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Editorial: BILETA special issue – technology and legal education

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This first issue for 2015 is a collection of three articles from the BILETA (British and Irish Law Education Technology Association) 2014 annual conference, hosted by the University of East Anglia Law School. It also contains an article that was not given at the conference, namely that written by Lee and Ferguson, but which is closely associated with many of the concerns of the BILETA articles.

Given its appearance in June 2013, the Legal Education and Training Review (LETR) is still the most substantial regulatory report in the recent past to affect legal education, and has spawned a number of papers and initiatives from front-line regulators such as the SRA and the BSB. While its remit was firmly focused on legal services education and training (LSET), it did take into account other forms of legal education, including the undergraduate degree. Craig Newbery-Jones' paper focuses on the post-LETR environment. He draws upon both the theoretical literature and his experience as e-learning and digital resource co-ordinator at the University of Exeter Law School. Citing LETR's conclusion that in spite of the centrality of professional ethics and legal values to the regulated workforce in law, the quality of learning of professional conduct, ethics and professionalism is variable, he argues that it is at the initial stage of legal education that students should gain 'a conception of legal ethics, access to justice, the quality of the legal process and professional social responsibility'. And he further argues that both innovative curriculum design and e-learning have a central place to play in fostering that conception. He takes three curricular examples from his law school that use a variety of media – for example the Excel@Law multimedia platform, and the design of the Virtual Law Firm and Virtual Board Room environments most of which, though employing the terminology one might find in LSET, are directly applicable to undergraduate education too. All are designed with custom-built communications networks. Indeed one of the most interesting aspects of this paper is Newbery-Jones' (and his law school's) refusal to be satisfied with the vanilla apps that are usually given to disciplines by their institutions. Instead, he argues for the development of 'specific tools' to be developed 'with the aims, objectives and learning outcomes clearly outlined from the beginning – surely the way forward for our discipline. There are dangers in small-scale development (principally sustainability in the endless digital churn); but there are significant advantages, too.

Too often we regard technology as synonymous with digital hardware and software. But as Andrew Murray reminds us in an article refreshingly satirical of our technocratic pretensions, books may be analogue, but they too are a form of high tech. Not only books: manuscripts too were highly sophisticated forms of literacy and the migration of manuscripts circulating legal codes and culture throughout Europe before the fifteenth century were fundamental to the development of medieval and Renaissance law. Indeed too often in reaching for disruption as a mode of innovation and culture change we forget how complex is the slow maturing of continuity within cultures. Even in the nineteenth century, where the astonishing rate of industrialisation of both print processes and paper production led to the mass production of books (without which the Langdellian revolution of the case-book and socratic method simply could not have happened) – even then, the continuity of book culture was strong. Murray parodies the

acronymic tendencies of digital innovation, but he makes valuable points about the continued and contrasting use of books within fast-changing digital learning cultures. His article charts the progress of an experiment in book use in a class on Cyberlaw at the LSE in 2013/14. As he puts it in the abstract, '[t]he experience of the experiment suggests students developed a much deeper understanding of classical cyber regulatory texts such as Lessig, Wu, Benkler or Zittrain by referring back to classic works of literature'. Just how students (and staff) achieved that deeper understanding is the focus of his article.

What is fascinating about all four articles is that while they take quite different approaches to both technology and education, all four converge upon experiential education as a key space for legal learning. Elizabeth Seul-gi Lee's and Anneka Ferguson's article is included here because the authors, though not present at the BILETA conference, might well have been, given their treatment of the subject of the 'virtual educational space' and the place of experiential learning within it. It is not enough, they argue, that law graduates are equipped with legal knowledge and skills: much more is required of legal education not least because (citing Francis 2011) legal professionalism is '"fragmented, heterogeneous and fluid"'. Writing from the context of Australian professional legal education, which they outline in some detail, they give an extensive description and analysis of how digital spaces can be used to bring about experiential learning in professionalism. They describe how radical spaces for learning require innovative curriculum design; and they give at times a vertiginous sense of the scale of innovation that underpins their programme. In the process they show how such an approach dismantles conventional approaches to 'distance' learning, where actually what matters is the intimacy of such learning. They conclude with a consideration of the regulatory response to such innovation, to date, and the implications of their approach for the future of regulation in Australia.

The theme of the 2014 conference was 'Legal Regulation and Education: Doing the Right Thing?' Conference themes are more honoured in the breach than in the observance, but a surprising number of papers at this conference did at least acknowledge the theme – possibly because regulation is a core feature of much of BILETA's work. That regulation has not surfaced much in discussions of technology and legal education is long overdue for reform. Maharg's article traces why that might be so, and gives a brief overview of (the lack of) meta-regulatory thinking in legal educational reports in England and Wales. He also draws from the LETR report and associated resources LETR's approach to technology and legal education. He traces briefly the post-LETR changes. Above all he outlines a fresh approach to meta-regulation in the field of legal learning and technology, arising from LETR's approach to regulation across legal education generally.

If these articles are anything to go by there is rich evidence of divergent practices, radical reforms, significant shifts in educational design. And yet how representative of law schools in the UK let alone globally, is this collection? If you work in a law school as student or staff is your law school engaging in the sorts of initiatives outlined here? In truth, we know almost nothing of what happens in law school curriculum technology design and innovation within the UK, where law schools are for the most part silos for their own practices. Indeed the same argument could be made for innovation across all common law and civilian jurisdictions. In Lee and Ferguson's article we learn of an innovative programme in one Australian law school; but how representative is that of all 39 or so law schools across Australia's eight jurisdictions? Globally?

It used to be that BILETA had influence on regulators and accreditors of legal education through its influential BILETA Reports, 1 and 2 (BILETA 1991;1996). But that was almost 20 years ago – a different era in internet chronology. Maharg's article points to how

BILETA as an organisation might work with others such as front-line regulators in order to bring about regulatory change; the other articles richly embody what the results of such change may be. Perhaps it is time for another BILETA Report on legal education and technology, this time not focusing on hardware and software use but on the nature of the integration of digital technologies with education (eg curriculum design), legal research, the legal profession, and many other disciplines and professions. Ideally such a report would have global reach across common law jurisdictions. It is of course a huge undertaking; but it could be argued that none is better placed than BILETA to begin the process of seeking collaborative funding and the researchers required for the task.

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