Teaching of Internet and E-Commerce Law: Research and Reflective Practice

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Introduction

Teaching excellence for an academic has three major components. One is to actually be an excellent teacher as measured by student outcomes, evaluations of students, peers and administration, receipt of teaching excellence awards and so on. A second aspect is to be an expert on teaching. This entails experience, reflection and formal study of education. A third component of teaching excellence is scholarship about teaching by which one adds to the knowledge base of what we know about teaching excellence.[2] Reflecting upon the author's fifteen years of successful teaching Internet and E-commerce Law, this article discusses approaches to teaching Internet and E-commerce Law. Referring as well to the academic literature on teaching excellence, the article presents a discussion of specific strategies that can be adopted in teaching Internet and E-commerce Law.

Towards a scholarship of teaching and learning

Socrates indicated that the unexamined life is not worth living. Yet, it has been disappointing that there has been so little scholarship conducted by disciplinary experts about teaching and learning in particular disciplines such as law. Indeed, my own personal experience is that research about one's teaching is often discouraged or not sufficiently recognised as research.[3] At the same time, there have been significant advances in science, technology, psychology, and other fields with exciting new theories of multiple ways of learning and knowing, better ways of achieving and evidencing student outcomes.[4] On the positive side, there is evolving a growing movement and interest in scholarship about teaching and learning and recognition that this type of research activity deserves greater encouragement and recognition in the academy.[5] As argued by John Bass:

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[2] Ibid, p. 5.

[3] Kreber, Carolin, Teaching Excellence, Teaching Expertise, and the Scholarship of Teaching, Innovative Higher Education, Fall 2002, Vol 27(1), pp: 5-23.

[4] See generally, International Society for the Scholarship of Teaching and Learning: http://www.issotl.org/conferences.html

[5] See generally, Hutchings a Pat and Shulman , Lee S, The Scholarship of Teaching: New Elaborations, New Developments," in Change, September/October 1999. Volume 31, Number 5. Pages 10-15. http://www.carnegiefoundation.org/elibrary/scholarship-teaching-new-elaborations-new-developments

> "In scholarship and research, having a problem is at the heart of the investigative process; it is the compound of the generative questions around which all creative and productive activity revolves. But in one's teaching, a "problem" is something you don't want to have, and if you have one, you probably want to fix it. Changing the status of the problem in teaching from terminal remediation to ongoing investigation is precisely what the movement for a scholarship of teaching is all about."[6]

Put another way, Bass and others are arguing for a scholarship of teaching which, as in scholarship about science, is imagination in the service of verifiable truth, ie the use of imaginative approaches in the search for impactful, effective and efficient models of engaging students and improving their learning. In Part II of this article, I describe some of these imaginative approaches that may be utilised in the teaching of Internet and E-commerce Law. More broadly, across the higher education sector, examples of some of the work being done in various disciplines to engage in scholarship about teaching include:

- Early work by Prof Uri Treisman's landmark study at Berkeley about how students learn mathematics is a good example of such research.[7] He compared *how* students of African and Chinese descent learned calculus and used those findings to develop strategies to help other groups of students.
- Richard Light's[8] studies at Harvard on student learning and how students feel about their learning.
- Efforts by various foundations interested in improving the quality of university teaching. See for example the Teagle[9], Spencer,[10] and Mellon,[11] and Carnegie foundations, [12] among others, which have funded empirical studies aimed at improving student learning.
- Encouragement from professional groups, such as the Association of American Colleges and Universities, that have promoted research about teaching and learning.[13]
- Teaching and learning made a major focus at some universities. For example, faculty at University of Indiana[14] have since 1998 been fostering

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[6] Bass, John, Inventio, 1998-99, online journal at http://www.doiiit.gmu.edu/Archives/feb98/randybass.htm).

[7] Fullilove, Robert E. and Treisman, Philip Uri,. (1990). Mathematics achievement among African American undergraduates at the University of California, Berkeley: An evaluation of the Mathematics Workshop Program. *Journal of Negro Education, 59*, 463-478. Prof Treisman's centre may be found at: http://learningandtheadolescentmind.org/people_05.html

[8] . Light, Richard ,The Harvard Assessment Seminars: explorations with students and faculty about teaching, learning, and student life : first report, 1990, Harvard University Graduate School of Education; Light, . Light, Richard J, Singer, Judith, and Willet, John B, By Design: Planning Research on Higher Education, Harvard University Press, 1990.

[9] http://www.teaglefoundation.org/learning/conference.aspx

[10] http://www.spencer.org/

[11] http://www.mellon.org/

[12] http://www.carnegiefoundation.org/

[13] http://www.aacu.org/

[14] Description of the project at: http://www.indiana.edu/~sotl/download/vermont_poster.pdf

interdisciplinary communities for innovative course-focused research to improve student learning

- Research centers at some universities that have focused on research about teaching and learning. Examples include: Georgetown's Center for New Design in Learning and Scholarship,[15] Gonzaga and University of Washington's Institute for Law Teaching and Learning, [16] Albany Law School's Center for Excellence in Law Teaching,[17] Florida Coastal Law School's Center for Technology in Teaching and Learning,[18] Washburn University's Institute for Law Teaching and Learning,[19] and the UK Centre for Legal Education.[20]
- Research efforts by various scholars who have made teaching and learning a significant focus of their work. Among the most influential have been John Seely Brown and Douglas Thomas,[21] with their most recent work on "A New Culture of Learning. " who has been exploring Polanyi's[22] distinction between "learning about" and "learning to be," activities that take place in iterative cycles ("I get stuck; I need to know more"). "Learning about" involves explicit knowledge, "learning to be" is more tacit: sensing an interesting question, feeling the rightness of an elegant solution. This in turn enables the "socially-constructed understanding" that fuels the cycles of being stuck and learning more through "interactions with others and the world" in this new digital age.[23] Also influential is the work on disruptive technology by Clay Christensen[24] and colleagues, as well as the work from new fields such as digital ethnography that are exploring new ways of learning and interacting among humans.[25]
- The emergence of an international organisation of university scholars dedicated to scholarship about teaching and learning, the best known example of which is the This work would necessarily be multidisciplinary, iterative, and methodologically inventive and yet tight. It would come over time to define an inquisitive and ambitious learning community. The findings would *not* be available for use as a punitive club to force accountability to the state or federal government or to other external groups. Pressure for accountability must not be allowed to confound and corrupt the assessment and continuous improvement of learning outcomes.

Learning for an Information Age

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[15] http://cndls.georgetown.edu/
[16] http://lawteaching.org/
[17] http://www.albanylaw.edu/sub.php?navigation_id=1709
[18] http://www.fcsl.edu/it/center-technology-teaching-and-learning
[19] http://www.washburnlaw.edu/centers/lawteaching.php
[20] http://www.ukcle.ac.uk/
[21] Thomas, Douglas and Brown, John Seely, A New Culture of Learning: Cultivating the Imagination for a World of Constant Changed: http://www.amazon.com/New-Culture-Learning-Cultivating-Imagination/dp/1456458884/
[22] Polanyi, Michael, Personal Knowledge, Routledge, London, 1958. 8; Jha, Stefania Ruzsits, Reconsidering Michael Polanyi's philosophy, University of Pittsburgh Press, 2002.
[23] Gill, Jerry H., The tacit mode: Michael Polanyi's postmodern philosophy, Suny Press, 2000.
[24] Christensen, Clayton, Disrupting Class: How Disruptive Innovation Will Change the Way the World Learns, McGraw-Hill Professional, 2010.
[25] Digital ethnography tells much about students today: http://mediatedcultures.net/ksudigg/

The Internet specifically and technology generally has had a profound impact upon traditional models of teaching and learning. So far however, the exact nature of that impact and how we can continue to improve has relied more on anecdote than evidence. We need to get down to the 'learning moment' and unpack good data in order to figure out what is working and what is not. At the institutional level, we need to get agreement on common outcome metrics and track student progress from start to end. We need to focus on good data and analytics. An example is the Purdue Signal Project which seeks to identify students at risk and target interventions earlier , more effectively and before little learning problems turn into large and permanent ones.. Another example is the School of One which offers a personally customised curriculum to each student.[26]

The 21st century is a world in constant change. In *A New Culture of Learning***,** Douglas Thomas and John Seely Brown pursue an understanding of how the forces of change, and emerging waves of interest associated with these forces, inspire and invite us to imagine a future of learning that is as powerful as it is optimistic. One reality of the internet and e-commerce is that it changes most aspects of life and almost everything we do, including the way people learn. Rapidly disappearing is the traditional model of the lecturer at the front of the room imparting knowledge by way of talking to students who passively take notes. Today, information is readily available to all and students expect to participate actively in their own learning. Rather than being the 'sage on the stage,' the lecturer in today's classroom is more of a facilitator and coach--the 'guide on the side.' In a course taught online, the lecturer is a leader and facilitator among a community of learners.[27]

In this emphasis on learning, imagination, innovation, play and cultivation are cornerstones with students able to participate, negotiate and manage their learning. In this new environment, students learn from each other as much from the lecturer. Relationships are fluid. The lecturer suggests structure and facilitates and guides rather than commands and dictates. In this new digital environment, everyone can create. No one needs to own a television station, a printing press, or a broadcast transmitter to create and disseminate information. With just a computer and access to the internet, students can create, or can view or consume an almost unimaginably diverse array of information and points of view. This core aspect of education in the new culture of learning presents a model for understanding learning in the face of rapid change. Teachers no longer need to scramble to provide the latest up-to-date information to students because the students themselves are taking an active role in helping to create and mould it, particularly in areas of social information. Thomas and Brown call this environment a collective. As the name implies, it is a collection of people, skills, and talent that produces a result greater than the sum of its parts. For our purposes, collectives are not solely defined by shared intention, action, or

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[26] School of one: http://schools.nyc.gov/NR/rdonlyres/9435AD08-90F3-42AA-838C-6372C3B5D2E6/0/SchoolofOneBrochure_FINAL.pdf

[27] Thomas, Douglas and J Brown, John Seely, *A New Culture of Learning***:** *Cultivating the Imagination for a World of Constant Change*, 2011. Published by authors on Amazon: http://www.amazon.com/New-Culture-Learning-Cultivating-Imagination/dp/1456458884/#reader_1456458884

purpose (though those elements may exist and often do). Rather, they are defined by an active engagement with the process of learning.[28]

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Part I: General Comments about Teaching Internet and E-commerce Law

There is no one best way. There is no one best way to teach Internet and E-commerce Law. Different lecturers will adopt particular approaches suited to their own teaching style and philosophy. Much will depend also on the nature of the students, is the course being offered at undergraduate or post graduate level? Are all the students law students or are they non-law students? For example, in an MBA Class it is common to have a mix of lawyers, managers from the public sector, managers or aspiring managers from the private sector, information technology/engineering and other graduates who are moving into or already in management.

Accept the challenge that Internet and E-commerce law is an interdisciplinary subject. Law, risk management, government policy, technology, culture—all disciplines have had to deal with the impact of modern technology. Each discipline has added perspectives and insights on how best to deal with the challenges, promises and opportunities ushered in by new technology.

Given students come into such a course with vastly different awareness of the issues, involved, it is important to constantly **fill in the background required** so that a basic level of understanding is achieved. This is especially challenging when the class involves students with formal legal qualifications together with students from other professional backgrounds such as technology, engineering, public sector management and so on. For this reason and given the breadth of the content, it is recommended that assessments be flexible and allow students to conduct research and apply their knowledge to contexts that are most meaningful to them.

Use active learning strategies. Best teaching practice encourages active learning. *Students should present course projects.* If the course is too large, break into group projects. In an online class you could still have various students be responsible for a discussion board or attach a power point or a web quest. Try to add something besides just a lecture. See the discussion below for an extensive list of activities that can be adopted to bring a class to life and engage students.

Adopt diverse learning strategies. Students learn in different ways. Wherever possible students some choices in the projects, the cases, the topics, and perhaps a portfolio with various components. Have a set of guidelines that shapes the assignments. Multiple assessments (exam formats, papers, presentations, etc.).

[28] Ibid

Have high expectations of students. There is a significant body of research that shows that students tend to rise to the level expected of them. Accordingly, it is important to have high expectations of students and to communicate those expectations. The goal is to make every moment matter. Assign tasks requiring students to apply theories to real-world situations rather than remembering facts or concepts. This case-based approach involves real-world problems and real-world situations. Remember also that what gets rewarded gets done. Thus it is good to call attention to and praise excellent work, an insightful question or comment, an outstanding assignment or discussion list posting.[29]

Focus on time on task. Effective teachers help students understand the importance of time on task and time management. These teachers convey to students the learning objectives for each lesson/unit/module, and indicate an appropriate amount of time students should budget for each activity. It is important to have attendance policies in the syllabus and also very clear deadlines. It may be beneficial to break large projects into modules and have multiple deadlines for large projects. In classes that only meet once per week it may be useful to have outside of class Blackboard activities such as quizzes or discussion boards. In online or blended learning classes even more important to have multiple assessments such as questions, quizzes, discussion boards, peer editing, and other modules for time on task).[30]

Take one day at a time. For every class think of your "big picture" and have at least one activity other than the lecture that captures this theme. Relate the theme to one project or real world example that you are excited about. Articulate the -1-3 major take-home messages you want to achieve for that class. Also consider using the one minute review where you ask a student orally or have all students in writing to list the three main messages from that class and any questions they have or things they feel uncertain about. Have them hand that in and you will have good feedback on how your class went.[31]

Provide prompt, regular and effective feedback. For learning to be most effective students need model examples of what is expected, opportunities to practice, and timely and adequate feedback. Students need to learn how to learn the subject, something which is especially important if the course is offered to groups other than

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[29] Nilson, Linda Burzotta, Teaching At Its Best: A Research-Based Resource for College Instructors John wiley & Sons, 2010

[30] Vella, Jane Kathryn, On teaching and learning: putting the principles and practices of dialogue education into action, John Wiley & Sons, 2008.

[31] Marzano, Robert J., The Art and Science of Teaching: a comprehensive framework for effective instruction, American Association for Supervision and Curriculum Development (ASCD), Alexandria, Virginia, 2007

Making Every Moment Count: Maximizing Quality Instructional Time
A report from The Time, Learning, and Afterschool Taskforce, 2007, at:
http://www.reading.org/Libraries/Reports_and_Standards/MEMC_070620.sflb.ashx

law students or lawyers doing post graduate study. Students eventually also need ideally to learn how to assess themselves and their own learning[32]

Feedback can be informal ("Good answer, Mary"-- in response to an in-class question) or formal, for example in the form of a specific grade and comments to students. Provide students with good models of what you expect for a top performance. Preparing and discussing with students your learning rubric for a particular project can be very powerful in both communicating expectations and giving students a clear understanding of what to do. Feedback should also include both information feedback about the standard achieved and areas for improvement as well as acknowledgment feedback that you appreciate their effort, understand their concerns and genuinely want students to learn. Giving feedback to the entire class is also useful and is a major way to communicate your high expectations. For those doing distance or blended learning, most learning systems, eg Blackboard, have a Gradebook feature that gives quick feedback and enables students to track their progress and points throughout the course. The timing of feedback is also important. Most of the studies show that waiting a little while after the performance can be more impactful than immediate feedback. This gives students time to reflect on their own learning and learn from their mistakes.[33]

Apply Adult Learning Principles. University lecturers should also familiarise themselves with and apply principles of adult learning. This is especially so where Internet and E-commerce Law is taught as a post graduate subject either in an LLM or MBA program, for example, you should become familiar with principles of adult learning. Adult learning theory, termed andragogy , is a focuses on self-directed learning in adult education. Andragogy is defined as "the art and science of helping adults learn" and is contrasted with pedagogy, "the art and science of helping children learn." [34]

Andragogy assumes that the adult learner:

(1) has an independent self-concept and can direct his or her own learning (students should have options and be and active force in their own learning. Where appropriate, students should be partners in working with the lecturer to 'negotiate' the course experience and design it to meet the needs of particular students);
(2) has accumulated a reservoir of life experiences that is a rich source of learning (the lecturer should discover the background of students and tap into this background as a resource for the class. Realise that students relate their new learning to past experiences. The lecturer needs to build

[32] Askew, Susan, Feedback for Learning, Routledge 2000
[33] Irons, Alistair, Enhancing Learning Through Formative Assessment and Feedback, Routledge, 2007
[34] Knowles, Malcolm Shepherd , Holton, Elwood F. And , Swanson, Richard A, The adult learner: the definitive classic in adult education and human resource development, Butterworth-Heinemann, 2005; Knowles, Malcolm, The Adult Learner: A Neglected Species, Gulf Publishing Company, Houston, 1973, 1990.

on these experiences and transform student learning to a new understanding);
(3) has learning needs closely related to changing social roles;
(4) is problem centred and interested in immediate application of knowledge;
(5) is motivated to learn by internal rather than external factors.

Among other things, Knowles advocated the idea that a classroom climate should be one of "adultness, both physically and psychologically." In this regard, adults should feel accepted, respected, and supported while fostering a "spirit of mutuality between teachers and students as fellow learners on a mutual educational journey.

Understand and enhance student motivation for learning. It was a famous Roman Lawyer, Quintillan,[35] who argued in *Institutio Oratoria* almost 2000 years ago, that how students feel about their learning has a major impact on how effectively they learn. In modern times, Raymond Wiodowski, supported by the latest cognitive science research, is one of the leading thinkers in helping us to understand student motivation for learning. Wiodkowski's framework for culturally responsive teaching embraces, from a motivational perspective, the diversity and complexity of today's adult learner. The framework focuses on four intersecting motivational conditions that are essential for enhancing adults' motivation to learn. They are:

1. Establishing inclusion: creating a learning atmosphere in which learners and teachers feel respected and connected to one another
2. Developing attitude: creating a favorable disposition toward the learning experience through personal relevance and choice
3. Enhancing Meaning: creating challenging, thoughtful learning experiences that include learners' perspectives and values
4. Engendering competence: Creating an understanding that learners are effective in learning something they value.[36]

Wiodoski blends a neuro-scientific understanding of motivation and learning with an instructional approach responsive to linguistically and culturally different adult learners. He addresses issues that focus on deepening learner motivation and helping adults to want to learn. Wlodkowski offers a clear framework and sixty practical, research-based strategies that are designed to elicit and encourage learner motivation. He also offers guidelines for instructional planning, and cutting-edge ideas for assessment and transfer of learning.[37]

Wiodkowski outlines the characteristics of a motivating instructor—expertise, compassion, enthusiasm, cultural responsiveness, and clarity. He also analyses four major motivating factors—inclusion, attitude, meaning, and competence—and

[35] Russell, Donald A, Quintilian, Harvard University Press, 2001.
[36] Wlodkowski, Raymond J , Enhancing Adult Motivation to Learn: A Comprehensive Guide for Teaching All Adults, John Wiley & Sons, 2010
[37] Ibid.

provides suggestions on how to employ them during the instructional process. And to meet the demands of today's adult population.[38]

Wiodowski's framework is also insightful to the teaching of international students. In this context, lecturers should be sensitive to cultural issues and allow students through assignments and other tasks, the opportunity to apply their learning to their particular country's context. Internet and E-commerce Law is an excellent course for such teaching because it deals with issues and realities of an emerging Information Age that is impacting every country. Although the focus on the text is on Australian law, the basic principles are applicable to all countries and the discussion benefits greatly from international and comparative insights that deepen student understanding and relate to the student's particular experiences.[39]

Apply a developmental approach to teaching lawyers and legal skills. Internet & E-Commerce Law is also an excellent vehicle for teaching both generic and legal skills. Generic skills such as oral and written communication, collaboration skills, group discussion/leadership skills can be taught and practiced through the adoption of various tasks as outlined in the next section. Specific legal skills such as case briefing, legal analysis, contract drafting, policy analysis and drafting, and legal advocacy are also easily accommodated.

In contexts where Internet and E-commerce Law is taught as a law school elective, it would also be useful to have regard to recent work done by the Carnegie Foundation in their analysis of US legal education, though the insights have relevance as well for Australia.[40] The Carnegie report found that traditional legal education has done an excellent job of socialising students into the standards of legal thinking. It provides systematic emersion into the patterns of thinking of the profession and which patterns for the basis of students' development as a professional. [41] The Carnegie Report is critical of traditional legal education for ignoring "the rich complexity of the actual situation that involve full-dimensional people, let alone the social consequences or ethical consequences. This means students develop misconceptions about how the law actually works in practice and it fails to address the wider skill set required of lawyers in practice."[42]

The Report is critical of the assessment of student learning which it describes as "very underdeveloped."[43] Assessment is largely summative rather than formative. The major role of such assessment is not to provide feedback but to sort and select students. The result is that those who are on the bottom half give up and lose motivation. Formative assessment is given while the course goes on and is designed

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[38] Ibid
[39] Ibid.
[40] Sullivan, William, Colby, Anne, Wegner, Judith, Bond, Lloyd and Shulman, Lee, *Educating Lawyers: Preparation for the Profession of Law,* Carnegie Foundation for the Advancement of Teaching, Jossey-Bass, John Wiley & Sons, SF, CA (2007) ("Carnegie Report").
[41] Carnegie Report at 185-86.
[42] Ibid at 186.
[43] Ibid at 188.

to provide feedback and support learning and self understanding rather than to sort and rank[44].

The Carnegie Report found that the approach to educational reform in law schools has been to 'add' more. Such attempts are almost always strongly resisted. Carnegie argues that what we need is an integrative approach. We need a holistic approach designed to achieve maximum educational effectiveness. What is required is an approach that brings together "the cognitive, the practical, and the ethical-social. "[45]

The Carnegie Report contrasts legal education with US medical education where there is from day one students do not just learn science, but study science in the context of a medical professional. Students thus have early engagement with real patients and learn not only how to think like a doctor but also to develop the skills and values that will over the course of their education, teach them how to do the work of a doctor and assume the identity, values and professionalism of a doctor. This intensification of the practical apprenticeship in medical education has opened the way to more authentic and powerful means of fostering professionalism. As noted in the Report:

> "Clinical training now begins in the first year of medical school and is dominant by the third year. The teaching of basic science is still essential, but the modes of teaching science have shifted in many medical schools, with greater emphasis on teaching a science as it informs and will be used in the practice of medicine. This does not mean that medical education is consumed with teaching mere techniques. A great deal of both foundational and cutting-edge knowledge is imparted at every stage in the process. The difference is the growing recognition that medical science is best taught in the context of medical practice, with integral connections between the fundamental knowledge base and the complex skills of professional practice." [46]

The Carnegie report recommends a three-stage, interlocking apprenticeship for legal education. The first is an apprentice of knowledge, where students learn how to think in the discipline, think like lawyer and engage in legal research and writing. The second is an apprenticeship in legal skills where students learn about, practice and get coaching, guidance and feedback as they develop the wider set of skills required of a lawyer, for example negotiation, communication, team work, drafting, investigation, argumentation, client interviewing, law firm management, and professional responsibility. In this process, it is the role of the teacher to provide the scaffolding (the learning support for students who have not reached mastery) and the

[44] Ibid at 189
[45] Ibid at 191
[46] Ibid 192.

eventual fading (encouraging students when they are ready on their own).[47] According to the Carnegie Report:

> "formative education must enable students to become self-reflective about and self-directing in their own development. Seen from a formative perspective, law school out to provide the richest context possible for students to explore and make their own professions' possibilities for a useful and fulfilling life.' ….Concretely, this means enabling students to grasp what the law is, as well as how to think within it, just as it means giving students experience of practicing the varied role lawyers play while continuing to appreciate the engagements of self and the world that these entail."[48]

Promote peer-to-peer learning. Internet and E-commerce is also an excellent subject in which to deploy peer-to-peer learning. Peer to peer learning is not new; it has mostly just been neglected and its potential unrealised. The Internet makes possible many-to-many communication. For example, p2p or peer-to-peer sharing models have been legally challenging as we saw with Napster and the sharing of music files in peer to peer networks—something which had a dramatic impact on the music industry. Another example is the Peer-2-Peer university which offers courses to online communities.[49] Such learning offers a higher level of student engagement and taps into the specific talents that each student brings to the class.[50] Many of the teaching strategies discussed below (eg case studies, debates, mock trials, hypotheticals) utilise peer learning. Just a few examples of learning structures that involve students engaging each other in peer learning include:

- Study Groups. These take advantage of the fact that the best way to learn something is to have to teach it. Setting up situations where students teach and learn from each other is one of the most powerful models of learning. In fact some argue that being in a good study group is a major factor in predicting student success. Study groups, also provide emotional support and mentoring that deal with the very important, but sometimes neglected emotional aspect of learning.

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[47] Ibid at 61.
[48] Ibid at 85.
[49] See for example P2PU: http://p2pu.org/course/list "The Peer 2 Peer University is a grassroots open education project that organizes learning outside of institutional walls and gives learners recognition for their achievements. P2PU creates a model for lifelong learning alongside traditional formal higher education. Leveraging the internet and educational materials openly available online, P2PU enables high-quality low-cost education opportunities. P2PU - learning for everyone, by everyone about almost anything.'
[50] Boud, David, Cohen, Ruth and Sampson, Jane, Peer Learning in Higher Education: learning from & with each other, Routledge, 2001; Topping, Keith and Ehly, Stewart, Peer Assisted Learning, L. Erlbaum Associates, 1998

- Problem-Solution-critique groups. A group of 4-5 are given a problem and asked to discuss it. Another critics group critiques the discussion in terms of content as well as process and offers comments to the class.
- Buzz group: students divide into small groups of 2-5. They are instructed to discuss a particular question and then a group representative presents findings to the rest of the class.
- Affinity Groups: Groups of 4-5 students are assigned particular tasks to work on outside of class. The group then presents their findings to the class as a whole.
- Teach-Write-Discuss. At the end of a lecture session, students are given questions. They answer them first individually and then meet to discuss them in a group of 4-5 students where they have to justify their answers. The whole class then examines the various answers and reasons for their validity.
- Peer Editing. Have students edit each other's work before submitting it. Give them a primer in what to look for and tasks involved. Give both the editor and the writer a grade.
- Discussion generally (see below)

Through peer to peer learning, students learn through their interaction and participation with one another. In this environment, anyone who has particular knowledge of, or experience with, a given subject may take on the role of mentor, facilitator or leader at any time. Students are given greater choice to pursue their particular passions, to share their special skills. Finally, peer to peer learning is not limited to the classroom, but continues through real and virtual interactions outside of class and maybe even for life.

Encourage work integrated learning (WIL). Students learn best when they are able to follow their passion and operate within the constraints of a bounded environment. Given an increasing number of students are likely to find themselves engaged in work related to the Internet and E-commerce, work integrated learning is likely to become part of some university programs.[51]

Work integrated learning (WIL) is about learning through work and work-like experience. Students engage with a work experience and learn about professional work, possible careers, and themselves.[52] In WIL, Student assignments and other learning tasks are embedded in the workplace experience and supported by

[51] See eg, Griffith University Work Integrated Study Program: http://www.griffith.edu.au/gihe/teaching-learning-curriculum/work-integrated-learning ; and RMIT Work Integrated Learning: http://www.rmit.edu.au/bus/wil

[52] Orrell, Janice , Cooper, Lesley , and Bowden, Margaret, Work integrated learning: a guide to effective practice, Taylor & Francis, 2010.

supported by appropriate induction of students and supervisors, and embedded assessment."[53]

A common pattern in work integrated learning involves students placed in paid related employment as part of their university course. The course combines and intertwines the theoretical work in the classroom with experiences at work in which the theory can be put into practice. Such programs promote deep level learning.[54] Given the pervasiveness of the Internet and technology in the workplace, a course such as Internet and E-commerce Law has much to offer in such programs. In turn, the work-place experience received by the students would afford excellent opportunities to relate what students learn in the course to real life.

Part II: Specific Teaching Strategies/Tools

Turning from general considerations to specifics, below is a list of specific strategies[55] that lecturers might consider adopting depending upon the particular topic being covered.

Asking Questions

'Good teaching is more a giving of right questions than a giving of right answers.'. -Josef Albers

Excellent teachers know how to phrase and deploy questions to develop students' knowledge and understanding. Davis suggests that an effective use of questions can help teachers accomplish at least four major educational objectives: 1. Provide motivation and a focus for the students by gaining their interest and attention; 2) promote thinking and mental activity; 3) involve students actively in the process of instruction; and 4) give students an opportunity to obtain feedback on their progress. Bloom's taxonomy is an excellent guide to the different levels at which question may be posed. It provides lecturers with a framework which can be used to ensure that the various cognitive skills of the learner receive attention n the teaching/learning process.

Blooms Taxonomy of learning includes:[56]

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[53] Orrell, J. (2004). Work-integrated learning programmes: management and educational quality. Paper presented at the Australian Universities Quality Forum 2004; Washbourn, P. (1996). Experiential learning: Is experience the best teacher? Liberal Education, 82(3), 1 - 10.

[54] Ulbrich, A., Scheir, P., Lindstaedt, S. N., & Görtz, M. (2006). A Context-Model for Supporting Work-Integrated Learning. In W. Nejdl & K. Tochtermann (Eds.), Innovative Approaches for Learning and Knowledge Sharing (LNCS 4227, pp. 525-530). Berlin: Springer.

[55] Some of the material in this section was adapted and updated from the author's chapter on "Teaching Strategies" in , MJ Le Brun, GT Lansdell and EE Clark, *New Perspectives for Teaching Legal Studies,* Law Foundation of Tasmania, Hobart, 1989.

[56] Weinbaum, Alexandra , Teaching as Inquiry: asking hard questions to improve practice and student achievement, Teachers College Press, 2004 Watson, Sue,' asking Better Questions with Bloom's Taxonomy,' at: http://specialed.about.com/od/teacherchecklists/a/bloom.htm

Knowledge/comprehension: remembering, memorizing, recognising; recalling, interpreting, translating from one medium to another; describing in one's own words.

Application: Problem-solving, applying information to produce some result.

Analysis: Subdividing something to show how it is put together; finding the underlying structure of a communication, identifying motives.

Synthesis: Creating a unique, original product that may be in verbal form or may be a physical object.

Evaluation: Making value decisions about issues; resolving controversies or differences of opinion.

Bloom[57] further distinguishes between lower order and upper order objectives.

"Lower order objectives include:

> ***Knowledge: objectives*** involve remembering—facts, terms, definitions, concepts, principles. Questions appropriate for this category include: 'What?'. 'List', 'Name', 'Define', and so on.
>
> ***Comprehension objectives*** draw on the students' understanding of the meaning of material. Questions appropriate for this category include: 'Explain', 'Interpret', 'Summarise', 'Give Examples of', 'Predict'.
>
> ***Application objectives*** involve questions of a concept or skills, which is then used to solve a problem. Questions of this type ask students to solve, apply, modify, construct, demonstrate, illustrate, dramatise, etc.

Higher order objectives

> "***Analysis*** requires students to break the material down into components and explain the hierarchical relations. Questions at this level ask: 'How does...apply?', 'Why does...work?' How does...relate to ....? 'What distinction can be made between..... and .....? as well as 'Compare', 'Relate', 'Criticise, etc.
>
> ***Synthesis*** demands that students produce something original after having broken down the material under analysis into parts. Examples include: 'How does the data about... support ...? 'What predictions can you make about the legal system based upon....?' 'How would you design a penal system which emphasised ... as a theory of punishment?'

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[57] Bloom, B., Englehart, M., Furst, E., and Krathwohl, D. (Eds.). (1956). Taxonomy of educational objectives: The classification of educational goals. Handbook I: Cognitive domain. New York: David McKay

> ***Evaluation*** level questions ask the student to form a judgment based upon a set of criteria. Such questions include: 'What judgments can you make about....? 'Compare and contrast criteria for.....', 'How effective has the law been in achieving the goal of.....', in addition to 'Appraise', 'Assess' and so on."[58]

More effective teachers avoid the common pitfall of asking predominantly lower level questions. They ensure that all levels of questioning are used to facilitate learning.[59] Discussion of any content may begin with simple questions, such as, What is this? When did it happen? However, do not stop there. Whenever possible, continue with critical-thinking questions, such as: How is this done or organised? How do the pieces fit together? or ?How is it related to _____? Why do we need this? or Why did this happen? What are some consequences of this idea, innovation, discovery, etc? What would have happened if this piece of information or fact had been omitted? What will happen next? or What comes next?.[60] Most questions which professionals such as solicitors get asked require critical thinking. It is thus important to give students repeated practice with these types of questions in the classroom. Moreover, it is best to design a strategy that gives everyone an opportunity.[61]

Response to Student Participation Handling student responses also requires care so that students do not get discouraged. Sarcasm or ridicule has no place. At the very least, acknowledge the student's comment (eg, 'Thank you. That is one argument, but can anyone think of another." It is important to create and maintain a climate of trust and respect if student participation is to be encouraged.

Written Questions can be excellent when placed in study guides, used in an online class discussion etc. It is also an effective strategy to put a question on the screen and then divide the class into groups so that they can discuss the question in a small group setting where it is less threatening and everyone gets to speak.[62]

Role Plays, Mock Trials, Moots, and other Simulations

Role plays involve students taking on the roles of others (eg a judge, a lawyer, an expert, a client, a juror) and acting out certain behaviour which is a representative

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[58] In, Le Brun, M, Lansdell, G and Clark, E (1989) *New Perspectives for Teaching Legal Studies,* Hobart, Tasmanian Law Foundation, pp 28-30 and Adapted from Goodwin, S, Sharp, G, Cloutier, EF and Diamond, NA, Effective Classroom Questioning, University of Illinois at Urbana Champaign, 1981.

[59] Morgan, N., and Saxton, J. (1991). Teaching, questioning, and learning. New York: Routledge.

[60] Brualdi, Amy C., 'Classroom Questions,' ERIC Identifier: ED422407, 1998, available at: http://www.ericdigests.org/1999-2/questions.htm

[61] Hannel, Ivan, 'Highly Effective Questions in the Classroom,' Curriculum Leadership, 1 January 2003, available at: http://www.curriculum.edu.au/leader/highly_effective_questioning_in_the_classroom,4709.html?issueID=9691

[62] Hannel, Ivan,

of that other person. Sometimes teachers provide students with a script. In other scenarios the students must research the role and develop their own script.[63]

Role plays can be very valuable learning experiences. As a teaching strategy they are inclusive and involve students actively in the class. [64] In role playing students are involved in direct experiential knowledge/learning. Role playing helps to develop empathic understanding and emotional intelligence. Students also learn to negotiate social expectations of giving roles and dynamic interpretation. Role plays help to make abstract problems concrete. For example, a role play can add a valuable supplement to a case decision so that students learn more deeply by acting out the various roles of the parties. [65]

There are three distinct phases involved in designing a role play situation. The first involves the lecturer planning and students preparing the particular scenario. The role is then played out and followed by a reflection/evaluation in which students assess how things went, lessons learned, and so on. [66]

From the lecturer's perspective the planning and preparation should determine the context of the scenarios, the various roles to be played, the scenarios that will be played out and other components. Ground rules should be established, fears reduced and the learning objectives and expectations made clear.[67]

Sample Role Play Lesson Plan[68]: Internet and E-commerce Talk Show. **The learning objectives**

The students will:

1. Learn in detail about one some of the major experts in the field of Internet and E-commerce Law, eg Larry Lessig.

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[63] Worth, James et al, 'Using Controversial Mock Trials in "Psychology and Law" Courses: Suggestions From Participants, Teaching of Psychology, Vol. 29, No. 1, 2002, pp 20-24. At http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1310&context=psychfacpub ; various resources on conducting a mock trial can be found at: http://www.pdfchaser.com/pdf/mock-trial-competition-handbook.html

[64] Riddle, M. (2006). The roles actors perform: role-play and reality in a higher education context. Masters Research thesis, History and Philosophy of Science, University of Melbourne: available at: http://dtl.unimelb.edu.au/R/4GIFFJ633VNH8T9R1XV7QXSE6NDGMTSU8AHQ6FBL3U2DXKPXTA-00453?func=dbin-jump-full&object_id=67122&local_base=GEN01&pds_handle=GUEST ; Bender, Tisha, 'Role Playing in Online Education: A Teaching Tool to Enhance Student Engagement and Sustained Learning' available at: http://innovateonline.info/pdf/vol1_issue4/Role_Playing_in_Online_Education-__A_Teaching_Tool_to_Enhance_Student_Engagement_and_Sustained_Learning.pdf

[65] Van Ments, Morry, The Effective Use of Role Plays, Kogan Page Publishers, 1999.

[66] .Yardley-Matwiejczuk, Krysia M, Role Play: Theory and Practice, Sage, 1997.

[67] Turner, David, Role Plays: A sourcebook for trainers, Kogan Page Publishers, 1996.

[68] Van Ments, Morry. *The Effective Use of Role-Play: A Handbook for Teachers and Trainers*. London: Kogan Page Ltd, 1983

a. Create a nameplate that represents some of the most important interests or personality traits of their Enlightenment figure.
b. Play the role of that individual during the talk show.
c. Apply the expert's ideas, with special emphasis on the experts assigned.
d. Verbally express and defend the expert's views on the issues.
e. Verbally support or question the views of the other Enlightenment thinkers.
2. Develop an understanding of the expert's thinking on the legal and other issues involved.

3. Analyse the ideas of the expert as they relate to the specific topics to be discussed.

Preparation:

1. Students will be assigned the role of various experts on a particular issue or issues.

2. Students use their textbook and at least three other sources.

   Many students are uncomfortable speaking in public. Even though the talk show is very informal, some students will be very reluctant to speak. Explain that everyone will be expected to speak a minimum of three times, but that a short, relevant sentence or a good question will be considered one instance of participation. (This really depends on your class size and the length of the period.

3. On the day of the talk show, students will bring a name card.

4. The teacher will develop a list of appropriate questions for the talk show. This could be done in any of the following ways:

THE TALK SHOW FORMAT

1. The teacher could act as the radio talk-show host or this could be a role assigned to a student.
2. After a brief introduction, ask each of the students to introduce themselves and a few of their main ideas to the other visitors on the talk show.

DEBRIEFING

It is important for the students to spend some time reflecting on the goals of the assignment and how well they believe they have met them. The following ways illustrate how this can be accomplished.

1. Give a test on the material.

2. Ask the students to write a reflection discussing such things as
a. what element of the assignment they found most interesting.
b. what element of the assignment they found most difficult.
c. what they would change about their presentation if they could.

d. the most important thing that they learned from the assignment.
e. suggestions for improvements.

ASSESSMENT

Determine how many marks this assignment will be worth.

RUBRIC

Develop a marking rubric indicating what you would expect for an High Distinction, Distinction, Credit, Pass, Fail.

_____.

Mock Trial

Another common role play scenario used in law teaching is that of a mock trial. The use of a mock trial can be great fun, high drama, and an impactful learning experience for students.[69] Mock trials have become a staple of instruction in law classes. Mock trials are an exciting way to teach trial court procedures and to develop a wide range of skills. They also provide a positive opportunity for students to interact with a person from the justice system. There are a many mock trial resources available on the Internet. [70] Several sights provide script for lawyers, judges and bailiffs, as well as supplementary materials for lawyers, jury, and judge. At university level, one could point students to an actual case and let them prepare the various materials as part of their learning experience.[71]

Mock Trial Example: At University of California Berkeley former Secretary of Defense Donald Rumsfeld faced charges of extradition to France to be tried there for violating international torture laws. Students in the political science course "Accountability for International Human Rights Violations" acted as the defense, prosecution. and presiding judges.[72]

For those students seeking experiential learning note that there are firms that do mock jury research and students can work online for a jury research company.[73]

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[69] Carlson, J Lon and Skaggs, Neil T, 'Learning by Trial and Error: A Case for Moot Courts, Journal of Economic Education, Spring 2000, p. 145

[70] Mock Trial Resources in the Classroom: http://www.crfc.org/mocktrial.html; See also: http://www.19thcircuitcourt.state.il.us/services/Pages/mock_trials.aspx; ; http://www.ccle.fourh.umn.edu/mock3.pdf

[71] Zinel, Miranda, 'Mock Trials in the Classroom: Role Playing Brings Learning Alive': Suite1.com, October 1, 2007: at: http://www.suite101.com/content/mock-trials-a32396#ixzz1ELKQeuh9

[72] Hicklin, Andrea, Students Stage Mock Trial To Engage in International Law, Human Rights, UC Berkeley News Center, Dec 2, 2010: at: http://newscenter.berkeley.edu/2010/12/02/polisciclass/ . See generally Andreopoulos, George J. and Claude, Richard Pierre, Human Rights Education for the 21st Century, University of Pennsylvania Press, 1997.

[73] Zoltan, Malanie, 'Work as an online juror in a mock trial with e-Jury', Suite101.com, Feb 18, 2011, http://www.suite101.com/content/work-as-an-online-juror-in-a-mock-trial-with-ejury-a349535

Moots

Yet another role playing scenario is that of a moot. Where the mock trial focuses at the trial court level, mooting typically involves a simulated court of appeal in which students advance arguments on appeal to a higher court. By participating in moot courts, students wrestle with persistent public policy questions and come to better understand the role that the judicial branch plays in our democratic system. Abstract principles, such as the right to privacy, become real when students argue particular cases before a moot judge. [74]

Students playing the role of attorneys in moot courts learn to think on their feet while formulating and articulating persuasive arguments based on legal precedents and constitutional concepts. Students playing the role of judges (or justices) prepare and ask penetrating questions in pursuit of reasoned responses from counsel to arrive at a decision. Student justices must also consider the impact that their decisions will have on public policy and on the public at large. Participating in moot courts, students gain a deeper understanding of legal and constitutional issues, practice critical analysis, and develop skills in argumentation, logic and public speaking/advocacy.

Other Simulations

Moots, mock trials and talk shows are only three of many possible scenarios that may be utilised to engage students. Examples include: public hearing, board meeting, interview, small group discussion, forum, testimony before Parliament regarding a particular issue, giving advice to a client, a negotiation, mediation or other context. So, use your imagination. and create your own simulation.[75]

Games

Closely related to role playing is the use of games in teaching. Given the growth and popularity of computer games (indeed intellectual property protection of computer games is a topic within the course) with young people today, the use of games in teaching is also growing. [76] Where Web 1.0 was about reading from passive web pages, Web 2.0 is about building communities and virtual worlds.

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[74] Weizer, Paul I, How to Please the Court: A Moot Court Handbook, Peter Lang, 2004.
[75] Jones, Ken, Designing Your Own Simulations, Taylor & Francis, 1985.
[76] Baker, E. & Delacruz, G.C. (2008b) A framework for the assessment of learning outcomes. In H.F. O'Neil & R.S. Perez (Eds.) *Computer Games and Team and Individual Learning (pp. 21-38).* Amsterdam: Elsevier; Baker, E. & Delacruz, G.C. (2008a, April). *What do we know about assessment in games*? Paper delivered at the annual convention of the *American Educational Research Association*, Chicago; Betz, J.A., (1995-96). Computer games: Increase learning in an interactive multidisciplinary environment. *Journal of Technological Systems, 24*, 195.205; Clark, R.E. (1983). Reconsidering research on learning from media. *Review of Educational Research, 53*, 445-459.; Clark, R.E. (Ed.) (2001) *Learning from media: Arguments, analysis, and evidence*. Greenwich, CT: Information Age Publishing.; Clark, R.E. (2007). Learning from serious games? Arguments,

One example of such a virtual world is the use of Second Life. Through Second Life participants are able to create their own virtual world and identity , ie create their own avatar. Second Life residents can do most things humans do, ie explore, meet other residents, socialise, participate in individual and group activities, create buildings, trade virtual property, spend virtual currency, travel, etc. Second Life is for people aged 16 and over. [77] An example of Second Life being used in legal education is CyberOne: Law in the court of public opinion,[78] a module offered at Harvard Law School during 2006. As part of the module a mock trial was held on Berkman Island, the Second Life presence of Harvard's Berkman Center for Internet and Society.[79] Austin Hall, the Berkman Island courtroom, is designed to resemble a real life courtroom. Module participants took on avatars and played particular roles, with evidence brought in using media player screens.[80]

The disadvantage of using Second Life is the recognition that the design and deployment[81] of a learning game, such as a Second Life context, can be quite complex and require consider time and expertise. It will be interesting to see if Second Life in particular can attract sufficient numbers and be scaled to accommodate widespread use.[82]

Finally, some predict that the future of gaming is a next big wave in education and has potential literally change our educational and wider world.[83] This potential is seen from the fact that in the US alone there are reportedly over 175 million 'gamers' who will spend over 10,000 hours. McGonigal submits that the collaborative, motivational, design and other skills learned by gamers will give them a significant advantage.[84] According to McGonigal, games fulfil many human needs and will be an increasingly important future force as virtual and real-world realities merge ever closer.[85] Note also the use of games such as World Without Oil,[86] a simulation designed to brainstorm and avert the challenges of a worldwide oil

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evidence, and research suggestions. *Educational Technology, 47,* 56-59.; Clark, R.C. & Mayer, R.E. (2007). *e-Learning and the Science of Instruction*. Somerset, NJ: Pfeiffer.

[77] http://secondlife.com/

[78] http://www.blip.tv/file/62189

[79] http://www.simteach.com/wiki; Ongoing research about Second Life: http://secondliferesearch.blogspot.com

[80] http://cyber.law.harvard.edu/cyberone/wiki/Cybertrial_Post-Mortem

[81] Kankaanranta, Marja Helena and Neittaanmäki, Pekka, Designing and Use of Serious Games, Springer, 2008; Miller, Christopher Thomas, Games: Purpose and Potential in Education, Springer 2008; ;Aldridge, Clark, Learning Online with Games, Simulations and Virtual Worlds: Strategies for Onine Instruction, Jossey-Bass, 2009.

[82] Dannenberg, Ross A, Computer Games and Virtual Worlds: A new frontier in Intellectual Property Law, American Bar Association, 2010.

[83] See McGonigal, Jane, Reality Is Broken: Why Games Make Us Better and How They Can Change the World, Random House, 2011

[84] Ibid

[85] Ibid

[86] http://www.worldwithoutoil.org/metahome.htm

shortage, and Evoke,[87] a game commissioned by the World Bank Institute that sends players on missions to address issues from poverty to climate change.

Debates[88]

Debating is one of the oldest teaching methods and still one of the best.[89] It was a popular activity in medieval universities and, like most intellectual activities has its roots in Greek times. Debating teaches students to think critically, formulate arguments and advocate and defend a position.[90] By providing students with some elementary training in argumentation and debate, students also learn to weigh the strengths and weaknesses of evidence and arguments, related to the many legal issues which permeate the media. Almost all areas of Internet and E-commerce Law lend themselves to debating.[91]

Most debates require the participation of individual debaters, a timekeeper, chairperson, and judge/s. To be a successful classroom activity, students must be familiar with debating procedure, case construction and the rebuttal of arguments.[92] The duties of the speakers in order of presentation are as follows:

Procedure in a debate. There are many different debating formats. In Australia, one of the most popular involves teams of three speakers each. Each speaker has an equal period of time for presentation (eg 5 min). In some formats, the final speaker from each team is given additional time to summarise the debate from his/her side's perspective. The six speakers have the following responsibilities.

First Affirmative Speaker. States the topic, defines the essential terms; and if the topic requires a historical context, summarises its background. The speaker then outlines his/her team's case, indicates the points to be covered by his/her teammates; and then develops that portion of the case allocated to the first speaker.

First Negative Speaker: Introduces their team and outlines how the responsibilities for presenting the negative or opposition's case will be divided among the three opposition speakers. This first speaker must accept or take issue with the definitions put forward by the first affirmative speaker. If the definitions of the affirmative are

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[87] http://wbi.worldbank.org/wbi/news/2010/02/18/wbi-launches-evoke-crash-course-changing-world

[88] The material on debating adopted from Le Brun, M, Lansdell, and Clark, E (1989) *New Perspectives for Teaching Legal Studies,* Hobart, Law Foundation of Tasmania, pp 44-48

[89] Merodante, Richard, Formal Debate as a Pedagogial Tool in the College Classroom: available at: http://www.eric.ed.gov/PDFS/ED384943.pdf

[90] Bellon, John.(2000). A Research-Based Justification for Debate Across the Curriculum. *Argument and Advocacy* 36, 161-174. Available at: http://www.uvm.edu/~debate/pdf/empower.pdf

[91] Teacher's Guide to Introducing Debate in the Classroom: http://www.csdf-fcde.ca/english/resources/NLSDU_Teachers_Guide_to_Debate.pdf

[92] See resources for classroom debates: http://www.educationworld.com/a_lesson/lesson/lesson304b.shtml

rejected, the negative team must state why and offer a more acceptable definition. The points raised by the affirmative team should then be rebutted followed by a presentation of the negative team's case.

Second Affirmative Speaker: must both attack the first negative's position and repair any damage done by the first negative speaker to the first affirmative's arguments. Thereafter, the second affirmative should continue to develop their assigned portion of the Affirmative Team's case and supporting arguments.

Second Negative Speaker: This speaker's role is similar to that of the second affirmative. They must add to or extend the rebuttal of the first negative speaker and complete the presentation of the negative team's case and supporting arguments.

Third Affirmative Speaker: It is typical but not mandatory that this speaker develop a small portion of the affirmative team's case. More importantly, the last speaker for the affirmative must assess the main issues and supporting arguments in the debate, respond to the negative team's rebuttal and case and present a concise and persuasive summary of the affirmative team's positions supporting the proposition.

Third Negative Speaker. The final speaker for the negative or opposition's case must extend the negative team's rebuttal, deal with any new issues raised by the final affirmative speaker and summarise the case in favour of the negative team. Given in this format, the negative team speaks last, the final negative team speaker cannot introduce new arguments into the debate because the affirmative will have no right of reply. This last speaker is limited to summary of the opposition's case and rebuttal of the affirmative team's case.

Case Construction. It would require a separate book to detail fully the nature of case construction, but here are the basics. A case is a series of arguments or contentions which logically lead the audience to the desired conclusion regarding the debating topic or proposition. To formulate an argument, each debater should:

- State clearly what the speaker intends to prove
- Elaborate, ie give the facts (statistics, illustration, opinion of experts, studies, explanation and other evidence to support the point. Show the causal link between the evidence and how it proves the point being made and how it rebuts the arguments of the other side.

Rebuttal. A debater cannot just assert points to be true. Evidence (statistics, expert opinion, quotes, studies, etc) must be presented which supports the argument. The purpose of rebuttal is to prove that an opponent's claims are unsupported, illogical, outweighed by other evidence, unworkable, impractical, etc.

Challenges or tests of evidence may include the following:

1. Evidence cited by the opponent is out of date
2. No evidence was given to back up the point, it was only an assertion

3. The evidence is irrelevant
4. The source of the evidence is unreliable or discredited
5. The speaker did not interpret the evidence accurately
6. The authority cited was not in a position to know the facts
7. The authority cited is biased
8. The authority is contradicted by other authorities in the field

Fallacies/Logical Thinking:[93] Fallacious reasoning should be avoided in one's own case and challenged when such fallacies occur in the other side's case. Ten classic examples of fallacies include:

1. **Fallacy of a Hasty Generalisation.** Concluding that because something is true in one case, it is true in the majority or all cases.
2. **Fallacy of False Analogy.** Using a comparison which is in key ways unrelated to the condition to which it is compared. (eg. Comparing Australia to another country when there are significant differences between the two which make the comparison used invalid).
3. **Fallacy of Appeals to prejudice.** Using bias or prejudice as justification (eg "Everyone knows that big business is dominating this country." Or "All politicians are corrupt".
4. **Fallacy of attacking the person rather than the argument.** Arguments that are unfair personal attacks rather than fair challenges to the underlying argument (ad hominem)**.** Attacking the character of the individual or group supporting the belief rather than an analysis of the arguments involved (eg "Those arguing for free broadband to all Australians are just too lazy to pay for it. They should get off the dole and get a job so they can pay for it."
5. **Fallacy of Shifting Ground.** Abandoning the basis for an argument when it is untenable and challenged and then shifting to another position. Show that the team using an argument began the debate arguing on one ground and as soon as it was attacked they shifted to another ground. Obviously they do not know what they think or can't make up their minds.
6. **Fallacy of Appeal to the ignorance of the opposite:** This involves using the lack of evidence to support a truth, ie asserting that this is true because you can't prove the opposite or there is no evidence to the contrary. This appeal is fallacious because it assumes that the individual making the statement knows all the facts and does not recognise the possibility of contrary evidence. The mere fact that there is no evidence known at this time does not mean that the assumption is true.
7. **Fallacy of False Synthesis:** fallacy of assuming that what is true of the part is true of the whole. (eg. Citing high unemployment figures in Tasmania to prove that unemployment is high in Australia). Counter false synthesis by

[93] For an excellent resource regarding fallacies, see: http://austhink.com/critical/pages/fallacies.html . See also: http://www.logicalfallacies.info/

showing figures in other jurisdictions and point out that each state's economy must be considered on its own merits.

8. **Fallacy of Division:** This is the opposite of false synthesis. In this case the person fallaciously claims that what is true of the whole is true of each of the individual parts. Thus, a country may have an overall low unemployment rate, and yet it could be extremely high in one particular state.
9. **Fallacy of Equivocation:** using a word with two or more meanings in the development of an argument. This fallacy occurs when one uses words that have many meanings, eg "capitalism," "democracy, "responsibility", "freedom." To expose the fallacy requires accurate and specific definitions of terms to discern the specific meaning intended.
10. **Fallacy of false causation--post hoc ergo propter hoc (after this therefore because of this).** Assuming that just because an event occurs after another that the first event caused the second. Just because the standard test scores of Australian youth went down after the introduction of the internet, does not mean that the internet causes poorer performance in school. It is difficult to point to one law or policy and claim a causal relationship between the law or policy and subsequent. Also, the mere fact that two events are highly *correlated* does not mean that one *causes* the other.

Case Briefs

New and interesting cases involving Internet and E-commerce law are emerging all the time. Jurisdiction, for example, is an important but technical topic. For law students having had civil procedure, one might more deeply into the technical aspects. The specific cases are what make this topic come to life. Students might be asked to brief a case and present it to the class or do a moot (see discussion of moots below) in class where they argue the *Dow Jones v Gutnick* case for example.

Case Studies

Case studies are an excellent vehicle for learning. The area of E-Government, for example**,** is changing rapidly and many parts of the chapter content may already be out of date. One exercise might be to get students to divide up and updated some of the main areas. Use can also be made of the case studies involving e-conveyancing and especially e-health. It would be excellent to have a representative from a particular area come and speak to the class or have the class visit the agency to see what is happening in that area and get a sense of the challenges involved. This is also an area where students in small groups might be asked to go out into the field, visit a particular agency and develop a case study in some depth and report back on the progress towards e-government.

Discussion

Good teaching practice encourages cooperation and interaction among students. Discussion and cooperation are important skills given most students, once they are in the workforce, will work in teams. Learners should be required to participate in class (and their grade should depend on participation). Even in large lecture classes it is desirable to break away from lecturing and have students pair off with the person next to them and work together to answer a set question. It is important for the lecture to give thought ahead of time to what questions to ask. The question tasks should engage learners in the content. If you try group projects you need clear guidelines and grading procedures

Before lecturers have students engage in discussions, they should make sure expectations are clear. In fact, it is useful to have students start by focusing on the process of discussion and what makes for an effective discussion. Students can find discussions frustrating and a waste of time just about as often as faculty do. Students are unhappy when a few classmates dominate the discussion, when the discussion wanders off topic, and when students participated just for the sake of participating. The importance of listening should also be stressed. [94] Problems such as these can be prevented or significantly reduced when discussions are structured. For example, use a modular approach and give the discussion group a specific set of questions to be answered or topics to be discussed. This might be a set of questions about a reading, a set of review questions to test their knowledge, a list of criteria by which to evaluate a piece they have read, a video they have watched, and so on.

Lecturers should also develop a very limited set of discussion questions that do not have "known answers." Three or four questions (possibly distributed prior to the discussion or introduced at its beginning) can do much to focus and direct a discussion. If the questions are regularly returned to throughout the discussion, they effectively keep the discussion from drifting too far off topic. If you want a more thoughtful discussion, give them the questions ahead of time. Online discussions are especially useful because students can take time to think, reflect and compose their answer. If you have a discussion group, appoint a leader or have one elected and talk a little beforehand about what you expect of a discussion leader.

Students are more motivated to participate if contributions to a discussion "count." Instructors need to devise manageable grading systems and ones that make quality stipulations. Consider following in-class discussion exercises with a take-home essay that used themes and "lessons" from the discussion. Knowing that they will be using discussion content in an exam provides a powerful incentive for students to get involved in the exchange of ideas. Online discussion exchanges tend do a better job of developing critical thinking skills. They teach students how to make and support points in writing. For the instructor, the permanence of the record expedites the grading process. Rather than trying to keep track of who said what and at the same time facilitate the discussion, an instructor can review the record and more thoughtfully assess individual contributions. But in-class discussions are better at building instructor-student rapport, and they develop essential oral communication

[94] Griffiths, Sandra, 'Teaching and Learning in Small Groups,' In Fry, Heather (ed), A Handbook for Teaching, Chapter 6, Taylor & Francis, 2009

skills such as being able to "think on one's feet." No doubt in most professional contexts, students will be having discussions in both kinds of formats.[95]

Examples of different types of discussion groups include:

Brainstorming. Brainstorming encourages creativity and gives the reticent student the opportunity of participating without direct and immediate comments about his/her contribution. The lecturer introduces the topic brainstorming, ie generate as many ideas as possible with judgement and evaluation held in abeyance. Once the list is compiled then a further discussion about the value of each suggestion may be held.

Buzz Group. Students divide into groups of 4-6. A current event or short hypothetical is presented and students with a representative reporting from each group. The class as a whole then looks for commonalities and other insights from the reports.

Panel discussion. A panel and leader are chosen to discuss a topic in front of the class. The leader opens and summarises the discussion and acts as a chairperson. Panel members speak informally without set speeches. Time is reserved at the end for questions, comments etc from the audience.

Symposium. Topic for discussion is broken into sub-topics. Each sub-topic is addressed by someone well informed about the topic. This could be a student who has researched the area or an invited speaker. A symposium leader opens the proceedings, introduces the topic and speakers and summarises and thanks speakers at the end of a question period after the symposium speakers have finished.

Concentric circles. Students form an inner and outer circle. The inner circle discuss a topic while the outer circle listen in. After a period of time, the two circles swap positions.[96]

Polling, Clickers, Student Response Systems

Most universities today have the facility for instantaneous online student polling of student responses.[97] Faculty who use polling strategies, especially clickers, report increased student participation, improved attendance, greater motivation, and enhanced learning made possible by knowledge of the views of others.[98] However, it is unclear whether it is the clicker or the more active learning strategy that is the major cause for the improvement. In addition to the 'game' approach which students like, student response systems also enable students to participate in discussions anonymously and thus feedback can be candid and honest and made without fear that others may criticise their views or ridicule them. Clickers, in addition, to actively

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[95] Sautter, P. (2007). Designing discussion activities to achieve desired learning outcomes: Choices using mode of delivery and structure. *Journal of Marketing Education*, 29 (2), 122–131.

[96] Fawcett, William, Learning Thru Discussion, Sage Publications, see also: Using the Learning Thru Discussion (LTD) Approach to Teaching for Thinking, available at: http://www.insightassessment.com/pdf_files/LTD.pdf

[97] Bruff, D. (2009). *Teaching with classroom response systems: Creating active learning environments*, San Francisco: Jossey- Bass;

[98] Davis, Barbara G, Tools for Teaching, John Wiley & Sons, 2009, p. 453 ff

engaging students also provide them with immediate feedback as well as allowing the lecturer to gauge student understanding—both of which are important in improving student outcomes.[99]

Some best practices for implementing clickers in the classroom include:

> "Best Practices for Implementing Clickers in the Classroom*
> 1. Keep slides short to optimize legibility.
> 2. Keep the number of answer options to five or fewer.
> 3. Do not make the questions overly complex.
> 4. Keep voting straightforward—systems allow complex branching, but keep it simple.
> 5. Allow sufficient time for students to answer questions. Some general guidelines:
>
> - Classes of fewer than 30 students: 15–20 seconds per question
> - Classes of 30 to 100 students: 30 seconds per question
> - Classes of more than 100 students: 1 minute per question
>
> 6. Allow time for discussion between questions.
> 7. Encourage active discussion with the audience.
> 8. Do not ask too many questions; use them for the key points.
> 9. Position the questions at periodic intervals throughout the presentation.
> 10. Include an "answer now" prompt to differentiate between lecture slides and interactive polling slides.
> 11. Use a "correct answer" indicator to visually identify the appropriate answer.
> 12. Include a "response grid" so that students know their responses have registered.
> 13. Increase responsiveness by using a "countdown timer" that will close polling after a set amount of time.
> 14. Test the system in the proposed location to identify technical issues (lighting, signal interference, etc.)
> 15. On the actual day of the session, allow time to set out clickers and start system.
> 16. Rehearse actual presentation to make sure it will run smoothly.
> 17. Provide clear instructions on how to use the clickers to the audience.
> 18. Do not overuse the system or it will lose its "engagement" potential."[100]

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[99] Robertson, L. J. , "Twelve Tips for Using a Computerized Interactive Audience Response System," *Medical Teacher*, Vol. 22, No. 3, 2000, pp. 237–239; D. Duncan, *Clickers in the Classroom* (Upper Saddle, N.J.: Addison-Wesley, 2005); and Turning Technologies Audience Response Systems, Higher Education Best Practices, <http://www.turningtechnologies.com/highereducationinteractivelearning/bestpractices.cfm> (retrieved January 24, 2007).

[100] Martin, Margie, 'Clickers in the Classroom an Active Learning Approach,' Educause Quarterly, Vol 30(2), 2007, available at:

It is also important to give careful thought to the types of questions to ask in relation to such in-class activity. Examples of impactful questions include:

1. Best answer questions. Require students in small groups of 2-4 to apply a set of criteria to determine which is the best alternative out of a choice of several.
2. Peer assessment. Students can often be reluctant to criticise their peers in public. A clicker poll is more likely to provide honest feedback about student assessment of each other's performance, and of their lecturer's performance. Such formative feedback can be instrumental in helping a lecturer making adjustments that will turn an average course into a great course.
3. Ask students to indicate by a click whether they have been impacted by a particular event that exemplifies a course concept. This can help students realise that they are not alone in their experiences and perceptions.
4. Test student understanding. Click polls are also very useful in gathering data about how well students are understanding course material. Through the anonymous poll students won't be embarrassed and the lecturer will address the genuine concerns students are experiencing.[101]

Taking advantage of the fact that most students have mobile phones, technology now exists that enables students freely to use their mobile phones to participate in classroom polls.[102] A lecturer can also use twitter and post it on the board so that students, either coming in online, or via texting or sending a message via their computer, can tweet comments and questions that can be dealt with by the lecturer.[103] Early empirical research suggests that the use of technologies[104] such as twitter can have a significant positive impact on student engagement.[105]

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[101] Crouch, C. H., & Mazur, E. (2001). 'Peer instruction: Ten years of experience and results,' *American Journal of Physics*, 69(9), 970-977; Fagen, A.P., Crouch, C.H., & Mazur, E. (2002), 'Peer instruction: Results from a range of classrooms,' *The Physics Teacher*, 40(4), 206-209; Mazur, E. (1997). 'Peer instruction: A user's manual,. Upper Saddle River, NJ: Prentice Hall.

[102] Freeman, Michelle, and Snyder, Kurt, *PollEverywhere.com: Turning Cell Phones into a Tool for Student Engagement,* Inside the School, Feb 20, 2009, *at:* http://www.insidetheschool.com/articles/polleverywhere-com-turning-cell-phones-into-a-tool-for-student-engagement/ .

[103] Bart, Mary, 'Professors Use Twitter to Increase Student Engagement and Grades *'Faculty Focus,* Jan 18, 2011, at: http://www.facultyfocus.com/articles/teaching-and-learning/professors-use-twitter-to-increase-student-engagement-and-grades/

[104] Wankel, Charles, *Cutting-Edge Social Media Approaches to Business Education: Teaching with Linkedin, Facebook, Twitter, Second Life, and Blogs* (PB IAP Press 2010)

[105] Junco, R, Heiberger, E and Loken, E, *'The effect of Twitter on college student engagement and grades,' Journal of Computer Assisted Learning*, November 2010: available at: (Abstract: http://onlinelibrary.wiley.com/doi/10.1111/j.1365-2729.2010.00387.x/abstract) full article: http://onlinelibrary.wiley.com/doi/10.1111/j.1365-2729.2010.00387.x/pdf

Podcasts, Blogs, Twitter, You Tube and other Resources

In addition to the basic material in the text, lecturers should draw upon a wealth of supporting material from the web. Collections of talks by leading experts (eg TedTalks)[106] are an invaluable source as well as many podcasts such as Lawyer2Lawer,[107] Hearsay Culture.[108] Today, leading authors are likely to have a blog and hit the leading podcasts and other outlets in promotion of their book. Such programs provide excellent supporting material for teaching. In fact, one learning outcome for the course should be encouraging students to get into the habit of regularly listening to and tracking developments in Internet and E-commerce Law so that their learning will continue for life. One example: in talking about the impact of the Internet on democracy one could assign students to listen to the ABC Broadcast, Future Tense interview discussing the future of elections and online campaigning. The speaker is American political strategist Joe Trippi whose use of technology in the Dean Campaign forever changed the face of American campaigning and played a major role in the election of President Obama.[109] You Tube also contains a wealth of material relevant to Internet and E-commerce Law. This ranges from talks by leading legal academics and lawyers, short news reports, business and technology programs that treat various legal and related topics, reports on cases, and much more covering almost every aspect of the course.

Teaching as Story Telling

"Thought flows in terms of stories -- stories about events, stories about people, and stories about intentions and achievements. The best teachers are the best storytellers. We learn in the form of stories." -- *Frank Smith*

One of the oldest and most impactful teaching strategies involves telling stories. Lecturers can tell stories to paint a vision or strategic direction, share a lesson, convey values or illustrate desired behaviours. Stories also have an ability to forge deeper connections between people, so inspiring them to focus their attention and take action. As Terrence Gargiulo said, “The shortest distance between two people is a story.”[110] Teaching as storytelling is both an individual teaching strategy and a holistic approach to teaching, though we are using it here in the more narrow sense as one strategy.

Stories work for lecturers as a successful communication and engagement technique for several reasons. Firstly, stories convey emotion effectively, and emotion united with a strong idea is persuasive. We remember what we feel. And our emotions inspire us to take action. Secondly, stories are concrete and have the ability to transport us imaginatively to
a place where we can visualise the events being recounted. Thirdly, stories are memorable: we are up to 22 times more likely to remember a story than a set of

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[106] http://www.ted.com/
[107] http://legaltalknetwork.com/podcasts/lawyer-2-lawyer/
[108] Stanford Center for Internet and Society: http://cyberlaw.stanford.edu/freetags/hearsay-culture?page=1
[109] elechttp://mpegmedia.abc.net.au/rn/podcast/2011/02/fte_20110203.mp3
[110] Gargiulo, T. L. (2007). *Once Upon a Time:Using Story-Based Activities to DevelopBreakthrough Communication Skills*. San Francisco, Pfeiffer.

disconnected facts (such as presentation dot-points).[111] Lastly, stories represent a pull strategy, unlike the push strategy used when we argue in a more traditional way. Stories engage the listener, pulling them into the story to participate in the conversation, rather than telling them what to think.[112]

Stories in Internet and E-commerce Law can come from many sources, including cases, recent articles in the news, examples of successful entrepreneurs in e-commerce, stories of clients who have used the law to manage risks and achieve organisational objectives and even fiction such as novels, films and other media. For example, instead of just talking about the requirements for a patent involving e-commerce, bring in the actual documentation for a patent and tell the story surrounding it. Students remember stories, they are engaged by them and they help to make abstract theory come alive and understanding deeper.

Flowcharts and Tables

Flowcharts are one way to assist students, especially those who are predominantly visual learners, in gaining a better understanding the law. It can also be a power tool for lawyers to explain the law to business clients, who are more accustomed to seeing things represented in the form of process maps and other visual representations. Proprietary software such as VISIO[113] or MindMaps[114] are very helpful in developing flowcharts, though basic charting facilities come today with most software. Microsoft Excel can also be useful in preparing tables or charts. For an example of a flowchart see the case study on E-health in Chapter 13 on E-government.

Checklists

Checklists are among the oldest of tools, but needed more than ever in today's complex world. It is not surprising that surgeries, airplane pilots and other areas of activity that require the highest levels of execution, consistency applied use checklists.[115] The best commercial lawyers also use checklists to make sure they consider everything that should be considered in drafting documents, giving legal advice or preparing for trial. Having students draft checklists for each chapter of the text would be an excellent exercise. Alternatively, teachers might give students a simulated client who wants to set up a designated business online. Have them draw

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[111] . Bruner, J. (1986). *Actual minds, possible worlds*. Cambridge, MA, Harvard University Press.

[112] Simmons, A. (2006). *The Story Factor: Inspiration, Influence, and Persuasion Through the Art of Storytelling*. New York, Basic Books.

[113] http://visiotoolbox.com/2010/trial-downloads.aspx?cid=RXGOOGAUSSNSV&gclid=CIuUgeOBhacCFQL5bgod0WwNeA

[114] www.thinkbuzan.com/Software . See also PersonalBrain: http://www.thebrain.com/products/personalbrain/download/ ; ; http://www.mindtools.com/pages/article/newISS_01.htm . FreeMind is an open source mindmapping tool: http://freemind.sourceforge.net/wiki/index.php/Download

[115] Gawande, Atul, Checklist Manifesto: How to Get Things Right, Picador Press, 2011.

up a checklist of all the things that must be considered. For example in the area of copyright material on a website, the checklist might include the following:

a. Has the company evaluated the use of copyrighted materials on their website?
b. Does the company own, licence or have assigned rights to all images, including artwork and photographs?
c. If it is a site operating in the US, has the company registered its website with the US Copyright Office?
d. Does the site allow document attachments? If so, are these protected with digital watermarks to help trace unauthorised use.
e. Does the site post a general copyright notice encompassing all images, text, sound, code, and content?
f. Have the notices been embedded within the HTM or other code?
g. Does the site use any clipart or other graphics that may need copyright clearance?
h. Does the company have the right to use the HTML or other code? Have your client's programmers borrowed any proprietary content from another site?
i. Does your client company have the rights to this code or have these rights been retained by the programmer? Need to check copyright policy for employees and independent contractors.
j. Does the website have video, audio or other sound that requires copyright clearance or licence agreements?
k. Is the text on the site original in content or should attribution be made to other parties?
l. Does the site contain a notice to users of 'terms and conditions of use' of material on the site?

Other checklists for a client operating on the web would cover trade marks, possible business method patents, trade secrets, risks of being subject to liability in foreign jurisdictions, moral rights concerns, privacy, accessibility to people with disabilities such as loss of sight, or colour blindness, internet taxation, concerns about fraud/consumer protection, online contracting procedures, security, provision of payment facilities, dispute resolution. Finally, search online for free and proprietary checklist software that makes it easy to list and track the various tasks involved with a legal compliance audit.

Current Events

Especially in a course as topical, diverse and rapidly changing as Internet and Ecommerce Law, it is important to maintain the flexibility of bringing in current events. Even better is to build this into the design of the course, for example, by requiring a student or group of students to present a topical example from the news relating to the course. Give it a name, such as "What's Hot This Week". Make your expectations clear about the kinds of items you would like reported on, the format of

the report, length and so on. To make students take it seriously, you might also assign some marks to it.[116]

Use of Legal Forms

Looking back on my own legal education, it is striking how divorced much of it was from the actual practice of law. One area in which this is so is the use of forms, which were seldom seen in law school, but part of the everyday reality of a practicing solicitor. Yet, forms can be very instructive. So, instead of just talking abstractly about copyright licences, online contracts, web development agreements, and so on—bring a sample agreement into the classroom and go through it so that students understand the intelligence in the design. Talk about why forms are used and the value they create in terms of risk management, quality control, guidance and serving as a checklist for the solicitor and the parties. In fact, the use of forms in commerce was an early example of knowledge management. Have students draft some of their own forms in response to a set problem.

Composing a hypothetical[117]

Most law exams typically use hypothetical or factual scenarios that students must analyse and resolve. It is also possible to turn one's class into a Geoffrey Robertson style "It's Hypothetical' with students role playing particular parties/groups with appropriate positions taken and arguments advanced. Students can also learn much from composing their own hypothetical. The footnotes contain some examples and resources in relation to o law hypotheticals.[118] Appropriately constructed and seriously prepared and executed, the use of such hypothetical exercises can represent teaching at its best. [119]

Beyond the Walls of the Classroom: guest speakers, field trips, webinars.

So much is happening in the field of Internet and E-commerce Law and across so many areas of society, that it is an easy area to bring in guest speakers to present case studies, share their experiences in dealing with the types of legal issues covered in

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[116] See Twenty-five Great Ideas for Teaching Current Events, available at: http://www.educationworld.com/a_lesson/lesson/lesson072.shtml ; Some excellent ideas are also found in:
Sternheimer, Karen. and Raskoff, Sally. "Teaching Sociology Using Current Events" *Paper presented at the annual meeting of the American Sociological Association, Hilton San Francisco & Renaissance Parc 55 Hotel, San Francisco, CA,*, Aug 14, 2004 <Not Available>. 2009-05-26 http://www.allacademic.com/meta/p109719_index.html; Weir, Michael, Ways to Make the Teaching of Property Law More Interesting, *Journal of South Pacific Law* (2007) 11(1), 107 available at: http://www.paclii.org/journals/fJSPL/vol11no1/pdf/Weir.pdf

[117] http://www.guls.org/images/Mentoring/writing%20a%20hypothetical.pdf. You can get copies of Geoffrey Robertson's "It's Hypothetical" programs at: http://forums.whirlpool.net.au/archive/395104

[118] http://www.cyberlawcentre.org/seng4921/cse_hypotheticals.htm Cyberspace Law and Policy Centre, UNSW. Law Week Hypothetical: http://www.legalaid.qld.gov.au/Lists/newsitems/Attachments/22/hypotheticalflyer.pdf ; Street Law hypothetical: https://sites.google.com/a/westsacprep.org/street-law/home/hypotheticals

[119] Nilson, Linda Burzotta, Teaching At Its Best, John Wiley & Sons, 2010

this course and offer practical examples of how internet and e-commerce law and policy play out in real life. Examples include: Federal police person working in cybercrime; government public servant in charge of enabling services to be offered online and interactively; lawyers advising clients about e-commerce; leaders from independent organisations dealing with particular issues involving the Internet, key government officials dealing with important legal issues such as privacy.[120] In addition to speakers coming in, it is also possible to bring the class to the workplace. The use of Webinars can also be an excellent vehicle for bringing experts and workplaces from all over the world to the students and vice versa.[121]

Creativity[122]

"It is the supreme art of the teacher to awaken joy in creative expression and knowledge." Albert Einstein

The list of teaching strategies above is far from exhaustive. The challenge is for lecturers to be creative and engage with students, conduct research on what works best. It is a surprise, for example that the arts, have only occasionally been deployed in law courses. Yet, I have known some brilliant teachers who use song, poetry, music, drama and other expressions of creativity to explore concepts and allow students the vehicle for expressing creatively what they know. For example, I experimented with a an Internet Law class taught in China, comprised mostly of senior bureaucrats, and told students at the beginning of the class that they would have to make a final presentation using some type of creative expression to articulate what they had learned. I was astonished at their burst of creativity, using traditional Chinese instruments, song, dance and more to make it an unforgettable experience for all involved. Therefore, in your teaching, be creative, have fun and tap into all your talents and those of your students in making the class a memorable and even moving learning experience. As an unknown author wrote: "A rock pile ceases being a rock pile the moment a single man contemplates it, bearing within him the image of a cathedral." We need creative teachers and students who today can imagine a better future and have the skills, talent and determination to make it tomorrow's reality.

An Increasingly Electronic and Interactive World of Learning

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[120] Scannell, James J. and Simpson, Kathleen, *Shaping the college experience outside the classroom,* University Rochester Press, 1996.

[121] Yendol-Hoppey, Diane and Dana, Nancy Fichtman, *Powerful Professional Development: Building Expertise Within the Four Walls of Your School*, Corwin Press, 2010.

[122] Amabile, T. M. (1983). *The social psychology of creativity.* New York: Springer-Verlag. Amabile, T .M. (1996). *Creativity in context.* Boulder, CO: Westview; Sternberg, R. J., & Lubart, T. I. (1995). *Defying the crowd: Cultivating creativity in a culture of conformity.* New York: Free Press; Sternberg, R. J., & Williams, W. M. (1996). *How to develop student creativity.* Alexandria, VA: Association for Supervision and Curriculum Development.

The world of print is rapidly moving to predominantly digital content.[123] Individual students and institutions have invested in all kinds of tablets, iPads, Kindle and other technologies. The modern university has multiple learning devices and modalities. The interoperability of such devices is also constantly improving with continual gains in speed, bandwidth, affordability and mobility. Such developments will require to re-define relationship between the content, student and the faculty. In future it will be far more interactive and enabling. Courseware will turn to course-smart software that will provide various learning applications to students providing practice experience, feedback and far greater interaction. Homework solutions, assessment and other software tools, once supplementary, are increasingly becoming the core. These and other societal changes will challenge traditional models of learning and no doubt bring about new models for the future.

Part III: Research About Excellence in University Teaching

1: Before students care how much you know, they need to know how much you care.

'Students learn what they care about, from people they care about and who, they know, care about them." -Barbara Harrell Carson

One of the most important aspects of effective teaching is to get to know your students and get them to know each other. It is thus worthwhile to spend a major part of the first class in doing an 'introduction' exercise so that you get to know names and students get to know each other.

Related to this notion of the personalisation of learning is the seminal work of Michael Polanyi. Polanyi rejected the mechanistic, value free notion of science. Polanyi contended that knowing and especially creative acts like discovery involve strong personal feelings and commitment. In this sense, "we know more than we can tell.'[124] Polanyi used the term 'tacit knowledge normal humans possess (also called informal knowledge) to refer to this pre-logical phase of knowledge. This tacit knowledge is based on one's emotions, experiences, intuition, insights, observations gained through our interaction with others and the world. ' Much of the knowledge and skill of the expert is in tacit knowledge that is difficult to make explicit. Thus, the field of knowledge management refers to techniques to take tacit knowledge of the expert and make it explicit so that it can be replicated. In professional settings, the role of tacit knowledge in expertise has been further developed by Elliot Eisner,[125] Donald Schön[126] and Chris Argyis.[127]

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[123] Striphas, Ted, *The Late Stage of Print: Everyday Book Culture, From Consumerism to Control*, Columbia University Press, 2011. John B Thompson, Books in the Digital Age, Polity Press 2005

[124] Polanyi, Michael, *The Tacit Dimension,* Doubleday & Co, 1964, p. 4.

[125] Eisner, E. W. (1985) *The Art of Educational Evaluation. A personal view*, Barcombe: Falmer.; Eisner, E. W. (1998) *The Enlightened Eye. Qualitative inquiry and the enhancement of educational practice*, Upper Saddle River, NJ: Prentice Hall.

2. Help students to relax and learn and not be afraid of failure

'Education is the ability to listen to almost anything without losing your temper or your self-confidence.' Robert Frost

Feelings of fear, isolation and threat are not conducive to effective learning. Rather, students learn best when they are relaxed, feel comfortable about practicing something new—knowing that it is ok to make mistakes and that is by making mistakes and having lots of try's is how they learn.[128] If students are fearful of failure, embarrassed about making fools of themselves in front of others and generally fearful, they will not be able to relax and give their best. Fear closes the mind. 'The human mind is like an umbrella. It functions best when open.' -Max Gropius

Student fear can manifest itself in student apathy, reluctance to engage in discussions and other behaviour. Some strategies to alleviate student fear include:

- Constantly remind students that they have the ability to do their assignments. Stress that you support them, that you expect them to work hard to succeed and that failure is not an option
- Include real world examples so that students constantly see the relevance of what they are studying.
- Take timeout to ask students how they are feeling about the class and their learning.
- Don't wait till the end of the course to do an evaluation. Do a mid-term survey so that you can learn from the feedback and make adjustments as required. Students will quickly learn that you care about how they feel about their own learning.[129]

In summary, it is important to pay attention to learning climate so that students are focused on relaxing and doing their best. Take time out from coverage of content to ask students how they feel about the course, their learning and progress they are making. Ask students for and be open to suggestions and on how to improve the learning experience. Make adjustments as required. [130]

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[126] Schön, D. A. (1991) *The Reflective Turn: Case Studies In and On Educational Practice*, New York: Teachers Press, Columbia University.
[127] Argyris, C. and Schön, D. (1974) *Theory in practice: Increasing professional effectiveness*, San Francisco: Jossey-Bass.
[128] Argyris, C.and Schön, D. *Organizational Learning*. Reading, MA.: Addison-Wesley, 1985; Kotter, J. P. & Heskett, J. L. *Corporate Culture and Performance*. N.Y.: Free Press, 1992.
[129] Cohen, Jonathan, Social, Emotional, Ethical, and Academic Education: Creating a Climate for Learning, Participation in Democracy, and Well-Being, *Harvard Educational Review*, Volume 72(2), Summer, 2006, pp 201-237.
[130] Senge, P. M. *The Fifth Discipline*. NY: Doubleday Currency, 1990.

3. Use the Full Range of Taxonomy of Learning to Create Significant Learning Experience for Your Students

It is helpful in designing classes, asking questions and considering your teaching to think of the whole range of activities that are reflected in Bloom's taxonomy of learning.[131] Is the content coverage (Knowledge) adequate and are students learning to reiterate that content in their own words, ie have they made that **knowledge** their own. Do they show a deep **understanding** of the course concepts? Can they use the concepts to solve problems and analyse new situations. Can students **synthesize** the course information and relate it to their prior learning and experiences? Can they **evaluate** what they have learned and think critically about it.

Also useful is Fink's taxonomy of significant learning which offers a guide to designing your course and course activities so that significant learning occurs.[132] Fink defines learning as something which brings about change in the learner and involves five types of experiences. Importantly, in contrast to Bloom's learning taxonomy, Fink's taxonomy is relational rather than hierarchical:

> • ***Foundational knowledge.*** At the base of learning is knowledge about a content area in which they gain a perspective about what is involved, how things are defined, major ideas and basic principles related to a particular topic. Foundational knowledge provides the platform of understanding from which students experience other types of learning. Related to this topic is that of deep and surface learning. Much foundational knowledge is surface learning upon which to build a deeper understanding, integration and synthesis as the student continues to learn.[133] An example of foundational knowledge would be the concept of jurisdiction, the types and requirements of jurisdiction, and the challenges presented by e-commerce which runs across jurisdictional lines.
> • ***Application learning*** in this type of learning students learn to engage in some new type of action such as critical thinking, creativity, or practical application. For example, students might be given an existing case dealing with the issue of jurisdiction in cyberspace. They then can be presented with a problem with a new set of facts and have to use their understanding to apply it to the new facts, analyse the case and reason to a conclusion about whether a court would have jurisdiction in the problem presented. Application learning allows students to see how their new learning is useful.
> • ***Integration*** occurs when students make connections between ideas, principles, or people. People. For example, it is common in teaching Internet and E-commerce law that students say they now look at a web page in a whole new light. They are able to see the legal architecture and connections between copyright, accessibility, privacy, and other legal doctrines as they apply to the reality of a particular website. They are also able to see how legal design

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[131] See, Lori W, Krathwohl, David R, and Bloom, Benjamin Samuel, *A taxonomy for learning, teaching, and assessing: a revision of Bloom's taxonomy of educational objectives*, Longman, 2001.
[132] Fink, L Dee, *Ceating Significant Learning Experiences*, John Wiley & Sons, 2003.
[133] See Biggs, J. (2003*). Teaching for quality learning at University* (2nd ed.). London: The Society for Research into Higher Education & Open University Press.

merges with other aspects such as artistic design, the underlying business model and so on.

• ***The Human dimension of learning.*** When learning is at its best there is also a human dimension in which students learn something about themselves and others. In engaging with others they learn how to communicate, how to collaborate with others, how to lead a discussion group, and so on. They may also learn that this topic (eg online contracting) which they thought would be boring and scary is actually one of the most exciting areas of the law. They learn about the social implications of what they are studying. For example, if the lecturer used the wikileaks scandal as an example, they would learn how one small group could use the internet to have a world-wide impact on governments, on societies. Some students may discover that this is the area of law that they want to specialise in once they graduate..

• ***Caring .*** At its most intense a learning experience can also change the way a student cares about something. For example, a student in Internet and E-commerce Law may enter the class with only the vaguest notion of privacy. Studying the law of privacy, land earning how to apply it to assess the level of privacy protection on a particular website, may lead the student to now care deeply about and be concerned about the level of privacy protection in society in general and with all those entities which collect, hold and use personal information about themselves. When students care about something, they then have the energy they need for learning more about it and making it a part of their lives. Without the energy for learning, nothing significant happens. This is also a good reason to allow students choices, for example in an assignment, to pursue in greater depth a topic that they care about and are even passionate about.

• ***Learning how to learn*** involves students, through their course experience learning something about learning itself. For MBA students, doing this course, it might mean learning how lawyers think and how they use the law to advise a client about managing risks and achieving organisational strategic objectives. Working on a major assignment may teach them that they are able to be a self-directed learner, manage a project and use the law to analyse the legal risks involved in a particular context. Such learning enables students to continue learning in the future.

4: Ask questions dealing with 'how','why', and 'what if'

'I don't pretend we have all the answers. But the questions are certainly worth thinking about.' -Arthur C. Clarke

The great majority of education research is focused on the cognitive dimensions of learning, for instance, the acquisition and retention of knowledge and skills. Less attention has been given in the literature and in the design of education and training itself to motivational variables and their influence on performance. [134] Understanding student and teacher motivation and developing strategies to foster motivation for

[134] O'Neil, Harold F. and Drillings, Michael, Motivation: Theory and Research, Roudledge, 1994.

students at all levels of performance are essential to effective teaching.[135] Lecturers should get to know their students and their motivational orientation to learn and design appropriate strategies to optimize those orientations and direct them towards the academic learning goals of the course..[136] .

5: Don't let content dictate the curriculum.

Plutarch noted that 'The mind is not a vessel to be filled, but a fire to be ignited.' The amount of knowledge in any discipline has exploded and continues to expand rapidly. Yet, the number of teaching weeks and time allocated to teaching has remained fixed, and in some cases, even diminished. It must also be realised that today's knowledge will be quickly out of date. Indeed, given the gap between writing the text and publishing it, the book is already out of date on the date it is released. While ***Internet and E-commerce Law*** provides a huge amount of information—more than you will ever need in one course. Covering all this information is neither possible nor desirable.[137] In fact, best practice in curriculum design points to the fact that teachers should consider learning objectives and outcomes first, before looking at the specific content. Yet, I suspect, many academics look first to the content and consider how they can get as much information as possible into the few teaching weeks available. [138]

It is thus highly recommended that Lecturers cover some chapters in depth and others by way of overview. Still other chapters can be left as 'optional' for students who may choose to read them if they have a particular interest in that area or choose to deal with it in one of their assignments. This strategy frees the lecturer to focus on skills and deeper learning and does not burden students with learning a lot of content that may likely be out of date in the near future. 'If you think of the Internet as a place to "look up stuff" you're missing the best part.'[139]

It is also important to utilise the diversity among your students in terms of age, experience, ethnicity, gender, formal education, etc to add value to the course.[140] International students can be especially valuable.[141] Given the global influence of the internet and its variable development and impact in different countries, international students have much to offer to the course through their differing

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[135] Alderman, Kay, Motivation For Achievement: Possibilities for Achievement and Learning, Lawrence Erlbaum Associates, 2004

[136] Brophy, Jere E, Motivating Students to Learn, Taylor & Francis, 2010.

[137] Clark, R. E. and Elen, J., (2006). When less is more: Research and theory insights about instruction for complex learning. In R. E. Clark and J. Elen (Eds.) Handling Complexity in Learning Environments: Research and Theory. London: Elsevier. 283-295.

[138] Nilson, Linda B, Teaching at Its Best, John Wiley & Sons, 2010

[139] Saroyan, Alenoush and Amundsen, Cheryl, Rethinking teaching in higher education: from a course design workshop to a faculty development framework, Stylus Publishing, LLC, 2004.

[140] Inoue, Yukiko, Technology and diversity in higher education: new challenges, Idea Group, Inc, 2007.

[141] Dalglish, Carol and Evans, Peter, Teaching in a Global Classroom, Edward Elgar Publishing, 2008

experiences, knowledge of other cultures and fresh perspectives can add much value.[142]

6. Use the full range of resources available to you.

The textbook is but one source of information. Encourage students to go to original sources, such as the legislation or the full case report. Also, take advantage of current events and use them to help enlighten points about text material and demonstrate the ongoing relevance and application of that material. Encourage students to be on the lookout for recent news events and developments that are relevant to the course.[143]

7: Build on what your students know. Respect and value the benefits of diversity.

Your teaching is more likely to hit the mark in terms of student outcomes if it builds upon what the students already know. Learning theories such as, constructivism, argue that humans generate knowledge and meaning from an interaction between their experiences and their ideas. Piaget[144] is generally regarded as the founder of constructivism though many have contributed to it since.[145] Constructivism posits that learning is an active, constructive process in which the learner is an active constructor of meaning.[146] People actively construct or create their own subjective representations of objective reality. New information is linked to prior knowledge, thus mental representations are subjective.[147]

Students will enter your classes with different views about the academic subject matter under consideration. Some of these views may border on sheer superstition. However, it is important that we take students from where they are to where they need to go. Students learn better when we present evidence for a fact or idea and permit students to debate the evidence with one another. This approach requires you to play a greater role in promoting options to various points of view

8. Cater to Different Learning Styles and Multiple Intelligences

'We think too much about effective methods of teaching and not enough about effective methods of learning.' John Carolus

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[142] Ibid.

[143] There are many excellent collections of teaching resources, several of which have been referred to in this article. See eg, http://www.cmu.edu/teaching/resources/index.html

[144] Piaget, Jean. (1950). *The Psychology of Intelligence*. New York: Routledge.

[145] Singley, M. K., & Anderson, J. R. (1989). The Transfer of Cognitive Skill. Cambridge, MA: Harvard University Press. See generally, Eberly Center for Teaching Excellence, Learning Principles Carnegie Mellon University, available at: http://www.cmu.edu/teaching/principles/learning.html

[146] Vygotskii, L.S. (1978). *Mind in society: The development of higher mental processes*. Cambridge, MA: Harvard University Press

[147] Sweller, J. (2003). *Evolution of human cognitive architecture. In B. Ross (Ed.), The Psychology of Learning and Motivation*. San Diego: Academic Press.

Human beings learn in different ways and we each have particular preferences about how we best learn. Some students are predominantly auditory learners. Others are visual learners. Others still learn best by activity and doing. Some learn best by discussing the subject matter with others. Accordingly, it is important to have a range of teaching strategies that cater to learning styles.[148] You may even want to have your students take a learning styles inventory so you can more specifically adapt your teaching strategy to the particular class. For example, if you discover that the majority of the class are kinaesthetic learners who learn best by doing, consider getting students on their feet, working with models and having to develop models, for example of electronic contracting, that they have to explain to others.[149]

9. 'Nothing Great Was Ever Achieved Without Enthusiasm'

This famous quote from Ralph Waldo Emerson certainly applies to teaching. Studies of effective teaching by Voss, for example show that students want lecturers to be knowledgeable, enthusiastic, approachable, and friendly.[150] If you are enthusiastic, relaxed and enjoying the experience, so too will your students. Do not be the lecturer Camus referred to when he wrote: "Some people talk in their sleep. Lecturers talk while other people sleep." [151] Being approachable and friendly supports the earlier point about the importance of establishing a friendly and supportive climate for learning.

10. Continue to Improve, Keep Learning and Enjoy the Journey

"Who dares to teach must never cease to learn." - John Cotton Dana

Hopefully, you will work in an organisation committed to continuous improvement in teaching.[152] Indeed, the most effective departments, work hard to create and sustain a culture of teaching improvement. [153]

Learning about teaching, your students and subject matter expertise never stops. It is important to dedicate yourself to continuous improvement and think of teaching as a lifelong journey.[154] Preparing a portfolio is an effective way to do this.[155] A

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[148] Sims, Ronald R, The Importance of Learning Styles: understanding the implications for learning, course design, and education, Greenwood Publishers, 1995.

[149] Armstrong, Thomas, Multiple Intelligences in the Classroom, *Association for Supervision and Curriculum Development*(3rd Edition) ASCD) 2009

[150] Voss, Roediger , Thorsten Gruber, (2006) "The desired teaching qualities of lecturers in higher education: a means end analysis", Quality Assurance in Education, Vol. 14 Iss: 3, pp.217 - 242

[151] *Murray, Harry G,* 'Classroom teaching behaviors related to college teaching effectiveness', New Directions for Teaching and Learning, Vol 1985, Issue 3, pp 21-35, September, 1985.

[152] See for example this statement from Queensland University of Technology: http://www.mopp.qut.edu.au/C/C_07_01.jsp

[153] Kayler, Mary and Swanson, Karen, Modeling Constructivist Practice In the Context of a Traditional
University-based Teacher Development Program, Institute for Learning Centered Education, 2008: available at: http://jpacte.learningcentered.org/Articles/Spring2009/Kayler.pdf

[154] Harris, Howard and Bretag, Tracy, Reflective and Collaborative Teaching Practice: working towards

faculty member, for example, can use a portfolio to ask substantive questions such as:

1. What should count as appropriate goals in a course?
2. Are the teaching practices in a course reasonable ways to accomplish the learning goals?
3. What do students learn to do in the course, and how does teaching contribute to students' progress?
4. How does the instructor respond to students' learning difficulties? Inevitably, students will not learn as intended, or some will lag significantly. In what ways does the teacher revise teaching and the course to address these problems?
5. What effects does teaching have on students' attitudes and beliefs about learning? Are they more or less confident, interested, fearful,[156] Becoming self reflective teacher.[157]

Conclusion

It is hoped that this reflection on the author's experiences in university teaching generally and teaching Internet and E-commerce Law specifically will prove to be valuable to those teaching Internet and E-commerce Law and to early career lecturers especially. At the same time, given the reality that few lecturers will have the benefit of formal education in teaching, I hope the discussion of the literature about teaching excellence will prove similarly helpful. Finally, I hope to have effectively conveyed what an honour, privilege and joy it is to be a university teacher.

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quality student learning outcomes, *Quality in Higher Education,* Vol 9, No 2, July, 2003, pp 180-185

[155] Cerbin, W. (1994). The course portfolio as a tool for continuous improvement of teaching and learning.
Journal on Excellence in College Teaching, 5(l), 95-105. Available at: http://itl.uconn.edu/EDCI5830/downloads/Course%20Portfolios.pdf

[156] Ibid at 100. See also Dean, C. B., & Lauer, P. A. (2003). *Systematic evaluation for continuous improvement of teacher preparation. Volume 1: Cross-case analysis*. Aurora, CO: Mid-continent Research for Education and Learning; Lauer, P. A., & Dean C. B. (2003). *Systematic evaluation for continuous improvement of teacher preparation. Volume 2: Case studies*. Aurora, CO: Mid-continent Research for Education and Learning.

[157] Brookfield, S. (1995). *Becoming a critically reflective teacher*. San Francisco, CA: Jossey-Bass.