



15th BILETA Conference: “ELECTRONIC DATASETS AND ACCESS TO LEGAL INFORMATION”.

Friday 14th April 2000.
University of Warwick, Coventry, England.

Electronic Delivery of a US based LLM Program - A Study in Progress

William H Byrnes, IV
Associate Professor
St Thomas University School of Law, Miami, USA

-
- [Electronic Delivery of a US based LLM Program - A Study in Progress](#)
 - [A Study in Progress](#)
 - [St Thomas University School of Law, Miami, USA](#)
 - [Introduction](#)
 - [The didactic goal of legal education](#)
 - [A SURVEY OF SOME OF THE INTERNET BASED LAW PROGRAMS](#)
 - [Time line of the ABA acquiescence for the first US internet-delivered LLM degree](#)
 - [November 1996](#)
 - [February and March, 1997](#)
 - [February, 1998](#)
 - [Spring, 1998](#)
 - [August 1998](#)
 - [Spring of 1999](#)
 - [St. Thomas University's School of Law application for ABA acquiescence of its proposed on-line LLM](#)
 - [Other US ABA/AALS law school distance learning courses](#)
 - [Other non-US law school internet-based courses](#)
 - [Australian Taxation Studies Program](#)
 - [Components of Learning](#)
 - [TEXT](#)
 - [Electronic delivery, still in the exploratory stage, must be considered independently for each area of education.](#)
-

Abstract

This is a working paper for presentation to the BILETA 2000 conference. This is a study of the development of the first electronically delivered law degree in the US by a Law School accredited by the American Bar Association. The LLM Program (International Tax) was developed in joint partnership with Kluwer, and International Tax Publishers, a collection of Kluwer authors.

Introduction

This presentation is made based on my personal experience in legal education since 1994 regarding the specialist study of international tax and offshore financial centers planning. I have taught both contact lectures to LLM level and undergraduate level law students and created an on-line LLM program.

The views expressed herein are not to be taken as the views of St Thomas University School of Law, but rather as the views of one member of faculty.

The internet economy and education

The internet has conquered the economy and infiltrated every area of industry. Within the current global mentality, education has become a "new economy" leader.[1]

[http://company.blackboard.com/index.html\[#\]](http://company.blackboard.com/index.html[#])

The internet not only proves invaluable (see <http://www.law.warwick.ac.uk/jilt/>) but almost a necessity in academics and business (see <http://imsproject.org/aboutims.html>). Invaluable as a tool, the internet provides an innovative and effective medium for electronic delivery of educational materials, lectures (passive and interactive) and communication. An economic resource, the internet reduces the need for traditional capital expenditures and increases market penetration allowing re-distribution of capital resource to other University functions, such as library collections, research facilities, and faculty enlargement.

The proliferation of education-provider participants entering the internet - delivery market place points to the increasing popularity of distance learning courses.[2] The contemporary student no longer devotes full-time to studies. University demographics have changed: there are increasing numbers of full-time workers who are part time students.

* There is a rapidly increasing need for an educated workforce in the sophisticated capital and service exporting economies,

* Institutions have been forced to consider the bottom line which has resulted in academic "pressure" on professors who must handle increasing class sizes.

* Governments are decreasing taxpayer support and subsidies for State owned institutions on a national and state (US) level

* More opportunities are opening in the education market because reduced capital expenditures have pushed aside many barriers to entry.

Despite its lofty classic roots, there are no ivory towers shielding legal education from economic and technological consideration.[3]

[http://www.law.warwick.ac.uk/seminars/98-2-ap.htm\[1\]](http://www.law.warwick.ac.uk/seminars/98-2-ap.htm[1])

Law governs the people, and the people are changing. The mode of learning must change but the methods must be maintained. How then, can the integral aspects of legal education be transferred to a computer screen? How can classical education not change to meet the new requirements? Herein lies the challenge.

My view of the role of a legal educator

Grounding cyber education with the deep Socratic roots of traditional legal education should be the purpose of our endeavor. The Socratic process requires professor-student interaction. Many US law professors consider the role of mediation to be a subtle role, occurring in the linguistic interplay during a series of contact lectures comprising a course. After three years of Socratic method, one emerges with new processes, claimed as his own.

Following this pedagogy of legal education, a true legal education is not merely an education in law. Rather, it is a (re)-structuring of the thought processes. Any literate individual can read the law, but a student learns (1) how to analyze the law and (2) how to apply the analysis in the context of a fact environment. The law professor's job is to teach his pupils how to learn, analyze, and evaluate knowledge.[4] This method of teaching - learning requires significantly more time than mere presentation and memorization of resource material. Consequently, the American Bar Association specifically excludes its accreditation of a law program taught through correspondence.[5]

Problematically, during a traditional class period, few students receive direct professor-student interaction. Rather, most of the students are presented with a passive learning opportunity of observing the professor-student interaction of potentially three class members during any one class period. Over the several weeks of a course, presumably each student will experience one or two direct interactions. Time is the primary factor - a professor, during any fifty minute class, can only call on so many students and achieve an effective Socratic dialogue.

Thus, much of a student's learning process in the classroom occurs while observing others direct interaction experience in the classroom. Further, of the totality of a student's learning experience, a majority of it occurs outside the classroom interacting with resources.[6] More further, after the student completes a degree, continued learning occurs solely through interacting with resources and in the context of practice.[7] Thus, instilling student discipline for this interaction process should be a key to any pedagogy of learning.[8]

One may conclude that my view of the role of a legal educator, given the above summation, is a professor who teaches only effective *independent learning* and *resource based learning*. [9]

<http://www.law.warwick.ac.uk/seminars/98-2-ap.htm>[1]

Quoting Professor Abdul Paliwala, "The role of the educator is to mediate between the resource and the student". [10]

In response, the role of mediation is more substantial than at first glance. Some issues that come to mind are:

- * Of all resources available, which ones should be studied?
- * How may a student identify which ones should be studied?
- * How should a student study a particular resource?
- * How may the student determine the method of study for a particular resource?
- * What if there are no directly applicable resources available, how does the mediator teach a lateral thinking approach to resources?

Secondly, the professor, as an academic seeking to further the knowledge base in his chosen specialty, should himself be a resource creator. As a resource creator, the professor creates a perspective that should be studied in the context of resources available and critiqued in relation to those resources.

Thirdly, in the field of tax law, the contextualist approach is absolutely necessary to the learning process. Thus, the professor must mediate between contextual situations (e.g. case studies), the resources, and the student.[11]

The didactic goal of legal education

The didactic goal of legal education should be to lead students to *the imaginative acquisition of knowledge* and to encourage them to think independently, critically, freely and clearly.[12] This approach produces students with a *trained mind*, capable of effective evaluation, research, analysis, synthesis, flexibility and critical thought.

Legal education requires a basic knowledge of the law and the ability to find it. It requires a comprehension of law's relationship to the social/ economic environment in which it operates. Legal education demands of its students the ability to ascertain facts in order to apply abstract concepts to them.[13][2]<http://elj.warwick.ac.uk/jilt/cal/2jones/> In addition, a legal education should render a student vocationally competent; he must master the skills necessary for his niche of the law: an ability that also necessitates critical thinking skills.

If a legal education is to enable such critical thought, it must facilitate depth beyond simple surface learning.[14] *Surface learning* may enable a student to absorb large quantities of detailed information and reproduce it. But legal educators all agree that this is not the purpose of legal education. Rote memory deteriorates with time. If teaching fails to take a student beyond the superficial stage of learning, then the student fails to comprehend the underlying information. A student who has experienced *deep learning* obtains the ability to conceptualize and to understand what is signified: the spirit, not simply the letter, of the law. Such learning becomes a foundation for application of new knowledge.

In order to facilitate this level of learning in relation to the limitations of the contact lecture classroom discussed above, the teaching methods applied must go beyond the classroom. Computer mediated teaching, hypertext in particular, has great potential to assist in providing such a learning environment.[15][2]<http://elj.warwick.ac.uk/jilt/cal/2jones/> Because of its capacity to provide access to large amounts of information, and to format the body of that information, computer mediation lends itself to the ideology of holistic legal study. If teamed with an effective teaching approach, computer mediation could become the medium that creates the environment ideal for the highly varied, complex and non-linear field of legal studies.[16]

Instructivist and constructivist approaches

Two prevailing teaching approaches that provide an effective teaching/learning environment are the *instructivist* approach and the *constructivist* approach.[17]

The instructivist approach initializes the learning process wherein students may absorb predetermined on-line presentations of objective knowledge. This approach tends to facilitate the surface learning stage and should be accompanied by the constructivist approach.

The constructivist approach provides students an opportunity to gain a greater depth of learning. It encourages the student's developing his own unique interpretation of reality using external resources and reflective thinking to assemble his own personal knowledge base via professor mediated electronic classrooms.[18] The objectives of this approach are closely analogous to those of the 'deep learning' theory which tend to take fuller advantage of the educational capacity of computer mediation.

Under the constructivist approach, learning becomes an active, constructive and self-regulated process in which the learners autonomously create new knowledge structures and link them with the available ones. Knowledge is bound to multiple contexts and must be regarded from multiple perspectives. Learning occurs for students in a social context. This context is represented macroscopically by the cultural background and microscopically by cooperation between teacher and students, and among students.

Nistor and Ertl[19] have outlined some basic constructivistic advantages for internet-based learning environments:

- * Learners' active participation consists mainly of being involved in message exchanges, which serve as a vehicle for their results of problem solving as well as for related comments from co-learners or from a tutor.
- * Learners can test and extend their available knowledge structures by exploring cases or reviewing learning materials. During the learning activities, learners' knowledge construction is assisted by feed-back from peers and/or tutor.
- * Net-based and especially asynchronous communication support a wide range of freedom regarding organization and coordination of learning activities. However, instructional support is needed because the learners mostly lack self-regulation skills.
- * Participating in the task-oriented discussions leads the learners to look at the learning contents from multiple perspectives. Furthermore, the authenticity of the learning environment has an important potential: net-based learning brings the opportunity of an easy access to authentic and up-to-date learning materials, but this chance is often neglected.
- * Cooperative learning is widely possible, provided that one keeps in mind the limitations of the communication medium. In virtual communities of practice, experts can be involved in learning activities in which they, otherwise, could not have taken part for organizational reasons. Tele-tutoring can also be applied.

When these features are properly utilized, the net-based learning environment can potentially effectualize the desired constructivist and 'deep learning' outcomes.

Before delving into the educational methods, design stages must be considered. Suitability of a web-based delivery system must be judged by various technical factors:

- * the type of source material
- * the range of media available (i.e. text, audio, video)
- * communication between student and staff (i.e. email, chat room, real time or asynchronous)
- * private interaction between students (i.e. open forum, email)
- * updating of information
- * technology and costs of equipment to the student and university.

A SURVEY OF SOME OF THE INTERNET BASED LAW PROGRAMS

Of particular interest, is the internet based LLM program at Regent University and the proposed internet based LLM program at St Thomas University of Law.[\[20\]](#)

Time line of the ABA acquiescence for the first US internet-delivered LLM degree

November 1996

Regent University School of Law contacted William Byrnes, an international tax lecturer, regarding the development of an on-line international tax program based on the part - distance learning program curriculum that he was teaching in South Africa.

With support by Kluwer International Law and Tax, commencement of a two year restructuring of the curriculum and creation of materials for the legal and accountancy education market.

Performed marketing study with several multinational professional firms to determine market needs.

Coordinated team of professionals to develop and test materials.[\[21\]](#)

February and March, 1997

Presentation of materials, faculty names, and marketing report to the Regent University administration and School of Law administration by William Byrnes and Howard Bilton (outside marketing firm, Sovereign Group).

May 6, 1997

ABA issues Memorandum D9697-59, Distance Education Temporary Guidelines.

February, 1998

Submitted to Regent sample materials of the text materials and study guides for use in the application to the ABA for acquiescence of an on-line delivered LLM.

James P. White, Consultant on Legal Education to the American Bar Association proved a favorable audience for the application.

Spring, 1998

The ABA performed a site visit at Regent University to review the School of Law's facilities and those of the new LLM program. It reported that the proposed LLM program would 'add' to and benefit the resources of the law school.

August 1998

The American Bar Association's General Assembly voted in favor of the application by the Regent University School of Law to offer the first US internet delivered LL.M. degree.

September 1998

First intake of pilot program of ten students.

October 1998

On-site visit by the Southern Association for Schools and Colleges (SACS). Presentation of materials and on-line learning format by Professor William Byrnes.

January 1999

Intake of 35 students.

Spring of 1999

The ABA performed its normal on-site accreditation visit of Regent.[22] One extra member reviewed the on-line LLM program exclusively. Professor William Byrnes presented the LLM program materials, software, and a hard copy, totaling approximately 2,000 pages, of all Spring semester communications with students (including email and e*classroom. The ABA report cited no deficiencies in the on-line LLM.[23]

September 1999

Intake of 55 students.

St. Thomas University's School of Law application for ABA acquiescence of its proposed on-line LLM

The St Thomas School of Law (stu.edu) filed an application for ABA acquiescence to offer an on-line LLM in March 2000. St Thomas has hired two full time faculty and a full time program coordinator, plus staff, to address the ABA's concern with the Regent program regarding the teaching burden falling on one faculty's shoulders.

The two faculty members hired for the proposed on-line LLM will only be required to teach the normal four sections required of all other faculty. The coordinator and his staff will address and manage all administrative student issues.

St Thomas will require a week long residency each year at the Miami campus for all students and non-resident adjuncts. Points addressed in that week will be

- basic on-line computer training
- basic computer research training
- lecture series by the non-resident and resident faculty
- law school administrative matters
- networking "get to know" each other social activities in Miami among students, professors, administration

[24]

Other US ABA/AALS law school distance learning courses

School of Law at the College of William and Mary[\[25\]](#)

In 1994, Professor Trotter Hardy of the College of William & Mary School of Law (Virginia) taught a seminar law course which employed an email mailing list. The seminar concerned a collaborative effort for drafting a constitution for a fictitious country. Participant communication occurred only via email discussion. Following the success of this seminar, Professor Hardy taught another seminar course with an email list format. The email mailing list format is similar to that applied by the ABA in its committee discussion lists.

Based on his personal contacts, a few non-Virginia resident students enrolled in Hardy's class. The non-resident students also registered for an independent study at their respective home schools and received a tutor faculty member from their home school. Students worked on papers through their study.

In an interview, Professor Hardy commented of his hopes to offer more internet based courses.[\[26\]](#)

The University of New Mexico Law School[\[27\]](#)

The University of New Mexico Law School instituted a hybrid internet course in 1996 taught by Professor Scott A. Taylor. [\[28\]](#)

www.unm.edu[\[u\]](#)

The course was Indian Law.[\[29\]](#) The course was a traditional contact lecture course already offered by New Mexico. However, the course enrolled non-resident students who received emailed class lecture notes produced by an onsite classmate. The offsite students undertook the same learning tasks required of the onsite students, and performed research at their home institutions. One unusual aspect of this course was that offsite students participated in the contact lectures by instructing onsite classmates to present their researched case studies. Professor Taylor and a professor from the offsite student's home institution jointly performed course and project evaluations.

The University of New Mexico faculty has mixed feelings about pursuing web-based law courses. The School of Law is in the process of offering a web-based tax course.[\[30\]](#)

Other non-US law school internet-based courses

Universitat Des Saarlandes[\[31\]](#)

German Professors, Dr. Maximilian Herberger and Dr. Helmut Ru**[beta]**mann, developed a solely on-line, bilingual (German/ English) law course at the Universitat Des Saarlandes.[\[32\]](#)

[beta]

The course consisted primarily of group work, supplemented by individual assignments. Communication between participants was consummated via email, along with on-line conferences and discussion platforms (for a total of 2 hours per week).

The course was successfully organized into five phases[\[33\]](#):

Phase 1: an introductory phase to teach technical functionality and allow student introductions

Phases 2 and 3: further coverage of internet and search functions

Phase 4: implementation of evaluation process of web-based legal tools

Phase 5: Incorporation of internet-based legal discussion.

[34]

Australian Taxation Studies Program

Australian tax professors Alan Smith and Michael Walepole developed the Australian Taxation (ATAX) Studies Program to accommodate the vast changes occurring within the Australian system of taxation. In their own words, this "ATAX" program was organized "to be an innovative synthesis of distance education and campus based study, designed to cater to the needs of decentralized students in the workforce and to deal with problems of a demanding and rapidly changing discipline." [35]

"The ATAX design is based on the theory that a successful distance education program must be premised on that which "constitutes good teaching (Ramsden 1990), the value of dialogue (Holmberg 1989), and the three-dimensional theory of distance education with the learner, dialogue and structure (Moore 1989) and the notion that deep learning occurs when concepts are reconstructed rather than simply accepted (Parer 1994)." ATAX, comprised of four courses (under, and post-graduate; part, and full-time), emphasizes self-directed research - including relevant research skills, and critical understanding of the Australian Tax System.

Rather than the most financially attractive or most technologically advanced delivery system, ATAX employs *the most appropriate technologies*. Furthermore, ATAX designers expressed the extreme importance of utilizing the most readily available and accessible technologies. Targeting a particular student, ATAX relies more heavily upon *standard* audio and visual media, than on the Internet. [36] ATAX is exploring new internet options which include electronic tutorials, teacher/student conferencing and more audio and visual options via more advanced computer/internet technology.

The technology point expressed by the ATAX creators is noted. One of the difficulties of an internet program that accepts students globally is addressing the students' regional internet infrastructure capabilities. By example, many North American students are linked to the internet through cable modem or DSL, whereas students from other jurisdictions may only have the infrastructure capacity to link by a 56K modem.

Components of Learning

- * Text
- * Lectures
- * Small group seminars
- * Contact with other students
- * Contact with the professor

TEXT

Innovative computer technology, makes`hypertext'[37] possible.Hypertext provides interactive

branching, allows access to potentially infinite information sources and "remembers" its semantic trail.

Hypertext functions, found within many forms of educational technology, are highly effective and have become nearly indispensable to many forms of educational technology: computer based learning, computer-managed communication, electronic information storage, the WWW.

Hypertext allows students to hyperlink (literally *link over* the window being read on the screen) workbook or tutorial sections to numerous primary informational sources. Instant, convenient access to full text sources *encourages students to explore and become increasingly familiar with the true raw material of the law rather than the precooked, pre-digested versions found in the ubiquitous case books* (Widdson R. 1995).

LECTURES

Over-crowded classrooms, limited facilities, and overworked faculty have created the need for a new economical solution.

Computer technology allows rapid and easy transfer of textual and graphic data unlike typical classroom lectures. Hyperlinks create trails from educational text to original resources further facilitating deep learning (*See Hypertext*). Within legal lectures, hyperlinks allow "asides" of full legal text where needed. Where an individual student is already familiar with a topic, he may choose to read only the lecture. Alternatively, a student may link to the full text of an original source, glossing [38] the full text with the tutorial and his notes.

SMALL GROUP SEMINARS

The recent freeze in the expansion of the higher education sector has not reduced the number of students. First, the increase in numbers attending lecture courses can, conceivably, be accommodated without tremendously devaluing that medium. Second, the burden on library resources can be augmented by access to CD-ROM or internet-based materials. And, the quality of written work can hold up under the burden of expansion. However, the one medium of legal education that has continued to suffer is the seminar.

Typically, a seminar provides an intimate interface between students and professor. A small number of students participate to complete assignments in collaboration with the group. Computer mediation effectuates efficient seminars in that communication occurs at the convenience of each participant. Where one student may work during the day and another at night, conflicting schedules would not permit easy meetings or communications. With the use of internet and email, one student can pose a question or conduct research at midnight and his classmate can respond at 7AM. Likewise, where a student resides in Hong Kong and his seminar partner in London, the two can correspond conveniently. The internet allows effective communication in an instance where classroom presence would not have been feasible.

A practical example is the University New Mexico example. There, each student is assigned a number of Indian tax law cases to brief. These briefs are then forwarded to the others in the class via email. Additionally, groups of 2 to 4 students are assigned real problems in conjunction with actual pending cases. Students rely heavily on internet-based databases such as Westlaw and Lexis to research these problems. Students are encouraged to work together on research; however, each is required to submit an individual memo. Since memos are circulated via email, each student has all pertinent casenotes and memoranda. Students become more interested in sharing knowledge and learning than necessarily competing.

This type of seminar is particularly conducive to email/internet format as much a student's learning

occur in self-study: reading, research, and analytical writing. Although a class meeting could facilitate a measure of understanding regarding the various assignments, a web-based forum facilitates greater student interaction.[39]

CONTACT

"... once communication is unshackled from the confines of place, the world becomes a classroom occupied by a world of students and a world of teachers."[40]

Even in traditional university settings, students and professors are taking full advantage of email communication, even more so in distance education settings. E-mail is less expensive, more convenient, and exponentially more rapid than normal post.

Email is a fast, efficient and inexpensive means of exchanging written communication. Small group projects, law seminars and a variety of other educational applications can be effectively and efficiently used through internet communications. This educational medium has unique advantages for legal education such as the potential for intensive writing and student/professor interaction. When applied to international and comparative law the internet becomes a necessity for thorough interaction. Where telephone becomes cost prohibitive and regular post time prohibitive, the internet facilitates communication.

There are seeming disadvantages to internet communication. Students have traditionally learned as much through the stimulation of physical human presence, direct oral speech, and behavioral speech [41] as through the written text. However, particularly in the legal field, the internet offers a distinct advantage[42] as the standards for written communication fundamentally differ from spoken or face-to-face communication. Without non-verbal conveyances such as intonation and gesturing, communication must be clear and concise. Written communication evokes no immediate response and thus requires diligent care to ensure clear, concise, and complete communication. While both means of communication are imperative to good lawyering, the written law still governs and the spoken merely persuades.

Why choose an electronic delivery of materials?

Electronic delivery, still in the exploratory stage, must be considered independently for each area of education.

John Dale[43] of the University of Warwick lists pertinent factors to consider in evaluating electronic delivery for a particular subject matter.:

- * The type of source material needed for communication
- * The need for interactivity
- * Frequency of updating.

SOURCE MATERIAL NEEDED FOR COMMUNICATION

Source material for web-based teaching is often already at the fingertips of most teachers; most word processing documents can easily be converted into web text. Materials then only need to be supplemented with lecture or seminar components and faculty contact. Whereas supplying these

materials in hard copy would prove expensive and environmentally unfriendly, electronic delivery boasts its advantages. Electronic forms allow students to manipulate their study materials, and professors to expedite delivery. Professors can also react immediately to current updates in the field. Also, internet capabilities offer a wide range of mediums such as sound bytes, video, and documents. [44]

INTERACTIVITY

At present, interactivity seems to be the weakest point of a solely web-based educational program. [45] Though web page discussions and email allow for interactivity, until additional advances are made in video conferencing, students may yet crave the experience of live classroom lectures. However, technology is rapidly advancing and becoming more and more affordable. Within the next decade video conferencing should be the norm within households.

UPDATING

Rapid information updating has proven to be key in a fast paced global economy. The Internet allows instant updates as compared to the traditional library. Software can be updated on the internet and research databases are often updated up to the minute [46]. As for classroom materials, a professor need not fret with ordering the latest edition as old electronic versions of his own materials can be updated with ease. Instructors have the capability to alter course materials withing the semester to accommodate a changing field such as tax law.

POSSIBLE DELIVERY METHODS OF MATERIALS, LECTURES AND TUTORIALS

AUDIO CONFERENCING

Audio Conferencing has been used extensively in programs to provide teacher/ student interaction. This interaction creates an environment wherein students actively validate their knowledge.

Audio conferencing can be helpful in exploration of complex concepts or pertinent issues arising in narrow areas of study. It may also provide necessary elaboration thus promoting greater understanding of the course material. In such a forum, students can typically ask questions, present issues, share information and insights, and conduct debate verbally thus sharpening these skills.

Another benefit of audio conferencing is the degree of flexibility compared to conventional lectures. Since there are fewer and fewer full time students, participants must organize hectic schedules to include work and school. Because audio conferences can be run frequently during the day or week, students may fit a conference into their individual schedules thus maximizing the commute to work or even down time [47].

'Data audio conferencing' can provide an additional stimulant wherein the audio conference is supplemented by explanatory text and graphics to clarify material or display recent news.

VIDEO CONFERENCING

Modern innovations in video conferencing could ideally reach large numbers of students in distant and locations. However, video conferencing is currently very expensive and difficult to organize. It requires that students have advanced computing equipment or travel to video conferencing sites [48] (which the university would have to provide). As previously noted, rapid advances in technology

continue to make widespread use possible through lower and lower prices.

Other media possibilities:

Within e-education there are the methods of communication vary due to so many media possibilities:

* Contact lectures can be conducted via audio or video cassette where internet based facilities are cost prohibitive.

* Reading materials can be disseminated by hard copy, floppy disk or CD-ROM. Hard Copies can generate unnecessary expense and are not as easy to update but can be useful where a publisher does not have an electronic copy. Floppy do not have the capacity to contain some modules but they are inexpensive. CD-ROMS however, can store vast amounts of information, but the materials cannot be manipulated on the drive.[49]

A broad range of resources lay at the disposal of the modern educator. The availability and growth of technology will change the scope of education. Those who grow with the advances will find the transition less burdensome. Those who refuse to change will be left behind.[50]

INTERNET BASED LL.M. AT A LAW SCHOOL

The objective of an on-line LLM must be aligned with the prime objective of all legal education - to enable learning rather than just teaching. Whatever information technology is adopted, that technology must replicate and maintain the quality of interaction occurring in the classroom environment.

Internet/computer mediation can potentially provide this quality. By its very nature the internet takes learning beyond the confines of a physical classroom, an ideal tool for distance learning because as it provides such a wide range of resources. It can provide access to new resources such as lecture notes, course information and administration, references to literature and teaching techniques such as electronic conferencing. All these techniques can be integrated with traditional teaching methods (through the various audio/visual media).

Importantly, the internet is a superior means by which to facilitate continued legal education. In a rapidly changing world, the continual need for lawyers to update their knowledge and skills has become imperative. 'Life-time' learning programs for lawyers are expensive, time consuming and can require extensive travel, time off work, and costly accommodations. Internet based training does not operate with these encumbrances.

Development of the LL.M. in International Taxation

Throughout the development of an online LLM program, integration of the internet into legal education is a matter of strategic thinking about *educational change* itself. There are many aspects to consider: an institution's own place within a spectrum of learning provision; the development of learning strategies which integrate different educational technologies; effective utilization of available resources through collaboration where appropriate and proper; and necessary staff and student assistance.

The field of International Taxation, by its nature, deals with cross border transactions and offshore jurisdictions.[51] An LL.M. in International Taxation naturally attracts international students so, the benefits of an internet based program are obvious.

Researching the Market

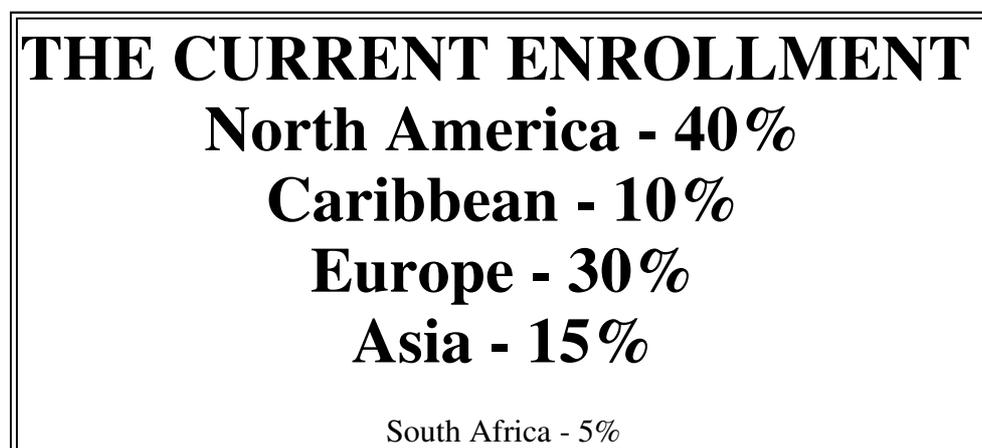
* The LL.M. program was developed to train attorneys in the international tax and offshore industry. The program was developed in consultation with representatives from major firms[52] in the industry with input from smaller firms.[53] This process brought to light the considerations of employers who desired trained professionals in International Taxation. First, there was not a professional full-service master's level program for attorneys in this area of study. Second, firms want a full service master's level program for attorneys in this area. Next, firms wanted their attorneys from different jurisdictions to participate in this type of program. Finally, and most importantly, firms (large and small) neither wanted nor could afford to release attorneys from a year or more of active employment in order to undertake any program of study.[54]

Audience The most important factor in the distance education equation is the audience. Despite principles of good web site design the audience must be carefully considered when choosing the proper medium to convey materials.

In developing the online LL.M. the specific questions pondered by John Dale were considered:

- * For whom is the material intended and will you know this in advance?
- * What are the audience's expectations and capabilities, and what sort of access will they have?
- * Where are they located?

The current LL.M. program at Regent University School of Law has been marketed to attorneys in four regions: the United States and Caribbean; Europe; Asia; and South Africa. As post J.D. students, they are expected to have a rudimentary knowledge of legal research, problem solving and argumentation. They must also know the basic rules of legal interpretations. A Juris Doctor from an accredited law school should ensure that these requirements are met.



SOURCE MATERIALS

For purposes of this article, the course materials from General Principles of International Taxation will be the standard example.

The course is presented in sixteen modules and takes the constructivist approach to learning. Each module covers more than one topic and is a building block. Frequently, topics are covered and revisited from different perspectives within several modules so they are not meant to be independent of each other.

The reading materials for this course originate primarily from two source categories: textbook and treatise excerpts and study guides. Excerpts from 10 different textbooks or treatises in the field of international taxation are supplemented with excerpts from articles written either by faculty members of the program or independent experts in the field. These materials allow students access to best parts of many sources. And, since the program is in conjunction with Kluwer Publishing, faculty has access to the best tax publications.

Corresponding study guide and tutorial materials are written in relation to the excerpted materials. In some instances, these are authored by the textbook/lecture authors. In other guides, expert faculty members pen the tutorials. Typically, a study guide includes problem based learning approach skills: problem and issue recognition; problem solving through research. Of course there are hyperlinks to independent web-sites for students to research other original sources.[\[55\]](#)

Costs

Course materials, if photocopied, consist of approximately 1,000 pages. Because of the process of hyperlinking, the organization of the copied material would change the intended presentation and consistency of the course. Also, the cost of production would increase because reproduction fees would need to be paid to the authors / owners of the hyperlinked material.[\[56\]](#) Where total costs course textbooks exceed \$800 and electronic course book is made for approximately \$200.

Delivery and communication

Academic Interaction

Each course module has two forms of interactivity: questions within the material and seminar and seminar-style internet chat rooms.

Within the materials, the professor poses questions to students. These questions relate to that which was just read. Students answer these questions by emailing their response to the professor individually. This type of interaction allows a student to be his own competition as he is not privy to other student responses.[\[57\]](#)

The seminar-style lecture with email based chat room uses comparative student comments from professor questions. The *classroom* also presents an easy forum to present model student answers to the professor's textual questions. Students often debate answers with one another and present interesting facts.

Social Interaction

Social interaction is a key component to any education. In the internet forum, students are required to post social biographies as well as professional biographies. These documents force students to evaluate their professional focus and to choose which social aspects to include. Networking occurs based on the various expertise in fields and social interests. Students have built email relationships.[\[58\]](#)

Delivery

After attempting to create its own webpage, Regent began to use the Blackboard system for delivery. Students have found this method more user friendly. In addition, it is much more affordable than designing and maintaining an original webpage.

[\[1\]](#) The industry of education accounts for approximately 10% of the US GDP. See [\[for information\]](#)

[on online education market growth.](#)

[2] A multitude of MBA and other business programs are delivered using the internet. Regarding law programs, the US has seen a rise in internet delivery since 1998- Concord School of Law being the most mentioned example. Concord, accredited by the State of California, is an internet - distance learning based law school.

[3] Quoting Professor Abdul Paliwala, "The monastic approach to learning for three years or more in the ivory tower was sustained by the geographical imperative of getting teachers and scholars together. In the age of the internet, the positive aspects of physical commune do not disappear, but are reduced." Professor Abdul Paliwala, *Integrating Internet-based teaching and learning into Legal Education* (CTI Law Seminars 22 June 1998 - [D](#)).

[4] My first year of law school, my Torts professor laid the law out for us," You can learn the entire mass of Torts in 2 weeks of reading, but I am here to teach you *how* to think, to interpret the law. You must learn to analyze the cases yourself. It will be a process."

[5] Standard 304. COURSE AND RESIDENCE CREDIT.

(g) A law school shall not grant credit for study by correspondence. A law school may grant credit for distance learning study in accordance with Rules of Procedure and Criteria adopted by the Council.

[6] As a general rule of thumb, a US law student should spend three hours of reading and preparing for an hour of contact lecture time. Thus, 25% of learning time occurs in the classroom. Of course, one could apply a high proportion to the value of the time spent in the classroom.

[7] Professor Abdul Paliwala, University of Warwick in his presentation published October 29, 1999 *Learning in Cyberspace* (JILT 1999(3)) addresses the approaches of situated and contextualist learning. In the framework of European legal education, generally an apprenticeship type relationship must be completed before a degreed candidate may practice without supervision (mentioned by John Mayer, *Alternative Futures Journal of Law School Computing* (Volume 1, Number 1, 1999)- a practice that I think the US State Bar Associations should consider adopting.

[8] Often I heard the same quote as a student in US law school and as a student in a Netherlands' law faculty: "Academic discipline separates the top from the bottom." I have come to the conclusion that one of the primary teaching goals of the first year of law school is to teach discipline of study and interaction with resources, a teaching goal relaxed in the following years. Because the US legal education system does not require a supervised apprenticeship period, this tenant is even more important for US educators.

[9] Professor Abdul Paliwala, *Integrating Internet-based teaching and learning into Legal Education* (CTI Law Seminars 22 June 1998 - [D](#)).

[10] *id.*

Quite often I am asked by US law professors: "Will on-line law schools reduce the role of the law professor to that of a teacher assistant"? This question has been put forward in articles and discussions in the CALI seminars. Generally I respond, "In what way does the on-line delivery of materials and discussions change the fundamentals of the established learning process in the US of teaching from casebooks?" I will address this question in my presentation. However note that if we consider one of the roles of the legal educator as that of an intermediary, then there is a strong argument that the importance of the role of the legal educator will increase in the learning process. Also, the positions in the job market for educators will increase. Refer to Steve Sheppard, *The Role*

of the Professor in the High Tech Law School, Journal of Law School Computing (Volume 1, Number 1, 1999).

[11] *Supra* note 7.

[12] Quote by Whitehead, A.N. 1967; also ideas from Entwistle N.J. 1979 and Twining 1994.

[13] The Ormrod Committee. Discussed by Jones, R & Scully, J *Hypertext within Legal Education* [(JILT, 1996(2))].

[14] *id.*

[15] Professor Abdul Paliwala, *Learning in Cyberspace* (JILT 1999(3)); Jones, R & Scully, J *Hypertext within Legal Education* [(JILT, 1996(2)); Shiels R,] *Law Students and Hypertext: One Law School's Model* (JILT 1996(3)).

[16] Refer to the joint project of Professor John Blackie, University of Strathclyde, and Dr. Paul Maharg, Glasgow Caledonian University, concerning teaching torts through disputing (mooting) using the Internet at Blackie J, *Using the Internet to Teach Law. The Delict Game: Learning through disputing over the internet*, (JILT 1998(3)).

[17] Discussed in Widdison R and Schulte R, *Quarts into Pint Pots? Electronic Law Tutorials Revisited* (JILT 1998(1)). I present brief descriptions because I will present the application of these approaches in the forthcoming St Thomas School of Law on-line LLM program.

[18] *Id.* Referring to Jonassen and Reeves, 1996; Weaver et al, 1996.

[19] Ed note: missing fn.

[20] I am the creator of these programs in International Taxation, carried over from the program that I created in South Africa. International taxation studies present an ideal use of the global World Wide Web. Experts in the various jurisdictions can teach from all over the world without relocating. Students are afforded a wealth of learning resources unavailable from on-site learning.

At the end of this academic semester, I am transferring to St. Thomas University School of Law in Miami. St Thomas has put forward greater academic commitments to host an excellent well-rounded on-line LLM program and faculty in which, importantly, faculty will only be required to teach a normal course load.

[21] Finance and risk of the project solely rested on the developers because it was unclear whether the ABA would actually promulgate guidelines at that time.

[22] A law school is first provisionally accredited by the American Bar Association during which time, the ABA site team evaluates the school annually. Once a law school has been fully accredited by the ABA, a site team is sent out once every seven years for the normal accreditation visit.

[23] In fact, one of the site team members, the Dean of Pepperdine School of Law, Professor Richardson R. Lynn, commented in a recent interview that he considered the LLM program to be of high quality.

However, the ABA report noted a concern that the burden of teaching the courses in the LLM program fell upon only one professor and that this could lead to burn out.

[24] For an indepth discussion of these programs, please read Widdison R and Schulte R, 'Quarts

into Pint Pots? Electronic Law Tutorials Revisited', 1998(1) *The Journal of Information, Law and Technology (JILT)*.

[25] The College of William and Mary, founded in 1693, is the second oldest educational institution in the US. Although Harvard began operation first, William and Mary's antecedents actually predate those of the Massachusetts institution. The College is the only US institution to have a Royal Charter.

[26] With Professor William Byrnes at William & Mary, November 1999.

[27] Created in 1889, the University of New Mexico opened its doors in June 1892. The University of New Mexico School of Law was founded in 1947 and received ABA accreditation in 1948. For more information see the University website: www.unm.edu.

[28] Scott A. Taylor, Professor of Law. B.A., 1973, M.A., 1978, J.D., 1978, University of New Mexico; LL.M., 1982, New York University.

Taylor teaches primarily in the areas of taxation and Indian law. His Indian law work includes taxation in Indian Country and Indian Gaming, and these courses include a substantial number of Native American law students. His Taxation in Indian Country course was the first law school course taught over Internet and included students from the states of Arizona, Wisconsin, Michigan, California, Washington, Kansas, and Montana, and also a student from Canada. Scott has served as a visiting professor at New York Law School (1986-87, 1991) and at the University of California at Davis Law School (1998-99), where he taught a variety of tax courses. During 1987-88 he served as the Professor-in-Residence in the Chief Counsel's Office of the Internal Revenue in Washington, D.C. In June 1999, Scott began a five-year term on the Navajo Tax Commission, which is a five-member body appointed by the Navajo Nation President and confirmed by the Navajo Nation Council. *University of New Mexico Faculty Profile*. [.]

[29] Widdison R and Schulte R, 'Quarts into Pint Pots? Electronic Law Tutorials Revisited', 1998(1) *The Journal of Information, Law and Technology (JILT)*.

[30] These are comments from Associate Dean Alfred Mathewson, an ABA site team member from the University of New Mexico after evaluating the Regent Law LLM program.

[31] The Universitat Des Saarlandes was founded in 1948 with French support. The University maintains a special relationship with France though its two campuses are located in Germany (Saarbrücken and Homburg). Currently there are 18,000 students and 270 professors. The Law and Economics department hosts the European Institute and focuses on the field of information technology (Computers and Law / Computer Science in Economics). For more details see the university web site: www.uni-sb.de.

[32] Professors Dr. Maximilian Herberger and Dr. Helmut Rumann have developed the "internet project" which encompasses such topics as *World coverage of Civil Procedure, Cyberbanking Law, and the Law of E-commerce in Germany*. Visit the web site at <http://www.jura.uni-sb.de/english/>

[33] The study guides developed by Professor William Byrnes also used this approach.

[34] Smith A and Walpole M, *The Australian Experience of the use of Selected Technology in the Delivery of a Legal Education Program - some Lessons for Faculties and Educational Program Planners*, 1998(1) *The Journal of Information, Law and Technology (JILT)*.

[35] *Id.*

[36] It must be noted that at the onset of this program, the internet was not readily available or easily accessible by most students in the target markets. However, ATAX did make use of computer/electronic resources for circulation of a weekly Bulletin. ATAX also provides "University Dial-up service" for this purpose.

[37] Define hypertext.

[38] Glossing refers to the method employed of the earliest law students in which they would annotate copies of the Justinian code for pedagogical purposes. Hyperlinks provide a similar method to the contemporary student. A student has more access to examples and text via the internet than previous students. With this capability, a student can create his own glossary of text and links enabling efficient access to references. As future practitioners, these individuals will have more access to law and international comparisons than ever before..

[39] Regent's LL.M. program has provided extensive international contacts for its students. One of the comments often made by students is that they have benefitted from "meeting" other professionals in their field who are experts in various areas. While one student may be an expert in US tax, his classmate, living in the Bahamas, is able to field questions about British tax and corporate structure in the Bahamas. There seems to be more commraderie among the e-students than competition.

[40] Unknown source.

[41] Some of which may be available in the future; and which can now be provided through audio and video conferencing. See below.

[42] It might be pointed out that distance legal education is better served on the secondary and tertiary levels as the importance of the social interaction through Moot Court and Negotiations have not diminished. Thus, an LL.M. or an international course appear to be the best uses of distance education.

[43] Id.

[44] While audio and video technologies are more complex, they are becoming more and more accessible. For example, with the use of a digital camera, a professor can produce actual chalkboard images to post on the web. Where constructing graphs and diagrams would be time prohibitive, these digitized images are not. And, through the use of scanners, documents or actual photographs can be easily transferred to computer disks for manipulation or annotation by the professor.

[45] It is important to acknowledge, however that students will continue to need some form of human interaction. A web-based program will prove economical to universities and convenient to students, but some on-site instruction still seems necessary for most students. In fact, Regent LL.M. students often cited the desire to spend a few weeks on campus during the program. This on-site period allows students to meet face-to-face and interact with the professor. It also orients students to the program while allowing the administration to disseminate any necessary information.

[46] For example, Morningstar.com, a database tracking public companies, updates its news archives daily and its stock reports every 15 minutes. Previously, this sort of information was available only to securities brokers who sat in front of the computer all day; prior to PCs, brokers had to watch ticker tape. Legal research databases such as Lexis and Westlaw, update case law and journal articles constantly. Before the advance of this technology, practitioners were forced to research hard copies and to shepardize case law via monthly inserts; case law could have been 2 months old before published.

[47] Audio lectures allow a student to learn at his convenience and to eliminate the time spent

commuting to campus. Students may choose to listen to a lecture while preparing dinner or relaxing. He may listen in part or in whole. Furthermore, he may record it and listen again.

[48] The University would have to provide these video conferencing sites in locations near all students. This provision would obviously prove cost prohibitive for several reasons: student residence could vary tremendously from year to year; the actual cost of the video equipment and maintainance; renting a physical location to house the equipment or renting a video conference center (which would create scheduling conflicts; hiring employees to oversee the various sites.

[49] Of course, a student may save the information to his hard drive, manipulate it and resave to another CD-ROM with little trouble.

[50] Already most universities have web-sites and solicit on-line applications. Those universities without web-sites are often overlooked by the upcoming generation of college students who search for schools on the web through various search engines.

[51] An LL.M. in International Taxation by its nature is a program designed around cross border transactions and events. More than 50% of the world's monetary funds pass through or are held in offshore jurisdictions such as the Bahamas, Bermuda, Cayman Islands, Cook Islands, and Kiribati.

[52] Major firms include those that have annual turnover of over 100 million US dollars.

[53] The smaller firms were those with turnovers of between one and ten million US dollars.

[54] The firms cited returning employee attrition rates and loss of employee income as the main reasons.

[55] Often students will find independent sites on their own and share these in the classroom. Of course, one site often leads to another and research and learning are thereby enhanced.

[56] Hyperlink access (with appropriate permissions) eliminate the costs of remuneration associated with the right of photocopying a document.

[57] Within the program's infancy, students helped to create the best methods of delivery. In this case, students requested that questions also be posed in a separate Assignment category. By presenting the questions in this manner as well, students could better judge the level of work required for that module and thereby adjust their schedules.

[58] Since the world of International Taxation often requires professionals to maintain a full travel itinerary, students have been known to post travel schedules in order to rendez-vous with classmates who either live in the destination or will be passing through. This sort of networking proves invaluable in a field where so much expertise is required in so many jurisdictions.