

#DigitalLerners #LawSchool

By:

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- “Last week, I didn’t use the internet at all” Professor Lopez said.

- “You didn’t answer my tweet last night” Ana, a 3L student said to me.

There is a significant cultural difference between those two members of my Law School community.

Generations. People belong to a specific generation, which shares similar cultural experiences: memories, language, habits, beliefs and life lessons.¹

Defining generations is not easy. It is impossible to achieve consensus on names used,² definitions, start and end dates,³ geography⁴ and features of generations. There may be agreement on earlier generations,⁵ but from the Boom generation on, we find significant differences, especially between classifications based on statistics and systems based on sociological theories.

According to Strauss and Howe,⁶ “there is no fixed formula for identifying the persona of a real-life generation. But it helps to look for three attributes: 1) a generation’s common location in history;⁷ 2) its common beliefs and behavior;⁸ and 3) its perceived membership in a common generation.”⁹

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¹ “Method & Insight” <http://www.lifecourse.com>

² For example, Generation Y is also known as the Millennial Generation, Generation Next, the Net Generation, the Echo Boomers, Generation Why or Millennials.

³ “I was born in 1982, according to ... *List of Generations - I am Gen X (1974-1985), *American Associations of Law Libraries - I am Gen Y (...)” <http://www.genpink.com/when-does-gen-x-end-and-gen-y-begin/>

⁴ e.g. East vs West, developed vs developing countries.

⁵ Arthurian Generation 1433-1460, Humanist Generation 1461-1482, Reformation Generation 1483-1511, Reprisal Generation 1512-1540, Elizabethan Generation 1541-1565, Parliamentary Generation 1566-1587, Puritan Generation 1588-1617, Cavalier Generation 1618-1647, Glorious Generation 1648-1673, Enlightenment Generation 1674-1700, Awakening Generation 1701-1723, Liberty Generation 1724-1741, Republican Generation 1742-1766, Compromise Generation 1767-1791, Transcendental Generation 1792-1821, Gilded Generation 1822-1842, Progressive Generation 1843-1859, Missionary Generation 1860-1882, Lost Generation 1883-1900, G.I. Generation 1901-1924, and Silent Generation 1925-1942.

⁶ When they published “Generations” in 1991, “almost no one was thinking in generational terms. Now, nearly everyone does. We welcome this, because knowing our collective “location in history” is useful not just for identifying our near-term priorities as individual persons and organizations, but also for fostering the best long-term outcome for our nation and world.” <http://www.lifecourse.com> LifeCourse Associate is on twitter @lifecourse

⁷ “Common location refers to where a generation finds itself, at any given age, against the background chronology of trends and events. Location in history gives shape to a generation.” “Method & Insight” <http://www.lifecourse.com>

⁸ “Common beliefs and behavior of a generation show its members to be different from people born at another time.” Ibid.

⁹ “Common perceived membership refers to how a generation defines itself—and to a popular consensus about which birth cohorts belong together. Perceived membership gives a generation a sense of destiny.” Ibid.

Six generations are alive today:¹⁰ the G.I. Generation (born 1901-24), the Silent Generation (born 1925-42), the Boom Generation (born 1943-60), Generation X or 13th Generation (born 1961-81), the Millennial Generation (born 1982-2004) and the Homeland Generation (born 2005-?).^{11 12} Boomers are entering elderhood, 13ers are entering midlife, Millennials are entering young adulthood and the Homeland Generation is entering childhood.¹³

Moreover, some authors suggest the existence of subgenerations. For example, Boomers may be divided into Baby Boomer cohort #1 and Baby Boomer cohort #2 or Generation Jones. Similarly, literature suggests that the Millennial Generation includes Generation Y (born 1982-92) and Generation Z¹⁴ (born 1993-2004).¹⁵

Digital natives. In general, people of Generation Y are very familiar with communications and digital technologies.¹⁶ However, older members of Generation Y remember life before the takeoff of mass technology, while people of Generation Z have been born completely within it. In other words, members of Generation Z are *digital natives*;¹⁷ others are simply *digital immigrants*.

Generation Z are highly connected. They use computers and are familiar with Internet, instant messaging (IM),¹⁸ video-sharing websites¹⁹ and social networks.²⁰ They carry “their” Internet in their pockets, on cell phones, iPhones, iPods and iPads (“on-the-go learning”).²¹ They have never known a world without technology.

“They study, work, write, and interact with each other in ways that are very different from the ways that you did growing up.”²² They'd rather text than talk. They prefer to communicate online. They prefer computers to books.²³ They read blogs rather than newspapers. They ignore what a library card looks like.²⁴

Psychologists and educators say that this lifelong use of communications is marking the generation. They want instant results. They are impatient. They are “instant minded”, more individualistic and more self-directed. They have “acquired Attention Deficit Disorder”. “Most educators agree that today’s kids are extremely different from youngsters of previous generations - and they present new challenges.”²⁵

¹⁰ It is the first time in history that six generations coexist.

¹¹ <http://www.lifecourse.com/mi/insight/the-generational-constellation.html>

¹² For a Mexican taxonomy of generations, see: Gómez Palacio y Campos, Carlos, Comunicación y Educación en la Era Digital: Retos y Oportunidades. México, Diana, 1998. pp. 78-85.

¹³ “Turnings in History” <http://www.lifecourse.com>

¹⁴ Also known as Digital Natives, Generation I, Internet Generation, Net Generation, Generation @

¹⁵ See Table 1 below.

¹⁶ Oblinger, Diana G. and James L. Oblinger (Editors), Educating the Net Generation. Educause, February, 2005. <http://net.educause.edu/ir/library/pdf/pub7101.pdf>

¹⁷ “‘Nativos digitales’ es un estereotipo.” Antonio Rodríguez de las Heras is on twitter @ARdelasH

¹⁸ e.g. AOL Instant Messenger, ICQ, Google Talk, Pidgin, Windows Live Messenger, Yahoo! Messenger, and other instant messaging computer programs.

¹⁹ e.g. YouTube.

²⁰ There are over 200 social networks.

²¹ On the contrary: “What is your view of mobile learning technologies -the use of smartphones and other such devices in schools? JP: I don’t think of it as “mobile learning”; I think of it just as learning with a device that happens to be a handheld.” Eisele-Dyrli, Kurt, Educating Digital Natives. November, 2009.

<http://www.districtadministration.com/viewarticle.aspx?articleid=2197&p=2#0>

²² Palfrey, John and Urs Gasser, Born Digital: Understanding the First Generation of Digital Natives. New York, Basic Books, 2008. <http://borndigitalbook.com/excerpt.php>. John Palfrey is on twitter @jpalfrey. Urs Gasser is on twitter @ugasser.

²³ California Teachers Association, Meet Generation Z.

<http://www.cta.org/Professional-Development/Publications/Educator-Feb-10/Meet-Generation-Z.aspx>

²⁴ Palfrey, John and Urs Gasser, ob. cit.

²⁵ California Teachers Association, ob. cit.

Law Schools. Four generations in one Law School is not unusual nowadays.²⁶ For example, 25% of my law school's professors are Boomers and 68% are Gen X. 93% of the students are Gen Y and 6% are Gen Z.²⁷ I recently conducted a survey on the use of technology by those groups and found the following:

Similarities. There are only two similar trends: professors and students use Internet, for both personal and academic purposes (100%),²⁸ but they do not have their own blogs (90%).

Use of Internet. 87% of the students use Internet several times a day, whereas only 60% of the faculty members connect more than once a day.

Connectivity. 100% of the professors use a PC or a laptop to connect to Internet and check their emails, whereas 13% of the students prefer a mobile phone to surf the web and 39.1% of the students send and receive emails from their cell phones.

Social and information networks.²⁹ 44.4% of the faculty members do not use Facebook,³⁰ whereas 78.3% of the students use it frequently. 88.9% of the law professors do not use Twitter, whereas only 36.4% of the students do not use it. Students prefer Facebook to Twitter; law professors dislike both (55.6%).

iTunesU. 77.8% of the professors never connect to iTunesU,³¹ whereas 43.5% of the students say they use it frequently.

Students 2.0 / Law Schools 1.0. When digital natives enter the law school, the whole situation becomes bizarre. Classrooms are not connected enough.³² Law libraries are not digital enough.³³ Textbooks are bulky, heavy, linear,³⁴ black and white, without images, diagrams or

²⁶ Generational diversity affects law firms. Broderick, Pat, Four generations in the legal work force at the same time <http://www.entrepreneur.com/tradejournals/article/151546217.html>. Grant, Ginger, Addressing Generational Diversity within Law Firms <http://www.cba.org/CBA/practicelink/Bsky/gendiversity.aspx>

²⁷ See Tables 2 and 3, below.

²⁸ "(...) older people are online, too, and often quite sophisticated in their use of these technologies, but they also continue to rely heavily on traditional, analog forms of interaction." Palfrey, John and Urs Gasser, ob. cit.

²⁹ Facebook defines itself as a "social utility that connects people with friends and others who work, study and live around them", whereas Twitter defines itself as a "real-time information network."

³⁰ "If Facebook were a country it would be the third largest, behind only China and India." http://www.time.com/time/specials/packages/article/0,28804,2036683_2037183_2037185,00.html. Some say that Facebook terms of use are "the Facebook Constitution". For Internet and Facebook use in Latin-American countries, see: Islas, Octavio, La penetración de Internet y Facebook 2010. Revista Mexicana de Comunicación. <http://mexicanadecomunicacion.com.mx/rmc/2011/02/21/la-penetracion-de-internet-y-facebook-2010/>

³¹ "iTunes U brings the power of the iTunes Store to education, making it simple to distribute information to your students and faculty - or to lifelong learners all over the world." <http://www.apple.com/education/itunes-u/what-is.html>

³² "In some schools, the wireless router is off by default and professors must choose to turn it on to access the Internet in class." Donahoe, Diana R., An Autobiography of a Digital Idea: From Waging War against Laptops to Engaging Students with Laptops. Journal of Legal Education, Volume 59, Number 4, May 2010. p. 485. http://www.swlaw.edu/jleweb/jle59_4

³³ "The law library of 2009 is not entirely digital. Nor, in all likelihood, will the law library ever be entirely digital. Our future will be a hybrid of yesterday's predominantly print-based world and tomorrow's primarily digital world." Palfrey, John, Cornerstones of Law Libraries for an Era of Digital-Plus. The Berkman Center for Internet & Society Research Publication Series, Research Publication No. 2010-4, March 2010. p. 7. www.aallnet.org/products/pub_1lj_v102n02/2010-11.pdf

³⁴ "While a traditional learner (such as a professor) might need to enter a text at the beginning, a digital learner can enter at any location and exit at any time." Donahoe, Diana R., ob. cit.

graphics.³⁵ Faculty members do not think, teach or even communicate with them, as they expect.³⁶ Law librarians cannot understand their need for orientation in the immense legal digital world.³⁷

The dilemma. Professors Palfrey and Gasser state: “We are at a crossroads. There are two possible paths before us -one in which we destroy what is great about the Internet and about how young people use it, and one in which we make smart choices and head toward a bright future in a digital age.”³⁸ Two recent articles published on the Journal of Legal Education confirm that this is an ongoing discussion.³⁹

War against laptops. Professor Yamamoto concludes that “laptops, if not used properly, create distractions, and therefore improper laptop use should be eliminated.” He banned laptops in his law classroom for four reasons: 1) they distract the student and those around him; 2) they interfere with classroom discussion; 3) they encourage poor note-taking, and 4) students rely on their laptops instead of focusing on the Tax Code and Regulations.⁴⁰

Fight against boredom. On the contrary, Professor Donahoe states: “I encourage the intellectual debate to move beyond waging a war against laptops to discussing how best to engage digital students with their laptops.”⁴¹ She believes that digital students think differently from previous generations: 1) they learn best from three-dimensional, discovery-based learning; 2) they can multitask and telescope; 3) they need to be “powered up” to learn; 4) they benefit from interaction in a collaborative environment; and 5) they want immediate feedback.⁴²

Battle for classroom attention. Certain courses easily capture student interest. For example, Criminal Law intrigues 20-year-old students. In others, there is a common lack of student engagement. Let me describe two projects developed by my law school in this battle for classroom attention.

Both plans were designed based on the following premises: 1) Schools may be more successful if they figure out how technology informs pedagogy;⁴³ 2) Technology may not be for every course;⁴⁴ 3) Technology should help to achieve clear learning objectives;⁴⁵ 4) Technology

³⁵ Garza, Roberto, Universidad Generación Y, Interactive Digital Media.

<http://robertoigarza.wordpress.com/2010/08/19/universidad-generacion-y/>

³⁶ “I sometimes hear students complain in the halls about e-mailing a professor and receiving no response.” Rapp, Geoffrey Christopher, Can You Show Me How To...? Reflections of a New Law Professor and Part-Time Technology Consultant on the Role of New Law Teachers as Catalysts for Change. Journal of Legal Education, Volume 58, Number 1, March 2008. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1272054

³⁷ “The process needs to be one where adults are listening to young people, understanding their practices, and helping them to be smarter about how they go about their lives in cyberspace.” “I’ve heard a line many times, that because of Google, librarians are obsolete in the digital age. That couldn’t be further from the truth. There in fact is greater need for librarians to play a key role in giving students access to the best information and, more importantly, in giving students the skills to do this themselves.” Eisele-Dyrli, Kurt, ob. cit.

³⁸ Palfrey, John and Urs Gasser, ob. cit. (Ironically, this book is not published in digital format).

³⁹ To follow or participate in discussions about the use of technology in law classrooms, visit: Best Practices for Legal Education Blog, <http://bestpracticeslegaled.albanylawblogs.org/>; Instructional Technology Blog (Albany Law School), <http://albanylawtech.wordpress.com/>; and Law School Innovation Blog, <http://lsi.typepad.com/>

⁴⁰ Yamamoto, Kevin, Banning Laptops in the Classroom: Is it Worth the Hassles? Journal of Legal Education, Volume 57, Number 4, December 2007. http://www.swlaw.edu/jleweb/jle57_4

⁴¹ Donahoe, Diana R., ob. cit.

⁴² In October, 2010, Harvard Law School hosted “FutureEd 2: Making Lawyers for the 21st Century.” Some technology-related proposals were included in the program. “Learning Law by Building Software Applications” is a proposal based on the assumption that “courses built around students developing functional software applications that embody legal knowledge (...) are powerful educational experiences.” You may see what BYU J. Reuben Clark Law School, Chicago-Kent School of Law, Columbia Law School, New York Law School, University of New Mexico and Vermont Law School are doing on those lines at http://www.nyls.edu/user_files/1/3/4/30/58/1053/Lauritsen%20et%20al.pdf

⁴³ Eisele-Dyrli, Kurt, ob. cit.

⁴⁴ Donahoe, Diana R., ob. cit.

⁴⁵ Eisele-Dyrli, Kurt, ob. cit.

may help to reach different learning stages;⁴⁶ 5) Technology may not be for every professor (however, new professors can help senior faculty members to incorporate technology into their teaching);⁴⁷ 6) Technology should be used as a learning tool, not as a “cool new thing”;⁴⁸ 7) Use of technology may help to engage digital students; 8) Technology may benefit visual and kinesthetic learners; and 9) Students may learn while having fun.⁴⁹

The oldest faculty member teaches Legal French to 1Ls. She obviously has difficulties to get the attention of the youngest students of the law school, not only because of their age, but also because of the complexity of the subject matter and because the workbooks are very traditional. Last summer, we launched our own Internet site, comprising links to dictionaries, European Law websites, International Law sites, domestic law websites (i.e. Belgium, France, Luxembourg, Monaco, Senegal, Switzerland and Quebec), French legal browsers, links to French news (e.g. newspapers, magazines, TV, radio) and even legal quizzes.⁵⁰

Learning Comparative Law, in particular macrocomparison, requires vast readings of complex materials, written in various languages, by authors from different cultural backgrounds, who try to explain abstract principles and concepts unfamiliar to the students (needles to say that for some, “unfamiliar” equals “irrelevant”). Students are building the “Comparative Law Course Twitter Account” to supplement the traditional resources.⁵¹ Students have to locate foreign sources of law, as well as comparative law professors and centers to [#follow](#). The ultimate idea is to allow [#follower](#) students to have quick access to foreign law progress and comparative law news from around the world. However, to reach that point, students have to collaborate in this kinesthetic learning project.⁵² I cannot tell what the learning result will be, but I can tell that for some it has been a spring of motivation and engagement. Few hours after launching the account, a student said to me, “We are now being followed!” He felt part of an international learning community!

⁴⁶ Professor Palfrey describes the stages digital natives go through as they absorb information: 1) “Grazing”: they go through the day absorbing information, via a Yahoo reader, RSS feed, Facebook and the like (this is like reading the news headlines); 2) The “deep dive”: they look for further analysis by clicking on a hypertext link or hearing a podcast (this is like reading a newspaper article); and 3) The “feedback loop”: they engage the information on a deeper level, critique it and share it by posting it on Facebook or Twitter (this is the most engaged). He explains that the fear is that students will only use technology to go through the first or second step, not getting the most educational benefit. Palfrey, John, Digital Natives go to Law School. March 1, 2010. <http://www.law.harvard.edu/faculty/faculty-workshops/john.palfrey.spring.2010.faculty.workshop.pdf>

⁴⁷ “Armed with a new generation’s perspective on and experience with technology, new law professors can spur more senior colleagues to rethink the way technology is a part of their teaching, both inside and outside of the classroom. The results benefit law students, whose technological preferences are far closer to those of new professors.” Rapp, Geoffrey Christopher, ob. cit.

⁴⁸ Oblinger, Diana G. and James L. Oblinger, ob. cit. Using distracting tools is a bad idea. Eisele-Dyrli, Kurt, ob. cit.

⁴⁹ On the contrary, see: “Personally I have difficulty with the basic premise here that learning should be fun and entertaining.” Yamamoto, Kevin, ob. cit.

⁵⁰ Visit us at <https://sites.google.com/site/terminologiaiuridicafrancesa/>

⁵¹ Bergus, Laura, Social Media Best Practices for Law Schools <http://socialmedialawstudent.com/twitter/social-media-best-practices-for-law-schools-part-1/>

⁵² Follow us [@FLDMComparado](#)

Generation	Born	Age (2011)
G.I.	1901 1924	110 87
Silent	1925 1942	86 69
Boom	1943 1960	68 51
X	1961 1981	50 30
Millennial	1982 2004	29 7
Y	1982 1992	29 19
Z	1993 2004	18 7
Homeland	2005	6

Table 1. Generations.

Age frequency distribution	Professors age	Students age
Highest value	67 years	30 years
Lowest value	27 years	18 years ⁵³
Range	40 years	12 years
Mean	44 years	21 years
Median	44 years	21 years
Mode	43 years	21 years

Table 2. Professors age vs. students age, Facultad Libre de Derecho de Monterrey, 2011.

Generation distribution	Professors generation	Students generation
Boom	25%	0%
X	68%	1%
Y	7%	93%
Z	0%	6%

Table 3. Professors generations vs. students generations, Facultad Libre de Derecho de Monterrey, 2011.

Professors Boomers	Students Gen Y	
		USE OF INTERNET – PURPOSES
		For personal purposes
		For academic purposes
100%	100%	Both
		Neither
		USE OF INTERNET – FRECUENCY
60%	87.0%	Several times a day
40%	8.7%	At least once a day
	4.3%	Several times a week
		At least once a week
		Almost never
		USE OF INTERNET – CONNECTION DEVICES
44.4%	4.3%	PC
55.6%	82.6%	Laptop
		iPod
	13.0%	Mobile phone
		Other

⁵³

In Mexico, students may enter Law School after high school, typically at the age of 18.

		USE OF E-MAIL – FREQUENCY AND CONNECTING DEVICES
100%	60.9%	Frequently, using a PC or laptop
	39.1%	Frequently, using an iPod or mobile phone
		Occasionally, using a PC or laptop
		Occasionally, using an iPod or mobile phone
		Never
		USE OF FACEBOOK
22.2%	43.5%	Frequently, using a PC or laptop
	34.8%	Frequently, using an iPod or mobile phone
33.3%	13.0%	Occasionally, using a PC or laptop
	4.3%	Occasionally, using an iPod or mobile phone
44.4%	4.3%	Never
		USE OF TWITTER
	18.2%	Frequently, using a PC or laptop
11.1%	18.2%	Frequently, using an iPod or mobile phone
	9.1%	Occasionally, using a PC or laptop
	18.2%	Occasionally, using an iPod or mobile phone
88.9%	36.4%	Never
		USE OF FACEBOOK AND TWITTER - PREFERENCE
33.3%	65.2%	Prefer Facebook
11.1%	13.0%	Prefer Twitter
	13.0%	Both
55.6%	8.7%	None
		USE OF ItunesU
11.1%	43.5%	Frequently
11.1%	17.4%	Occasionally
77.8%	39.1%	Never
		OWN A BLOG
10%	8.7%	Yes
90%	91.3%	No

Table 4. Use of Technology: Boomers vs. Gen Y, Facultad Libre de Derecho de Monterrey, 2011.