

PANDEMIC PEDAGOGY AND ITS APPLICATIONS FOR INTERNATIONAL LEGAL EDUCATION AND THE HYFLEX CLASSROOM OF THE FUTURE

Colleen P. Graffy¹

I. INTRODUCTION

The remote-learning technology that the COVID-19 pandemic imposed on academia introduced new features to the classroom experience that could reshape the classroom of the future as well as international legal education. As an educator in international study abroad programs for over twenty-five years,² I believe that technology is finally developing into what we have needed: seamless and convenient interaction between study abroad programs and their home campus. On the home campus, pandemic pedagogy has also encouraged us to rethink the traditional classroom and contemplate a more interactive and flexible experience, known as “HyFlex.”³

Not that long ago, studying abroad was akin to stepping into a different universe. The culture, language, and food were unfamiliar and family and cultural support systems were sparse. Phone calls were expensive and therefore minimal; the only recourse to communicate was through letter writing—this was a time before the internet, email, or Skype!⁴ There is understandable nostalgia for this pre-globalization period because there was greater potential for personal growth and independence. Students are now in

¹ Associate Professor of Law at Pepperdine Caruso Law School. The author thanks her Research Assistant, Sophia Ellis; Senior Research Services Librarian, Donald Buffalo; Head of Reference and Access Services, Kerstin Leistner; Assistant Dean, Information Services, Phillip Bohl; and Associate Director of Instructional Technology, Hong Kha for their assistance.

² The author’s experience as an educator includes positions as Director of Global Programs and Academic Director of Pepperdine Caruso’s London Law Program, Visiting Professor of Notre Dame’s London Law Program, and previous Director of Pepperdine’s Heidelberg, Germany Program. Pepperdine Caruso’s London Law Program is a full semester-length program during the fall semester. See *Pepperdine Caruso Law’s London Program*, PEPP. CARUSO SCH. OF L., <https://law.pepperdine.edu/experiential-learning/global-programs/london/> (last visited July 7, 2021). The comments included in this essay are based on the author’s experience with Pepperdine’s and Notre Dame’s stand-alone campuses as well as facilities that Pepperdine rented through academic institutions that serviced other U.S. study abroad programs.

³ HyFlex is a merger of the words “hybrid” and “flexible” and refers to online and in-person learning, both synchronous and asynchronous. See *Hybrid/HyFlex Teaching & Learning*, COLUM. CTR. FOR TEACHING AND LEARNING, <https://ctl.columbia.edu/resources-and-technology/teaching-with-technology/teaching-online/hyflex/> (last visited July 3, 2021).

⁴ Narina Exelby, *What Solo Travel Was Like Before Smartphones and Google Maps*, CONDÉ NAST TRAVELER (Apr. 1, 2020), <https://www.cntraveler.com/story/what-solo-travel-was-like-before-smartphones-and-google-maps>.

constant contact with their friends and family—wherever they are in the world—and many of the stores and foods are the same as the ones they have back home.⁵ While they may be in a foreign land, students’ access to home and the familiar is just a click or WhatsApp⁶ text away.

Law schools worked hard to keep up with technology for their overseas programs, in compliance with the American Bar Association.⁷ The original lifeline from the overseas campus back to the home campus in the United States was long-distance phone calls and the fax machine. Then came the introduction of “EasyLink,”—one of the first non-governmental computer email systems.⁸ The internet, “Windows,” and “WordPerfect”⁹ made computers a must-have piece of equipment for faculty and administrators, if not yet for every student. In London, our campus was connected to JANET, a large and fast internet-connected network for academic research in Europe.¹⁰ Soon computers needed to be available for students at overseas campuses.¹¹ As there were no personal computers at that time, banks of computers were situated in libraries or computer rooms and required

⁵ There is even a Starbucks on the Hauptstrasse in Heidelberg now. See STARBUCKS CORP., TIMELINE (2020), <https://stories.starbucks.com/uploads/2019/01/AboutUs-Company-Timeline-1.6.21-FINAL.pdf>.

⁶ WhatsApp is a free texting and voice messaging app launched in 2009 that utilizes Wi-Fi and is a popular tool for international communication. See Jackie Dove & Paula Beaton, *What is WhatsApp?*, DIGITALTRENDS (Mar. 21, 2021), <https://www.digitaltrends.com/mobile/what-is-whatsapp/>.

⁷ STANDARDS AND RULES OF PROC. FOR APPROVAL OF L. SCHS., CH. 1, STANDARD 106(a)(5) (AM. BAR ASS’N 2020), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2020-2021/2020-21-aba-standards-and-rules-chapter1.pdf (“Standard 106. Separate Locations and Branch Campuses[:] (a) A law school that offers a separate location shall provide: . . . (5) Physical facilities and technological capacities that are adequate to support the curriculum and the student body at the separate location.”).

⁸ We called it “Not-so-Easy Link.” It required a dial-tone and annoying high-pitched noises until you were “connected.” You would then watch a blinking screen as the text came haltingly through. See *EasyLink*, OPENTEXT, <https://www.opentext.com/products-and-solutions/products/opentext-product-offerings-catalog/rebranded-products/easylink> (last visited July 2, 2021); *Western Union Adds New Easylink Feature*, N.Y. TIMES (Oct. 31, 1984), <https://www.nytimes.com/1984/10/31/business/western-union-adds-new-easylink-feature.html>.

⁹ Wordperfect was once the most popular word processing system before it was overtaken by Word for Windows. Peter H. Lewis, *The Executive Computer; Windows Word Processors Do Battle*, N.Y. TIMES (Dec. 8, 1991), <https://www.nytimes.com/1991/12/08/business/the-executive-computer-windows-word-processors-do-battle.html>.

¹⁰ See *The History of the Janet Network*, JISC, <https://www.jisc.ac.uk/janet/history> (last visited July 3, 2021).

¹¹ My research assistant inserted the following comment: “Why were computers needed to be provided for students? Maybe you could explain this?” This is a good indicator of how fast technology is progressing - it is hard to believe that there was a time when every student did not have their own personal computer and instead computer terminals had to be supplied both on the home campus and abroad. This was the only means by which students could research on the internet, access their email account, write papers, etc., so there was always vying for time on one of the limited numbers of computer terminals. See Henry Blodget, *Check Out This Picture of the First Laptop*, INSIDER: BUS. (June 12, 2012, 3:03 PM), <https://www.businessinsider.com/the-first-laptop-2011-6>.

personnel to maintain them. And of course, there were never enough computers to address students' needs. The advent of personal computers alleviated the need for law schools to be the main provider of computer facilities for students.

Next came video conferencing.¹² In addition to the expensive equipment, video conferencing required cabling and a dedicated room, which added to the costs.¹³ Even then, the quality of the picture and the sound were not great. Sound quality is important; studies have shown that the most important aspect of telecommunications is the voice.¹⁴ Scheduling to use the conferencing equipment was difficult as it often required an administrator on-site to set up the connection and there was often more demand for its use than there were time slots available. The introduction of Skype,¹⁵ which is free, meant that all students and faculty could use it on their computers and individual laptops. This reduced the need for a dedicated video conferencing room as students could conduct their own interviews or meetings, on their own equipment, and on their own time. This was the state of technology before the pandemic forced overseas campuses to close.¹⁶

Back on the home campus, Zoom technology enabled the transition to remote learning.¹⁷ It demonstrated that we could eliminate borders by allowing students in lock-down during the pandemic to Zoom in from every part of the United States—and the world. Students attended my classes while living overseas, from Seoul to London, during the pandemic—some with even better connections than those near the main campus.¹⁸ In addition, the technology used during the pandemic included features that many of us do not want to abandon once we are back in the classroom, such as Zoom Breakout Rooms¹⁹ and real-time polling technology.²⁰ For overseas

¹² A *Brief History of Video Conferencing*, VYOPTA (Oct. 15, 2018), <https://www.vyopta.com/blog/video-conferencing/brief-history-video-conferencing/>.

¹³ See generally *Picture This*, FORBES (Mar. 11, 1998, 12:00 AM EST), <https://www.forbes.com/1998/03/11/feat.html?sh=3ebdd5094460> (stating that Polycom hardware with a proprietary CODEC software is a video conferencing system that was approximately \$6,000 in 1998).

¹⁴ See Robert B. Ochsman & Alphonse Chapanis, *The Effects of 10 Communication Modes on the Behavior of Teams During Co-Operative Problem-Solving*, 6 INT'L J. OF MAN-MACHINE STUDS. 579, 618 (1974).

¹⁵ *What is Skype*, MICROSOFT, <https://support.skype.com/en/faq/fa6/what-is-skype> (last visited July 2, 2021).

¹⁶ The Fall 2020 Semester was canceled due to the pandemic but resumed in the Fall 2021 Semester.

¹⁷ See Elaine McArdle, *COVID Adaption*, HARV. L. TODAY (Aug. 26, 2020), <https://today.law.harvard.edu/covid-adaptation/>.

¹⁸ Pepperdine Caruso Law School is in Malibu, California. See *Living Here*, PEPP. CARUSO SCH. OF L., <https://law.pepperdine.edu/> (last visited Sept. 17, 2021).

¹⁹ The “breakout rooms” feature on Zoom allows participants to split off from the main Zoom meeting into other sessions with separate audio and video. See *Participating in Breakout Rooms*, ZOOM HELP CTR., <https://support.zoom.us/hc/en-us/articles/115005769646-Participating-in-breakout-rooms> (last updated Sept. 2, 2021).

²⁰ Audience response software, like iClicker, has become popular technology in education because it allows instructors to make classes interactive through real-time polling, exit surveys, and other

campuses, Zoom technology is a game-changer with the potential to bring us closer to the Holy Grail of seamless and convenient interaction between campuses.

Technology is embraced by some law faculty members and abhorred by others, but for both groups it can be challenging because of the potential for things to go wrong. Teaching is hard enough without having to master technology. The COVID-19 pandemic foisted remote learning on both technophobes and technophiles alike, and the result is that while many cannot wait to get back to in-person teaching, others would like to continue to teach online.²¹ However, there is another group (myself included) who would like to see how we can merge the two to create something new and dynamic, not only at home but overseas as well.

This article looks at the advantages that pandemic-imposed online teaching has brought to the classroom, as well as its application for international legal education. Part II discusses the pros and cons of the current technology as applied in a post-pandemic world; Part III considers the contributions that pandemic pedagogy could bring to the Hyflex classroom of the future; Part IV examines the benefits for international legal education; Part V concludes with a look at the psychological barriers that will likely be the most challenging—perhaps even more so than the technological hurdles—in adapting to a HyFlex classroom.

II. THE PROS AND CONS

This section breaks down the advantages and disadvantages of the technology that law professors used during the pandemic with a view to how it could be used post-pandemic.²²

methods. See *Features & Functionality*, ICLICKER, <https://www.iclicker.com/features/> (last visited July 2, 2021). Pepperdine Caruso School of Law uses iClicker, but there are several other popular brands of audience response software, including Turning, Kahoot, and Poll Everywhere. See *Audience Response Software*, CAPTERRA, <https://www.capterra.com/audience-response-software/> (last visited July 9, 2021).

²¹ University faculty have differing views on the effectiveness of online teaching. A poll from August 2021 indicated that forty-nine percent of university educators found online learning an effective method for teaching, while twenty-one percent disagreed. See Doug Lederman, *Faculty Confidence in Online Learning Grows*, INSIDE HIGHER ED (Oct. 6, 2020), <https://www.insidehighered.com/digital-learning/article/2020/10/06/covid-era-experience-strengthens-faculty-belief-value-online>.

²² Pepperdine Caruso Law School used Zoom to deliver its remote learning and many, myself included, used iClicker to take attendance and do instant-polling. It is important to note that this article does not look at social issues, such as bonding to form a community, because the technology would be used post-pandemic when students would also be meeting and gathering in-person.

A. The Pros

1. Zoom

Despite being conducted remotely through computers, I believe teaching by Zoom breaks down many barriers. The first being between the professor and the student. That ubiquitous barrier between the student and the professor, known as “the laptop,” is gone. Teaching by Zoom means no more lecturing to the tops of heads; students often have their heads down when they are taking notes and Zoom allows the speaker to make better eye contact than in a large lecture hall.

Another barrier is created between those students seated at the front of the classroom and those seated at the back. Depending on the classroom, the interaction between the professor and student can be influenced by seating placement.²³ For this reason, some students prefer to sit in the back of the lecture room so that they are less conspicuous and less likely to be called upon, theoretically at least. In the Zoom classroom, all students are sitting in the front row! However, larger classes require a bigger monitor and appropriate computer capabilities, which allow up to forty-nine students per screen.²⁴ If the class size is greater than that, the professor must scroll through screens of students, though future versions of Zoom will likely find a way to address this.²⁵

I believe classroom seating also creates barriers between students. For the most part, students do not see each other’s faces, only what is in front of them. Zoom allows students to be engaged with their classmates visually, which creates a different type of classroom dynamic than one where you are only see others’ backs or profiles.²⁶ In one case study, a professor found:

[t]here was something about the online experience that contributed to the students' increase in engagement and participation. Namely, the online class

²³ See generally Alice M. Thomas, *Laying the Foundation for Better Student Learning in the Twenty-First Century: Incorporating an Integrated Theory of Legal Education into Doctrinal Pedagogy*, 6 WIDENER L. SYMP. J. 49, 112 (2000) (discussing how professors tend to teach to the front of the room, i.e., the “action zone”).

²⁴ Kaitlyn Guzman, *Zoom for Education: Top 10 Frequently Asked Questions*, ZOOM BLOG (Apr. 24, 2020), <https://blog.zoom.us/zoom-for-education-top-10-frequently-asked-questions/>.

²⁵ For example, Zoom could address this by enabling a means by which to shift students from the second or further screens to the first screen, either at different points during the class or in subsequent classes. Software companies, like Zoom, continually try to improve their applications based on consumer likes, dislikes, needs, etc. After almost two years of online school, it is likely that they will update their systems to reflect what consumers want. See *Changing the Video Layout (Speaker View and Gallery View)*, ZOOM HELP CTR. (July 16, 2021), <https://support.zoom.us/hc/en-us/articles/201362323-Changing-the-video-layout-Speaker-view-and-Gallery-view>.

²⁶ See Michael Hunter Schwartz, *Towards a Modality-less Model for Excellence in Law School Teaching*, 70 SYRACUSE L. REV. 115, 125 (2020).

created (1) an environment that was more comfortable and less intimidating, and (2) a connection between instructor and student that was more direct and intimate.²⁷

Learning names is a challenging aspect of teaching—particularly for large lecture classes—but it is important. The Zoom feature that displays individuals’ names under their image is helpful to learning students’ names.

Zoom also breaks down geographic barriers. Due to the pandemic, students were attending classes from all parts of the United States and the world.²⁸ After the pandemic is over, consideration should be given to allow students to attend class remotely. This could be done either on a semester basis because of personal circumstances or on an ad hoc basis due to illness or an event.²⁹ The ability to attend class from anywhere also would mean that there would be no need to cancel classes because of snow or other impediments to reaching campus because classes could convene online remotely if the campus had to close.³⁰

Potential Zoom developments that would improve the experience include: a pop-up note reminding you that you are on mute if you start speaking; an “Instructor Podium” option that would have the professor’s or guest speaker’s video at the top, enlarged, and set apart from the other participants’ videos; a “Front of the Room” option for student presenting; a way to prevent the Zoom squares from moving; a seating chart that could rearrange by options of alphabetical, participation or by the raised virtual hand.

2. *The Zoom Breakout Room*

Zoom Breakout Rooms offers excellent functions that are not possible while teaching in person.³¹ The Breakout Rooms allow the professor to instantly divide students into groups of different sizes depending on the pedagogical goal.³² This function was very useful during my first-year criminal law course as students in a large lecture class often do not get the chance to talk. Dividing students into breakout groups gave students more opportunity to articulate and discuss what they learned thereby reinforcing

²⁷ Ronald J. Colombo, *Teaching a Synchronous Online Business Organizations Course to J.D. Students: A Case Study*, 48 HOFSTRA L. REV. 873, 916 (2020).

²⁸ Andrew Smalley, *Higher Education Responses to Coronavirus (COVID-19)*, NAT’L CONF. OF ST. LEGISLATURES (Mar. 22, 2021), <https://www.ncsl.org/research/education/higher-education-responses-to-coronavirus-covid-19.aspx>.

²⁹ See Colombo, *supra* note 27, at 899-900.

³⁰ See John Ismay, *Snow Days: Is School Canceled More Often Now?*, N.Y. TIMES (Feb. 26, 2020), <https://www.nytimes.com/2020/02/26/us/school-canceled-snow-day.html>.

³¹ *Participating in Breakout Rooms*, *supra* note 19.

³² *Managing Breakout Rooms*, ZOOM HELP CTR., <https://support.zoom.us/hc/en-us/articles/115005769646-Participating-in-breakout-rooms> (last updated Sept. 2, 2021).

the concepts that were taught.³³ In addition, it offered students the chance to bond since they did not have the normal 1L in-person socializing due to the pandemic.

For my negotiation class, the Breakout Room was nothing less than revolutionary. Initially, I had thought that teaching a participatory course like negotiation on Zoom would be problematic, if not impossible. The opposite was true. Normally, students disperse to different corners of the campus with their negotiating partner and a set time to return to the classroom. This resulted in a significant waste of the class session as some students did not keep track of the time and others were unwilling to abandon their negotiating position just because they were expected back in the classroom. I usually moved around from pair to pair to listen in, but physical presence often interferes with the negotiation. This feature offers a unique opportunity for the professor to beam into the different rooms to observe.³⁴ An additional benefit for students who finished their negotiation exercise early was joining one of the breakout rooms where a negotiation continued and observing their classmates. Often the students would request to be put into a specific breakout room because they wanted to observe the negotiating style of a particular classmate. Learning from one another through observation added a new dimension to the course. Although we tried to do this in person before the pandemic, it was not as effective. Here, videos could be turned off and audios muted to avoid distracting the negotiators while their classmates observed in the background.

3. *The Zoom Chat Room*

Another feature of Zoom is the Chat Room, which allows an all-student conversation to take place during class through a synchronous discussion board.³⁵ Some professors turn this feature off because of its potential to distract the class, others conclude that students text³⁶ or iMessage³⁷ during class anyway so why not have those conversations shared by all? For example, students help each other in the Chat Room by filling in information

³³ *Getting Students Thinking and Engaging Through Small-Group Discussion*, HARV. GRADUATE SCH. OF EDUC. <https://instructionalmoves.gse.harvard.edu/getting-students-thinking-and-engaging-through-small-group-discussion> (last visited Sept. 8, 2021).

³⁴ *Managing Breakout Rooms*, *supra* note 32.

³⁵ *See Using In-meeting Chat*, ZOOM HELP CTR., <https://support.zoom.us/hc/en-us/articles/203650445-In-meeting-chat> (last updated Sept. 10, 2021).

³⁶ SMS, which stands for “Short Message Service,” texting uses a cellular network and can be used between any cellular device. *See* Devon Delfino, *What is SMS? How Standard Text Messages are Used, and How they Differ from MMS Texts*, BUS. INSIDER: TECH. (May 27, 2021, 1:27 PM), <https://www.businessinsider.com/sms-meaning>.

³⁷ iMessaging uses WiFi and can only be sent between Apple devices. *See id.*

that one or another had missed, but it also allows students to ask questions that they feel intimidated to ask. As one professor observed:

The synchronous discussion board provided a second forum for students to demonstrate engagement with the course material . . . [E]ven though all posts were viewable to the whole class, students seemed more willing to ask good questions that they might have feared were “stupid” and were reluctant to ask in class. The result was I had a much better sense of what students understood and didn’t understand in the reading.³⁸

A discussion board has the additional benefit of giving students who are active participants a way of posing questions that are not able to be addressed due to time constraints. The Chat Room can be distracting for the professor, but it can be hidden so that the conversation is not seen in real-time.³⁹ Although the Chat Room is hidden, a professor can monitor the number of chats sent and address confusion about or interest in the topic if a sudden increase occurs.⁴⁰ The Chat Room conversation can also be automatically saved to review after class.⁴¹ I found this enormously beneficial in gleaning what areas needed to be reviewed and clarified. It also gave me a greater sense of students’ personalities and humor.

4. The Potential for Improved Office Hours

Even for professors holding in-person classes, Zoom office hours are an attractive alternative for both students and faculty. Faculty office hours are often scheduled on days when students are not on campus, or likewise, some faculty members would like to hold office hours on days when they are not teaching. In both situations, it can be inconvenient to come back to campus. When students arrive for office hours, they usually balance laptops, books, and notepads on their lap because there is little or no workspace available for them. Participating by Zoom from home allows students to have all their materials accessible to efficiently ask questions and take notes. Many faculty offices are small with only two or three chairs to accommodate students. Zoom allows any size group to participate in office hours. Faculty with open office hours often have students lined up outside the door and down the hallway and meetings can lack privacy. Zoom gives the flexibility

³⁸ Beth McMurtrie, *Teaching: More Pandemic-Driven Innovations Professors Like*, THE CHRON. OF HIGHER EDUC. (Apr. 15, 2021), <https://www.chronicle.com/newsletter/teaching/2021-04-15> (quoting William Kerrigan, a history professor at Muskingum University).

³⁹ See *How to Use Zoom Chat*, ZOOM HELP CTR., <https://support.zoom.us/hc/en-us/articles/360056768612-Getting-started-with-Zoom-Chat> (last updated Oct. 25, 2021).

⁴⁰ *Id.*

⁴¹ *Storing Chat Message History*, ZOOM HELP CTR., <https://support.zoom.us/hc/en-us/articles/115005516426-Storing-chat-message-history> (last updated Aug. 22, 2021).

to “admit” students to the session or keep them in the waiting room. In the meantime, they can continue working comfortably at home or in the library rather than sitting on the floor in a hallway.

5. Zoom Recordings

Most law schools have some system of recording classes, such as Panopto,⁴² and policies on when classes are recorded along with permission requirements.⁴³ I have observed that some professors routinely allow all their classes to be recorded and made accessible, while others feel less comfortable. The pandemic made recording classes a regular practice and Zoom made the recordings easily accessible.⁴⁴ From this, we learned the extent to which students are audio and visual learners. This knowledge has strengthened the case for recording classes and making them available as part of the learning process for all students.⁴⁵

6. iClickers

Instant polling through technology such as iClicker or Turning Point originally required hand-held devices that needed to be purchased or rented.⁴⁶ Fortunately, mobile applications for smartphones were available for both iClicker and Turning Point.⁴⁷

⁴² Panopto is a leading video platform that is used by businesses and universities to create and share videos. See *The Leading Video Platform for Education*, PANOPTO, <https://www.panopto.com/panopto-for-education/> (last visited July 6, 2021).

⁴³ Permission requirements deal with the following: obtaining or implying student consent to being recorded; safeguarding the privacy of all students and faculty by prohibiting the recording, reproducing, or distributing of any sessions, discussions, or discussion boards; and establishing intellectual property rights to the class lectures and materials. PEPP. OFF. OF THE PROVOST, ONLINE AND RECORDED CLASSROOM POLICY, <https://www.pepperdine.edu/about/administration/provost/content/policies/online-and-recorded-classroom-policy.pdf>.

⁴⁴ See *Sharing a Local Recording*, ZOOM HELP CTR., <https://support.zoom.us/hc/en-us/articles/202291078-Sharing-a-local-recording> (last updated Jan. 11, 2021).

⁴⁵ See generally Shannon Palmer et al., *Comparison of Rewatching Class Recordings Versus Retrieval Practice as Post-Lecture Learning Strategies*, 83 AM. J. PHARM. EDUC. 1958 (2019) (comparing various learning strategies through a study of students at the Eshelman School of Pharmacy). Historically, audio recording lectures were allowed as an accommodation for students with disabilities, who were given permission to record lectures on a device. See Serena Puang, *As Colleges Strive for a Return to Normal, Students with Disabilities Say, ‘No Thanks,’* THE CHRON. OF HIGHER EDUC. (May 11, 2021), <https://www.chronicle.com/article/as-colleges-strive-for-a-return-to-normal-students-with-disabilities-say-no-thanks>. The accessibility of audio and visual recordings, which have been more available during the pandemic, help all students, particularly those with accessibility issues. *Id.*

⁴⁶ *For Students, Solutions*, ICLICKER, <https://www.iclicker.com/students/> (last visited Aug. 16, 2021); *Response Options*, TURNING, <https://www.turning.com/responseoptions> (last visited Aug. 16, 2021).

⁴⁷ *For Students*, *supra* note 46; *Response Options*, *supra* note 46.

One of the rituals of in-person teaching is taking attendance through a sign-in sheet that is passed around the classroom. Inevitably, the sign-in sheet would get stuck somewhere in the classroom and not passed on to the next student. Students who had not received it, or had come in late, would need to follow-up with the professor to ensure that they were marked present for the class session. The sign-in sheets would be given to the faculty support office, where staff would keep track of absences and notify faculty and students if a certain number of absences had been reached. During the pandemic, this was impossible. One method suggested for taking attendance during a Zoom class was to have students announce their presence in the Chat Room, which could then be saved, copied, and emailed to the faculty support office.⁴⁸ iClickers offered an elegant solution. If students join the class through iClicker, their attendance is logged.⁴⁹ At a glance, you can see each student's attendance for the day as well as their cumulative number of attendances and absences.⁵⁰ Students also have access to this information and can keep track of their own attendance.⁵¹ The process of passing around sheets of paper to track attendance now seems a ridiculous waste of effort and time. This technological work-around, made necessary because of the pandemic, has created a better way of doing things post-pandemic.

In addition to taking attendance, other features, such as swift polling and instant graph results, made classes more interactive and enhanced remote learning.⁵² The lecture format seemed too one-dimensional in the online forum, or perhaps remote learning just quickened the speed by which we recognized that students require more interactivity in the classroom.⁵³ A feature that I found particularly useful was iClicker's "Exit Poll," which is akin to a "Rate-My-Uber-Driver" type of feedback to monitor students' level of understanding from one (low) to five (high).⁵⁴ I was able to ascertain at a glance whether the majority of students understood the material or not. Students could make comments to explain the specific areas that need

⁴⁸ See *Using In-meeting Chat*, *supra* note 35.

⁴⁹ *iClicker Attendance*, ICLICKER, <https://www.iclicker.com/attendance/> (last visited Aug. 16, 2021).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Using this technology, professors can create polls with multiple choice or true and false questions that students answer on their own devices, the results of which are displayed in real-time. See *Features & Functionality*, *supra* note 20.

⁵³ Nadejda Alkhalidi, *Evolution of Education: How Interactive Technologies Reshaped Learning*, ELEARNING INDUS. (Sept. 19, 2020), <https://elearningindustry.com/evolution-of-education-how-interactive-technologies-reshaped-learning>; See Schwartz, *supra* note 26, at 126.

⁵⁴ See *Features & Functionality*, *supra* note 20; see also *Rating a Driver*, UBER HELP, <https://help.uber.com/riders/article/rating-a-driver?nodeId=478d7463-99cb-48ff-a81f-0ab227a1e267> (last visited Sept. 6, 2021) (explaining how to rate an Uber driver from one to five stars).

clarification.⁵⁵ This information guided me on what to cover in the next class and which students were having difficulty.

7. *Zoom-in Guest Speakers*

Students, faculty, and administrators at Pepperdine University have been enthusiastic about Zoom's ability to facilitate guest speakers. As nice as it is to have guest speakers in person, it requires time-consuming logistical efforts and expense for both the law school and speaker.⁵⁶ The ability to bring in a speaker from anywhere in the United States or around the world at no cost opens new opportunities for valuable voices and viewpoints to be brought to campus.⁵⁷

8. *Virtual Conferences*

One of the benefits of attending a conference in person is meeting old acquaintances, making new ones, and exchanging information and ideas on the sidelines of conference panels. However, the travel can be expensive and tiring, especially if changing time zones. Attending conferences also disrupts teaching schedules. Attending or speaking at a virtual conference can be a better option than in-person and allows faculty to participate in more conferences as they can stretch their travel budget further.

9. *Moot Court and Trial Advocacy Competitions*

Similarly to virtual conferences, reports were positive from students and coaches about participating in online competitions.⁵⁸ Although it required practicing slightly different skills to come across well on camera, the benefits of saving travel time and costs were enormous. Having at least

⁵⁵ *Features & Functionality*, *supra* note 20.

⁵⁶ *See Invite Virtual Guest Speakers to Engage and Inspire Students*, AVID OPEN ACCESS, <https://avidopenaccess.org/resource/invite-virtual-guest-speakers-to-engage-and-inspire-students/> (last visited Sept. 6, 2021).

⁵⁷ *Bringing in Guest Speakers to Deepen Student Learning*, *Classroom Resources*, STAN. GRADUATE SCH. OF EDUC., <https://teachingresources.stanford.edu/resources/bringing-in-guest-speakers-to-deepen-student-learning/> (last visited Sept. 6, 2021).

⁵⁸ Christine Tamer & Melissa Shultz, *The Adaptive Law Professor: Ten Tips for Keeping the Magic of an Oral Argument Competition Alive on Zoom*, featured article in *Syllabus Winter 2020* (52:2), AM. BAR ASS'N (2021), https://www.americanbar.org/groups/legal_education/publications/syllabus_home/volume-52-2020-2021/syllabus-winter-2020-52-2/adabtable-law-professor/; *see also* Stephanie R. Williams, *One Successful Process for Zoom Moot Court Competitions*, L. PROFESSOR BLOGS NETWORK: APP. ADVOC. BLOG (Mar. 21, 2020), https://lawprofessors.typepad.com/appellate_advocacy/2020/03/one-successful-process-for-zoom-moot-court-competitions.html (stating that her students at Pepperdine Caruso School of Law were appreciative of the online oral argument opportunity).

some competitions or perhaps preliminary rounds held virtually might increase participation from more diverse and less well-funded law schools.⁵⁹

B. The Cons

1. High-Speed Internet

The biggest challenge for online remote learning is access to high-speed internet.⁶⁰ Inconsistency in internet connections caused dropped access, frozen videos, and halting speech (also known as internet stutter)⁶¹ resulting in great frustration and annoyance for both students⁶² and professors.⁶³ Access to the internet and an uninterrupted experience is essential when teaching and learning remotely; overcoming this problem is critical for quality online classes.⁶⁴

2. Video Protocols

A basic necessity for remote learning is that student cameras are on, yet in my experience, they often are not. It is uncomfortable to ask students to turn their video on because many times it is due to a bandwidth issue at home and the student has little choice but to keep their video off.⁶⁵ Assuming that

⁵⁹ See *infra* Section IV.B.2.

⁶⁰ See Linda Poon, *There Are far More Americans Without Broadband Access than Previously Thought*, BLOOMBERG (Feb. 19, 2020, 2:09 PM CST), <https://www.bloomberg.com/news/articles/2020-02-19/where-the-u-s-underestimates-the-digital-divide> (showing where internet is lacking in America); see also Anne Dennon, *Coronavirus Deepens the Digital Divide for College Students*, BEST COLLS. (May 07, 2020), <https://www.bestcolleges.com/blog/coronavirus-deepens-the-digital-divide/> (discussing the problems with college students lacking internet).

⁶¹ “Internet stutter” is due to internet speeds freezing for a second or two before returning to normal and then re-freezing. See Benmin Smith, *What is Internet Stuttering – 5 Ways to Fix It*, INTERNET ACCESS GUIDE (May 13, 2020), <https://internet-access-guide.com/internet-stuttering/>.

⁶² During remote learning, some students experienced internet connection issues that led to aggravating classes full of lagging sound and video, which created anxiety that such problems might occur during an exam. See Alyssa Craven et al., *Ongoing Connectivity Issues Cause Frustration Among Campus Community*, THE SIMPSONIAN (Apr. 7, 2021), <https://thesimpsonian.com/31604/news/ongoing-connectivity-issues-cause-frustration-among-campus-community/>.

⁶³ See generally Susan Blum, *Why We’re Exhausted by Zoom*, INSIDE HIGHER ED (Apr. 22, 2020), <https://www.insidehighered.com/advice/2020/04/22/professor-explores-why-zoom-classes-deplete-her-energy-opinion>.

⁶⁴ President Biden’s infrastructure plan seeks to provide broadband internet service for Americans who can’t afford it by reducing the cost of internet services and promoting transparency and competition. *FACT SHEET: The American Jobs Plan*, THE WHITE HOUSE (Mar. 31, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>. See Dennon, *supra* note 60 (stating that some schools distributed mobile hotspots to students).

⁶⁵ Turning off video on Zoom is the most effective way to save bandwidth, and it allows students to have better visual and audio connections to their professors. See *Improving Your Zoom Connection*,

broadband capacity is not an issue, I believe video protocols need to establish that cameras are on at all times as part of the course requirement.

Another issue that I have found in the classes I teach is that students, either intentionally or unintentionally, allow themselves to be backlit which obscures their faces. I let students know that, unless they are part of a witness protection program, they need front-lighting. Instructions on proper lighting and compliance are needed for the online classroom to be welcoming and fully interactive.⁶⁶

3. Zoom Rooms

A potential drawback for online learning is inequality of workspaces. Many students do not have a dedicated place to work at home and are disadvantaged due to noise and other persons in their household.⁶⁷ Assuming that, post-pandemic, students choose whether to be online or not, students presumably would only choose remote learning if they were not disadvantaged by attending class online.

4. Access to Laptops

Although most graduate-level students have some sort of personal computer,⁶⁸ this should not be taken for granted. Accommodations need to be made for those students who do not have a laptop or, more likely, those who do not have access to a good-functioning one.⁶⁹ Laptops lacking sufficient memory or storage cannot be upgraded to the latest versions of the software needed for online learning.⁷⁰

5. The Learning Curve

I have found that mastering Zoom is not difficult, but it does require a certain amount of technical and multi-tasking ability. The process entails first

DARTMOUTH SERVS. PORTAL, <https://services.dartmouth.edu/TDClient/1806/Portal/KB/ArticleDet?ID=101952> (last visited July 7, 2021).

⁶⁶ See JoAnn L. Hathaway, *Zoom Video Conferencing: Putting Your Best Foot Forward*, MICH. BAR J., July 2020, at 54.

⁶⁷ Nicholas Casey, *College Made Them Feel Equal. The Virus Exposed How Unequal Their Lives Are.*, N.Y. TIMES (May 5, 2020), <https://www.nytimes.com/2020/04/04/us/politics/coronavirus-zoom-college-classes.html>.

⁶⁸ See Aaron Smith et al., *College Students and Technology*, PEW RSCH. CTR. (July 19, 2011), <https://www.pewresearch.org/internet/2011/07/19/college-students-and-technology/> (finding that ninety-three percent of graduate students own laptop computers).

⁶⁹ See generally *id.*

⁷⁰ Rebecca Koenig, *Old, Slow Laptops Are Sabotaging College Student Success*, EDSURGE (Apr. 5, 2021), <https://www.edsurge.com/news/2021-04-05-old-slow-laptops-are-sabotaging-college-student-success>.

setting up the Zoom sessions with dates and times and security requirements.⁷¹ Then follows, commencing class with the recording function on, admitting students into the session, setting up iClicker—or some system for attendance—sharing any PowerPoint presentations or the Whiteboard,⁷² and stopping the share function when required. Simultaneously, professors need to be keeping an eye out for students with raised hands,⁷³ monitoring students with videos off, watching the chat room (optional), launching instant polling or an exit poll (optional), remembering to turn off the recording if you are meeting students privately at the end of class, and more.⁷⁴ Some faculty found Zoom teaching assistants enormously valuable, but overall, most faculty got the hang of Zoom basics fairly swiftly after initial teething problems.⁷⁵

III. PANDEMIC PEDAGOGY AND THE HYFLEX CLASSROOM

As Pepperdine Caruso Law faculty prepared to depart for spring break in March 2020, we were alerted to the possibility that we may need to teach online and would not be able to return to campus due to the COVID-19 pandemic. After a flurry of Zoom instructions, Pepperdine faculty regrouped for fully online classes. As described in Section II.B.5 in the Learning Curve, mastering Zoom was not difficult but there were many moving parts to remember. Initially, concerns about the technical aspects overshadowed focus on teaching methods that suited the new medium. Our view was that this would be temporary so we just needed to muddle through as best we could until the semester finished. At the end of the spring semester, everyone was exhausted and hoped that by the start of the fall semester there would be

⁷¹ Most universities ensure that only registered students can attend their Zoom sessions by requiring the students' school email addresses to log on. This also prevents "Zoom Bombing," which is when an uninvited attendee enters a Zoom meeting only to make distracting noises or share inappropriate images. Kate O'Flaherty, *Beware Zoom Users: Here's How People Can 'Zoom-Bomb' Your Chat*, FORBES (Mar. 27, 2020, 11:19 AM EDT), forbes.com/sites/kateoflahertyuk/2020/03/27/beware-zoom-users-heres-how-people-can-zoom-bomb-your-chat/?sh=2bfb3adb618e.

⁷² The companion "Whiteboard" function on Zoom allows a presenter to connect a touch device to the existing Zoom Room which allows participants to annotate and collaborate on it. See *Setting Up a [sic] Zoom Rooms for Touch Companion Whiteboard*, ZOOM HELP CTR., <https://support.zoom.us/hc/en-us/articles/360038401111-Setting-up-a-Zoom-Rooms-for-Touch-companion-whiteboard> (last updated May 25, 2021).

⁷³ In addition to raising their physical hands, students may also get the host's attention through the virtual "raise hand" feature, which appears on the student's Zoom square. See *Raising Your Hand in a Webinar*, ZOOM HELP CTR., <https://support.zoom.us/hc/en-us/articles/205566129-Raising-your-hand-in-a-webinar> (last updated Sept. 14, 2021).

⁷⁴ See Alex Turnbull, *16 Advanced Zoom Tips for Better Video Meetings*, GROOVE: BLOG, <https://www.groovehq.com/blog/zoom-tips-and-tricks> (last visited Sept. 18, 2021).

⁷⁵ Through a YouTube video, Professor Michael Bruening, from Missouri Science and Technology, expressed the feelings of many faculty who faced teaching online during the pandemic. Michael Bruening, *I Will Survive, Coronavirus Version for Teachers Going Online*, YOUTUBE (Mar. 16, 2020), <https://www.youtube.com/watch?v=CCe5PaeAeew>.

no more online teaching. But that was not to be as the pandemic continued to rage on.

A. Embracing Pandemic Pedagogy

It soon became clear that the entire 2020-2021 academic year would be online, and we started to adapt to a new way of teaching. By the end of the fall semester, the comfort level had risen considerably. I know my Pepperdine Caruso Law colleagues appreciated the advantages of not having to commute, the ability to Zoom in from other locations, and the ease of only having to dress professionally from the waist up. Faculty also valued the positive aspects of the technology described earlier in this article.⁷⁶ Having mastered the basics of holding a class on Zoom, many faculty members looked at ways to use this new system to complement their teaching. One of our more technophobic faculty members,⁷⁷ who was forced to embrace technology when we moved to Zoom, concluded that it was “not that bad after all”⁷⁸ and began to build on his new tech skills by adding PowerPoint to his repertoire. I found that the use of interactive components, alongside Socratic teaching and the case method, were well received. Today’s law students grew up with computers and expect to interact with technology.⁷⁹

Students live in a digital world where the boundaries between the on-line and physical worlds are blurred.⁸⁰ Technology that actively engages students is the future of legal education. Due to the pandemic, that future came sooner than anticipated. “[A]s a trained attorney, the legal educator is inclined to require evidence-based justifications for changes to his or her pedagogical approach; the more significant the change, the greater the evidentiary burden.”⁸¹ However, the pandemic forced all faculty to experiment with distance learning and the interactivity that is part of distance learning.⁸² My personal experience was that students learned just as well online as in-person but more so when interactive tools were used. These tools should be part of the pedagogical approach in legal education. A comment from one focus group assessing online learning was that online classes seemed to offer more “activities where you could actually apply what you’re

⁷⁶ See *supra* Section II.A.

⁷⁷ The faculty member, who shall remain nameless, describes himself as a “dinosaur.” *But see infra* Section IV.B.2. and note 137.

⁷⁸ See *id.*

⁷⁹ See Blodget, *supra* note 11.

⁸⁰ One only needs to look at student textbooks to see this “blur.” Textbooks now provide “[a] new digitally-enhanced casebook experience,” with non-linear content that takes students to digital resources including hornbooks and self-assessments. See, e.g., *CasebookPlus*, WEST ACAD., <https://www.westacademic.com/casebookplus> (last visited July 19, 2021).

⁸¹ See Colombo, *supra* note 27, at 876.

⁸² See *supra* Section II.A.2; *supra* Section II.A.3; *supra* Section II.A.6.

reading or learning [to what] the lecture is on [which] really helps you learn.”⁸³ A case study of a synchronous law class concluded that:

[T]he experience exceeded expectations . . . on a number of fronts. In a nutshell, rather than serving as a second-best form of instruction, justifiable on grounds of convenience and efficiency, the course demonstrated that no sacrifice in educational quality necessarily accompanies online legal education. Moreover, the conclusion drawn from this experience is that online legal education has the potential to exceed traditional, in-person forms of legal education.⁸⁴

I believe the features of distance learning that have “the potential to exceed traditional, in-person forms of legal education”⁸⁵ are predominantly the ability to review recorded material and the use of interactive tools by which students can test their understanding through self-assessment activities. Both features would be part of the HyFlex classroom.

B. The HyFlex Classroom

The HyFlex classroom, similar to a Hybrid classrom, is not solely online, nor solely in-person, but a combination of the two.⁸⁶ In HyFlex, students would have the flexibility of attending class in-person or online.⁸⁷ I believe that 1Ls would want the social interaction that comes with being on campus, and would likely choose to be in-person most of the time. For other students, work, commuting, and family responsibilities would factor into whether they attended online or in person. An example of a flexible approach would be a Tuesday/Thursday Remedies course where a student could attend class in-person on Tuesdays and online on Thursdays because they have an externship off-campus.⁸⁸ There will likely be a desire to require students to choose attending class either online or in-person but, unless there is a strong reason for doing so (e.g., classroom scheduling), flexibility should prevail.

This flexibility would extend to faculty as well; family commitments or attending a conference might require the faculty member to teach via Zoom

⁸³ Yvonne M. Dutton et al., *Assessing Online Learning in Law Schools: Students Say Online Classes Deliver*, 96 DENV. L. REV. 493, 493, 524 (2019) (“This Article provides empirical data on the effectiveness of distance education in law schools following the American Bar Association’s decision to increase the number of permitted online course credits from fifteen to thirty. Our data, composed of law student surveys and focus groups, reveals not only the success of distance education in legal education, but also the online teaching methods that are most effective for students.”).

⁸⁴ See Colombo, *supra* note 27, at 873-74.

⁸⁵ *Id.*

⁸⁶ *Hybrid/Hyflex Teaching and Learning*, *supra* note 3.

⁸⁷ *Id.*

⁸⁸ This could also do wonders for the currently limited student parking spaces.

that day while students could choose to be either in the classroom or online. The professor could have a flex schedule for the entire semester where they would teach their Tuesday class online due to family responsibilities and their Thursday class in-person.

What might this look like? The diagram that follows was the plan for Pepperdine Caruso classrooms if the pandemic required social distancing.⁸⁹ Students are split into two classrooms with some Zooming in remotely. Lecterns have dual display monitors; one screen is a “smart monitor” with a touch screen that allows real-time annotation, the other screen is a normal computer monitor.⁹⁰ Both monitors connect to one of three projection screens in the classroom. In the panels of the first row of desks are two “confidence monitors that will mirror what is screened from the projector, so the professor can view what the student is viewing.”⁹¹ Ceiling microphones and speakers and clip mics for the professors ensure that good quality audio is broadcast in class, remotely, and for the recordings.⁹²

The challenge of both Hyflex and Hybrid teaching is ensuring that both the online and in-person students feel like they are equal members of the class community. As we gain more experience in this mode of teaching, strategies are emerging to help guide us along the way.⁹³

Part of the success of such classes will depend on getting the technology right for both audio and video. Video is the most difficult technologically because it requires the ability to view not only the PowerPoint or other projections, but also the professor’s face, in-person students, and their remote classmates.⁹⁴ At Pepperdine Caruso Law School, it is currently not possible to capture all those visuals from one camera at the back of a large lecture hall. I have found that sharing my PowerPoint presentation is the most important otherwise it is not visible to the online students, and they cannot follow along. Equally important is the audio. Although it is time-consuming, I ensure that I pass a microphone to any student who speaks so that the online students can hear clearly.

⁸⁹ See *infra* Figure 1.

⁹⁰ *Classroom E*, PEPP. CARUSO SCH. OF L., <https://lawtech.pepperdine.edu/classroom-e/> (last visited July 19, 2021).

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Five Tips for Hybrid/Hyflex Teaching with All Learners in Mind*, COLUM. CTR. FOR TEACHING AND LEARNING, <https://ctl.columbia.edu/resources-and-technology/teaching-with-technology/teaching-online/five-tips-hybrid/> (last visited July 19, 2021).

⁹⁴ See *Classroom E*, *supra* note 90.

IV. PANDEMIC-IMPOSED TECHNOLOGIES AND INTERNATIONAL LEGAL EDUCATION

Zoom, or similar technologies, combined with HyFlex classrooms have the potential to bring international legal education to a new level.⁹⁵ This first section looks at the advantages that studying abroad can give to law students followed by a view of the benefits that this new technology can bring to overcome obstacles that prevent students from participating.

A. The Benefits of Studying Abroad in Law School

In my experience, many lawyers or law professors who were fortunate enough to have the option to study abroad but did not choose to do so, for whatever reason, often viewed international legal education as superfluous. Partly, this is due to human nature: if you chose not to do something, you are likely to view that as the correct decision.⁹⁶ I have also met many lawyers who only studied abroad on the undergraduate level and viewed the entire experience through that lens.⁹⁷ Both groups were often unaware of the advantages that overseas studies can bring on the graduate level for law students.

Students, even top students, need to find ways to distinguish themselves so that their resumes stand out from others. Students who attended our London Program⁹⁸ frequently recounted that much of their job interview conversation was not about their time on law review or grades, but about their semester in London. It seems that lawyers who studied abroad, as well as those who were unable to, are either eager or curious to hear about that experience. Figures from Pepperdine Caruso's Career Development Office placed student employment figures for those who attended the London

⁹⁵ *Globalisation [sic] and Technology Are Key Shapers of Legal Education, Finds IBA and LSGI Research*, INT'L BAR ASS'N (Nov. 11, 2020), <https://www.ibanet.org/article/5B3DCDF2-316E-4EBF-9840-1F723715054A>.

⁹⁶ See Mara Mather et al., *Misremembrance of Options Past: Source Monitoring and Choice*, 11 PSYCH. SCI. 132 (2000).

⁹⁷ Namely, that the study abroad experience revolves around traveling and larking about in pubs—which is not meant to denigrate that time-honored experience. See Colby Bermel, *Is Studying Abroad An Excuse To Party?*, USATODAY (Jan. 26, 2016, 5:30 PM ET), <https://www.usatoday.com/story/college/2016/01/26/is-studying-abroad-an-excuse-to-party/37411339/>; Giovanni Aresi et al., *Drinking, Drug Use, and Related Consequences Among University Student Completing Study Abroad Experiences: A Systematic Review*, 51 SUBSTANCE USE & MISUSE 1888 (2016).

⁹⁸ Pepperdine Caruso Law School has a stand-alone campus on Exhibition Road in South Kensington, London; the facilities include a library, classrooms, offices, and faculty housing. See *Pepperdine Caruso Law's London Program*, *supra* note 2.

Program at equal to or above the employment figures for students on the main campus.⁹⁹

Studying law abroad offers law students a unique opportunity for personal and professional growth. Students who participated in our London program describe it as the best experience of their law school career.¹⁰⁰ The American Bar Association also recognizes the value of international legal education and has recently increased the total number of credit hours that students can take overseas from an American Bar Association (“ABA”) accredited law school from one-third to two-thirds.¹⁰¹ For this next section, I use features of Pepperdine Caruso’s London Program to give examples of the distinctive characteristics that make studying abroad an asset for law students.

1. Opening New Horizons for Students’ Legal Careers

Law students’ career outlook usually focuses on jobs within their home state or in the state where they attended law school.¹⁰² After a semester abroad, students often expand their horizons to contemplate working globally.¹⁰³ Students meet and get a first-hand view of American lawyers working successfully overseas.¹⁰⁴ For some, this happens through social interactions at legal events with American lawyers¹⁰⁵ and for others it is through their work in externship positions.¹⁰⁶ Many of my former Pepperdine London law students ended up working internationally after graduation.

⁹⁹ Figures and sources from the Pepperdine Career Development Office are on file with the author. See also *What Statistics Show About Study Abroad Students*, U. CAL. MERCED, <https://studyabroad.ucmerced.edu/study-abroad-statistics/statistics-study-abroad> (last visited Sept. 15, 2021) (demonstrating similar figures for the University of California Merced’s study abroad students).

¹⁰⁰ The response is similar from other study abroad program directors I have worked with over the years.

¹⁰¹ There was confusion about the limits the ABA standards impose on the number of credits allowed toward the J.D. degree for studies outside the United States. The changes to the standards clarify the matter, distinguishing between studies outside the United States that are operated and sponsored by an ABA-approved law school and studies at a foreign institution. Memorandum from Barry A. Currier, Managing Dir. of Accreditation and Educ., Am. Bar Ass’n, (Nov. 1, 2018) (on file with author). The revisions allow law schools to grant up to two-thirds of the credits required for the J.D. degree from study outside the United States, but only one-third of those credits may be from study at a foreign institution. *Id.*

¹⁰² See, e.g., AM. BAR ASS’N, EMPLOYMENT SUMMARY FOR 2020 GRADUATES 2 (2021), <http://www.abarequireddisclosures.org/EmploymentOutcomes.aspx>.

¹⁰³ Tamar Shulsinger, *8 Unexpected Benefits to Studying Abroad as a Graduate Student*, NE. UNIV. (Oct. 31, 2017), <https://www.northeastern.edu/graduate/blog/study-abroad-benefits/>.

¹⁰⁴ *Pepperdine Caruso Law’s London Program*, *supra* note 2.

¹⁰⁵ In London, for example, students attend The Society of English and American Lawyers (SEAL) and American Women Lawyers in London (AWILL) events. See *Welcome to SEAL*, SEAL: SOCIETY OF ENG. & AM. LAWS., <https://www.seal-london.org/Welcome.html> (last visited July 13, 2021); *About*, AWILL, <https://www.awill.org.uk/> (last visited July 13, 2021).

¹⁰⁶ See *infra* Section IV.A.2.a.

There was a time when U.S. law firm offices overseas were more akin to an outpost. They were out of sight doing mostly siloed work and often out of mind—so much so that my American lawyer friends relayed that there was a perceived danger if you worked abroad that you would never make partner. Those times have changed. In a 2008 article, the *New York Times* reported, “[o]ver the past decade, major corporate law firms have made international expansion a top priority, and some have become truly global businesses.”¹⁰⁷ The article goes on to describe how “top firms like Jones Day, based in Cleveland, went from [six] foreign offices to [eighteen].”¹⁰⁸ Today, Jones Day, has forty-three offices across five continents.¹⁰⁹ Most major U.S. law firms have global offices that work interconnectedly across borders.¹¹⁰ The previous detriment to one’s career progression has also changed as the value of individuals who could work and live across different cultures was placed at a premium.¹¹¹

For students interested in international law, studying abroad during law school is essential. International classes such as human rights or public international law take on a new meaning after visiting the courts, attending the proceedings, and meeting with the lawyers and judges.¹¹² Awareness of international legal issues is heightened as students are exposed to foreign news and events.

During the London Program Study Tour, students meet with lawyers from the United States who have transitioned from practicing various areas of law in the United States, for example as criminal defense or prosecution lawyers, to working for an international criminal court or tribunal.¹¹³ Students are inspired to consider working abroad, even later in life, and often seek information on international careers.¹¹⁴

Personal growth for law students is also an important benefit of studying abroad. Some students have never been outside of the United States

¹⁰⁷ John Bringardner, *Lawyers Wanted: Abroad, That Is*, N.Y. TIMES (Nov. 21, 2008), <https://www.nytimes.com/2008/11/23/business/23law.html>.

¹⁰⁸ *Id.*

¹⁰⁹ *One Firm Worldwide*, JONES DAY: INSIGHTS (May 2013), <https://www.jonesday.com/en/insights/2013/05/one-firm-worldwide>.

¹¹⁰ *A Ranking of Firms by Number of International Offices*, CHAMBERS ASSOC., <https://www.chambers-associate.com/law-firms/us-and-international-presence> (last visited July 13, 2021).

¹¹¹ See Anthony Lin, *How These American Lawyers Have Built Their Lives and Careers in Foreign Lands*, AM. BAR ASS’N: ABAJOURNAL (May 1, 2015, 6:20 AM CDT), <https://www.abajournal.com>; *Becoming a Lawyer at a Global Firm*, CHAMBERS ASSOC., <https://www.chambers-associate.com/law-firms/becoming-a-lawyer-at-a-global-firm> (last visited July 15, 2021); Jeffery Leon, *Lawyers Abroad: Working, Living & Thriving*, WASH. LAW., Oct. 2018, at 17; Carole Silver, *The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession*, 25 FORDHAM INT’L L.J. 1039, 1039-46 (2001).

¹¹² See *infra* Section IV.A.2.c.

¹¹³ See *infra* Section IV.A.2.c.

¹¹⁴ *Careers in International Law*, AM. SOC’Y OF INT’L L., <https://www.asil.org/resources/careers-international-law> (last visited July 14, 2021).

or outside of their cultural comfort zone. They have never had the perspective of seeing the United States or its culture through other eyes. Personal growth makes law students better lawyers.

[L]awyers who strengthen their legal education by learning from study or work abroad are better able to solve problems of clients and society than those who focus only on their home countries. For individuals, these exchanges create energy, and enrich one's imagination and intellect, and promote an openness to the experiences and surprises that inevitably arise.¹¹⁵

2. *Co-Curricular Experiences Not Available on the Home Campus*

This section covers three of the co-curricular activities—externships, moot court, and study tour—that Pepperdine Caruso's program offers to law students who study in London during the fall semester of their second or third year.

a. International Externships

Students participating in the London Program may apply for externship positions.¹¹⁶ They are placed with barristers' chambers,¹¹⁷ solicitors,¹¹⁸ and international organizations like the International Maritime Organization, the United States Embassy, and U.S. law firms. In addition to these experiences allowing students to develop their lawyering skills, they are exposed to the English legal system, law from the United States, and international law. Many of the students who were in the London Program when I was the Academic Director kept in touch with their former externship sponsors over the years and a lucky few ended up working for them.

¹¹⁵ Jane Schukoske, *Cross-Cultural Learning and Relationships: The Value of International Legal Exchange*, 45 INT'L L. NEWS 1, 1 (2017); see also Mary Lynch, *Importance of Experiential Learning for Development of Essential Skills in Cross-Cultural and Intercultural Effectiveness*, 1 J. EXPERIENTIAL LEARNING 129, 129-36 (2015) (discussing the effects of cross-cultural learning).

¹¹⁶ Work Visas are required. See *Student Visa*, GOV.UK, <https://www.gov.uk/student-visa> (last visited July 12, 2021).

¹¹⁷ Barristers work in chambers, not offices, and are court room advocates. See *Information About Barristers*, BAR STANDARDS BD., <https://www.barstandardsboard.org.uk/for-the-public/about-barristers.html> (last visited July 13, 2021).

¹¹⁸ Solicitors work directly with clients, giving advice on legal courses of action, dealing with paperwork, and communicating on behalf of clients. See *Differences Between a Lawyer, a Solicitor, and a Barrister*, SLATER GORDON LAWS.: NEWSROOM (Sept. 23, 2016), <https://www.slatergordon.co.uk/newsroom/difference-between-a-lawyer-a-solicitor-and-a-barrister-explained/>.

b. Moot Court, English Style

Moot court competitions in the London Program pair American law students with British students training to be barristers.¹¹⁹ The moots are held, often in robes much to the delight of the American students, at one of the four Inns of Court¹²⁰ or the Royal Courts of Justice.¹²¹ In addition to forming cross-cultural friendships, students get first-hand exposure to the common law system as the moots are based on English law.

c. Study Tours to International Courts and Institutions

Pepperdine Caruso's London Law Program complements its international courses with a study tour and briefings at the International Court of Justice and International Criminal Court in the Hague, the European Court of Justice in Luxembourg, the European Court of Human Rights in Straßbourg, and European Institutions in either Brussels or Straßbourg.¹²² These visits enhance the international courses in a manner that could not be achieved on the home campus, even if offering the exact same course.

3. International Curriculum and Faculty

Most law schools provide at least a few international courses, but study abroad programs generally offer a wider international curriculum taught by foreign lawyers and international experts thereby adding to the foreign cultural experience.¹²³ My experience has shown that study abroad programs also benefit the faculty members who take part. Pepperdine Caruso law faculty have the opportunity to live in London with their family if selected as the Academic Director and Visiting Professor for the fall semester.¹²⁴ Faculty usually teach two classes based on the law of the United States that fulfill required course obligations in order for students to stay on track for graduation.¹²⁵ The Pepperdine faculty I have worked with in London

¹¹⁹ Barristers provide specialized legal advice and represent individuals and organizations in court. *See id.*

¹²⁰ *See* Richard H.W. Maloy, *The Inns of Court*, FLA. BAR J., Nov. 1986, at 8.

¹²¹ *Home*, THE ROYAL CTS. OF JUST., <https://theroyalcourtsofjustice.com/> (last visited July 7, 2021).

¹²² *Courses and Events, London Program*, PEPP. CARUSO SCH. OF L., <https://law.pepperdine.edu/experiential-learning/global-programs/london/courses-and-events.htm> (last visited July 19, 2021).

¹²³ *Summer Study Abroad Law School Programs*, ABA FOR L. STUDENTS, <https://abaforlawstudents.com/stay-informed/summer-study-abroad-law-school-programs/> (last visited Aug. 14, 2021).

¹²⁴ *Pepperdine Caruso Law's London Program*, *supra* note 2.

¹²⁵ *London Faculty*, PEPP. CARUSO SCH. OF L., <https://law.pepperdine.edu/experiential-learning/global-programs/london/faculty/> (last visited Aug. 14, 2021); *see also* *Pepperdine Caruso Law's London Program*, *supra* note 2 (describing the role of faculty advisors).

uniformly extol the virtues of the experience for themselves both personally and professionally, as well as for their families. Over a semester of shared cultural experiences, the faculty and students bond in a way that does not happen on the home campus and the relationships amongst the group are generally stronger.

B. New Technology Solutions for International Legal Education

This section contemplates the application of new technology, such as Zoom and the HyFlex classroom, for study abroad programs. Applying these technologies has become even more important since the ABA has approved granting up to two-thirds of the credits required for a J.D. degree to be obtained through study outside of the United States.¹²⁶ As described above,¹²⁷ study abroad programs can be life-changing and beneficial both personally and professionally for law students—yet many are unable to attend. Technology could be used to help students overcome obstacles that prevent them from attending overseas programs, as well as offer benefits to the overall experience for both students and faculty.

There are many reasons why students find it difficult to participate in overseas programs. Financial concerns are usually at the top of the list, alongside family commitments.¹²⁸ New technology cannot solve these problems but may offer solutions to other impediments such as an insufficient number of required course offerings for students to stay on track for graduation;¹²⁹ not wanting to miss out on co-curricular activities such as journals, trial team, or moot court;¹³⁰ and apprehensions concerning future employment.¹³¹

1. Required Courses

A common reason why students are unable to attend an overseas program is that the program does not offer enough required courses to keep students on track to graduate on time.¹³² As former Academic Director of

¹²⁶ See *One Firm Worldwide*, *supra* note 109.

¹²⁷ See *supra* Section IV.A.

¹²⁸ Alex Vernon et al., *Student Expectancy and Barriers to Study Abroad*, *ACAD. EDUC. LEADERSHIP J.*, Nov. 2017, at 2.

¹²⁹ See *infra* Section IV.B.1.

¹³⁰ See *infra* Section IV.B.2.

¹³¹ See *infra* Section IV.B.3.

¹³² N. William Hines, *Reporting “Down Under” About U.S. Curriculum Developments*, *ASSOC. AM. L. SCHS. NEWSL.*, Apr. 2005, at 4 (stating that the average credit hours committed to required courses are 43); see also *AM. BAR ASS’N*, *supra* note 7 (explaining the ABA minimum requirements, which include one course of at least two credit hours in professional responsibility, giving law schools the discretion to add additional required courses).

Pepperdine's London program, I know from experience how challenging it is to find and hire professors overseas who can teach required courses. American lawyers living overseas with the qualifications to teach are usually busy practitioners who find it difficult to meet during the day and are prone to canceling class when work takes priority.¹³³ The burden, therefore, often falls on the U.S. professor taking part in the program from the home campus to teach one or more of these required courses. The result is that the required courses offered are limited and vary from year to year. Often the overseas course offerings are not announced until after students have already taken one of those classes on the home campus. For example, at Pepperdine Caruso law school we usually announce the visiting professor's courses one year in advance when students should know the required courses that will be offered in London two years in advance so that they can plan their schedules accordingly.

A HyFlex classroom¹³⁴ would allow students to regularly register for a select number of required courses from the home campus to augment the international classes offered abroad. A key element for success would be to ensure that the course is offered at a suitable hour in both the home and overseas time zones. The number of U.S. required courses that students participating in the London Program would be allowed to take would need to be limited so that it does not diminish the purpose of the international program. The American Bar Association's criteria for approval of foreign semester and year-long study abroad programs requires that a "substantial portion of the educational program must relate to the socio-legal environment of the host country or have an international or comparative focus."¹³⁵

An additional benefit to having a select number of required courses offered from the home campus is that it would alleviate the burden on the visiting professor to teach them. Instead, the professor could be more creative and teach courses that take advantage of their specialty area and the overseas experience. Likewise, some of the superstar overseas faculty and classes could be offered on the home campus. Another advantage would be to open up the overseas experience to faculty who may not teach any required courses.

¹³³ That said, the American lawyers in London that we have hired over the years have been terrific. It is just challenging to find them-and keep them.

¹³⁴ See *supra* Section III.B.

¹³⁵ Criteria for Approval of Foreign Semester and Year-Long Study Abroad Programs Established by ABA-Approved Law Schools, I. The Program (D.) (AM. BAR ASS'N 2020), https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2017-2018ABAStandardsforApprovalofLawSchools/2017_2018_criteria_foreign_semester_yearlong_study_abroad.authcheckdam.pdf.

2. Law Review, Journals, Trial Team, Moot Court, and Other Co-Curricular Activities

Another impediment to attending overseas programs is that students do not want to miss out on co-curricular activities such as working on journals and participating in trial team and moot court. The American Bar Association requires that law schools provide “[a]ccess to co-curricular activities and other educational benefits adequate to support the student body at the separate location.”¹³⁶ As technology has advanced, students have been able to take part in co-curricular activities on the home campus from overseas. Zoom, or similar technology, seems destined to improve the level and quality of overseas participation and lead to a more seamless integration with the home campus. A crucial component for success is for the home campus to integrate the overseas campus into its planning as events, meetings, try-outs, and so forth are scheduled.

One example of integrating co-curricular activities for overseas campuses through technology is Pepperdine Caruso's trial advocacy program. After a successful year of trial competitions held on Zoom due to COVID-19, Professor Harry Caldwell, Director of Trial Advocacy, determined that all intra-school competitions will be held on Zoom.¹³⁷ In his opinion, Zoom showed that trial advocacy training and competitions can be done successfully via the internet and he plans to have try-outs, preliminary rounds, and final rounds on Zoom.¹³⁸ As Professor Caldwell summed it up, “[t]his will create a level playing field for all of our overseas students whether they are in London, Uganda¹³⁹ or anywhere else in the world.”¹⁴⁰ He also believes that training over Zoom would facilitate the participation of practitioners who are assisting as coaches because they would welcome the efficiency of participating from their office or home rather than spending time in traffic driving to and from campus.¹⁴¹

Another example of such thinking is the International Law Society (“ILS”),¹⁴² which will be launching a London branch in the Fall 2021 Semester. The London chapter will be responsible for identifying

¹³⁶ *Id.*

¹³⁷ Harry M. Caldwell, *Scholars & Mentors*, PEPP. CARUSO SCH. OF L., <https://law.pepperdine.edu/faculty-research/harry-caldwell/> (last visited July 15, 2021). Professor Caldwell is the Director of Trial Advocacy at Pepperdine Caruso School of Law. *Id.*

¹³⁸ Telephone Interview with Harry M. Caldwell, Professor of L., Pepp. Caruso Sch. of L. (July 14, 2021).

¹³⁹ Pepperdine law students have the opportunity to do externships in Uganda as part of the Global Justice Program. See *Sudreau Global Justice Institute*, PEPP. CARUSO SCH. OF L., <https://law.pepperdine.edu/global-justice/> (last visited July 15, 2021).

¹⁴⁰ Telephone Interview with Harry M. Caldwell, *supra* note 139.

¹⁴¹ *Id.*

¹⁴² *International Law Society (ILS)*, CMTY. PEPP., <https://community.pepperdine.edu/law/student-life/organizations/international-law-society/> (last visited July 15, 2021).

international speakers and hosting events in London that will be attended jointly by both London and Malibu students. Likewise, ILS Malibu intends to plan their events so that the London ILS students can attend as well.

3. *Employment*

An additional disincentive from attending an overseas program has been concern about missing fall On-Campus Interviews (“OCI”) and disadvantaging prospects for employment. The American Bar Association requires that law schools with overseas campuses provide “career services and other student support services that are adequate to support the student body at the separate location and that are reasonably equivalent to such services offered to similarly situated students at the law school’s main location.”¹⁴³

Previously, video conferencing and Skype helped bridge support services for employment opportunities from the home campus to the overseas campus. However, there were often glitches, and many law firms were not entirely comfortable with the format.¹⁴⁴ Larger law firms tended to view online interviews as an inferior process.¹⁴⁵ However, the advantages of online recruitment became apparent during the pandemic.¹⁴⁶ The panel discussion, “The One Where OCI Went Virtual,” held during the 2021 National Association of Law Placement (“NALP”) Annual Education Conference described a preference by many for using a digital approach, especially for first-round OCI interviews.¹⁴⁷ It allowed law firms to extend their geographic range to include law schools that were more difficult to get to and provided major savings to their travel budget.¹⁴⁸ Virtual interviewing also allowed the hiring duties to be spread across more partners thereby reducing the impact on any one lawyer’s billable hours.¹⁴⁹ Virtual networking applications, such as Flo Recruit, can make it easier to meet and track candidates digitally than

¹⁴³ AM. BAR ASS’N, *supra* note 7.

¹⁴⁴ See Karen Sloan, *COVID-19 Forced Summer Associate Recruiting to Go Remote. Firms May Never Return to Campus.*, LAW.COM (Mar. 04, 2021, 03:55 PM), <https://www.law.com/2021/03/04/covid-forced-summer-associate-recruiting-to-go-remote-firms-may-never-return-to-campus/> (discussing large firms’ evolving views of virtual interviewing).

¹⁴⁵ *See id.*

¹⁴⁶ Mary Kate Sheridan, *Lessons Learned from Virtual OCI*, VAULT (May 4, 2021), <https://www.vault.com/blogs/vaults-law-blog-legal-careers-and-industry-news/lessons-learned-from-virtual-oci>.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ Dan Roe, *Amid Virtual OCI, Law Firms Lean on More Interviews While Perfecting Callbacks*, THE AM. LAW. (Feb. 4, 2021, 2:39 PM), <https://www.law.com/americanlawyer/2021/02/04/amid-virtual-oci-law-firms-lean-on-more-interviews-while-perfecting-callbacks/?slreturn=20210614184520>.

in person.¹⁵⁰ Virtual interviews also broaden the pool of talent—as well as the pool of talent scouters.¹⁵¹ The advantages of virtual OCI discovered during the pandemic has likely removed an obstacle that prevented students from studying overseas and will assist their employment prospects when they are abroad.¹⁵²

V. BARRIERS TO THE FUTURE

“In a few years, men will be able to communicate more effectively through a machine than face to face.”¹⁵³

The COVID-19 pandemic and a year and a half of online learning greatly advanced the technology needed for better interactivity between overseas and home campuses. It appears that the barrier now is less about technology and more about mind-set. Most of us teach the way we were taught and, until quite recently, teaching was rarely remote. The American Bar Association has built its accreditation standards around the in-person course model and has only recently allowed for up to one-third of a student’s credits to be taught online.¹⁵⁴

The image of a stern law professor, like Professor Charles W. Kingsfield, Jr., from the 1973 film *Paper Chase*,¹⁵⁵ lecturing to a room full of intimidated law students is part of a strong cultural perception of what law school should be like. Almost thirty years later, the 2001 film, *Legally Blonde*,¹⁵⁶ portrayed essentially the same picture.

The pandemic is singularly responsible for changing attitudes toward online learning, but there is still a view by both students and faculty that online learning is inferior to in-person. Online teaching *can* be inferior if it is taught in the same lecture style as in-person classes rather than actively engaging students with new teaching strategies and tools suited to the online medium. There is a large digital disconnect between most faculty and students and it will likely take a bit more time for that to change.

¹⁵⁰ *Id.*; *Virtual Recruiting Done Right*, FLO RECRUIT, <https://start.florecurit.com/> (last visited July 15, 2021).

¹⁵¹ Roe, *supra* note 149.

¹⁵² *Id.*

¹⁵³ J.C.R. Licklider & Robert Taylor, *The Computer as a Communication Device*, 76 SCI. & TECH. 21 (1968), https://internetat50.com/references/Licklider_Taylor_The-Computer-As-A-Communications-Device.pdf.

¹⁵⁴ *Council Moves to Expand Flexibility for Fall Academic Year*, AM. BAR ASS’N: ABA NEWS (June 1, 2020), <https://www.americanbar.org/news/abanews/aba-news-archives/2020/06/council-moves-to-expand-flexibility/>.

¹⁵⁵ PAPER CHASE (20th Century Studios 1973).

¹⁵⁶ LEGALLY BLONDE (Type A Films, Metro-Goldwyn Mayer, Marc Platt Productions 2001).

As Hybrid or Hyflex classes increase and active learning teaching techniques are strengthened, distance learning will no longer be seen as inferior. This will bode well for seamless and convenient interaction between overseas and home campuses and offer greater opportunities for international legal education.

APPENDIX

Figure 1:

