

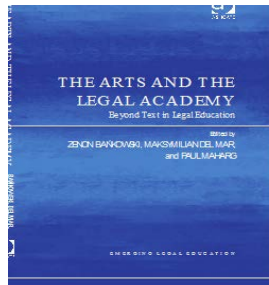
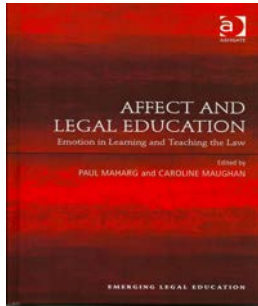
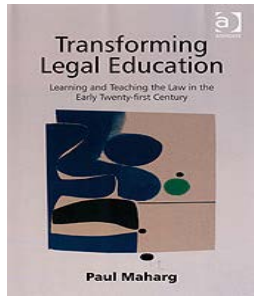


Australian
National
University

Convergence and fragmentation: research, informatics and legal education

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transformational pedagogies



Genealogies of Legal Education

Introduction

1. *Sensus communis*: beatific moral theory and legal learning

2. Kant, Arendt, Dewey and judgment

3. English progressive primary education: regulatory dialogue & innovation

4. Art schools and law schools: the *ratio* of Bellini's O

5. Convergence and fragmentation: research, informatics and legal education

6. Codeswitching: the open movement in HE

Conclusion: the provincial, the global and the inner émigré

preview

- Fragmentation & convergence: a processual view of change
- Convergence & new media in law schools
- Examples:
 - ALIAS (Ardcalloch Legal Information & Advice Service)
 - Legal Informatics & visualization projects
- Some practical conclusions

‘[A] genuine shift in the way we produce the information environment that we occupy as individual agents, as citizens, as culturally embedded creatures, and as social beings goes to the core of our basic liberal commitments’.

(Benkler 2006, 464)

BIALL interview...

‘[Trainees] appeared to be generally unfamiliar with paper-based resources by comparison with digital resources. In addition they noted that trainees seemed to depend on one-hit-only searching: in other words they did not check thoroughly and contextually around their findings. They used Google extensively and their searches tended to be shallow and brief. Trainees were also increasingly unable to distinguish between the genres of legal research tools – the difference between an encyclopaedia and a digest, for example. They seemed to lack persistence and diligence in searching, as well as organization. These values, that underlay the learning outcomes of the LILT document, needed to be worked on by students. The group were unanimous in their opinion that many academics shared the weaknesses of students and trainees in this regard.’

BIALL interview...

‘students needed to be assessed on skills as well as content: process needed to be audited both in practice-based situations and in formal academic learning, and indeed if good habits were established early on in academic learning, supported by staff and driven in part by assessment, then it would make the job of practice-based librarians a lot easier.’

BIALL interview...

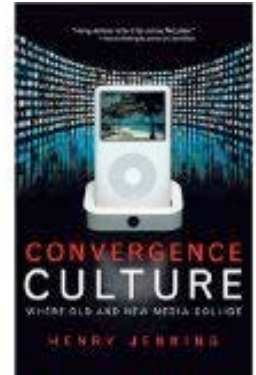
- The law degree was an apprenticeship of content, not of process.
- Over the last few decades the law curriculum had become ever more crowded with more core content and extra options.
- Part of the solution to crowded curricula was better design. In particular, academic staff needed to design with library staff in joint activities. Library staff, in other words, needed to be more at the heart of the educational design process with academic staff, and involved in teaching, learning and assessment. [...]
- Following on from this, regulators needed to recognize the changing role of law librarians as legal educators. Currently librarians are classified occupationally in many institutions as ‘Clerical Staff’ or some such. This needs to change and their role as educators and digital information curators and digital information environment designers should be recognized.

Henry Jenkins & New Media

Definition of delivery technology:
a tool by which we consume media,
eg TV, phone, etc.

Definition of media (citing Lisa Gitelman):

1. 'a medium is a technology that enables communication', eg recorded sound.
2. it is also 'a set of associated "protocols" or social and cultural practices that have grown up around that technology'



media fragmentation

Margaret Laidlaw...

'[There] war never ane o' my sangs prentit till ye prentit them yoursel', an' ye have spoilt them awthegither. They were made for singin' an' no for readin'; but ye hae broken the charm noo, an' they'll never [be] sung mair'.

media convergence

'[Media convergence] alters the relationship between existing technologies, industries, markets, genres, and audiences. Convergence alters the logic by which media industries operate and by which media consumers process news and entertainment. Keep this in mind: convergence refers to a process, not an endpoint. [...] Ready or not, we are already living within a convergence culture.' (Jenkins, 15-16)

'Whereas old Hollywood focused on cinema, the new media conglomerates have controlling interests across the entire entertainment industry. Warner Bros. produces film, television, popular music, computer games, Web sites, toys, amusement park rides, books, newspapers, magazines, and comics.' (Jenkins, 16)

'fans of a popular television series may sample dialogue, summarize episodes, debate subtexts, create original fan fiction, record their own soundtracks, make their own movies – and distribute all of this worldwide via the Internet.' (Jenkins, 16)



	Good coaching practices	<i>Potter</i> fan fic sites
1	Create a specific site for writing	Eg www.fictionalley.org (179)
2	Provide mentors for new writers	'forty mentors ... welcome each new participant individually'. (179)
3	Set up peer-review	'At The Sugar Quill, www.sugarquill.net , every posted story undergoes beta reading'. (179)
4	Provide critique	'constructive criticism and technical editing' is provided. (179)
5	Introduce writers to multiple drafting	'New writers often go through multiple drafts and multiple beta readers before their stories are ready for posting'. (180)

'Today we participate in a more radical and profound commonality than has ever been experienced in the history of capitalism. The fact is that we participate in a productive world made up of communication and social networks, interactive services and common languages. Our economic and social reality is defined less by the material objects that are made and consumed than by co-produced services and relationships. Producing increasingly means constructing co-operation and communicative commonalities.'

(Hardt & Negri, 2000)



authenticity as transactional learning...

Transactional learning:

active learning

through **performance in authentic transactions**
involving **reflection in & on learning**,
deep **collaborative learning**, and
holistic or **process learning**,
with **relevant professional assessment**
that includes **ethical standards**

portrait of the teacher as designer

- Shift in traditional role of staff as centre of the knowledge web
- Knowledge and skills are distributed across webs
- Staff spend more time designing online learning with tutors, postgrad assistants, trainees, student monitors, ie design work using...
 - resources
 - simulations
 - just-in-time learning
 - salon & masterclass models of group learning
- ... *over whole programmes of study.*
- *Within and between disciplines*
- *Within and between institutions internationally*

example 1: legal writing

We regarded writing as primarily social activity,
which emphasised:

- networks of meaning
- distributed learning across the internet and other forms of knowledge representation
- collaborative learning at all levels

current online education...?

Still focused on:

1. *Organisations*, ie LMSs, silos of knowledge
2. *Products*, ie handbooks, CDs, closely-guarded downloads
3. *Content*, ie modules, lock-step instruction
4. *Snapshot assessment* of taught substantive content

online learning as social learning

Focus shifts to:

1. Organisation has weak boundaries, strong presence through resource-based, integrated learning networks, with open access, eg MIT & OU open courseware
2. Focus not on static content but on web-based, aggregated content
3. E-learning framed as understanding & conversation, just-in-time learning
4. Assessment of situated learning

(Stephen Downes)

Home - alias - ardcalloch

http://tlt.strath.ac.uk/media/alias/default.aspx

Google

alias, ardcalloch

Home - alias

Microsoft Outlook Web Ac...

ARDCALLOCH LEGAL INFORMATION & ADVICE SERVICE

Sign In

Home Monthly Bulletins Member Firms Site Settings

Read Free Legal e-Bulletins ...

Type	Name	Topic
Audience : Corporate Clients (10)		
Submitting Firm : Cowie Jones & Wallace (1)		
	The smoking ban - Guidance for workplaces	The smoking ban: Guidance for work places
Submitting Firm : D'Law & Sullivan (1)		
	Time for the UK to pull up her SOX	Time for the UK to pull up her SOX
Submitting Firm : Erskine Coyle & Williams (3)		
	Sexual Harrassment in the Workplace	Employment Law: Legislative Update
	The Future of Family Friendly Employment Law	Employment Law
	SMOKING BAN IN SCOTLAND	Smoking Ban in Scotland
Submitting Firm : McKeilty Brown & Smith (1)		
	The Proposed Reform of Directors Duties	Directors Duties
Submitting Firm : McKenna Associates (2)		
	Renewable Energy	Renewable Energy
	Bridging the Gap	Competition Policy: Bridging the US/EU Divide
Submitting Firm : Reynolds Montgomery & Hoggart (1)		
	Equal Pay - Recent Developments	Employment Law
Submitting Firm : Sheldon Edwards & Crowe (1)		
	stressatwork	Stress At Work
Audience : Personal Clients (35)		
Submitting Firm : Callaghan Legal (4)		
	AreYouReadyForA[1]	A-Day
	Surveying_the_Changes	Conveyancing
	26TH MARCH 2006 A Guide for Businesses	A Guide to get businesses/organisations ready for the new smoking ban
	Intestate Succession	Intestate Succession
Submitting Firm : Cowie Jones & Wallace (3)		
	Freedom of Information (Scotland) Act 2002 Nov 2005	Freedom of Information (Scotland) Act 2002
	Civil Partnerships in Scotland Dec 2005	Civil Partnerships in Scotland
	Rights of the Unmarried Father	Rights of the Unmarried Father
Submitting Firm : D'Law & Sullivan (7)		
	SPILT and more: A house buyer's guide to Stamp Duty Land Tax	SPILT and more: A house buyer's guide to Stamp Duty Land Tax

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Links

- Category : **Ardcalloch** (3)
 - Ardcalloch
 - Ardcalloch Sheriff Court
 - Ardcalloch Town council
- Category : **Case Law** (8)
 - British and Irish Legal Information Institute - BAILLI
 - The Court Service
 - Employment Appeals Tribunal
 - House of Lords Judgements
 - The Incorporated Council of Law Reporting - Daily Law Notes
 - Northern Ireland Courts Service
 - Scottish Courts page
- Category : **EU Institutions** (4)
 - The EU Commission
 - The EU Council
 - The EU Court of Justice
 - The EU Parliament
- Category : **News Services** (4)
 - Reuters
 - Associated Press
 - PR Newswire.com
 - Press Association
- Category : **Online Journals** (13)
 - Building Magazine

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ALIAS...

Ardcalloch Legal Information & Advice Service

ALIAS

- Simulation of professional writing contexts
- Creation of wikis within ALIAS – Ardcalloch Legal Information and Advice Service
- Students:
 - saw each other's drafts (collaborative learning)
 - amended firm's drafts (collaborative working)
 - were responsible for individual articles (ownership...)
- Staff :
 - saw student drafts (observe collab. learning + working)
 - commented on drafts (feedback on individual work)
- Staff included professional legal writers as well as GGSL staff, and used previous student work, & previous students as mentors

Practice Management as context

- Key support for student collaboration
- Subject deals with issues such as
 - Risk management
 - Time management
 - Client care
 - Secure and effective collaborative work practices
 - Legal research

and deals with these issues within simulated transactions

- Practice manager is therefore a *coach* rather than a *tutor*, within a professional collaborative writing environment.

	Norms	Feedback	Behavioural modification	Example	Variant
Hierarchical	Legal Rules	Monitoring Powers/Duties	Legal Sanctions	Classic Agency Model	Contractual Rule-making & Enforcement
Competition	Price / Quality Ratio	Outcomes of Competition	Striving to Perform Better	Markets	Promotion Systems
Community	Social Norms	Social Observation	Social Sanctions, eg Ostrac-ization	Villages, Clubs	Professional Ordering
Design	Fixed with Architect-ure	Lack of Response	Physical Inhibition	Parking Bollards	Software Code

Murray & Scott 2002

legal informatics examples

- Candy Chang's Street Vendor project: <http://candychang.com/street-vendor-guide/>
- Margaret Hagan's OpenLawLab: <http://www.openlawlab.com>
- Susanne Hoogwater's contract drafting visuals: <http://www.legalvisuals.nl>
- Gary Sieling, Visualizing Citations in US Law, -- <http://garysieling.com/blog/visualizing-citations-in-u-s-law>, where the thickness of the links between Titles encodes the frequency of citations between the sections, including self-citations.
- Uber Rides by Neighbourhood at <http://bost.ocks.org/mike/uberdata/>.
- The Access to Justice & Technology project at Chicago-Kent College of Law – <http://www.kentlaw.iit.edu/institutes-centers/center-for-access-to-justice-and-technology>. The goal of the of the project is to begin to establish cyber clinics as a permanent feature in US law school education.
- Visualizations of the German Civil Code: <http://www.visualizing.org/visualizations/arc-law>
- Aaron Kirschenfeld's post, 'The Law School Crisis, Visualized': <http://www.aaronkirschenfeld.com/scholarship/law-viz/>
- Jade: <https://www.jade.io/Jade.html#t=home>

conclusions

1. *Work with regulators and others to shift the focus on programmes from legal content to legal skills, and deep discussion and practice of legal values.*
2. From other disciplines, develop the concept of *collective competence* and *collective responsibility* around issues such as open and free resources, and do this via interdisciplinary approaches. In this way change, in Gitelman's terms, the *'associated "protocols" or social and cultural practices that have grown up around [a] technology'*

conclusions

3. Oliver Goodenough's e-curriculum (2013) gives us useful pointers as to what a curriculum heavy with technology might look like; but we can do much more to *embed and converge media*. We can use crowdsourcing, visualisation and the tools of legal informatics in our classes, and in our understanding of legal education itself.
4. *Use legal information creatively, imaginatively and practically*, as the legal informatics examples demonstrate
5. *Focus on complex and sophisticated simulation environments* in which we can use primary legal resources with students, and practise using these in a wide variety of contexts within our teaching programmes.



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