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# Flipped Classrooms for Legal Education

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Lutz-Christian Wolff · Jenny Chan

# Flipped Classrooms for Legal Education

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Lutz-Christian Wolff  
Faculty of Law  
The Chinese University of Hong Kong  
Hong Kong  
Hong Kong

Jenny Chan  
Faculty of Law  
The Chinese University of Hong Kong  
Hong Kong  
Hong Kong

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# Preface

Flipped Classrooms have become a widely discussed topic in recent times. And, this is true also in the context of legal education. However, there is no standardized understanding of the notion of Flipped Classrooms and astonishingly little literature is available, not to speak about reliable data, confirming the viability of this new teaching method. The goal of this book is to conduct—on the basis of a comprehensive literature review—a detailed analysis of the Flipped Classroom concept in terms of pedagogical, technical and financial viability in legal education.

This book is based on the outcomes of the study project ‘Flipped Classrooms for Legal Education in Hong Kong’, which was conducted from March 2014 to February 2015. The Principal Supervisor of the study project was Lutz-Christian Wolff, Wei Lun Professor of Law and Dean of the Graduate School of The Chinese University of Hong Kong (CUHK). The driving force behind the project was Research Assistant, Mrs. Jenny Chan, then a part-time LLM student at the CUHK Faculty of Law and currently full-time research assistant at CUHK. Co-supervisors were Professional Consultant Elsa Kelly, Associate Professor of Practice Steve Gallagher and Associate Professor Michael Lower all members of the CUHK Faculty of Law. The authors are most grateful for the valuable input of the co-supervisors.

The study project was funded by a Teaching Development Grant of The Chinese University of Hong Kong (CUHK). We are thankful for the support granted by CUHK which has allowed us to conduct this interesting and important study.

Hong Kong  
September 2015

Lutz-Christian Wolff  
Jenny Chan

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# Chapter 1

## Introduction

### 1.1 General

The book aims to analyze the feasibility of using Flipped Classrooms for this purpose of legal education. There are a number of reasons why this is an important topic as set out in the following sections.

### 1.2 Why This Topic?

#### 1.2.1 Law Schools Today

The twenty-first century poses multidimensional challenges to legal educators around the world. In the U.K., the recent trend to decentralize educational powers has wheeled an increasing need for innovation in classrooms.<sup>1</sup> The Dearing Report was prepared in an attempt to overhaul higher education in the U.K. made 93 recommendations. One recommendation explicitly proposes that higher education should make greater use of technology and each student should have access to a portable computer.<sup>2</sup>

In the U.S., in an effort to address the inadequacy in how law schools are ‘*Educating Lawyers*’, the Carnegie Foundation released a report, commonly known as the Carnegie Report.<sup>3</sup> The Carnegie Report concludes that today’s law school curricula fail to address the needs of law students properly and makes five observations and seven recommendations regarding legal education.<sup>4</sup> It also openly

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<sup>1</sup>Wallace, p. 293.

<sup>2</sup>See National Committee of Inquiry into Higher Education, the Dearing Report Recommendations No. 21, 44 and 46 for recommendation of greater use of technology.

<sup>3</sup>For details see *infra*, 3.4.5.2.

<sup>4</sup>The Carnegie Report Summary.

criticizes legal education for its lack of professional training and the resulting inability of law students to discharge professional duties that lie ahead.<sup>5</sup> The Carnegie Report also explains deficiencies of the Socratic Method, the traditional teaching method in American law schools.<sup>6</sup> These deficiencies are discussed in more detail below.<sup>7</sup>

In Australia it has been observed that law schools, in addition to challenges arising out of resource constraints<sup>8</sup> and an increasing number of students,<sup>9</sup> have to address the fact that more students are nowadays engaging in part-time work.<sup>10</sup> These students find it difficult to attend classes and there seems to be a need for greater flexibility in the course delivery.<sup>11</sup> As discussed below,<sup>12</sup> one of the major arguments in favor of Flipped Classrooms is the perceived learning flexibility.

### 1.2.2 *Modernizing Legal Education*

In the modern world which often defines law schools by ranking competition,<sup>13</sup> law schools are market-driven.<sup>14</sup> Law schools need to distinguish themselves and one way of doing this is to adopt innovative teaching methods in order to produce out-performing students with better career prospects.<sup>15</sup> There is consequently an ongoing debate about if and how legal education should be reformed and technology seems to be one of the driving forces in this regard. The use of technology is one of the major features of the Flipped Classroom concept which is consequently in line with recent trends in legal education.

Despite these observations and the notable fact that there have been attempts to use new technology in legal education, anecdotal evidence suggests that law schools seem rather slow in embracing technology when compared with other disciplines.<sup>16</sup>

One explanation for a general disinterest in using new technology for teaching purposes in higher education and in particular in legal education might be that there is a genuine shortage of resources.<sup>17</sup> At the same time the developed world has

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<sup>5</sup>Compare The Carnegie Report, pp. 23–24.

<sup>6</sup>*Ibid.*, pp. 56–59.

<sup>7</sup>Compare *infra*, 3.4.

<sup>8</sup>Hewitt, p. 96.

<sup>9</sup>*Ibid.*

<sup>10</sup>*Ibid.*

<sup>11</sup>*Ibid.*, pp. 96–97.

<sup>12</sup>*Infra*, 3.3.2.

<sup>13</sup>Henderson, p. 467.

<sup>14</sup>Compare Berger, p. 498.

<sup>15</sup>Compare Henderson, p. 501.

<sup>16</sup>Bone, p. 242.

<sup>17</sup>Catley, p. 2; Binford, p. 172.

faced a period of rapid growth in recent decades with an increasing demand for higher education as the Dearing Report had concluded as early as in 1997.<sup>18</sup> Statistics by Higher Education Statistics Agency (HESA) in the United Kingdom show that there were over 89,220 law postgraduates and undergraduates studying either full-time or part-time in the U.K. in the year 2013/14. This indicates a sharp rise of more than 60 % in the number of law students compared with two decades ago.<sup>19</sup> In contrast, academic staff has grown at a much slower rate which has inevitably resulted in increased teaching loads. Shortage of library space and supply of books is another concern which leads to growing needs in terms of resources and thus delays the introduction of new teaching technology.<sup>20</sup> Another reason for the reluctance to use new technology for law teaching purposes may stem from the fact that many educators have received no training and have little experience in this regard.<sup>21</sup>

### 1.2.3 *Digital Age*

The rapid expansion of technology has accelerated the speed and innovated the modes how information is disseminated. Technology has not only changed the modern way of life, but also teaching and learning cultures. Modern students are called ‘digital natives’<sup>22</sup> with every reason.<sup>23</sup> Students of all disciplines nowadays grow up surrounded by technology. They use laptops, tablets, mobile phones, MP3, the Internet, Wi-Fi, YouTube, IM, Facebook, blogs to the extent that almost everything they do depends on technology. The convenience of technology has changed the way modern students learn—‘[t]hey learn by doing, not by reading the instruction manual or listening to lectures.’<sup>24</sup> Modern students also often rely on online resources rather than printed materials when conducting legal research.<sup>25</sup>

Learning habits and learning preferences of modern students are very different from those of their educators who have not experienced a digitalized socialization.<sup>26</sup> While modern law teaching pedagogy still predominantly focuses on reading of printed textbooks, case books, statutes, educators all over the world have to face

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<sup>18</sup>The Dearing Report, Section 3.4.

<sup>19</sup>Higher Education Statistics Agency (HESA) statistics. Compared with 52,700 law students in the year 1995/96. <https://www.hesa.ac.uk/stats> (last visited on 25 August 2015).

<sup>20</sup>Compare The Dearing Report, Section 3.60.

<sup>21</sup>The Dearing Report, 3.61.

<sup>22</sup>The term was introduced by Prensky, p. 2.

<sup>23</sup>Compare Gerdy/Wise/Craig, pp. 264–265; Oblinger, pp. 11–12 for discussion on digital natives’ reliance on technology.

<sup>24</sup>McNeely, Section 4.3; compare Working Group for Distance learning in Legal Education (“Blue Paper”), p. 10.

<sup>25</sup>Lemmer, p. 469.

<sup>26</sup>Compare Matthew, pp. 48–49; Prensky, pp. 2–3.

the question how legal education can (or: has) to adapt to the habits of digital natives. Consequently, one major argument in favor of Flipped Classrooms is that the Flipped Classroom concept only mirrors the learning style of modern students.<sup>27</sup>

### 1.2.4 Legal Education and Technology

A number of academics have identified how the use of technology has improved or can improve law students' learning experience. As already indicated above,<sup>28</sup> for one thing technology can improve flexibility. Today, students no longer have to be at a particular place at a particular time to receive education. Instead, it is possible to allow them to choose between a synchronous setting, where participants are present at the same time (though not necessarily at the same location), or an asynchronous setting when the participants are not present at the same time, or place.<sup>29</sup> In addition, technology has varied the modes of delivery of education by means of different online tools. Examples of e-learning tools are webcasts, video feeds/video link, podcasts, discussion forums, dialogs/chats, blogs, wikis, quizzes, and student's online assessment.<sup>30</sup> Increasingly common software programmes are so-called Learning Management Systems (LMS) or Internet-based Course Management Systems (CMS).<sup>31</sup> LMS and CMS allow teachers to upload digital teaching materials to the web for around the clock availability resulting in an increased and flexible access to education.<sup>32</sup> It is necessary for educators to understand the benefits and limitations of the available tools, including the Flipped Classroom concept, for the benefit of improved teaching strategies.<sup>33</sup>

## 1.3 Goals

Before the twenty-first century, course delivery either followed the traditional face-to-face format, where the teaching and interaction takes place inside classrooms, or the pure online format, where the teaching and learning activities take place outside classrooms.<sup>34</sup> The Flipped Classroom concept is a new breed which

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<sup>27</sup>*Infra*, 3.3.3.

<sup>28</sup>*Supra*, 1.2.1.

<sup>29</sup>Jones, p. 70; the Blue Paper, pp. 13–20. also see Hrastinski, pp. 51–52 for asynchronous and synchronous e-learning.

<sup>30</sup>For details on the recommended practices of technologies available, see Blue Paper.

<sup>31</sup>Note definitions of LMS and CMS may vary.

<sup>32</sup>Jones, p. 70; compare Blue Paper, pp. 19–20.

<sup>33</sup>Hrastinski, p. 51.

<sup>34</sup>Hess, p. 51.

deviates from traditional concepts and which emerged in higher education in the last decade. It is a new approach which promotes learning supported by modern technology.<sup>35</sup> The Flipped Classroom model has become increasingly popular across various disciplines,<sup>36</sup> but only to a lesser extent in legal education.<sup>37</sup>

This book aims to reflect on the use of Flipped Classrooms from the viewpoint of legal education by:

- capturing the current status of the use of Flipped Classrooms in legal education;
- assessing the pedagogical viability of Flipped Classrooms in legal education;
- exploring the different forms of Flipped Classrooms;
- identifying different options to implement the Flipped Classroom concept and related advantages and disadvantages;
- considering technical and cost-related constraints of the Flipped Classroom concept; and
- reporting on a case study which adopted the Flipped Classroom concept for the course on ‘The Law of International Business Transactions II’.

This book was originally planned to address Hong Kong specifics related to the use of Flipped Classrooms. As our work went along we had to discover that while Flipped Classrooms seem to be very popular there is not as much literature on the use of Flipped Classrooms in legal education as one would expect. As a result, our study had to address many very basic issues rather than just focusing on Hong Kong’s situation. We trust that our study will therefore shed light on different aspects of Flipped Classrooms and hopefully be of general use. However, this book should be understood as a pilot study which attempts to explore Flipped Classrooms in its various dimensions. As such this book cannot and was never meant to offer comprehensive evidence, e.g. in the form of empirical data on the use of Flipped Classrooms. We hope that our work will establish the basis for related work of this kind in the future.

## 1.4 Methodology

Our research on Flipped Classrooms was originally designed as ‘desk research’. We started with the collection of data to obtain a clear understanding of the terminology and conceptual underpinnings of the Flipped Classroom concept and the use of

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<sup>35</sup>*Ibid.*

<sup>36</sup>Bonk/Kim/Zeng, p. 553.

<sup>37</sup>Among the websites of law schools searched, which are listed *infra* in Appendix A, eight law schools in the U.K. have either offered courses or articles published on Flipped Classrooms or blended learning. 20 of the law schools in the U.S. have published articles, provided manual or training, organized conference or workshop or carried out experiments related to the topic. 20 law schools in Australia and New Zealand have either offered courses, articles published, held trainings or conferences on the topic. Five Asian law schools have either experimented or organized news forum on the topic.

modern technology in legal education as well as to establish a ‘ready-to-use database’. The sources consulted included targeted legal educational journals, and other materials identified by way of online key-word searches such as ‘flipped classroom’, ‘blended learning’ and ‘technology-enhanced legal education’. Library search has supplemented the literature review.<sup>38</sup>

Furthermore, to understand if and how Flipped Classrooms are used in the day-to-day practice of law schools across the globe the websites of law schools worldwide have been searched for related information as follows<sup>39</sup>:

- 59 U.K. law schools
- 102 U.S. law schools
- 31 Australian law schools plus 2 New Zealand law schools
- 19 Asian law schools

The websites of continental European law schools were not checked comprehensively due to capacity limits and language problems.

The findings were supplemented by information collected on an ad hoc basis during public seminars given by educational experts which the authors and their collaborators attended such as the seminars on Flipped Classrooms by National Taiwan University Prof. Benson Yeh in October 2014 and CUHK Pro-Vice Chancellor Prof. K.T. Hau and his colleagues in November 2014, feedback given by attendees of seminars given by team members and by informal discussions with legal educational experts such as Prof. Paul Maharg who visited the CUHK Faculty of Law in December 2014.

While our work developed we found that desk research alone would render our study somewhat incomplete. Consequently, in order to test and confirm the findings of our literature review, we conducted a case study. This case study, on which this book reports in its Chap. 6 and which is also meant to demonstrate how Flipped Classrooms can be developed in practice, entailed the ‘flipping’ of teaching modules of the CUHK Faculty of Law course on ‘The Law of Cross-border Business Transactions II’ (LIBT II).

## 1.5 Structure

This book is structured as follows:

Chapter 2 develops a definition of ‘Flipped Classrooms’ adopted for the purpose of this book on the basis of a comprehensive literature review. Chapter 3 discusses the pedagogical viability of Flipped Classrooms in legal education. Chapter 4

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<sup>38</sup>See *infra*, ‘References’.

<sup>39</sup>For details see *infra*, Appendix A.

explains practical aspects of the development of Flipped Classrooms for legal educational purposes. Chapter 5 addresses related costs. Chapter 6 describes as a case study the development of a framework for the use of Flipped Classrooms for the LIBT II course as well as the implementation of this framework by way of a pilot scheme. Chapter 7 concludes the book with a Summary and Final Remarks.



# Chapter 2

## Defining Flipped Classrooms

### 2.1 General

The term ‘Flipped Classroom’ does not carry a technical meaning and is not used uniformly. We have conducted a literature review with the ultimate goal to develop a terminological and conceptual framework for this book as set out in the following sections.

### 2.2 Literature Review

#### 2.2.1 *Flipped Classrooms*

There is no universal definition of the term ‘Flipped Classroom’.<sup>1</sup> However, it appears that academics agree that a flipped classroom generally provides pre-recorded lectures (video or audio) followed by in-class activities. Students view the videos outside the classroom before or after coming to class where the freed time can be devoted to interactive modules such as Q&A sessions, discussions, exercises or other learning activities.<sup>2</sup> Since Flipped Classrooms ‘invert’ activities inside the classroom with activities outside the classroom, they are sometimes also referred to as ‘inverted’ classrooms.<sup>3</sup>

The origins of Flipped Classrooms can be traced back to 2007 when two high school chemistry teachers in Colorado, Jonathan Bergmann and Aaron Sams, became concerned with students who often missed classes to attend ‘competitions,

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<sup>1</sup>CADQ, p. 1, quoting Schell who reckons that under the Flipped Classroom model, ‘there is no prescribed set of rules to follow or approach to fit’.

<sup>2</sup>Compare Educause, p. 1; CADQ, p. 1; Lihosit/Larrington, p. 1; Davis/Neary/Vaughn, p. 13; Slomanson, p. 95; Upchurch, p. 1; Wood.

<sup>3</sup>Lemmer, p. 463.

games or other events’.<sup>4</sup> They began to record lectures, demonstrations and slide presentations which they then posted on YouTube for students to access.<sup>5</sup>

Since then Flipped Classrooms have evolved into a number of variations all with video lectures as their key feature. Sometimes the video lectures include embedded questions prepared by the instructor and students are required to read background materials or participate in online quizzes before coming to class.<sup>6</sup> Some Flipped Classroom models use audio recording instead of video recording.<sup>7</sup>

### ***2.2.2 Blended Learning and Hybrid Learning***

The Flipped Classroom model shares similar features with another increasingly popular learning mode, i.e. ‘blended learning’, which is also called ‘hybrid learning’. Flipped Classrooms and blended learning are similar in that they share on-and off-campus components.<sup>8</sup> According to Beck, ‘the terms “hybrid” and “blended” have typically been used interchangeably’ and both approaches feature traditional face-to-face and internet-based elements.<sup>9</sup> Similar to Flipped Classrooms, there is no universal understanding or definition of ‘blended learning’.<sup>10</sup> Means et al. in carrying out a study on online learning for the U.S. Department of Education distinguish between ‘blended learning’ and ‘pure online learning’. They point out that ‘blended learning’ includes ‘face-to-face instruction to provide learning enhancement’<sup>11</sup>

Means et al’s definition also clarifies the key difference between Flipped Classrooms or ‘blended learning’ on the one hand and purely online teaching models such as Massive Open Online Courses (MOOCs) which are becoming very popular across the world.<sup>12</sup> In the Flipped Classroom and ‘blended learning’ modes, video or audio lectures are often uploaded to the internet to facilitate viewing. This is of course normally also the case in purely online teaching models. However, under a purely online teaching model learning is conducted entirely off-site. In contrast, Flipped Classrooms and ‘blended learning’ modes combine both in-class and out-of-class learning. Video lectures are added for the purpose of ‘enhancing’ or ‘supplementing’ in-class learning.<sup>13</sup> In contrast, face-to-face learning is unavailable under a purely online teaching setting.

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<sup>4</sup>Hamdan/McKnight/Afstrom, p. 3.

<sup>5</sup>*Ibid.*

<sup>6</sup>Davis/Neary/Vaughn, p. 13.

<sup>7</sup>CADQ, p. 2; Educase, p. 1.

<sup>8</sup>Hess, p. 56.

<sup>9</sup>Beck, p. 274, footnote 1.

<sup>10</sup>Polding, p. 3.

<sup>11</sup>Means/Toyama/Murphy/Bakia/Jones, p. 9.

<sup>12</sup>Compare Slomanson, p. 94.

<sup>13</sup>Hess, p. 55.

Graham in his effort to define ‘blended learning’ clarifies that ‘blended learning’ is not about combining instructional methods or media, as defining ‘blended learning’ by these two ways would include almost all learning systems and ‘water down’ the essence of this concept.<sup>14</sup> According to his working definition ‘blended learning systems combine face-to-face instruction with computer-mediated instruction.’<sup>15</sup> He clarifies that ‘blended learning’ has combined two historically separated teaching and learning systems, i.e. ‘traditional face-to-face learning systems and distributed learning systems’ with the emphasis on the ‘role of computer-based technologies in blended learning’.<sup>16</sup>

Macdonald’s survey of ‘blended learning’ at universities in the U.K. revealed that most respondents describe ‘blended learning’ by its two most common components, i.e. ‘asynchronous forums and face-to-face contact’.<sup>17</sup> Instead of using video/audio lecture formats, the asynchronous forms are used for tutor-mediated learning or peer support, by means of tools such as email, telephone, real-time chat and whiteboards.<sup>18</sup> Face-to-face contact takes the form of tutorials, seminars, demonstrations in labs or lectures. In some cases, video-conferencing might be used to replace lectures.<sup>19</sup>

Ireland agrees that there is no universal definition for ‘blended learning’. She proposes that ‘broadly speaking, blended learning can be used to refer to any teaching method that blends online and offline elements.’<sup>20</sup> The way Ireland designed her ‘blended learning’ activities resembles Flipped Classrooms. She used podcasts to substitute about half of the face-to-face in-class time.<sup>21</sup> Seminars were chosen for the face-to-face components to provide opportunity for students to practice oral and aural skills and to engage in problem-solving techniques.<sup>22</sup>

While a clear distinction between the Flipped Classroom concept and ‘blended learning’ models is not attempted by most authors it appears that ‘blended learning’ models are often understood as being more flexible in the choice of technological tools than Flipped Classrooms. For example, Field and Jones have not used only video lectures but also engaged in a wide range of other activities to blend their courses. Examples are multiple choice tests, short answers, mini-research questions,

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<sup>14</sup>Graham, p. 4.

<sup>15</sup>*Ibid*, p. 5.

<sup>16</sup>*Ibid*.

<sup>17</sup>Macdonald, p. 33.

<sup>18</sup>*Ibid*.

<sup>19</sup>*Ibid*. pp. 33–34.

<sup>20</sup>Ireland, p. 140.

<sup>21</sup>*Ibid*, pp. 140–141.

<sup>22</sup>*Ibid*, p. 141.

full length essay and problem questions.<sup>23</sup> In contrast, the ‘blended learning’ model adopted by Catley only included classroom coursework and online quizzes.<sup>24</sup>

As one of the few authors who has actually attempted to distinguish between Flipped Classrooms and ‘blended learning’, Hess focused on whether the online instruction is additional to or replaces the face-to-face classes. According to his definition, in Flipped Classrooms students can acquire content online via short video lectures.<sup>25</sup> ‘The subsequent class session focuses on application, problem solving, analysis, and other active methods to deepen student learning’.<sup>26</sup> For Hess Flipped Classrooms do not replace face-to-face teaching with online instruction.<sup>27</sup> Instead, it is the goal of Flipped Classrooms to free up in-class time for interactive learning activities of different types.<sup>28</sup> In contrast, in a ‘blended learning’ model the online learning activity replaces some of the in-class time.<sup>29</sup>

Video lectures are sometimes used as a teaching tool without branding it as Flipped Classrooms or as ‘blended learning’. McKellar and Maharg used video lectures when teaching Civil and Criminal Procedure in the Diploma in Legal Practice at the Glasgow Graduate School of Law, Strathclyde University.<sup>30</sup> The video lectures and face-to-face tutorials were combined as part of an integrated course of study.<sup>31</sup>

To sum up, our literature review shows that there is no unified terminological and conceptual understanding of Flipped Classrooms and ‘blended learning’. Both models take a variety of formats. The term ‘blended learning’ appears to stand for models across a wide spectrum and may or may not include video lectures. Flipped Classrooms are normally seen as blending e-learning with classroom learning. From this viewpoint Flipped Classrooms could be categorized as one branch of ‘blended learning’.<sup>32</sup>

### 2.2.3 Podcasting

Podcasting has become a very popular choice of technology to distribute digital media files (in video or audio format) for playback on portable media players.<sup>33</sup>

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<sup>23</sup>See Field/Jones, p. 384.

<sup>24</sup>Catley, p. 4 under ‘Initial thoughts about e-learning’; p. 6 under ‘Stage 2: Introducing WebCT-based quizzes’.

<sup>25</sup>Hess, p. 56.

<sup>26</sup>*Ibid.*

<sup>27</sup>*Ibid.*

<sup>28</sup>*Ibid.*

<sup>29</sup>*Ibid.*

<sup>30</sup>McKellar/Maharg, p. 44.

<sup>31</sup>Compare *ibid.*, pp. 43–45.

<sup>32</sup>Compare Lemmer, p. 466.

<sup>33</sup>Brittain/Glowaki/Van Ittersum/Johnson, p. 25.