Law Students' Responses to Innovation: A Study of Perspectives in Respect of Digital Knowledge Transmission, Flipped Classrooms, Video Capsules and Other Means of Classroom Dissemination

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I. INTRODUCTION

Innovation is on tap at Canada's law schools, and the changes proposed in this country's law schools range from substantive curricular innovation through to changing the means of instruction. More and more there is a push for experiential learning, increased clinical outcomes, and the use of innovative methods in teaching law curricula.[1] Flipped modes of learning, with online materials outside of class time paired with

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1 Mary J Shariff et al, *Academic Innovation Committee On The Robson Hall J.D. Curriculum: Consultation Paper*, online: <http://law.robsonhall.com/wp-content/uploads/2015/09/Academic_Innovation_Committee_Report_12_March_2014.pdf> accessed June 22 2017 [Consultation Paper]; for a diarized reflection on flipping the classroom in the Canadian law school context see Craig Forceses's website <http://craigforcese.squarespace.com/bleaching-law/> accessed June 8 2017; see also online: <http://legaledweb.com/flipping-a-law-school-course/> accessed June 8 2017.

in-class experiential activities are becoming increasingly more common with some estimates saying that a growth rate of 35% in flipped delivery will be expected between 2016 and 2020.[2] A Lexis-Nexis study found that adopters of flipped pedagogies considered the approach a "best practice"; that more than 70 percent of faculty were satisfied with the approach; and that 61 percent of students were satisfied with flipped pedagogies.[3] Indeed, some studies have shown that flipped pedagogies serve to ease student anxieties in the American law school context, where video primers (i.e. video capsules) were deployed as part of the pedagogy.[4]

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2 Travis Burchart, *Flipped Classrooms in Law School: A Bright Future*, online: <https://www.lextalk.com/b/lextalk_blog/archive/2017/04/06/flipped-classrooms-in-law-school-a-bright-future.aspx> accessed June 9 2017; see other examples in other disciplines: Louis DesLauriers, Ellen Schelew, & Carl Wieman,"Improved learning in a large-enrollment physics class" (2011) 332 Science 862-86; Michael Fitzpatrick, "Classroom lectures go digital", *The New York Times* (24 June 2012), online: < https://www.nytimes.com/2012/06/25/us/25iht-educside25.html>; Maureen J Lage, Glenn J Platt & Michael Treglia, "Inverting the classroom: A gateway to creating an inclusive learning environment" (2000) 31 J of Economic Education 30-43; Harold Pashler et al, "Learning styles: Concepts and evidence" (2008) 9 Psychological Science in the Public Interest 103-119; Cynthia J Brame, Flipping the classroom, online: Vanderbilt University Center for Teaching, online: <http://cft.vanderbilt.edu/guides-sub-pages/flipping-the-classroom> accessed June 8 2017. See also Jared Keengwe, Grace Onchwari & James Oigara, *Promoting Active Learning through the Flipped Classroom Model* (Hershey: IGI Global Book-Information Science Reference, 2014).

3 Burchart, *ibid*.

4 Julie Tausend, *Flipping the Law Classroom to Ease Student Anxiety*, online: <https://edtechmagazine.com/higher/article/2013/12/flipping-law-classroom-ease-student-anxiety> accessed June 8 2017. The video priming process was described as follows:

> The goal was to provide each first-year law student with a prerecorded video "primer" that briefly outlined the upcoming class, including the class's learning objectives. The primer highlighted how the students should prepare, what would be expected of them, and what they could expect to achieve from the class meeting.
>
> The video primers were recorded by a small group of faculty members using capture recording software, a webcam and a microphone. Pepperdine's manager of instructional technology provided the faculty with an instructional design document, a storyboard document and a scripting document to help create the primers. No postproduction was used, so faculty members scripted what they wanted to say. If they weren't satisfied with the recording, they re-recorded.

Indeed in some US law schools, flipped methodologies are explained and marketed as working hand in glove with clinical legal education outcomes, allowing law students "the opportunity to engage directly in material during class time while also providing them with learning materials that can also serve as reference points throughout their careers".[5] Professor Craig Forcese has posted the results of his experimentation in flipping his law classroom and has noted that students that completed his flipped course "demonstrate greater competency on a law school problem-solving hypothetical exam than do students who complete …[a]… classic lecture/Socratic course"; he recorded increased final scores and less "grossly underperforming students".[6]

Understanding the outcomes of flipping the legal classroom in service of better clinical and experiential learning in Canadian law schools remains understudied, and most studies seem to focus on instructor reflections or, in some cases, law school marketing departments.[7] Robson Hall Law School at the University of Manitoba is in the midst of undergoing its own curricular changes, moving towards enhanced clinical and experiential opportunities.[8] While the case for greater experiential and clinical learning through innovative teaching methods has been made convincingly at the faculty level, canvassing students for opinions in respect of teaching innovation has largely been left to the vagaries of course evaluation instruments. In response to this gap in knowledge, we developed a questionnaire for first year Robson Hall Law students to complete in order to provide us with a more complete picture of the respondents' expectations and experiences with teaching innovation at the law school. The results were somewhat surprising in that they detailed a rich and disparate view of the use of technology as part of legal teaching, as well as an unequivocal preference for in person learning opportunities.

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5 Onawa Gardiner, *Academic Innovators Series – Academic Innovation*, online: <http://ai.umich.edu/flipping-the-legal-practice-classroom-academic-innovators-series/> accessed June 8 2017; see also Faculty Focus, *Flipped Classroom Trends: A Survey of College Faculty,* online: A Magna Publication <https://www.facultyfocus.com/wp-content/uploads/2015/08/Flipped-Classroom-Trends_FF-Report-2015.pdf> accessed June 8 2017 [Faculty Focus].

6 Craig Forcese, *Bleaching Law*, online: <http://craigforcese.squarespace.com/bleaching-law/>.

7 Gardiner, *supra* note 5. See also Faculty Focus, *supra* note 5.

8 Consultation Paper, *supra* note 1.

In this paper, we discuss the results of our survey, discuss some of its limitations, and make some prognostications for future pedagogical development for law school in Manitoba. In the first part of our paper, we provide some background context for curricular and pedagogical innovation in law schools. In the second part, we reveal the outcomes of our survey and then discuss some of the ramifications and conclusions from our findings. We complete our discussion by calling for incremental evolution of law school teaching using innovative teaching models to build clinical and experiential learning outcomes in legal teaching. We note that the profession of law is inherently relational and human, and that the study of law should continue to foster these contexts as well, even as innovation and technology provide us with countless opportunities to foster new means of learning.

In general, surveys of student input into advances in teaching technology have not been undertaken in Canada. Certainly, professors have asked their own students for feedback, but few studies outside of reflections on one's own evaluative practices have been carried out. We believe that the voices of students should be canvassed. Mid-academic session studies of first year samples provide interesting fodder for discussion since these participants have relatively recent experiences with technology in past studies outside of law school and are in the midst of experiencing technological and pedagogical innovations in a law school context. That being stated, first year students have not yet experienced the entire spectrum of law school experiences, and thus our results capture only this point of progression through law school – students with recent experience in other disciplines who have almost completed one term. Nonetheless these students have still experienced a plethora of legal teaching across a wide range of subject areas and often in larger quantities of course load than upper year students who increasingly specialize in topics of interest. At Robson Hall, all first-year students are required to enroll in Legal Methods, which provides an opportunity to attempt to survey the entire first year student body, a body whose first-year experience, unlike progressive years, largely consists of the same curriculum. However, the legal methods course has a heavy clinical and experiential component including client interviews, letters to clients, memo writing, statement of claims drafting, motions drafting, and an oral motions exercise held at the court house. These students are thus well placed to speak to clinical and experiential techniques of pedagogy.

Before turning our attention to the survey results, we review broadly the progression of Canadian legal pedagogy. We then review some recent attempts to study technological innovations in the enhancement of this pedagogy, particularly in the context of technological shifts and experiential and clinical turns in pedagogical practice.

II. BACKGROUND DISCUSSION

It is a time of great flux in legal education. Indeed, pedagogical approaches in law schools have a storied history of contestation.[9] The modern law school pedagogical approach continues to emphasize core courses, courses that introduce students to systems of law, as well as courses instructing students how to engage in legal research and writing.[10] The needs of practice though have begun experiencing unprecedented change and challenges. Most legal research can be completed online through open access and paid service legal databases. Law firms and government agencies have established interconnected research networks for the purposes of sharing legal documents, and even court filings have begun to move towards electronic submission. Indeed, it has not been a recent observation that law schools ought to provide students with more advanced technical training.[11] Certainly, practitioners do indeed provide significant portions of instruction at law schools, and despite a move to modernize legal curricula, core doctrinal competency is still well established and ensconced at Canada's law schools.[12] Many of Canada's top law schools have continued to emphasise substantive courses such as constitutional law, contracts, criminal law, legal process, property, and

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9 Richard Jochelson, "Let Law be Law, and Let us Critique: Teaching Law to Undergraduate Students of Criminal Justice" (2014) 4 Annual Rev of Interdisciplinary Justice Research 234-254; see also Wesley Pue, "Common Law Legal Education in Canada's Age of Light, Soap and Water" (1996) 23 Man LJ 654-688; Annie Rochette & Wesley Pue, ""Back to Basics"? University Legal Education and 21st Century Professionalism" (2001) 20 Windsor YB Access Just 167-190.

10 Jochelson, *ibid*.

11 Rochette & Pue, *supra* note 9.

12 Rochette & Pue, *ibid*; see for example the curriculum advanced at University of British Columbia, online: <http://www.law.ubc.ca/>.

torts.[13] Simultaneously though, these law schools continue to aim to provide more macroscopic assessments of the study of law. A recent review of three large law school programs notes as follows:

> [The University of Toronto] program is designed to assemble a "wide range of views and diversity of perspectives on law and legal reasoning" (http://www.law.utoronto.ca/). Osgoode Hall also requires fulfillment of torts, contracts, criminal law and property law but it also requires students to complete Legal Process and State and Citizen: Canadian Public and Constitutional Law. While the former focuses on civil disputes, it is described as a skills-based course that provides intensive instruction in legal research and writing. The latter course teaches the student about the complex legal relationships between the state, individual and communities, rule of law, the role of the judiciary, statutory interpretation, the Charter, the division of legislative powers, as well as relationships between law and indigenous Canadians (http://www.osgoode.yorku.ca/). The program also now requires the completion of Ethical Lawyering in a Global Community which integrates the ethics training of the legal profession and places the study in a transnational context. The UBC law curriculum is quite similar, though it adds Transnational Law as a required course, as well as requiring completion of the Regulatory State which focuses on legal research and writing skills as well as providing the student with statutory interpretation training (http://www.law.ubc. ca/). Law in Context provides the student with legal history education, legal and political theory exposure and critical approaches to the law (http://www.law.ubc.ca/).[14]

Even the most recent iterations of law school traditions in Canada seemingly borrow from traditions heavily rooted in United States legal pedagogy. The University of Manitoba was arguably the first to draw from these traditions in Canada beginning in the mid 1900s.[15] The vision was cemented through, in part, incorporation of the "case method" as pedagogy, and the creation of a full time "professional law teacher" class.[16]

One of the "intellectual hallmarks" of legal education remains the goal of teaching law students to think like lawyers.[17] The debate between practical training and the development of rigorous legal analytical skills is

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13 For example, see <http://www.law.utoronto.ca/>; see also <http://www.osgoode.yorku.ca/>.

14 Jochelson, *supra* note 9.

15 Pue, *supra* note 9 at para 46.

16 *Ibid* at para 46.

17 John Conley, "Can You Talk Like a Lawyer and Still Think Like a Human Being? Mertz's Language of Law School" (2009) 34 Law & Social Inquiry 983 at 1009.

likely a false binary, but Canada has seen the battles waged on this front between the professional Bars and organizations like the Canadian Association of Law Teachers and the Canadian Law and Society Association.[18] The academic societies argue for more rigour and studied approaches to changes in legal curriculum, whilst Law Societies call for more practice ready graduates – this is a tension which has yet to abate

Simultaneously, rigour, it must be pointed out, is not solely about dispassionate academic legal analysis. Many legal scholars and teachers demand an education of law to be apprised of empathetic understanding of society's social issues, including instruction on how to identify the lack of justice, fairness, and power imbalances.[19] Legal curricula often contain upper year perspectives courses in order to deploy these lessons. Though, some have argued that these sorts of curriculum tweaks merely ask students to hold at bay their personal beliefs and at best result in a temporary thought experiment as opposed to fundamental changes in student thinking.[20] In the United States, some scholars have suggested that new pedagogical approaches will be required to better bridge teaching and practice.[21] Some scholars implore that law schools must take a sociological turn in order to better situate the ethical responsibilities of practice; this would, in due course, develop a more aware professional identity and provide for a more socially attuned law school education.[22] Nonetheless, some persuasively retort that legal education and law remain pedagogically conservative and that such a sociological turn would be akin to running a

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18 Richard Devlin et al, "Response to the Consultation Paper of the Task Force on the Canadian Common Law Degree of the Federation of Law Societies of Canada, Canadian Association of Law Teachers/Canadian Law and Society Association" (2009) Canadian Legal Education Annual Rev at 151-169.

19 Conley, *supra* note 17 at 1009; Patricia Williams, *Alchemy of Race and Rights: Diary of a Law Professor* (Cambridge, MA: Harvard University Press, 1991); Elizabeth Mertz, "Recontextualization as Socialization: Text and Pragmatics in the Law School Classroom" *In Natural Histories of Discourse*, ed (Chicago: University of Chicago Press, 1996).

20 Conley, *ibid* at 1009.

21 Elizabeth Mertz, "Social Science and the Intellectual Apprenticeship: Moving the Scholarly Mission Of Law Schools Forward" (2011) 17 J of the Legal Writing Institute 427.

22 *Ibid* at 437; See also Elizabeth Chambliss, "Professional Responsibility: Lawyers, a Case Study" (2000) 69 Fordham L Rev 822 at 827.

social experiment on first year law students: something most legal teachers would avoid at all costs.[23] The more likely shift in Canadian legal education remains the turn towards to experiential and practice based learning through extended clinical offerings and through articling integrated programs, such as the program at Lakehead's Bora Laskin Faculty of Law.[24]

Along with substantive changes to evolve the teaching of law at Canada's law schools, we have also witnessed a technological and procedural shift to an openness to consider the efficacy of the means by which we teach law in Canada. Socratic teaching styles, once the norm for law school instruction, have increasingly been the subject of critique.[25] Similarly, the traditional lecture has come under similar scrutiny. Critiques of these traditional methods of legal instruction often focus on the social, cognitive and technological savvy of today's students. For example, some factors include that students in the millennial generation do not process information the same way as past generations; students are too often disengaged; the rampant spread of digital media has rendered lectures and Socratic teaching obsolete and easy to ignore; students live through technology and should expect to learn on that same technology; and that the traditional modes of instruction are an inefficient means of knowledge mobilization and absorption.[26] These critiques have led to a variety of calls for change to the means of law teaching. One common modality is the flipped classroom. The flipped classroom seeks to invert traditional 'sage on stage' lectures and involve putting the students in charge of class time in an interactive manner and usually using interactive scenarios that the professor has designed. One variant has been described as follows:

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23 Conley, *supra* note 17 at 1012.

24 See "Bora Laskin Faculty of Law", online: <https://www.lakeheadu.ca/academics/departments/law> accessed June 21 2017.

25 Benjamin V Madison III, "The Elephant in Law School Classrooms: Overuse of the Socratic Method as an Obstacle to Teaching Modern Law Students" (2008) 85:3 U Det Mercy L Rev 293; see also Louise Bond-Fraser et al, "The Changing Face of Law Schools: The Impact of Generation Y," online: (2011) 14 Perspectives 3; see also Peter Sankoff, "Taking the Instruction of Law Outside the Lecture Hall: How the Flipped Classroom can make Learning More Productive and Enjoyable (For Professors and Students)" (2014) 51:4 Alta L Rev 891.

26 Sankoff, *ibid* at 893.

> The **flipped classroom** is a pedagogical model in which the typical lecture and homework elements of a course are reversed. Short video lectures are viewed by students at home before the class session, while in-class time is devoted to exercises, projects, or discussions.[27]

The flipped classroom often involves blended learning. Blended learning seeks to integrate the means of teaching by seamlessly integrating and providing space in the learning environment for face to face and digital learning, which in some cases may interweave:

> Blended courses are those that integrate face-to-face and online learning. Online and classroom activities and course materials are selected to complement each other, to engage students, and to achieve specified learning outcomes.[28]

The use of flipped and blended modalities is often described as a pedagogical response to millennial students' different socio-technological contexts. This generation is described by some authors as having very different learning styles than preceding generations. Peter Sankoff writes that these students are "Intent on using technology as part of the learning process; Visual learners; Multi-taskers; Learners with shorter attention spans; and of the belief that learning should be both interactive and collaborative in nature."[29] While flipped classrooms seem to be relatively

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27 See online: <https://net.educause.edu/ir/library/pdf/eli7081.pdf> accessed June 7 2017; see also Peter Sankoff & Craig Forcese, "The Flipped Law Classroom: Retooling the Classroom to Support Active Teaching and Learning" (February 27, 2014) Canadian Legal Education Annual Rev (Forthcoming). Available online at SSRN: <https://ssrn.com/abstract=2402379> or <http://dx.doi.org/10.2139/ssrn.2402379>.

28 See online: <https://uwaterloo.ca/centre-for-teaching-excellence/resources/blended-learning/blended-learning-new-normal> accessed June 7 2017; see also Jennifer Ireland, "Blended Learning in Intellectual Property: The Best of Both Worlds" (2008) 18: 1 & 2 Legal Education Rev 139; Kristin B Gerdy, Jane H Wise & Alison Craig, "Expanding Our Classroom Walls: Enhancing Teaching and Learning Through Technology" (2005) 11:1 The J of the Legal Writing Institute 263.

29 Sankoff, *supra* note 25 at 895, citing Eric A DeGroff & Kathleen A McKee, "Learning Like Lawyers: Addressing The Differences In Law Student Learning Styles" (2006) BYU Edu & LJ 499; Joanne Ingram & Robin A Boyle, "Generation X in Law School: How These Law Students Are Different From Those Who Teach Them" (2006) 56:2 J Legal Educ 281; Benjamin V Madison III, "The Elephant in Law School Classrooms:

well established in legal teaching settings in the United States, there seems to be less consistent use of the approach in Canada.[30]

In response to these concerns, Professor Sankoff developed a pedagogy of online video capsules followed by problem solving in class problems in his reflection piece about his evidence law class. Sankoff writes:

> In its most basic form, an evidence law capsule is a short video that combines a condensed audio-recorded lecture with a computer "whiteboard." Created through use of a computer tablet and electronic pen, the capsule contains a series of pictures, drawings, and notations supplemented with a voice-over. Running 10 to 20 minutes in length, the capsule addresses rudimentary elements of evidence law. The goal in creating capsules is not to replicate a lecture or address every possible aspect of a topic, but rather to provide students with a basic underpinning of whatever issue is to be addressed in class on the day in question.[31]

Indeed, active learning in class time is a critical adjunct to the flipped classroom and ensures that class time remains "student centered", utilizes "small groups", uses professors as "facilitators", develops "clinical problem-solving skills", and provides opportunities for attainment of new material through "self-directed learning".[32] In one of Canada' few reflexive studies on pedagogical innovations to teaching law, Sankoff summarizes and describes the benefits of this pedagogy as: ensuring that students arrive with better understanding of core materials;[33] saving classroom time for problem solving;[34] being more engaging for visual learners; providing flexibility of learning experiences;[35] and making optimal use of professorial

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Overuse of the Socratic Method as an Obstacle to Teaching Modern Law Students" (2008) 85:3 U Det Mercy L Rev 293; Gerdy et al, *supra* note 28; Louise Bond-Fraser et al, *supra* note 25 at 3.

30 Sankoff & Forcese, *supra* note 27.

31 Sankoff, *supra* note 25 at 898-899.

32 Sankoff & Forcese, *supra* note 27 at 3; Jacob Bishop & Matthew Verleger, "The Flipped Classroom: A Survey of Research" (2013) 120th ASEE Annual Conference & Exposition at 5, online: <http://www.studiesuccesho.nl/wp-content/uploads/2014/04/flipped-classroom-artikel.pdf>, citing Howard S Barrows, "Problem-based learning in medicine and beyond: A brief overview" (1996) 68 New Directions for Teaching and Learning 3.

33 Sankoff, *supra* note 25 at 900-901.

34 *Ibid* at 901.

35 *Ibid* at 901-903.

knowledge and experiences.[36] Detrimentally, Sankoff notes that the pedagogical approaches he used were resource intensive;[37] could discourage student attendance;[38] could suffer from technological issues for "have not" students;[39] and created more work for students due to extracurricular assignments.[40] Sankoff concludes by noting that:

> Cutting out or reducing the standard lecture method of instruction offers professors the hope of teaching in a manner that better meets the diverse educational needs of today's students and lets law school become a more productive and enjoyable experience for all concerned. Hopefully the "future of law school" includes greater reliance upon technology that allow today's students to have a more enriching and engaged experience, helping law faculties to turn out graduates who are more skilled and better placed to deal with tomorrow's challenges.[41]

Studies of flipped classrooms seem to show reasons for cautious optimism.[42] One study, comparing the same class in using a flipped and

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36 *Ibid* at 900-903.

37 *Ibid* at 903.

38 *Ibid* at 904-905.

39 *Ibid* at 905.

40 *Ibid* at 905-906.

41 *Ibid* at 906.

42 Sankoff & Forcese, *supra* note 27; Bishop & Verleger, *supra* note 32; Jason A Day & James D Foley, "Evaluating a web lecture intervention in a human–computer interaction course" (2006) 49(4) IEEE Transactions on Education 420. See also Faculty Focus, *supra* note 5 at 2 which describes the positive outcomes of flipped pedagogies after garnering 1089 faculty responses:

> More than two-thirds (69.5%) have tried flipping an activity, class, period, or course, and plan to do it again. Another 5.49% have tried flipping, but don't plan to do it again. Roughly one-third (31.8%) of those who have flipped did so within the past year. The majority of faculty who have flipped rated the experience as positive for themselves (70.3%) and their students (64.8%). The top reasons for flipping include a desire to increase student engagement (79.3%) and improve student learning (75.8%). In terms of the actual benefits, nearly three-fourths did see greater student engagement (74.9%), while just over half saw evidence of improved student learning (54.66%). More than 80% said students are more collaborative and 76.61% said they ask more questions, while almost half (48.75%) also noted some student resistance. The most frequently reported barrier for faculty who want to try flipping is limited time. Nearly 70% said it was a very significant challenge (38.1%) or a significant challenge (31.61%). Of those respondents who are not interested in flipped learning,

non-flipped modality found that the flipped classroom group did better in terms of grades than the controlled section; learned more; expressed enjoyment of the online learning component; and enjoyed the course format.[43]

In Canada, relatively few studies considering law student experiences of technology and pedagogical approaches have been undertaken. This is largely because law student classes yield small samples in the first instance, and participation rates in studies would be smaller still. Nonetheless, canvassing student experiences can provide useful information about student experiences of technological use in and outside of the classroom. In the next section, we explore first year responses to a survey instrument that we made available to the class. The students who responded provide a snapshot reaction to the student experiences of pedagogy and technology at Robson Hall.

III. OUR SURVEY

In our law student population, we provided a strictly voluntary response survey to 103 students enrolled in first year at the University of Manitoba Law School at Robson Hall. We received ethics approval to survey the students as long as participation was not mandated, and so long as no identifying characteristics formed part of the survey. As a result, we could not survey for demographic characteristics of the participants. We are however permitted to share the demographics of the entire first year enrolled student group. The first-year group consisted of 50 males and 53 females. Average age of the males was 26 whilst the average age of the females was 24.7. The overall average age was 25.2. The age range as of September 1, 2016 was 19-58. 83 of the students were Manitoba residents, and 20 were out of province residents from British Columbia, Alberta, Ontario, Quebec and Saskatchewan.

38.9% said they don't know enough about it and 27.4% felt it was a fad.

[43] Sankoff & Forcese, *supra* note 27 at 5-6 citing Day & Foley, *supra* note 42 at 425. For a meta-data analysis of the flipped classroom see Bishop & Verleger, *supra* note 32; see also Martin Moravec et al , "Learn before lecture: a strategy that improves learning outcomes in a large introductory biology class" (2010) 9(4) CBE-Life Sciences Education 473.

We developed a survey of 70 questions and asked for student responses on a Likert scale where respondents would need to select one of the following responses to each of the statements presented: *strongly disagree, disagree, neutral, agree and strongly agree*. The surveys were completed online through the UMLearn platform, which is a BrightSpace online learning product. The survey was designed to be completed in under 45 minutes. The UMLearn features allow for deployment of anonymous Likert scale class survey instruments. 26 students responded giving us a snapshot of the students' opinions. The students were enrolled in the Robson Hall first year curriculum which includes Legal Methods, Legal Systems, Torts and Compensation Systems, Contracts, Real Property, Criminal Law, and Constitutional Law. At the time of the survey, students had experienced at least two months of classes and thus had some experience as law students at Robson Hall.

The survey was open from November 1 2016 to November 23 2016. Because our total first year population is relatively small and because our response rate was about 25%, running any advanced statistics would not provide any particular interpretive advantages for the reader.[44] The results would be generalizable to the class with moderate significance – the margin of error was +/- 14 percent with a confidence level of 90%. These analytics mean less in the context of this survey. For one thing Likert–based answers do not translate well to standard deviation calculations in terms of productiveness (the difference between strongly agree and agree for example, is an imprecise measurement, and thus calculating deviations between responses is measuring inconsistent quantities). Second, the type of survey we have conducted has meaning because the responses are from actual, not potential, students enrolled in the law program at Robson Hall. The import of their response, from a statistical perspective, is similar to a department store surveying the experiences of known customers. That is not to say that the law student experience is a consumer one. Rather, there

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[44] For a fulsome discussion see Geoff Norman, "Likert scales, levels of measurement and the "laws" of statistics" (2010) 15:5 Adv Health Sci Educ Theory Pract at 625–632; James Carifio & Rocco Perla, "Resolving the 50-year debate around using and misusing Likert scales" (2008) 42:12 Med Educ at 1150–1152; Susan Jamieson, "Likert scales: how to (ab)use them" (2004) 38:12 Med Educ 1217–1218.

is an inherent worth in knowing what one's actual students are experiencing. Generalizability of the results are less important than our knowledge that 26 of our own students have provided us with their thoughts on the law school student experience of technology in a learning context.

Our results are best understood as a *survey of current clients* and their responses in respect of digital teaching strategies in the law school environment at the University of Manitoba Law School. For these reasons, and also because we are aiming this discussion to a non-social science audience we will present our results graphically and omit advanced statistical analysis. We present these results as modest evidence of what a quarter of the first-year Robson Hall class in 2016/17 expressed as their impressions of law school learning and pedagogy. These results will not necessarily be generalizable to future classes, in different regions of the country or at different times.

The 26 respondents were students that were comfortable completing online surveys and so the usual caveats apply about selection bias- these students are the most likely to be open to technological innovation in pedagogical design. The results are instructive as a moment in Robson Hall's instructional life and may provide insight in the short term as to student attitudes which may also be reflected upon graduation and movement into the articling process. Nonetheless, the 26 respondents will form one quarter of the graduating class of 2019. Their responses shed some light on the perspectives of this cohort.

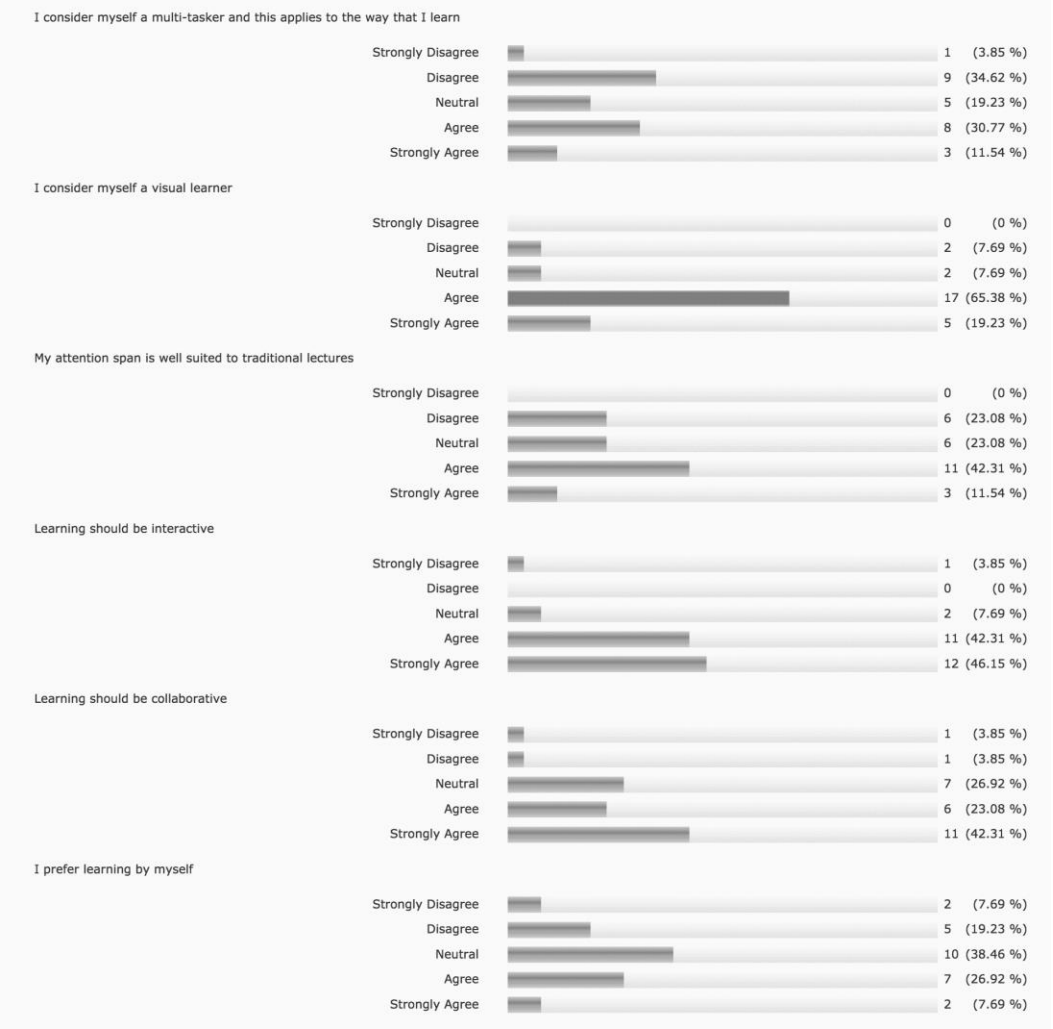
Graph 1: Technology Use

Graph 1 shows a series of responses to questions relating to general use of technology in law school. About 89 percent strongly agree or agree that technology is essential to law school learning, with only 11.54 percent stating neutrality on this point. This preference towards the use of technology extended to students' preferences for online communications (also about 89 percent). Fewer of our respondents thought that wholly online course learning should be part of the curriculum (28 percent, although 36 percent were neutral on this point) and only 11 percent were willing to state that online learning was as or more effective than learning through traditional means. Over 50 percent agreed or strongly agreed that

professors use a sufficient amount of technology in class, while about 27 percent disagreed or strongly disagreed.

The overall message from the respondents is that technology use is expected in the context of the law school experience but they were less than enthusiastic about complete online learning environments. The respondents did not seem to be clamouring for professors to use more online technology than is currently the case.

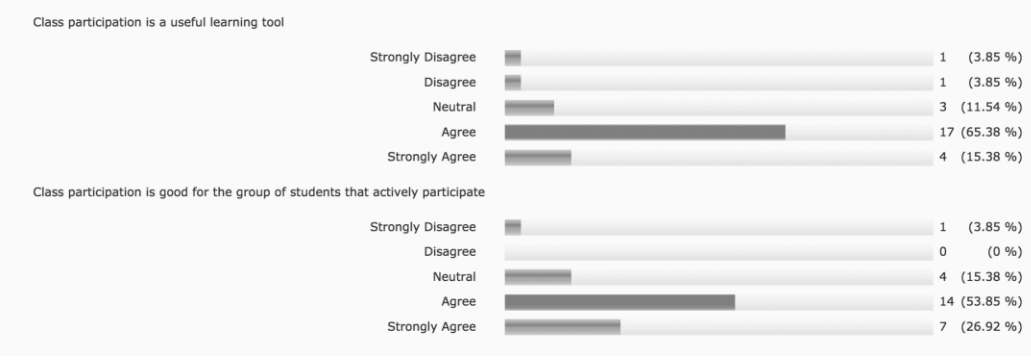
Graph 2: Learning Styles



The next series of questions were designed to capture self-reflections on learning styles. About 42 percent of the students surveyed describe themselves as multi-taskers and apply that to their learning style, while about 38 percent of the students surveyed disagree or strongly disagree with that contention. Almost 86 percent agree or strongly agree that they are visual learners with only 8 percent disagreeing. About 54 percent see themselves as having an attention span suited to traditional lectures while about 23 percent disagree. Almost 90 percent agree or strongly agree that learning should be an interactive endeavour and about 65 percent believe that learning should be collaborative. About 34 percent agreed or strongly agreed that they prefer learning by themselves with only about 38 percent disagreeing or strongly disagreeing; a similar amount were neutral on this statement.

The respondents, then, seem to have some propensity towards visual learning, with a very modest bent towards multitasking, agreeing largely that interactive learning is useful and seeing some value in collaborative learning. It might be that self-directed learning is a necessary part of their experiences but that seemed to manifest as neutrality in their answers.

Graph 3: Class Participation

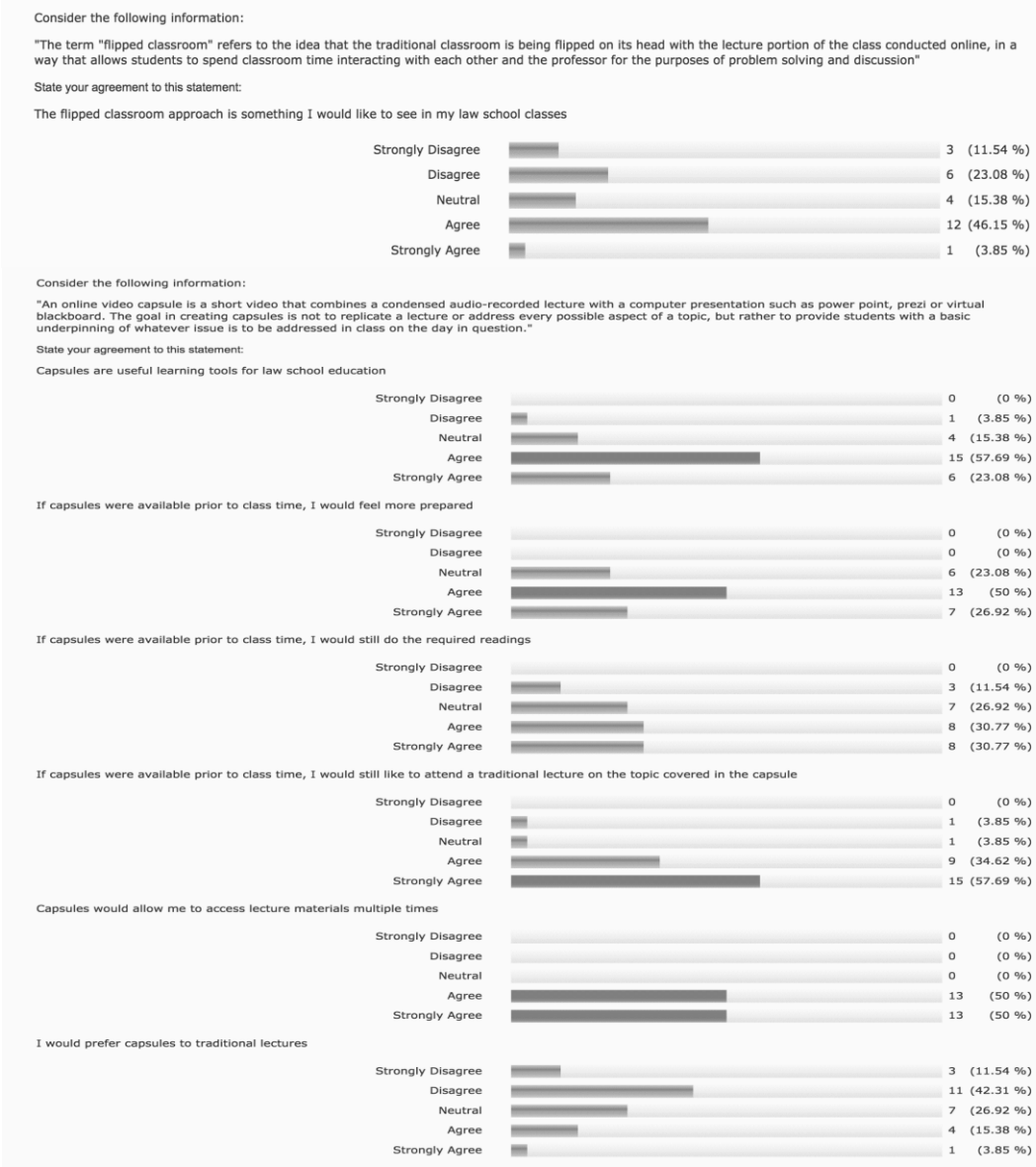


Graph 4: Socratic Method

Graphs 3 and 4 attempt to get students to focus on staples of law school learning – participation in class and the use of the Socratic method. Over 80 percent see class participation as an important means of learning and about that amount describe it as useful for those who do participate. Of course, the Socratic approach is tantamount to compelled participation through directed and probing questioning but 48 percent of respondents agree or strongly agree with its use while 36 percent disagree or strongly disagree with its use. This is hardly the stunning rebuke of the Socratic method that we were expecting. The use of the Socratic method does seem to polarize the students and the spread of responses ran across the Likert range. Integrated problem solving in class was more popular with these respondents. Seventy-five percent agreed or strongly agreed with the approach and only 1 student disagreed.

There seems to be a desire to see students engaged in class in participation doing integrated problem solving, and the Socratic method is not necessarily the source of abject derision amongst the respondents. Given that there are those that embrace the method, it may well be the case that instructors can navigate these waters more safely than we had assumed.

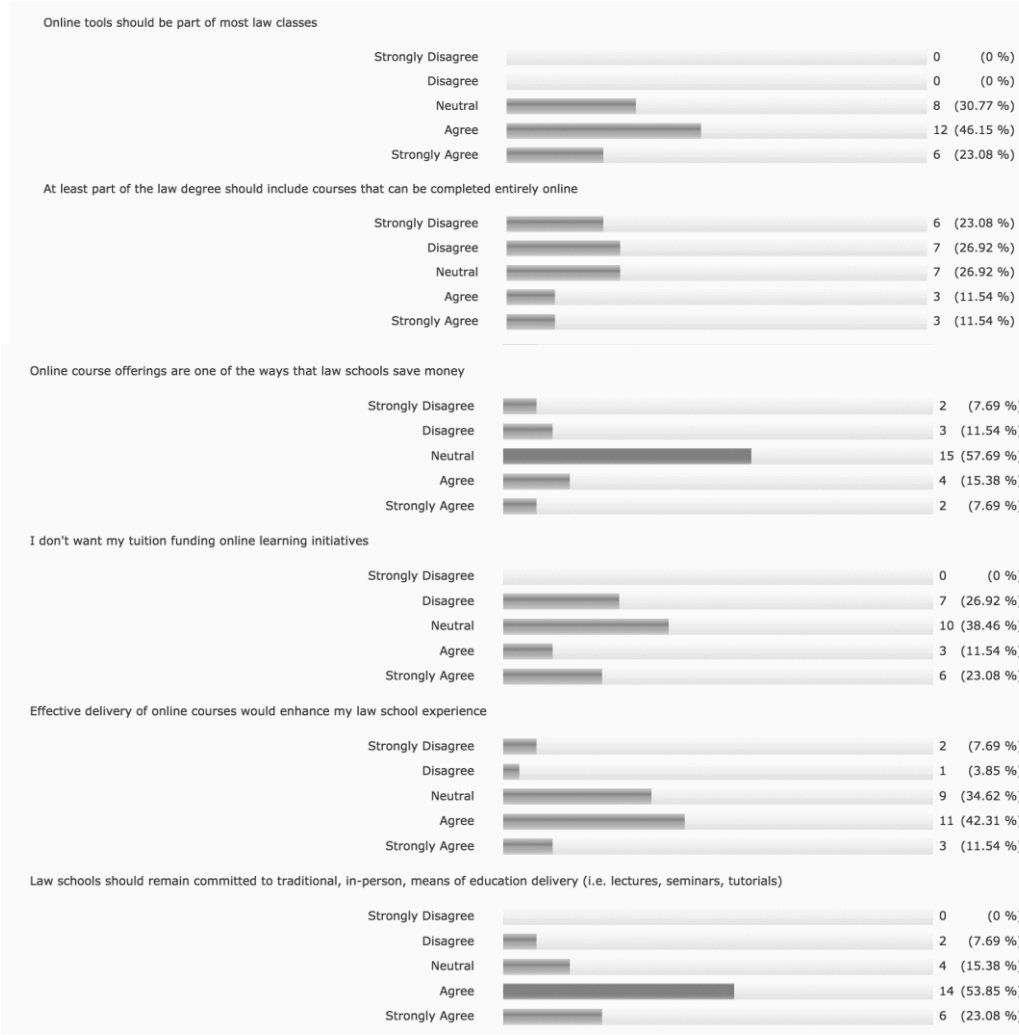
Graph 5: Flipped Classrooms and Video Capsules



On the subject of flipped classrooms and the use of video capsules, we asked the questions in Graph 5. About 49 percent agreed or strongly agreed with wanting flipped classroom experiences in law school. About 35 percent disagreed or strongly disagreed. In terms of the use of video capsules, over 80 percent agreed or strongly agreed they were useful learning tools, about 77 percent agreed or strongly agreed that capsules would help students feel prepared for class, and about 61 percent agreed or strongly agreed they would still do the readings even if capsules were provided. Over 92 percent agreed or strongly agreed that they would still attend class, even if provided with video capsules (when asked differently, about 73 percent disagreed or strongly disagreed that capsules would make them less likely to attend class). All respondents agreed or strongly agreed that capsules would allow for multiple viewings. However, only about 19 percent strongly agreed or agreed that they would prefer capsules to traditional lectures. Almost 85 percent agreed or strongly agreed that they value the role of traditional lectures in law school. However, 50 percent agreed or strongly agreed that the use of flipped classrooms and capsules might disadvantage students with less technological resources, although 23 percent disagreed or strongly disagreed with that statement.

The answers suggest a willingness on the part of respondents to embrace video capsules as part of law school learning but not as a substitute for the traditional lecture. Flipped classrooms more generally seemed to split the respondents though. The picture that is painted is one where video capsules seem to be encouraged by respondents but not at the expense of traditional means of learning. Half agreed with concerns about accessibility related to flipped classrooms or video capsules in general; for instructors that use these tools, this is an area of concern.

Graph 6: Online Tools Generally



Graph 6 shows our results in response to a series of questions pertaining to general online use and its relation to resources in law schools. Almost 70 percent agreed or strongly agreed that online tools should be part of most law classes; only 23 percent agreed or strongly agreed that at least part of a law degree should be completed entirely online while about 40 percent disagreed or strongly disagreed. Whether online courses saved law schools money triggered neutrality in about 58 percent of respondents, with agreement and disagreement logging in at about 23 percent and 19 percent respectively. About 38 percent expressed neutrality at the concept of tuition dollars funding online learning initiatives, while about 34 agreed or strongly agreed with the statement that online learning saves law school administration money; about 27 percent disagreed. About 54 percent agreed or strongly agreed that effective delivery of online courses would enhance the law school experience while about 35 percent remained neutral and 11 percent expressed varying degrees of disagreement. About 77 percent agreed or strongly agreed that law schools should remain committed to traditional and in person means of educational delivery; only approximately 8 percent expressed disagreement.

The results suggest that students seem resigned to online initiatives at law schools and seem to understand that these resources cost money and may affect tuition dollars. The respondents are cautious about the benefits of these initiatives although their responses do not suggest cynicism or suspicion on a grand scale. Nonetheless, our respondents are generally committed to law schools retaining in-person delivery.

Graph 7: Group Work

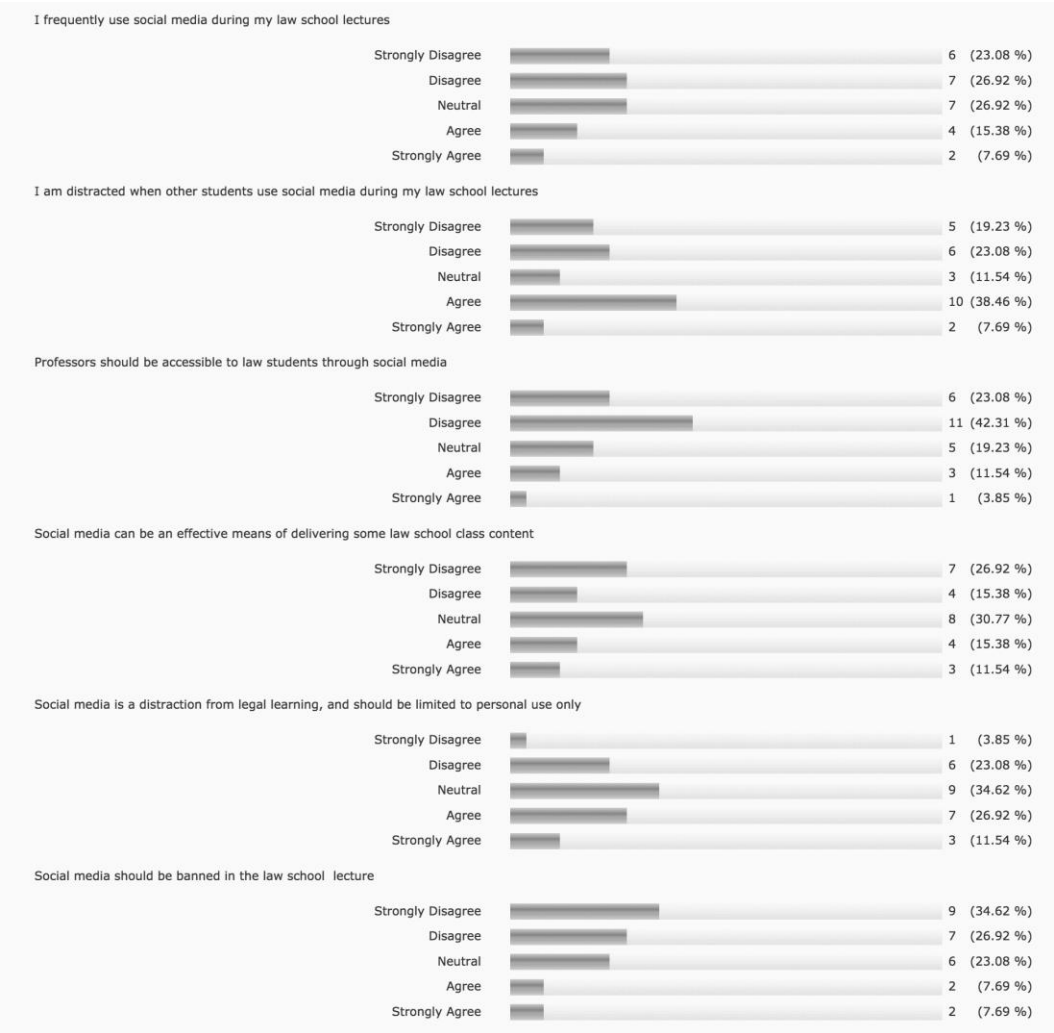
Graph 7 canvasses questions pertaining to group work. Group work is often identified as core skill in a law curriculum and proficiency in it is often held out as an important clinical skill in the law school environment.[45] About 85 percent of respondents agreed or strongly agreed that group work is an essential skill for lawyers to develop. Group work integration into all law school classes was less warmly received with 42 or so percent expressing at least general agreement compared to 39 percent or so expressing at least general disagreement. Almost 70 percent agreed integration in some law school classes was appropriate but about 23 percent remained neutral on this point. Almost 80 percent disagreed or strongly disagreed with the statement that there should be no group work in law school.

The results seem to reflect that the respondents are resigned to the importance of the group work, but group work is not desired uniformly in

[45] Consultation Paper, *supra* note 1.

each and every class. Respondents seemed realistic about group work being an important skill that would benefit students and professors in some class contexts. However, students do seem to understand its importance as a clinical skill.

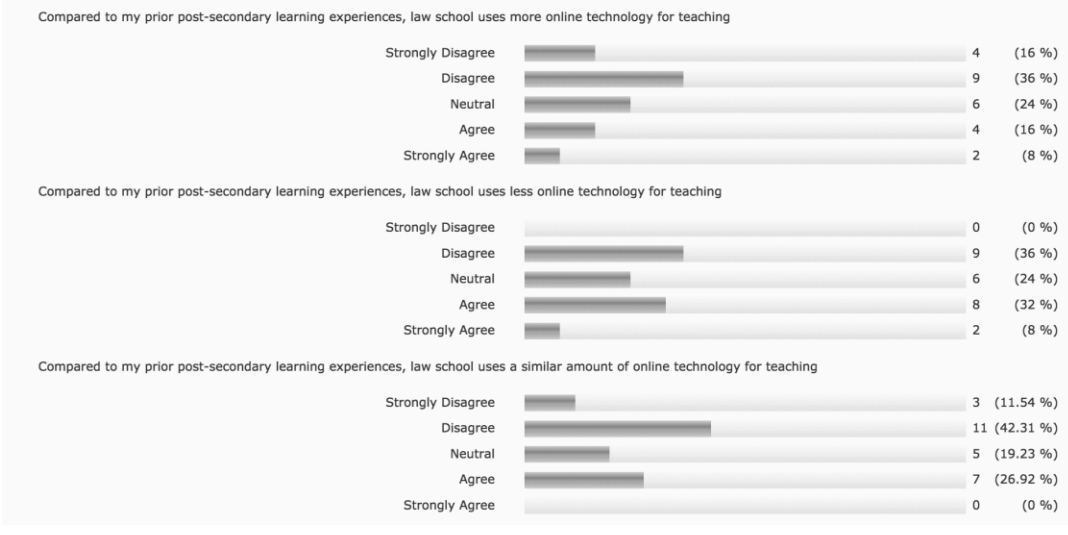
Graph 8: Social Media



As noted in our earlier discussions, this generation of law students are described as plugged in and multi-tasking. We have already seen that not all respondents described themselves as multitaskers. Graph 8 asks questions intending to uncover the role of social media in student learning and law school experiences. Only approximately 23 percent agreed or strongly agreed that they frequently use social media during law school lectures. A surprising 46 percent agreed or strongly agreed that they were distracted when others use social media during class although about 42 percent disagreed or strongly disagreed. Very few students agreed or strongly agreed that professors should be accessible through social media (about 16 percent) with about 65 percent disagreeing or strongly disagreeing. About 27 percent agreed or strongly agreed that social media could be an effective means of delivering law school content (about 47 percent disagreed or strongly disagreed). About 38 percent agreed or strongly agreed that social media was a distraction from learning and should be limited to personal use (about 27 percent disagreed or strongly disagreed). An outright ban on social media in the law school lecture was not supported – about 62 percent disagreed with a ban though about 23 percent remained neutral on this point.

Our results show respondents see social media as a daily reality. They also show that respondents were not vigorously supportive of social media as part of law school learning. Social media is a nuisance for some of our respondents in the class and not for others. There is little support for a ban amongst respondents. Social media seems to be a context at law school, neither entirely peripheral nor central to the student learning experience as indicated by these respondents.

Graph 9: Law School Compared to Past Education



Our last set of questions, in Graph 9, attempted to understand how our respondents saw law school's integration of technology compared to past learning experiences. We have seen in our discussions above that law school is often described as conservative and slow to change pedagogically, whether in form or substance. Twenty-four percent agreed or strongly agreed that compared to past experiences in university, law school used more online technology, while 52 percent disagreed. Forty percent agreed or strongly agreed that law school used less online technology (36 percent disagreed). About 27 percent agreed that law school classes used similar amounts of technology compared to past university experiences, while about 54 percent disagreed.

Read together, these results suggest respondents experienced a modest regression in technology use in the law school classroom. The results do not indicate that these students experienced education as it was in the Mesozoic era, but they do seem to indicate that there are more law schools can do to integrate technology into the law school curriculum.

IV. ANALYSIS

There is a literature developing in the North American law school context, as discussed above, that calls for curricular change in the law school,[46] and in the Canadian law school context, that addresses the growing needs for interactive learning,[47] flipped classrooms,[48] video capsules,[49] and clinical heft.[50] There is ample research on the benefits of flipped classrooms and online learning from studies in other disciplines.[51] We also know that the law school experience in terms of curricular and pedagogical change is notoriously conservative.[52]

Our goal was to survey our students at Robson Hall to help uncover how they felt about some clinical skills and the use of technology in the

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46 Mertz, *supra* note 17; Conley, *supra* note 17.

47 Sankoff, *supra* note 25.

48 Sankoff & Forcese, *supra* note 27.

49 Sankoff, *supra* note 25.

50 *Ibid.*

51 Ireland, *supra* note 28; Gerdy, Wise & Craig, *supra* note 28.

52 Conley, *supra* note 17; Mertz, *supra* note 17.

classroom, in light of the push in recent years to innovate and integrate legal education with practice based skills and with the use of online technologies. We draw the following cautious conclusions in light of the respondents' answers.

The use of technology in the law school environment is clearly expected by our respondents but their appetite for immersive online experiences does not seem to be especially high. In line with recent studies in legal pedagogy,[53] our respondents overwhelmingly described themselves as visual learners, but less frequently described themselves as multitaskers. The respondents did not uniformly suggest that the Socratic method is obsolete, and a fairly robust proportion accepted its utility. Even more so, our respondents indicated that they have positive feelings towards class participation as part of learning. Relatedly, they view group work as a useful clinical skill but seem in favour of its selective use and deployment throughout the law school curriculum.

The respondents' support of more recent innovative pedagogical techniques seems to be a factor. Our respondents showed generally favourable support for the conception of the flipped classroom and even greater support for supplementary video capsules as part of their legal education. Both innovations raised the spectre of issues of accessibility for students.

In terms of online learning more generally, our respondents accepted the online learning context, though they certainly did not embrace it. They seemed to understand there is a cost associated with these initiatives and seemed to accept the increasing use of online learning technologies. Nonetheless, our respondents expressed a strong desire to see in person, traditional means of learning strengthened and maintained – lectures, seminars, and tutorials run by live human teachers.

In line with our respondents' modest proclivity for multitasking, our respondents did not express a strong support for social media as a means of learning or as a modality of contact with law professors. Many did not support social media in the classroom though the banning of such technologies for use by students during class was not supported. A surprising number saw the use of social media as distracting. Social media

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[53] Sankoff, *supra* note 25.

is best understood as a context in law school learning and not an essential element.

According to our respondents, Robson Hall seems to be behind other post-secondary experiences in terms of technological innovation, but it is still in the hunt. It would appear that modest improvements would bring the school in line with other units' innovations. Yet despite this data point, we would be remiss to not continue to heed these respondents' strong support for in person, interactive course delivery.

As Conley has argued, law school classrooms may not be the best place to engage in substantive experimentation in terms of legal learning.[54] The practitioners and instructors of law tend to move at conservative paces. If our respondents' answers to this survey are any indication, law students are also reluctant to move at a smartish pace towards technological revolution in the law school environment.

The respondents' answers indicate what many of our colleagues have intuited. Students seem to want interactive learning, with problem solving approaches at the core. Students seem to understand the importance of participation and the role of group work as an important clinical skill. Students seem to support video capsules as a means of augmenting learning experiences but certainly do not seem to want dogmatic flipping of the classroom in each instance of learning. Our respondents seem to want to maintain a human connection with each other and their instructors with incremental improvements in the technological innovations that inform their learning environment. The respondents to this survey may be open to technological evolution in the law school but do not seem to desire pedagogical revolution in terms of the means of instruction.

In some ways, these results are not that surprising. The practice of law remains at its core a human, interactive and relational profession. The human aspect of the practice and its recruitment techniques inculcate the law school environment through clinical experiences, law firm wine and cheese nights, public interest events, practitioner talks, and the requisite deluge of law firm interview processes that occur in order to populate summer and articling positions. Students certainly desire fluency in technological innovation in order to penetrate the profession with the

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54 Conley, *supra* note 17.

requisite skill set (for example, legal database proficiency), but they also surely recognize the interactive, human to human skills, assist in landing work and sustaining a practice in a manner that the profession requires. It is not shocking that students would want to see these same parameters duplicated and reinforced in their learning environments – environments that bring them together socially and interactively, but that are also intensely interpersonal. Our respondents want to be educated in a way that speaks to these intuitions.

V. CONCLUSION

Law schools want to innovate. We see this in the great push towards clinical learning at newer law schools like Lakehead's Bora Laskin Faculty of Law and at the increasing clinical offerings developed and in development at law schools throughout Canada. In many cases, these developments are responsive to the needs of the practice, and the demands of the student and consumer. We remain agnostic as to the pedagogical shifts towards clinical learning expansion, and leave that discussion to another paper. In this shift though, law schools are undoubtedly rethinking the forms of instruction and the means of delivery and there has certainly been a push towards flipped classrooms and discussion about video capsules with integrated in class problem solving at the fore of the legal education.

These innovations received some warm acceptance from our respondents but the picture is not complete without understanding our respondents' fidelity to the human and social experience of law school. Our respondents remained committed to in-person, traditional means of course delivery. Technological innovation, based on these responses, should be delivered in such a way so as to augment the interpersonal and relational experience of legal learning. Innovation should, we argue, be used to provide support and reinforcement to tried and true pedagogical approaches. The respondents in the survey do not seem to be advocating that law schools throw out the baby with the bathwater. They are however open to flexible, creative and innovative supplements to traditional learning.

It would be interesting to repeat this survey annually with the same cohort and with new cohorts to track whether any changes appear over time in terms of students' needs and desires in terms of the means of

instruction. It would also be interesting to see if the needs of students vary geographically across different Canadian law schools.

At Robson Hall, the respondents remained steadfast in their support for in person, traditional learning. Before wholesale revolution takes place in terms of the technologies of legal education we must undertake to examine what our students want as part of the law school pedagogical calculus. Law school remains a community of professors, students, practitioners, and staff. Interactive and relational communication remains the lifeblood of this legal community and this law school; at least, for the time being.