HOW TO TEACH ROMAN LAW — SEEKING THE METHODS*

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1. INTRODUCTION

One of the three most important things a public speaker must keep in mind in order to convey his message is who he is addressing. A lecturer or a teacher as a typical example of a public speaker should pay special attention to this issue.

Who is it that we are addressing when we teach? They are referred to as the Y generation or the Millenials. Born between 1977 and 2003, they were born into the age of computers, they are referred to as digital natives unlike many who teach them, who are immigrants to this world. Statistically speaking, they are the generation who reads the least, whose reading rate decreased 20% in the last 20 years and is furthermore least likely to read literature. Their communication channels, instead of face-to-face, run through networks, instant messaging systems, web pages and e-mails. Their free time is used for video games. As they require less investment of time or effort for entertainment.

And when you ask them a question in classroom, despite the fact that their textbook lies in front of them, they will without hesitation or shame take their smart phones in the middle of class and google the answer. In fact, in general, instead of reaching for an encyclopedia, they will look up the information on the Internet.

And why is that?

Because in their world information is a readily available commodity. Unlike the previous generations, for whom it used to be difficult to acquire them, hidden

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in distant libraries and stacks of paper, for them it is right there in front of them and they have no intention of troubling themselves searching for them. They want their information packaged as entertainment and they will have it whether we like it or not.

Bearing this in mind, as well as taking in consideration that members of our profession have been so far a valuable source of information, it is high time we asked ourselves: are we dispensable? Will this new generation have the need for our existence? Is there a role for us in their dynamic world?

The aim of this article is to give a modest contribution to the quest of the methods for teaching Roman law at the beginning of the XXI century. It will analize learning habits and tendencies of law school students, theirs characteristics and needs in the times to come and try to propose one of many methods of teaching Roman law that might be potentially satisfactory in the times to come.

2. LAW STUDENTS ARE NOT NECESSARILY SIMILAR IN LEARNING STYLE TRAITS

"When my daughter was two years old, I was reading a book with her. She was holding the book and, as one can do with children, we spent an inordinate amount of time pointing to all the different things on one page. I finally got tired of looking at the same page, so I asked her to turn the page. She said, "Okay," and rotated the book. We were still looking at the same page, only now it was upside down.

People interpret words and new information within the context of their prior experience and knowledge, and in accordance with what they believe to be the purpose for the information. […] Because her interpretation served her context and purpose, my daughter had no reason to wonder whether she understood me. […]

This disjunction between what teachers mean and how students interpret what is being taught explains why a significant number of law students are not learning or performing at the level of their capabilities.[1] Students also said that they learned better whenever teachers used a variety of exercises—experiential, writing, collaborative and a variety of mediums, including visual aids, props, recordings, films, and videotapes."[2]

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[1] LUSTBADER, Paula. Teach in Context: Responding to Diverse Student Voices Helps All Students Learn, *Journal of Legal Education*, Vol. 48, No. 3, (1998), 402.

[2] LUSTBADER, Paula, 404.

Why might this be?

A survey sonducted by Professors Robin A. Boyle and Rita Dunn of St. John's University found that law students were diverse in their learning styles.[3] Learning style, as they define it, is the way in which individuals begin to concentrate on, process, internalize, and remember new and difficult academic information or skills. Learning styles vary with age, achievement levels, culture, and individual-processing of new information.[4]

The learning-style strengths of incoming law students at St. John's University has been assessed since 1996 and it has been found that, depending upon the year, merely nineteen to thirty percent of those students have a strong preference for auditory learning. New York Law School reports that thirty-three percent of its first-year law students had auditory strengths in the 2001-02 academic year. Albany Law School reports similar results. Even those students who prefer to learn by listening will remember only three-fourths of what they heard during a fifty-minute lecture. There seems to be high-energy output on the part of professors, with moderate learning results. The energy expenditure needs to shift from professor to student for an active learning experience, producing a more effective use of class time and higher student performance. Professor Vernellia Randall stated: "Law professors must put more of our effort into creating the conditions within which students can construct their own meaning and develop their own skills. Students will need to do this through their own cognitive

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[3]   BOYLE, Robin A. and DUNN, Rita. Teaching Law Students Through Individual Learning Styles, *Albany Law Review*, Vol. 62 (1998), 216. Learning theories focus on students and how they receive and integrate the knowledge, information, and material being communicated. A tacit assumption of most professors is that the teaching style or technique used will "connect up" to all of the students and influence their learning. Yet, more and more educators are characterizing students as "three-dimensional" learners who have disparate propensities for learning." This three-dimensional learning theory suggests that teaching methods and techniques must adjust to context, and that the success of teaching techniques or methods may depend on the particular students being taught. In this sense, the learning process is more individual than collective.
Learning theories may overlap or conflict. There appears to be no empirically "correct" theory or approach (although theoreticians certainly have their favorites). The mere recognition, however, that differences in students create differences in learning indicates that learning theories may be very helpful in determining which teaching methods to use. There are two principle learning theories – cognitive and developmental. Cognitive learning theory focuses on how an average person responds to the classroom and the learning process. Developmental learning theory, in contrast, focuses on how people's learning skills and abilities change as they get older. FRIEDLAND, Steven I. How We Teach: A Survey of Teaching Techniques In American Law Schools, *Seattle University Law Review*, Vol. 20 (1996), 4.

[4]   BOYLE, Robin A. and DUNN, Rita, 214.

structures. Because students not only have different skill levels, but also different cognitive structures, we cannot continue a 'one-size-fits-all' approach to teaching."[5]

Professor Gerald F. Hess of Gonzaga University advocates the use of Student Advisory Teams in law school courses. A SAT is a group of students who meet periodically with the teacher to help the teacher improve the course.[6] Some professors jump-start their students' active learning by raising awareness of the students' learning styles. Paula Lustbader of the Seattle University, for example, points out that faculty within academic support programs recognizes that students have different learning styles. She observes that students learn differently through selected modalities, namely visual, auditory, and kinesthetic, and that they process information best either through writing or speaking. In addition, she finds that some students are "abstract, conceptual thinkers, while others are concrete and practical."

Dunn and Dunn[7] found similar learning-style modality differences among students, but their research revealed a fourth modality – tactual. Dunn and Dunn also found that students process information either globally or analytically, and

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[5]   BOYLE, Robin A. Employing Active-Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student, *University of Detroit Mercy Law Review*, Vol. 81 (2003), 2.

[6]   The students have two primary roles. First, the students provide feedback to the teacher about the students' learning (what they "get" and what they don't) and the effectiveness of the teacher's instructional methods. Second, the students offer suggestions to improve the course and their learning. The teacher's role is to listen to the students' feedback and to implement reasonable suggestions when appropriate.
He has used SATs for three years in first-year and upper-level law school courses. During that time, more than ninety students participated on twelve SATs. He surveyed the participants to assess the effects of SATs on student attitudes, teaching effectiveness, and learning. Over 90% of the students reported that their participation on an SAT improved their attitudes toward the teacher and the course. Over 80% improved their attitudes toward themselves as students and law school in general. Over 90% of the participants also reported that the SAT process improved the teacher's effectiveness. Finally, over 80% of the students believed that their SAT participation improved their learning.
His article Student Involvement In Improving Law Teaching and Learning is intended to help legal educators and their students improve the quality of teaching and learning through the use of SATs. Part I relates the development of the SAT concept in two active movements in higher education: Classroom Assessment and Total Quality Management. Part I describes the use of SATs in law school courses and presents data that demonstrates the benefits of SATs for teachers and students. Part III contains practical suggestions for teachers interested in using SATs in their courses. Gerald F. Hess, Student Involvement In Improving Law Teaching and Learning, *UMKC Law Review*, Vol. 67 (1998), 343.

[7]   Dr. Kenneth Dunn, professor at Queens College.

that some integrate the two. [8] Global processors prefer to learn why the material is important to their real life and personal situations. They enjoy humor and anecdotes while learning, and they prefer optional resources and multiple approaches as they develop their own version of the learning objectives and create their own models. Analytic processors prefer to know the detailed objectives at the outset. They learn sequentially and with detail provided through words and numbers; whereas, global processors respond well to charts, graphs, diagrams, color, and pictures. All persons retain more with a review of the material through a secondary perceptual strength.[9]

This can be used by professors without individualizing instruction to each student, which would be nearly impossible in all but the smallest of classes. Law professors are encouraged to use a diagnostic assessment in their classes so that they have an understanding of the kinds of learning styles present within their classes. Once the assessment is complete, the professor then can determine the overall "learning-style majorities", meaning the larger populations of certain types of styles. Professors would be able to adapt their methods to a few such majorities. If assessing students is not feasible, then, in the alternative, professors would be wise to use a combination of instructional methods, ones that can be incorporated into most class periods and that are likely to reach a broad spectrum of students.[10]

For example, professor Paul F. Teich of the Nevada School of Law observes that students at post-secondary levels appeared to respond best to "individualized"[11] teaching systems, as opposed to "group teaching" systems. Teich concludes that law teaching can be improved and suggests that more research needs to be done in individualized instruction to see "whether teaching methods differ in effectiveness, and if they differ, in what important ways.[12] By and large,

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[8]　For example, it is advised to start the global learners with a creative assignment, then pose inference questions, and then provide factual materials. For the analytic learners, start with factual materials, then pose inference questions, and then have them do a creative assignment. The appropriate sequencing of the material will aid students in their understanding. BOYLE, Robin A. and DUNN, Rita, 238.

[9]　BOYLE, Robin A., 6-7.

[10]　BOYLE, Robin A. and DUNN, Rita, 216.

[11]　Professor Lustbader goes even further to claim that teachers can help students relate new material to their prior experiences by discovering what those experiences are and then explaining how the new information or concept is analogous. LUSTBADER, Paula, 406.

[12]　BOYLE, Robin A. and DUNN, Rita, 220.

he conludes, research at the college level has failed to identify a single "best" teaching method.[13]

In cautioning law professors against employing universal methods for all students, some researchers encourage students to engage in "self-regulation". Law professor Paul T. Wangerin advocates metacognition[14], the process whereby "learners" become aware "of the learning process itself".[15] He advocates teaching law students "strategies for time management, efficient reading, note taking, review, and problem solving". Law professor Cathaleen A. Roach of DePaul University extends Wangerin's theory and advocates more involvement by teachers.[16] Other researchers advocate a personality assessment based upon the Myers-Briggs Type Indicator (MBTI). The MBTI test identifies different "personality dimensions".[17]

Professors Boyle and Dunn used the Productivity Environmental Preference Survey (PEPS)[18] to analyze the learning styles of seventy-six first-year law school students in a legal research and writing course at St. John's University. They tested the hypothesis that law students would be similar in learning style traits because they were pursuing a career in a single field and had been select-

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[13]   TEICH, Paul F. How Effective Is Computer-Assisted Instruction? An Evaluation for Legal Educators, Journal of Legal Education, 41 (1991), 491.

[14]   Flavell has been heralded as the originator of the definition: "'Metacognition' refers to one's knowledge concerning one's own cognitive processes and products or anything related to them, e.g., the learning-relevant properties of information or data." BOYLE, Robin A., 7. Brenda H. Manning and Beverly D. Payne acknowledged that the definition of "metacognition" has changed over time. They currently define it as "knowledge about thinking and mental experiences (usually ongoing ones) about thinking." BOYLE, Robin A., 8-12.

[15]   In an unprecedented investigation with an adult population, Theresa M. Hamlin studied the use of learning style and metacognitive strategies with adults. For more on Hamlin's survey, v. BOYLE, Robin A., 8-12.

[16]   BOYLE, Robin A. and DUNN, Rita, 220.

[17]   The four dimensions are: (1) "orientations toward life" experiences (measuring "extraversion or introversion"); (2) information gathering ("sensing perception or intuitive perception"); (3) decisionmaking ("thinking judgment or feeling judgment"); and (4) "orientations toward the external world (judging orientation or perceiving orientation)". BOYLE, Robin A. and DUNN, Rita, 221.

[18]   The PEPS was developed by Drs. Rita Dunn, Kenneth Dunn, and Gary Price. The PEPS consists of one hundred statements. The student provides answers about his or herself on a five-point Likert scale, and for adults the test is self-diagnostic. (The approximate time to complete the test is twenty minutes.) The PEPS has demonstrated both reliability and validity. The learning-style profiles generated from the PEPS have been effective in helping adult learners in both academic achievement and workplace instruction. BOYLE, R. A., 9.

ed for law school upon predominantly two narrow criteria: Law School Admissions Test scores and undergraduate grade point averages.

They found that the law students tested had, in fact, diverse learning-style traits. Therefore, professors who use the identical strategy in teaching all students in a class with diverse learning styles will find that it is likely to be less effective for some students. It would be beneficial, then, for law professors to assess the learning-style traits of their students and to vary their teaching methods accordingly.

Dunn and Dunn describe learning style in terms of individual reactions to various elements divided among five categories. The five categories and their elements are:

1. Physiological Factors: a. Perceptual strengths, which are auditory, visual, tactual, and/or kinesthetic preferences; b. Time-of-day energy levels; c. Food or liquid intake; d. Mobility needs while learning.

2. Psychological Factors: a. Global versus analytic processing determined through correlations among sound, light, design, persistence, sociological preferences, and intake; b. Right/left brain hemisphericity; c. Impulsive v. reflective.

3. Emotional Factors: a. Motivation; b. Persistence (whether the student works on one task until completion as opposed to working on several tasks simultaneously); c. Responsibility (conformity v. nonconformity); d. Need for either externally imposed structure or the opportunity to do things in their own way.

4. Environmental Factors: a. Sound; b. Light; c. Temperature; d. Furniture/seating design.

5. Sociological Factors: a. Learning best alone, in a pair, in a small group, as part of a team, or b. With either an authoritative or a collegial adult; c. Learning in a variety of ways as opposed to consistent patterns.[19]

Once the students' learning styles have been assessed, the following sequencing would be, accordning to them, most effective in teaching new and difficult material: first, introduce the material through each student's perceptual

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[19]   BOYLE, Robin A. and DUNN, Rita, 223.

strength; second, reinforce the material through a secondary or tertiary strength; and third, have the students use the newly acquired knowledge in a creative way to ensure application of knowledge. Optimally, students should be tested prior to and after the sequence in order to determine the effectiveness of the sequence.

Alternatively, if the class size is unwieldy and the professor chooses not to assess his or her students, then we suggest that some of the instructional strategies described below be used in combination. Although the professor will not know the particular class composition of learning styles in his or her class, using more than one method can be expected to reach a higher, but unknown, proportion of students. The professor should be forewarned that this approach is one of hit-or-miss, but it is better than using only a single method, such as a straight lecture, which reaches only those with auditory preferences-often less than thirty percent!

They do not assert that learning styles are fixed in an individual as learning styles vary with age. In addition, professors also are diverse in their own learning styles and tend to present materials that often are complementary to their own personal styles. For these reasons, when possible, students should be encouraged to adjust to learning styles that are not entirely congruent with their own. By including secondary and tertiary perceptual strength sequencing, professors can assist students in learning from teachers who have different learning styles from their own.[20]

Professor Boyle advocates using different strategies for reaching students with different learning styles[21]:

1. Visual Aids for Those Who Prefer to Learn Visually[22]
2. Designing Materials for Tactual Learners[23]

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[20] BOYLE, Robin A. and DUNN, Rita, 226.

[21] BOYLE, R. A., 18-23.

[22] This academic year, approximately 22% of the 83-student ILLP class expressed a strong preference for learning visually. To reach those students who strongly prefer to learn new and difficult material using visual images, She recommends using Microsoft PowerPoint® slides as a visual aid or "Smart®" podiums, which provide various technology to project images onto a large screen: Microsoft PowerPoint slides can be used, a Docu-cam® can project images from paper and books, the Internet can be accessed for demonstrating research and Shepard's Citators, and basic word processing functions can be used and projected.

[23] To provide tactual materials that have a great deal of structure and appeal to visual learners as well, she provides Programmed Learning Sequence manuals (PLSs) when she covers legal research. The PLSs contain review tests including tactual manipulatives such as Task

3. Designing Materials for Kinesthetic Learners[24]

4. Designing Group Work

5. A Coordinated Effort to Reach All Students[25].

2.1 Conclusion

Despite the fact that they are pursuing a career in a single field, law students are not necessarily similar in learning style traits. Legal education, and consequently, the teaching of Roman law, should be structured in a way that makes it available for all sorts of learners to be taught, to study and to learn in a manner that suits their personal characteristics as much as possible.

3. GENERATION OF CONTEMPORARY STUDENTS AND THEIR CHARACTERISTICS' INFLUENCE ON THEIR EDUCATION

In 2007, approximately one-third of law students were members of Generation X; two-thirds were members of Generation Y, or the Millennial Generation. The broadest definition of Generation X sweeps in those individuals born between 1961 and 1981; these were students aged approximately 26 to 46 at that time. More common and conservative definitions of Generation X are somewhat narrower, setting the range from 1965 to 1982. Generation Y, also called the "Millenial Generation" or simply "Millenials," are the individuals born

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Cards and Poke-A-Holes. The PLSs reach global learners by incorporating humor and big-picture introductions; they reach analytic learners with concise, fact-by-fact format. Because the PLSs can be learned independent of the professor, they are also attractive to more self-directed students. The PLSs can be used either within the classroom or as a take-home assignment and can be constructed on a wide array of topics.

[24] Kinesthetic learners are law professors' biggest challenge because these students learn in a way that is so different from traditional law school methods. Kinesthetic learners learn by doing. Role-playing is one suitable teaching technique that engages kinesthetic learners. Role-playing can be used in small or large classes.It can be used in the ILLP module. How is it done? For example, it is necessary to schedule rooms to accommodate 40 pairs of students. They are asked to simulate attorney interviews with clients and to conduct negotiations. All 40 interviews are videotaped. In the enlisted example, Professor Ward extracted from these 40-taped interviews one comprehensive videotape showing examples of good, bad, and humorous interview techniques, which she showed to the class as a whole.

[25] For the first day of class, their ILLP module of professors and teaching assistants devised a teaching technique that appeals to visual, auditory and tactual learners, and to those who prefer to work in a group. The exercise demonstrated that the relevance of facts of a case depends upon legal context. In prior years, the doctrinal professor, Professor Ward, had used the Socratic method to examine the same hypothetical fact pattern. This year, the hypothetical was presented in a way calculated to reach the diverse learning-style strengths of all of our 80-plus students.

between 1977 and 2003, then aged approximately 4 to 30. Other names have been attached to various subgroups. For example, students born between 1975 and 1985 have been dubbed the "MTV generation", and some scholars have labeled students born between 1997 and the present as the "Net Generation".[26]

In her article on generations X and Y in Law School, Professor Joan Catherine Bohl of Stetson University first explores the characteristics members of Generations X and Y exhibit as those characteristics relate to their experience in law school. To do this, he describes the technological milieu in which they grew up, the education they received, and the learning styles they exhibit. Second, he isolates and explores some of the problems that these characteristics create in a law school classroom and suggests strategies to maximize the successful integration of Generation X and Y students into law school. The strategies he discusses are holistic, designed to minimize the stress and conflict that can arise on either side of the podium.[27]

When we examine the experiences these students have shared, we find three broad, defining characteristics, characteristics that remain remarkably constant within the generation group as a whole, and across most of the cultural and geographic boundaries of the world's developed countries. The first set of characteristics flows from the ready availability of technology itself. The second set of characteristics flows from the fact that these students are in various stages of being or becoming adult learners. And finally, with regard to Gen X Y in America, various facets of the educational system as a whole influenced the entire generation of students that now sit in law school classrooms.28 However, given the fact that various educational systems may influence differently the generational general development, this article will deal only with the first two sets of characteristics. [29]

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[26] BOHL, Joan C. Generations X and Y In Law School: Practical Strategies for Teaching the MTV/Google Generation, *Loyola Law Review*, Vol. 54 (2008), 778.

[27] BOHL, Joan C., 777.

[28] BOHL, Joan C., 779.

[29] For more on the effect the American educational system on the Gen XY student, V. BOHL, Joan C., 790-791, where she, among other thing, says: "As law teachers, we must change. Law professors teaching past generations were purveyors of information, revered for the information they could impart. Information, knowledge and wisdom all seemed inextricably

3.1 The effects of access to technology

Unlike members of any previous generation, members of Millenials have had access to readily available information through the internet for virtually their whole lives. One study suggests that an average of 20% of Gen X Y students started using computers at age 5. Almost 9 out of 10 children who lived in a home with a computer used the computer. For instance, that meant that, by 2003, 86% of all American children were computer literate.[30]

To a Millenial, the internet is access to music and to other forms of entertainment. But, it is also a vast system of social contacts and networking, through text messaging, web pages, emails, and instant messaging systems; communication systems that the Millenial often chooses over face to face contact or even a telephone conversation. In fact, a survey of Millenials' attitudes towards the internet found that instead of agreeing that it was "life enhancing technology", they tended to simply think of it as life. Internet access at this level has thus fundamentally altered some characteristics of Millenial law students, when compared to previous generations of law students, in terms of their relationship to information.[31]

3.2 Educational process inextricably linked to entertainment

Since internet information appears on one's computer screen with little investment of time or effort, Millenial students have developed a predominantly passive relationship to information and an expectation of instant gratification. Even computer use for entertainment, like video games, is essentially passive. It requires less investment of time or effort than the entertainment of previous generations. The Millenial student receives and expects instant gratification unknown to his or her parents or older siblings.

Not only has the Millenial student come to expect instant gratification from technology, but the perception of the learning experience itself has been fundamentally altered. Just as technology is perceived as a fundamental facet of life, not just as a separate enhancement, so too the educational process has become

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connected. Access to technology severed this connection for the Generation Y law student. Millenial students are expert gatherers of information, or so they perceive themselves to be."

[30] BOHL, Joan C., 779.

[31] BOHL, Joan C., 780.

inextricably linked to entertainment. The Millenial student's earliest experiences with learning included television shows like Sesame Street, which combined learning with fast paced entertainment.[32]

As Gen X Y grew up, television programs proliferated to appeal to them; and educational content, as it was delivered, was entertainment. The Daily Show with John Stewart, for example, was specifically designed to package information as entertainment. With education inextricably linked to entertainment, it is hardly surprising that as Millenial students matured, they experienced education from the vantage point of a consumer, and felt entitled to an educational experience that spoke to them in accessible, even entertaining ways.[33]

3.3 Relationship with professors

The fast paced, omnipresent access to data, entertainment, and entertaining data that technology created also shaped Millenial students into expert multi-taskers who tend to block out information not seen as immediately relevant. For them, information is perceived as a readily available commodity often only keystrokes away. The immediacy of information for Gen X Y students is a drastic contrast to members of previous generations, who experienced information as difficult to acquire. For baby boomer students, information was in distant libraries or waiting to be discovered in stacks of paper. These older students, therefore, strove to retain information, and, as part of the retention process, to organize it and synthesize it. This difference can perhaps best be understood as the difference between "just in case" learners and "just in time" learners. Baby Boomer students attempt to retain information "just in case" they need it later. Millenial students are not interested in specific information until they see the need for it; they tend to want information "just in time".

This Generation Y belief that information is readily available, even overwhelmingly available, has also influenced their relationships with professors. To members of previous generations, professors were a valued source of information; information itself was rare or fairly difficult to obtain. Millenials, on the other hand, perceive information as only a few keystrokes away, at least as available to them as it is to the figure in the front of the classroom. In this sense,

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[32]   BOHL, Joan C., 780.

[33]   BOHL, Joan C., 781.

Generation Y students may consider themselves far more the professor's equal than members of any previous generations. Hence, Millenial students may make comments like "I don't agree with your comments" on a paper or exam, questioning a professor in ways students of previous generations virtually never did.[34]

3.4 The early entrance to adult learner status

The second of the broad, interlocking characteristics that affect Generation Y students when they enter law school is that they are all adult learners, or in various stages of becoming so. Although adult learning theory does not change from generation to generation, the characteristics of adult learners mirror many of the generational characteristics associated with Millenials.[35] Thus, adult learning theory may be particularly important in the Generation Y classroom. Adult learners share a core of six key characteristics; recognizing these characteristics enhances the adult student's ability to learn, and in some cases, can mean the difference between grasping a new concept or failing to do so.[36]

    a) The adult learner's need to feel that he or she is engaging in the learning process voluntarily. Adult learners must feel that the educational task is building on past experiences[37] and is relevant to their goals.

    b) Adult learners require an environment of mutual respect that encourages them to challenge concepts presented and challenges their responses without denigrating them.

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[34]   BOHL, Joan C., 781-782.

[35]   According to Professor Boyle, the learning-style profiles generated from the PEPS have been effective in helping adult learners in both academic achievement and workplace instruction. BOYLE, Robin A., 9.

[36]   BOHL, Joan C., 782-786.

[37]   Similarly, Professor Paul L. Caron and Rafael Gely of the University of Cincinnati propose the concept of active learning, which is based on two premises: learning by its nature is an active process, and different people learn in different ways. Active learning recognizes that, during classroom time, students should be engaged in behavior and activities other than listening. Active learning requires students to undertake higher-order thinking, forcing them to engage in analysis, synthesis, and evaluation. It has been noted that "[c]ognitive science teaches that such active learning produces more lasting value to students who are better equipped to process new information and solve new problems within the context of their self-created schemata. CARON, Paul L. and GELY, Rafael. Taking Back the Law School Classroom: Using Technology to Foster Active Student Learning, *Journal of Legal Education*, Vol. 54 (2004), 3-5.

c) Adult learners need to feel that they are involved in a collaborative classroom effort on several levels.

d) Adult learners learn best when they can fit new concepts into the context of their past experiences.

e) This overwhelming preference for active learning also immerges repeatedly as a key characteristic in studies of Millenial law students, regardless of whether they are, strictly speaking, adults. Thus, Generation Y law students are less able to grasp information presented through a passive, auditory format like a lecture and benefit from educational experiences that are predominately active such as role playing, participating in clinical experiences, externships, clerkships, and moot court.

f) Successful adult learning requires frequent and varied opportunities for evaluation.

g) Frequent feedback is also important to the process of teaching Gen X Y students to accept and understand the relationship between law faculty and law students. Gen X Y students tend to reject the hierarchy of teacher/student and may regard themselves as individuals who are fully as competent as their professors. Their first impulse may be to reject a professor's constructive criticism as simply a different evaluation of their work, no more authoritative than their own. Every professor teaching Millenial students is familiar with the student who announces that he or she does not "agree" with critical comments or wants to offer class management criticisms of his own. Frequent evaluation can help these students appreciate that the professor is more experienced, at least, and may help establish the professor as an authority figure, albeit a collegial one.[38]

3.5. Conclusion

Firslty, information is a readily available commodity for Millenials. It is a fact and denying it is counterproductive for the denier himself/herself.

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[38]   BOHL, Joan C., 786.

Secondly, the teacher in question must find a way to convey his message and fulfill his role in an entertaining way. Otherwise, he or she will be replaced with those who did.

Thirdly, Law professors teaching past generations were the source of information. Information, knowledge and wisdom all seemed inextricably connected. Access to technology severed this connection for the Millenial law student. Generation Y students are expert gatherers of information, or so they perceive themselves to be. Contemporary law teachers, including those of Roman law, in order not to turn out to become dispensable, must find a role in the new system. A role of analyzing, or even "chewing" the information in a way that plain-information-holders cannot do themselves.

Lastly, due to the similarities between the adult-learners and Millenials, recognizing these characteristics of adult-learners in the education of Millenials is likely to enhance the Miollenial's ability to learn, and in some cases, can mean the difference between grasping a new concept or failing to do so.

4. COMPUTER-ASSISTED INSTRUCTION

During the previous period, educators and social scientists have begun to compare the effectiveness of established teaching techniques with a number of alternative modes of instruction, one of which being CAI. The number of published studies on CAI has grown steadily throughout the period, even in the second half of the 20th century. A 1974 study found only 14 college-level CAI-related studies, while a 1986 study found 101. Several conclusions can be drawn from an examination of the research reviews. [39]

1. CAI may improve the performance of students on course examinations.[40] Because each student can receive training tailored to his or

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[39]   TEICH, Paul F., 492.

[40]   TEICH, Paul F., 492. Of the four studies, the 1986 review by James A. Kulik and Chen-Lin C. Kulik of the University of Michigan offers the most comprehensive analysis of research on examination achievement. The Kuliks report that in ninety-nine studies reporting data on student achievement, nearly one quarter (21%) of the studies found that CAI students perform significantly better than students receiving traditional instruction, while one study (1%) found that CAI students perform significantly worse. In a substantial majority of the studies (78%), however, there was no significant difference between the examination performance of students receiving CAI and that of students receiving conventional instruction. The data may look disappointing for CAI unless one recognizes that in any given study the sample size is often too small to produce statistically significant results.

her specific learning characteristics and deficiencies, learning is likely to be enhanced.[41]

2. In its usual implementation, CAI reduces the time students need to master course material.[42]

3. CAI is a method of instruction that is reasonably well liked by students. Again, the most comprehensive analysis appears in the 1986 article by Kulik and Kulik. When the authors combined the data from thirteen studies of student attitudes toward instructional method, they found a small difference (ES = .31) favoring CAI. [43]

4. There is some evidence that CAI is more effective when it is used in conjunction, with conventional instruction than when it is used as a substitute for such instruction.[44]

5. The standard modes of CAI seem to be equally effective at improving learning.[45]

6. CAI appears to be more effective for courses in the soft disciplines than in hard disciplines.[46]

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[41] TEICH, Paul F., 493.

[42] TEICH, Paul F., 494. The Kuliks found that across fifteen studies CAI students learned the material in about one third less time than in conventional instruction. Law school courses, which each year must cover increasingly complex bodies of doctrine, could unquestionably benefit from teaching methods that conserve students' time.

[43] One of the possible CAI instrument is electronic casebook. Exploitation of electronic casebook's capacities for linking and annotating by students is, according to Professor Peter W. Martin of the Chicago-Kent School of Law insufficient. However, that does not mean that electronic casebooks offer no advantages over their print counterparts. Half of the students responding to Martin's survey indicated that they would prefer a course that had materials in electronic form (in addition to print) over one that had only a book. What explains this preference? It is suggested that students find the access to information provided by electronic casebooks a useful organizational device. As one student remarked in a written comment in Martin's survey, "Without the computer my notes would look like this [a chaotic scribble followed]." WARNER, Richard, SOWLE, Stephen D. and SADLER, Will. Teaching Law With Computers, *Rutgers Computer & Technology Law Journal*, Vol. 24 (1998), 134.

[44] TEICH, Paul F., 495. One review reports that at the college level, when CAI was used as a substitute for conventional instruction, only 38% of the studies (3/8) favored CAI. All the studies (3/3) in which CAI was used as a supplement, however, favored CAI.

[45] TEICH, Paul F., 495.

[46] TEICH, Paul F., 496. Kulik and Kulik separated ninety-nine achievement studies into those investigating instruction in soft disciplines (defined as courses emphasizing "the social sciences, humanities or education") and those examining instruction in the hard disciplines ("courses emphasizing the hard sciences, engineering, mathematics or agriculture"). They identified 55 studies on soft disciplines and 44 studies on hard disciplines. According to their meta-analysis, CAI is significantly more effective in soft (ES = .35) than in hard (ES = .15) courses of study.

If you use a laptop in the classroom to project text or other material, it is unlikely that you will be the only one in the room with a computer. Increasingly, students are arriving at law school with laptop computers and are bringing them into the classroom. Presence of laptops in the classroom raises certain issues.

a) Effects on Note-Taking. The fear is that, to the extent students attempt this, they will be less engaged as classroom participants. Although this concern might be shared in case of "stenographic" note-taking, the problem is a relatively modest one and instructors can take steps to counteract this tendency.[47]

b) Keyboard Noise. Another concern is that the noise generated by significant numbers of students taking notes on their laptops will be distracting to both the instructor and the students. The experiences of participants in the E-LEARN section, in which 80% or more of students typically take class notes on their laptops, provide a useful perspective on this issue. Professor Martin reports that all he spoke with, students and faculty, found that the sound of so many key-boards in action swiftly slipped into the background.[48]

c) Extra-Curricular Use of Laptops in the Classroom. Students with laptops may be tempted to use their machines for entertainment rather than academic purposes when their interest in the class flags. Again, Martin's report is instructive: "I saw nothing [in my class visits] that would lead me to believe that computer games and web surfing (or e-

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[47] In his report on the 1995-96 E-LEARN section, Professor Martin comments on this concern: Do computers encourage students to concentrate on taking complete notes to the detriment of reflection and participation? "My own impression, based on class visits, is that the ability to capture more of what takes place in the classroom may indeed accentuate a tendency on the part of some beginning students to sacrifice real time analysis and reflection to transcription but that most learn before too long how unwise that is. I observed that whenever the teacher posed a challenging problem or stirred real discussion any tendency toward transcription ceased." WARNER, Richard, SOWLE, Stephen D. and SADLER, Will, 139-140.

[48] Almost no one found it a significant distraction. In fact, some E-LEARN instructors have found the keyboard noise helpful, in that it provides a form of "aural feedback" on the level of class note-taking and can be used to help gauge when students are having trouble with a particular concept.
To the extent that keyboard noise is perceived to be a problem, there is a possible technological fix. Many laptops currently on the market are equipped with "noiseless" keyboards that generate little or no noise. If a school adopts a general policy on student use of laptops, one might consider making it a requirement that students purchase laptops with such capabilities if they want to use them in the classroom. WARNER, Richard, SOWLE, Stephen D. and SADLER, Will, 140-141.

mail and on-line re-search) are a more serious threat to classroom concentration and engagement than crossword puzzles, newspapers, and private correspondence or doodles."[49]

d) Requiring All Students to Buy Laptops. Some schools already require entering students to purchase lap-top computers; others are debating whether to do so. Schools should take this step only if they conclude there is a clear pedagogical rationale for doing so, and only if they have adequate Computer Center resources to support such a step.[50]

4.1. Conclusion

If a teacher in Roman law finds that computer-assisted instructuion may indeed shorten the time necessary for a student to master the subject and may lead to his or her better performance at the examinations, it is advisable to use it in conjunction with conventional instruction and not instead of it. This especially given the fact that CAI appears to be more effective for courses in the soft disciplines than in hard disciplines.

5. LEARNING THROUGHT HOMEWORK PRESCRIPTIONS

Once students are tested using the PEPS, "homework prescriptions" should be given to each student for their out-of-class purposes. These prescriptions, provided by the St. John's University Center for the Study of Learning and Teaching Styles, explain each student's learning style preferences and include a narrative on those preferences that are particularly high or low. Homework prescriptions have been proven to be successful. Barbara Nelson, Rita Dunn, Shirley A. Griggs, Louis Primavera, Margaret Fitzpatrick, Zarif Bacilious,

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[49] Martin also notes that, if you do not plan to use LAN connections to support your teaching (e.g., for in-class drafting exercises or testing), you can prohibit students from connecting to the LAN or arrange for the LAN connections to be turned off in your classroom during class time. If you are a pacer in class, you can also make a point of periodically roaming through the aisles and commenting (humorously or otherwise) when you observe a student using his or her computer for extra-curricular activities. WARNER, Richard, SOWLE, Stephen D. and SADLER, Will, 141-142.

[50] If your school does conclude that there is a convincing rationale for students to own laptops and that you have adequate staffing to provide needed support, one advantage of requiring students to buy laptops (as opposed to merely encouraging them to do so) is that the cost of the laptops can be included in the financial aid support provided to students-an important consideration for students of limited financial means. WARNER, Richard, SOWLE, Stephen D. and SADLER, Will, 142-143.

and Richard Miller identified individual styles of freshman in a medium-sized public community college in Texas with the PEPS and then provided them with homework prescriptions for studying with matched (complementary) strategies. Over one thousand college freshmen participated in the study. The matched prescriptions had a significant impact on student achievement and retention, and the college's annual dropout rate was significantly reduced among those students "receiv[ing] instruction in studying congruently with their learning style[s]". Those results were particularly meaningful in light of John F. Demitrofs' and James W. Trent and Janet H. Ruyle's earlier findings that weak study habits resulted in inadequate student scholastic performance and led to either voluntary or involuntary withdrawal from college. [51]

5.1. Conclusion

Application of the previous three conclusions in terms of the homework prescriptions of students, especially enabling them to adapt their homework assignments to their individual learning styles may benefit both their studying process and their performance on examination.

6. ONE OF POTENTUALLY SATISFACTORY METHODS OF TEACHING ROMAN LAW

Whatever educational reform one might have have in mind, it is of utmost importance that it is done rather carefully. In Serbian law school system as well as many other, professors give lectures to students and assistants later hold tutorials, which are the practical part of the course. If one wishes to experiment with a reform of Roman law instruction, this system enables a smaller scope of its consequences and thus a controlled field of the process if it is conducted within the process of tutorials. Carefullnes, in this case, might be secured not only with this fact, but also with another. The pilot project about to be proposed in this paper does not interfere even with the teaching process within the classroom during the tutorials, but with the homework. The intention is to convert the practical textbooks of Roman law into a homework video game in Roman law.

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[51]   BOYLE, Robin A. and DUNN, Rita, 244.

The game would be conceptualized in the following manner. It would be time-wise limited to the duration of application of the Roman formulary process and consequently, cover both the periods of Roman Republic and the Principate. The Kingdom and the Dominate would not be a direct part of the game. Students would be mastering them through lessons, examples and comparisons of specific situations within the game. The game would have its public law and private law aspect.

The game would begin with a video story of the Archaic Period, which would introduce the student into the game. The active part of the game would start with a Roman citizen participating in a *comitia*. He would later be running for the election of one of the lowest magistratures. In order to complete a level, the player would have to successfully conduct the (selected number of) jurisdictions of the magistrate in question. Irregular conduct of duties would take him or her back to the beginning of the level. Completion of a level would mean the advance to the next level and thus another magistrature. And so on. The first half of the constitutional law aspect of the game would end with the player becoming a senator. The second part would start with the role of the senate in the constitutional reforms of Augustus. In a similar manner, it would lead the player through the slow process of professionalization of government in the Principate, presenting the decline of the magistratures of the previous period.

The private law aspect of the game would be combined with the public law aspect. The player would, depending on the situation, carry out various roles private law relations. In the first, simpler part, the player would conclude contracts or use some of the authorities of the status of the holder of the pretorian or bonitary ownership. Later on, he would engage in the litigations, while changing the postistions within the process. Depending on the legal institute in question, the player would be firstly a private citizen who sues, then a private citizen who is being sued, afterwards a praetor and later a judge. As a private citizen who sues, he should be very careful to properly invite the other citizen to the litigation process and when he would be sued, he should make sure he does not become *indefensus*, for example. When in iure, as a praetor or, for example, provincial governor, he should carefully write the formula in order not to be brought back to the beginning of the level, etc.

7. CONCLUSION

How does a video game satisfy the needs of teaching Roman law in the XXI century?

A combination of visual and sound effects is present in a video game as its integral and one of the most recognizable parts and as such, by stimulating the respective sences and creating impressions, it helps the visual and auditory learners to master the material in a manner that suits them best. Kinesthetic and/or tactual learners would be gaining the same by actively participating in specific situations they would have to go through in order the master the level. This would also enable both abstract and conceptual thinkers and concrete and practical ones to receive information from the lessons and sistematizations given in the game in the forms of texts, films, pictures, graphs, etc, or from the example they would actively go through.

A video game empowers its authors to approach the problem with two different aspects. Starting with a creative assignment, then posing inference questions, and then provide factual materials is beneficial for the global learners. For the analytic learners, one might start with factual materials, then pose inference questions, and then have them do a creative assignment. Different aspects, depending on the level, might be able to adopt the game to sensing perception or intuitive perception players, thinking judgment or feeling judgment students or those with judging orientation or perceiving one. The game can be organized as an individual or a collective one, which would allow easy grasp of the knowledge regardless of the level of extraversion or introversion of the player.

The fact that this task would be conducted at home leaves an open space for the student to fulfill most of the remaining elements of the PEPS test: time-of-day energy levels, food or liquid intake, mobility needs while learning, sound, light, temperature, furniture/seating design, learning best alone, in a pair, in a small group, as part of a team. A video game per se would fulfill the need of learning in a variety of ways as opposed to consistent patterns. Last, but not least, motivation as one of the PEPS test elements is likely to be high, given the popularity of the computer-assisted instruction.

Lastly, the homework form of this method is in line with the homework prescriptions which have proven to be successful at the the St. John's University Center for the Study of Learning and Teaching Styles.

Bearing all this in mind, it is to be concluded that a homework video game in Roman law, structured in a manner displayed *supra*, could indeed present a potentially satisfactory method of studying Roman law at the beginning of the XXI centrury. If applied carefully and in previously explained controlled conditions, it might be a pilot project from which and based on the good or bad impacts it leaves on the teaching process, new ideas and concepts might arise.

BIBLIOGRAPHY

1. BOHL, Joan C. Generations X and Y In Law School: Practical Strategies for Teaching the MTV/Google Generation, Loyola Law Review, Vol. 54 (2008), 775-799.

2. BOYLE, Robin A. Employing Active-Learning Techniques and Metacognition in Law School: Shifting Energy from Professor to Student, University of Detroit Mercy Law Review, Vol. 81 (2003), 1-31.

3. BOYLE, Robin A. and DUNN, Rita. Teaching Law Students Through Individual Learning Styles, Albany Law Review, Vol. 62 (1998), 213-247.

4. CARON, Paul L. and GELY, Rafael. Taking Back the Law School Classroom: Using Technology to Foster Active Student Learning, Journal of Legal Education, Vol. 54 (2004), 1-38.

5. FRIEDLAND, Steven I. How We Teach: A Survey of Teaching Techniques In American Law Schools, Seattle University Law Review, Vol. 20 (1996), 1–44.

6. HESS, Gerald F. Student Involvement In Improving Law Teaching and Learning, UMKC Law Review, Vol. 67 (1998), 343-366.

7. LUSTBADER, Paula. Teach in Context: Responding to Diverse Student Voices Helps All Students Learn, Journal of Legal Education, Vol. 48 (1998), 402-416.

8. TEICH, Paul F. How Effective Is Computer-Assisted Instruction? An Evaluation for Legal Educators, Journal of Legal Education, 41 (1991), 489–501.

9. WARNER, Richard, SOWLE, Stephen D. and SADLER, Will. Teaching Law With Computers, Rutgers Computer & Technology Law Journal, Vol. 24 (1998), 107-185.