaviours leading to court actions, the types of actions exhibited by various administrative actors (Pszczyński 2021), and whether there were alternative, non-judicial remedies available before resorting to the courts. Furthermore, AI should extract from court decision rationales what is considered by the judiciary as violations – particularly frequent ones – of laws and general legal principles.

Thus, what AI should do in the field of documentation is to inventory the errors that the existing laws have produced, highlighting the most common issues encountered in practice. Obviously, both normal human matters that continue to cause significant harm, such as the egos of those who initiated a legislative project or the financial interests of the initiators or their sponsors, must be taken into account. Additionally, AI will not be able to consider two other practical aspects: a) the ideology of different political parties, which can sometimes lead to an ideological deadlock – how to adopt a measure that conflicts with the general trends of the party? and b) classic political interests, whereby the price of certain political coalitions involves amending some normative acts based on the pragmatic interests of the parties involved, along with the interests of their sponsors. Artificial Intelligence is designed to be as neutral as possible in relation to facts and ideologies;

however, common practices reveal that human interests can contradict legal principles, and ultimately, societal dissatisfaction can be widespread, even though the main political leaders (and their main sponsors) may be satisfied.

The AI's capacity for documentation would thus be useful in terms of identifying judicial practice aspects, but it would not be sufficient. A legislative act produces consequences from many angles, and not all necessarily end up in court. Therefore, a legislative act can be flawed in terms of its ideas, without violating legal drafting principles – for instance, a fiscal policy that increases taxes in a specific sector, which then begins to contract. In this scenario, the data that needs to be corroborated comes from a different domain and not necessarily a national one since certain investors might relocate to other countries, and the data could come from analysing sources published abroad – such as financial reports of investors driven away by the tax increases, which appear a few months after the respective company has withdrawn from the country/market.

An important role that AI can play in the documentation process prior to the development of a legislative act is monitoring social media. As is well known today, especially from examples in the political competition realm, from Cambridge Analytica to its successors (Westby 2019), it is very helpful to know society's opinions, however pleasant or not they may be. For a legislative act, it would therefore be very useful to see in advance what the general reactions of society are, how influential individuals position themselves in the analysis of various legal provisions, and thus you can anticipate some of the possible media debates or even potential legal actions. Let us not forget that history has shown how sometimes a single piece of legislation was able to trigger social upheavals, following which public institutions were attacked by furious populations, or regime changes took place. Evidently, we are also very aware of the flip side of the coin, where AI can – and unfortunately is frequently used to – monitor social media to preempt any type of protest (Brumfiel 2023). However, conducting a scientific analysis of a situation and a legislative project, if done properly and in good time, could have prevented a significant part of social disturbances or unwanted economic and fiscal effects.

In essence, we return to what I mentioned earlier: this new intelligence seeks to be – as least in its projection – as close as possible to a scientific truth, striving to remain neutral and, based on the available data, to be as useful as possible to those aiming to achieve a significant goal, such as perfecting the regulatory act in the field of legislative drafting.

Scientific opinions today are no longer solely the preserve of universities and various research institutes. The universality of social networks – today, the most popular of which boasts over 2 billion daily users (McLachlan 2024) – means that the voices of many professionals are heard and can influence political as well as administrative behaviour. Without delving into the mechanisms of social influence, as our text serves a different purpose, it is important to highlight that professionals in any field of the economy can quickly see the impact of a new legislative act (whether a proposal for a new act or a modification of an existing one). It is mandatory to consider the opinions of those who are well-versed in a particular sector, if only to avoid the phenomenon known as brain drain, which is unacceptable in the 21st century. Thus, AI can assist in gathering various opinions of professionals from both past and present, to provide lawmakers with a clearer picture. We must remember that legislative processes can often take months rather than weeks, or even years, especially if the issue being addressed by the parliaments is morally, politically, economically, socially, or psychologically complex.

Good documentation in any legislative effort requires knowledge of all the existing regulations that govern a specific area. This is logical because new regulations do not emerge in a "vacuum"; particularly in the 21st century, they are often amendments to other texts. This happens either because new situations have arisen that were not covered by previous regulations or because certain political, economic, or lobbying interests demand a different regulation. In any case, the actual legislation must find a way to harmonise the new regulation's content with what already exists, to ensure no gaps in regulation, at least minimally, and to avoid accidentally repealing useful provisions contained in various regulations. Therefore, a systematic analysis is needed to identify all the regulations governing an area, any overlaps, and especially their legal force, as an act passed by a parliament is stronger than one adopted by a local council or a ministry. This task is very difficult in practice because many regulations contain brief provisions regulating specific aspects of a domain generally governed by another regulation. This situation is called a "strict interpretation and application exception," and where there is an abundance of regulations, it can arise easily but without coordination.

One purpose of regulation, if done according to the norms of legislative science, is to systematise a domain of activity's regulation into a single act as much as possible, to facilitate a nearly complete understanding of it (Padjen 2019).

Only after thorough documentation has been conducted can the legislate process begin, specifically the writing of the legislative text. In this scenario, Artificial Intelligence can be useful again, as it can quickly generate various working drafts, even in language that is not necessarily legal. In fact, legal science emphasises that the regulatory framework can be written in terms more common to other fields, provided it clearly specifies what needs to be regulated and how this should be done, in broad terms. In this regard, it should not be forgotten that not every member of a parliament is a graduate of legal studies, and therefore their assistants must first convince them of the correctness of the ideas contained in a draft law that they need to initiate. The absence of any educational requirements to run for office may mean that the assistants of MPs can be chosen not always based on high competence, and this lack of legal knowledge can manifest in any form, with or without written justifications by a human or by an AI tool guided by poorly trained professionals. Thus, Artificial Intelligence will not be a panacea for drafting normative acts; it could even be a threat, as in the legislative process it can be used by political opponents for analyses that highlight each other's shortcomings in various draft laws.

The advancements that Artificial Intelligence has reached today have even enabled the drafting of quite coherent legal documents. By the end of 2023, the first legal document entirely written by this new technology was already adopted, taking only 15 seconds, in Recife, Brazil (Buttice 2023).

In other countries, however, AI has not yet reached that level of acceptance by lawmakers (Hill 2023), partly because the complexity of legal systems varies, and the expectations for regulation are always high. Nevertheless, it can be noted that at the level of local public administration and even across various institutions, it will be easier to envisage and even implement lower-level regulations compared to those adopted by parliaments or governments. This is because these regulations are less complex and – importantly – there is not always the same calibre of legal expertise within these institutions.

In countries where Artificial Intelligence can be used to its fullest potential, however, there is no equality in the financial power of political actors. In the legislative process, we will find this technology at various stages. First, it will be important in the documentation phase, including by providing translations from languages other than the native language of the initiators of new laws; it will be useful in drafting different text variants, although the version that will be made public will depend on human political will. Within these text formulations, this technology can perform simulations regarding the effects of different emerging variants, highlighting vulnerabilities and risks. Subsequently, in the public phase of legislation, AI can be used by various political opponents or by citizens or private agents for critical analyses, which can lead – whether with or without the assistance of this technology – to the formulation of proposals to amend the initially proposed text. Meanwhile, AI can be used to monitor societal reactions to the draft law, and based on the various aspects that will be revealed, the project may be modified or even withdrawn. Similarly, AI can also be used after the adoption of the regulatory act itself, and based on the reactions observed in administrative practice and the economy, further modifications to the text of the law can be made, or even a new regulatory act can be initiated to better regulate the situation, with the initial act being repealed.

Through the lens of importance, we will make a brief note about how local public administration can use AI in the process of enacting its own legal norms – with legal power inferior to the acts issued by parliaments, but with substantial relevance and applicability in practice. Thus, it may be that in a local public administration institution within a smaller and less affluent community, the conception and drafting of legal acts with the assistance of Artificial Intelligence could be a better and more cost-effective solution. This is because a poorly trained jurist could make significant errors in drafting such acts if they do not have a specialist nearby to assist them with legislative matters. Practically speaking, as mentioned earlier, in such cases, AI would play a role similar to that of the horse that advised and partially resolved the challenges faced by the hero in fairy tales, before the hero eventually became a king or a prince consort and future king.

We do not claim that the direct effect of increasing artificial "intellectual" capabilities will be the full drafting of normative acts. In fact, knowing – as a jurist – the thinking process of the profession, I am aware that this is not desired, and efforts will be made to prevent the promotion of AI in the sphere of drafting normative acts. At the same time, it is equally evident that, at least in the documentation necessary for adopting normative acts, AI already has a firmly established role (within less than three years), and this will increase, eventually taking over part of the text drafting process – from short regulations to big codes, especially in commercial area. However, what AI has already triggered in the realm of regulation is the increase in debates within institutions involved in legislation, as AI provides multiple text variants, but aligning them with the pragmatic interests of individuals can only be done by those who are directly interested and/or affected.

4. Conclusions

The very idea of regulating society has always been a prerogative of power, which has sought to organise communities, but at the same time to subordinate them. The struggles for political power have always involved this prize, as legal norms regulated the relationships between institutions and the permissions for different political or political-economic factions. However, normative acts always had to adopt a scientific form, outlined by the Science of Law, so that even the most oppressive dictatorship was obliged to give a legal façade to any idea, no matter how abusive or absurd it might have been.

The technological development of recent decades has transformed society, which has become more multi-vocal, and the state has had to adapt to this expansion of social involvement. The emergence and development of AI have enabled not only political operations but also the enhancement of all informational possibilities for both public institutions and citizens regarding good legal and administrative practices, which are intended to be replicated through normative acts. The AI's ability to document as thoroughly as possible allows for an increase in the quality of regulatory acts, both at the central (governmental and parliamentary) and local levels. Evidently, if AI has provided good results in documentation, it has logically led to the desire to extend its capabilities to the drafting and writing of normative acts, an aspect which has not yet been achieved to the same extent.

It will be interesting to see in the coming years what the outcome of the progress in Artificial Intelligence technology will be in the field of legislation. As is true in any country, legal acts are what organise human life. A failure of AI in this matter would only serve to increase citizens' distrust in political systems, which would be blamed for the failures of the technology. However, we believe that a *modus vivendi* can be reached between the minds of lawyers, the minds and interests of politicians, and the capabilities of AI. Until that moment, steps need to be taken with care and elegance to achieve the widest possible social benefit.

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