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Peter B. Maggs
University of Illinois at Urbana-Champaign

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Free Legal Advice on the Internet

PETER B. MAGGS*

ABSTRACT

On numerous online discussion forums in various countries, ordinary people pose specific legal questions and both ordinary people and lawyers answer them. This article considers this new and rapidly growing method of providing legal advice. It emphasizes qualitative over quantitative issues. It seeks to answer questions such as “What kind of questions are being asked?”; “What sort of people are giving legal advice?”, “What sort of people are getting legal advice?”. For those few legal systems that I know something about, I also have considered the question, “How good is the advice?” This is a comparative study, involving discussion forums for Armenian, Australian, Austrian, Brazilian, Canadian, Croatian, English, French, German, Italian, Moldovan, Portuguese, Russian, Scots, Spanish, Swiss, Ukrainian, United Kingdom, and United States law.

INTRODUCTION

On numerous online discussion forums¹ in various countries, ordinary people pose specific legal questions and both ordinary people and lawyers answer them.² This article considers this new and rapidly growing method of providing legal advice. Very detailed statistical information on legal and most other discussion forums is collected and freely available on a website

*Professor of Law, Clifford M. and Bette A. Carney Chair in Law, University of Illinois at Urbana-Champaign. The author wishes to thank his colleagues at the University of Illinois College of Law, and particularly Larry Ribstein, Bruce Smith, and Nina Tarr, who provided comments and criticisms of a draft of this article at a faculty retreat organized by David Myer.

¹With considerable difficulty I have resisted my inclination to use the Latin plural “fora.”

²All the Internet sites cited in this article were last visited by me in April 2006 or thereafter.

originally developed as an academic research project,³ and maintained by Microsoft.⁴ Useful conclusions can be drawn from the statistics. However, just using the statistics would be like creating a theory of literature based solely on counting the number of authors, books, and pages in the library. This article, therefore, emphasizes qualitative over quantitative issues. It will seek to answer questions such as “What kind of questions are being asked?”; “What sort of people are giving legal advice?”, “What sort of people are getting legal advice?”. For those few legal systems that I know something about, I also have considered the question, “How good is the advice?” This is a comparative study, involving discussion forums for Armenian, Australian, Austrian, Brazilian, Canadian, Croatian, English, French, German, Italian, Moldovan, Portuguese, Russian, Scots, Spanish, Swiss, Ukrainian, United Kingdom, and United States law.

ONLINE DISCUSSION FORUMS

An online discussion forum is a software system that allows users to post material and allows users to comment on the posted material. One of the first of such software systems was the PLATO system’s⁵ “notes,” which was an online message board software developed at the University of Illinois at Urbana-Champaign by David Wooley in 1973.⁶ This pioneering system contained many of the features of its successors. In particular, users were empowered to create separate discussion forums for different topics. Within each forum, main entries led to threads consisting of comments on the main entries. One of the earliest, perhaps the earliest of law-related online forums was “lawnotes,” which I created in the PLATO system in the mid-1970s by merely filling out a user-friendly online form. During the 1980s, the PLATO system expanded to many parts of the United States and some foreign countries. This expansion correspondingly extended access to PLATO’s online forums. Toward the end of the 1970s, numerous computer bulletin board systems arose.⁷ These systems flourished through the 1980s. Each bulletin board system was a computer with one or more modems to which

³Marc A. Smith, *Invisible Crowds in Cyberspace: Mapping the Social Structure of the Internet*, in COMMUNITIES IN CYBERSPACE 195 (Mark A. Smith & Peter Kollack eds., 1999) p. 213, note 4.

⁴<<http://netscan.research.microsoft.com/>>.

⁵<http://en.wikipedia.org/wiki/PLATO_System>.

⁶<<http://www.thinkofit.com/plato/dwplato.htm#origdev>>. An expanded online forum and communication system, Lotus Notes, was developed by PLATO veterans Ray Ozzie, Tim Halvorsen, and Len Kawell. This system was widely used and served as the inspiration for many other online discussion forum systems.

⁷<http://en.wikipedia.org/wiki/Bulletin_board_system>.

users could dial up. While many of them included online discussion forums, they were isolated from one another. Likewise, the PLATO system, for all its virtues, was a closed network.

In the early 1980s, there were two successful initiatives that overcame this isolation. "Usenet" involved a set of standards for online discussion groups and software that allowed distribution of these discussions, typically by dial-up connections among large numbers of computers.⁸ Usenet originally was associated mainly with universities, but later spread to the America Online system. "Fidonet" was developed as a means of spreading information among computer bulletin boards maintained largely by hobbyist computer users.⁹ Discussion groups were an important feature of Fidonet. With the development and exponential growth of the Internet, the primitive systems of dial-up, computer-to-computer communications of Usenet and Fidonet were replaced by the much more efficient Internet protocols. Fidonet, as will be discussed below, however, continued to expand in Russia, because of the slower growth of Internet infrastructure there. Usenet required the use of special "news server"¹⁰ and "newsreader"¹¹ software. This software became much more widely available and user-friendly than Fidonet software. As a result, various Fidonet discussion groups were abandoned and others, particularly in Russia, were cloned as Usenet discussion groups.¹²

In the mid-1990s, the Deja News Service began, providing a full archive of Usenet news on the Internet, along with a search engine.¹³ Deja News made it possible to read from and post to newsgroups with an ordinary web browser, making a newsreader unnecessary. Deja News also changed the nature of newsgroup postings, from ephemeral to archival and searchable. In 2001, Google acquired the Deja News Services.¹⁴ Google added, from various sources, archives going all the way back to the beginning of Usenet. In 2002, Google made public its "Google Groups" service, which provided powerful tools for searching the entire Usenet archive (and also those parts of Fidonet that have been cloned in Usenet). Searchers could look for particular words and phrases and also for messages written by particular authors. Google Groups, like Deja News, gave access to the Usenet from any web browser.

⁸<<http://en.wikipedia.org/wiki/Usenet>>.

⁹<<http://en.wikipedia.org/wiki/Fidonet>>.

¹⁰<<http://en.wikipedia.org/wiki/Newsserver>>.

¹¹<<http://www.newsreaders.info/>>.

¹²<<http://www.fido7.ru/>>.

¹³<<http://en.wikipedia.org/wiki/Deja.com>>.

¹⁴<http://en.wikipedia.org/wiki/Google_Groups>.

Google¹⁵ and Yahoo¹⁶ make it easy for users to create their own groups, though these groups are limited to the Google and Yahoo systems respectively. However, I have not discovered any user-created legal question-answering groups on Google or Yahoo. A similar facility is found in the ability to create "communities" on other systems. In Russia and Ukraine, in addition to the Fidonet and Usenet forums, there are numerous discussion forums, including legal discussion forums, on a system called "LiveJournal."¹⁷ LiveJournal is a system that allows users to create both personal blogs and discussion forums. It was a natural locus for Russian and Ukrainian forums for three reasons. The first reason was technical. Usenet, as originally developed, was limited to text in the Latin alphabet, and so was poorly adapted for the Cyrillic alphabets of Russian and Ukrainian. There were methods for posting Cyrillic in Usenet, but they were not standardized and were unsatisfactory, often resulting in unreadable text. LiveJournal, in contrast, has always used the more modern, language-independent Unicode system, which works equally well for all major alphabets, including Latin and Cyrillic.¹⁸ The second reason is demographic. LiveJournal users in Russia are considerably older and are well-educated,¹⁹ in contrast LiveJournal users in the United States, who are largely teenagers, unlikely to need or give legal advice.²⁰ The third reason involves network effects. Because LiveJournal early obtained a critical mass of sophisticated users in Russia,²¹ other World Wide Web systems that facilitate user creation of discussion forums are virtually unused there.²² In Brazil, the leading discussion forums are on a system called "Orkut," which was created and is maintained by Google.²³

¹⁵<<http://groups.google.com>>.

¹⁶<<http://groups.yahoo.com>>.

¹⁷<<http://www.livejournal.com>>; <<http://en.wikipedia.org/wiki/Livejournal>>.

¹⁸<<http://www.unicode.org/>>;

<<http://www.livejournal.com/support/encodings.bml>>.

¹⁹Eugene Gorny, *Russian LiveJournal: National specifics in the development of a virtual community*, <http://www.ruhr-uni-bochum.de/russ-cyb/library/texts/en/gorny_rlj.htm>.

²⁰<<http://www.livejournal.com/stats.bml>>.

²¹The positive network externalities associated with critical mass are discussed in James E. Katz and Ronald E. Rice, SOCIAL CONSEQUENCES OF INTERNET USE: ACCESS, INVOLVEMENT, AND INTERACTION 350 (2002). More generally, see: Paul A. David, *CLIO and the Economics of QWERTY*, 75 AM. ECON. REV. 332 (1985).

²²*Id.*

²³<<http://www.orkut.com>>; Seth Kugel, A Web Site Born in U.S. Finds Fans In Brazil, N.Y. Times, April 10, 2006, Sec. C, p. 1, col. 5. Access to Orkut is available only by invitation from existing members. Readers wishing invitations should contact me at the e-mail address shown for me in the faculty listing on the website: <<http://www.law.uiuc.edu>>.

Orkut, like LiveJournal, allows users to create discussion forums. Because the Brazilians were late to come online, the more primitive Usenet and Fidonet systems never gained much popularity there. Orkut, however, somehow gained a critical mass of users, including a substantial number of adult users, who have created numerous legal discussion forums.²⁴

There are also numerous stand-alone discussion websites that do not use standardized systems such as those of Usenet, Google, Yahoo, Livejournal, or Orkut. Setting up such a standalone discussion site, however, faces three obstacles. The first is the cost of paying for a domain and a web presence provider. The second is the skill (and financial resources) needed to develop the programming for such a website. The third is the difficulty of making potential users aware of the site. Yahoo has successfully overcome these problems by creating a set of two dozen forums for asking and answering questions.²⁵

FORUM STRUCTURE AND GUIDELINES

Most discussion forums have a structure allowing the creation of threads. In advice-giving forums, typically a question is at the top of a thread. Answers to this question may be found below it or by clicking on a link in the top entry. In some systems, each answer may be the head of a new subthread. Many discussion forums have an accompanying set of guidelines and of answers to frequently asked questions (called "FAQ"). The guidelines may vary from broad suggested topics to rather rigid and detailed requirements.²⁶ The Frequently Asked Questions may be separate from the guidelines or may include them. Their purpose is to provide answers to questions that have arisen frequently in the past.

Some discussion groups have one or more moderators who screen questions and answers before they are posted. In a few discussion groups, would-be posters also have to go through a screening process. Other groups have a milder form of moderating in which posters of objectionable posts may be warned, have their posts removed, or be banned. Unfortunately, many of

²⁴<http://en.wikipedia.org/wiki/Orkut>; Seth Kugel, A Web Site Born in U.S. Finds Fans In Brazil, N.Y. Times, April 10, 2006, Sec. C, p. 1, col. 5.

²⁵<http://answers.yahoo.com/>.

²⁶Rules for many Usenet discussion groups are collected at: <http://www.faqs.org>. A typical set of such rules may be found at <http://www.faqs.org/faqs/fr/misc/droit-poster/>. Another example is the rules for a Russian legal discussion group at http://community.livejournal.com/ru_pravo/63854.html.

the wide-open, uncensored legal discussion forums have deteriorated into a combination of spam, off-topic entries, and crazy rants.

LEGAL DISCUSSION FORUMS

The first step in my research was an attempt to make a comprehensive list of Internet discussion forums with substantial content consisting of questions about individual legal situations and the answers to them. It was easy to find all the possibly relevant Usenet discussion groups, including those cloned or migrated from Fidonet, because there are comprehensive online lists of Usenet groups.²⁷ I found the Usenet legal discussion groups for the law of Australia, Austria, Canada, Croatia, France, Germany, Italy, Moldova, Russia, Spain, Switzerland, Ukraine, United Kingdom (including England and Scotland), and the United States. Likewise, LiveJournal and Orkut have facilities that enable searching for groups by topic. On LiveJournal there are law-related "communities" for Armenia, Russia, and Ukraine. On Orkut, there are a number of legal "communities" for Brazil. To date, I have only been able to find a few stand-alone legal advice sites, in particular on the Brazilian Internet. There surely are others in other countries, but the fact that they are hard to find is likely to mean that they have few users. In the United States, the restrictions (discussed below) on lawyer-advertising and unauthorized practice of law undoubtedly discourage the creation of such sites.

COUNTRY BY COUNTRY

In general, each Internet legal discussion forum deals only with the law of one country and attracts only question-askers and question answerers from that country.²⁸ The reasons are obvious. Before drawing general conclusions I will discuss the particular features of discussion forums devoted to particular countries.

Armenia

In 2005 a discussion forum was started "for lawyers of Armenia and not only for them".²⁹ The title of the community does not suggest it is about

²⁷E.g., <<http://www.newsreaders.info/list-of-all-newsgroups.htm>>. There are comprehensive search facilities at <<http://groups.google.com>>.

²⁸The group "misc.immigration.misc" is an exception. Not surprisingly, it contains discussions of the law of many countries.

²⁹<http://community.livejournal.com/law_club/>.

Armenia. As a result, most of the very few postings are about Russia. The postings are all in Russian, except for one in English on a United States law problem posted by someone in Florida, who was obviously misled by the title of the community.

Australia

The main Australian discussion forum contains thousands of postings, but almost all are political rants.³⁰ There are only a handful of serious legal questions. Obviously the generally repulsive nature of the forum would put off anyone with a serious question. There is a second, moderated, Australian discussion forum, but it has been virtually unused, with only 162 main topics in the past decade and none since September 2005.³¹

Austria

Austria has one major discussion group.³² Over 8000 topics have been posted since the first post in September 1998. The postings are generally on serious questions. An analysis of the fifty questions posted from June 18 to July 16, 2006, showed that the vast majority were serious inquiries about specific legal topics. The largest areas were traffic regulations, tax, and contracts.

Brazil

While there appear to be no Usenet groups devoted to Brazilian law, there are numerous Brazilian law "communities" in Orkut. The relative popularity of "communities" in Orkut can be measured by the number of "members". Generally one must be a "member" of an Orkut community in order to post questions or answers in it. Many members, undoubtedly, are completely inactive so membership statistics tell more about the relative than the absolute popularity of Orkut groups. It seems likely that the longer an Orkut group has been in existence the more inactive members it will have accumulated. There are at least 11 Orkut groups related to Brazilian law.³³

³⁰aus.legal.

³¹aus.legal.moderated.

³²at.gesellschaft.recht.

³³Direito <<http://www.orkut.com/Community.aspx?cmm=27615>>, started May 13, 2004, 86980 members; Direito do Trabalho <<http://www.orkut.com/Community.aspx?cmm=76066>>, started June 13, 2004. 15395 members; Direito e Processo Civil <<http://www.orkut.com/Community.aspx?cmm=104233>> Started July 16, 2004,

The most active of these communities is "Direito," with about 20 postings a day. In most of the groups actual legal questions are in the minority. There is considerable abstract discussion of hot legal issues, for instance abolishing the bar examination,³⁴ and affirmative action.³⁵ There are also some stand-alone sites in Brazil.³⁶

Canada

The one Canadian Usenet group has had over 14,000 topics posted since it began in April 1993.³⁷ Political statements outnumber legal questions. Many questions receive either no answer or only a guess at an answer by someone who obviously is not a lawyer.

Croatia

The one Croatian Usenet newsgroup, apparently cloned from a Fidonet group, has had almost 5000 topics since December 1997.³⁸ Question-

20539 members; Direito Civil

<<http://www.orkut.com/Community.aspx?cmm=69789>>, started June 28, 2004,

14677 members; Processo Penal

<<http://www.orkut.com/Community.aspx?cmm=276413>>, started September 7, 2004,

4588 members; Direito Autoral

<<http://www.orkut.com/Community.aspx?cmm=71943>>, started May 26, 2004, 1868

members; Direito Agrário e Ambiental

<<http://www.orkut.com/Community.aspx?cmm=531495>>, started Oct. 8, 2004, 1477

members;

Direito Constitucional <<http://www.orkut.com/Community.aspx?cmm=528282>>, started Oct. 8, 2004, 1321 members; Direito da Informática

<<http://www.orkut.com/Community.aspx?cmm=81251>>, started June 3, 2004, 1204

members; Direito das Telecomunicações

<<http://www.orkut.com/Community.aspx?cmm=249231>>, started Aug. 4, 2004, 873

members; Direito Desportivo

<<http://www.orkut.com/Community.aspx?cmm=141117>>, started July 5, 2004, 801

members

³⁴<<http://www.orkut.com/CommMsgs.aspx?cmm=27615&tid=2452120601669825777>>.

³⁵< <http://www.orkut.com/CommMsgs.aspx?cmm=27615&tid=74169>>.

³⁶<<http://www.direitobrasil.hpg.com.br>>, <<http://www.juristas.com.br/forum/>>

(limited discussion, mainly lawyer to lawyer),

<http://br.groups.yahoo.com/group/informativo-juridico/> (limited discussion, mainly informational).

³⁷can.legal.

³⁸hr.fido.pravo.

askers pose mainly serious legal questions and question-answerers generally give good quality answers.

France

France has a major general discussion forum³⁹ and a number of topical forums.⁴⁰ The general discussion forum is quite active. Fifty questions were posted in the period July 12-17, 2006. Most often discussed were consumer rights issues (15) and consumer-related issues of motor vehicle law (7). There were almost no business-related questions. There were a few family law, immovable property law, employment law, and internet law questions, even though there are specialized French discussion forums devoted to these topics. The most active of the specialized forums was that on immovable property.⁴¹ Fifty questions were posted in the period July 12-17, 2006, essentially all on topic. The next most active was on employment law.⁴² Fifty questions were posted in the period July 6-17. All also appeared to be on topic. The forum on family law⁴³ had 50 postings from June 28 through July 17, 2006. The forum on Internet law⁴⁴ was less active, with 50 main postings from June 12 through July 17. The Internet forum, unlike the other French forums just discussed, had a relatively high percentage of general policy discussions, though most of the questions involved specific legal situations.

Germany

Germany has a general Usenet forum⁴⁵ and eight specialized forums.⁴⁶ The German question-askers are well-disciplined and stay within the forum topics. The answers overall appear to be good quality. The German and French examples show that the existence of multiple specialized forums leads to better focused questions and answers.

Italy

³⁹alt.fr.droit.

⁴⁰fr.misc.droit, fr.misc.droit.travail, fr.misc.droit.internet, fr.misc.droit.immobilier, fr.misc.droit.famille, alt.fr.droit.

⁴¹fr.misc.droit.immobilier.

⁴²fr.misc.droit.travail.

⁴³fr.misc.droit.famille.

⁴⁴fr.misc.droit.internet.

⁴⁵de.soc.recht.misc.

⁴⁶de.soc.recht.strassenverkehr, de.soc.recht.arbeit+soziales, de.soc.recht.wohnen, de.soc.recht.steuern+buchfuehrung, de.soc.recht.datennetze, de.soc.recht.marken+urheber, de.soc.recht.strafrecht, de.soc.recht.familie+erben.

Italy, like France and Germany, has both a general discussion forum⁴⁷ and a number of specialized forums.⁴⁸ There were 50 postings on the general forum from June 18 through July 16, 2006. Topics on the general forum were generally non-business oriented, with the most common concerning traffic violations. Again, the division into specialized forums has worked well.

Moldova

Moldova has one Usenet forum.⁴⁹ Considering the small size of the country, the forum is fairly active. However, most posts provide information rather than ask questions.

Russia

Russia is a good example of the tendency of question-asking activity to cluster in a single discussion forum. During the period July 4-11, there were 49 questions in the LiveJournal forum "ru_pravo" and a few in other LiveJournal forums: 4 in "ru_law", 4 in "ru_lawyers", and 1 in "ru_jurist".⁵⁰ In the seven law-related Usenet forums there were 5 questions in "fido7.pvt.law" and none in the other forums.⁵¹ The Russian questions were notable for their wide variety and for the sophisticated nature of the answers. The largest group of questions (8) concerned employee's rights. Next came civil procedure with 6 questions. A number of these questions showed that the questioner had considerable knowledge of civil procedure. This may reflect the fact that Russian businesses often use non-lawyer staff to bring simple court cases (for instance a staff accountant contesting a tax matter) or may show that the questions were actually posted by lawyers seeking advice from their colleagues. Six questions involved the related areas of family property, postnuptial contracts, inheritance, and family law. There were a number of business law questions, including four in the area of company law. Three involved residence registration requirements. While the vast majority of questions involved the interests of private citizens, there were also some business-oriented questions

⁴⁷it.diritto.

⁴⁸it.diritto, it.discussioni.consumatori.tutela, it.diritto.condominio, it.diritto.internet, it.diritto.assicurazioni, free.it.diritto.copyright.

⁴⁹fido7.moldova.law.

⁵⁰Three questions were posted simultaneously two forums each.

⁵¹fido7.aids.law, fido7.pvt.law, fido7.su.civil-law, fido7.ru.copyright, fido7.ru.arbitrage, fido7.ru.internet.law, fido7.ru.migration.

The leading Russian forum, "ru_pravo" was essentially free of off-topic posts, spam, and rants. One person apparently posted an off-topic reply. The moderator of "ru_pravo" deleted this reply and posted a warning to the guilty party, who promptly apologized (presumably to reduce chances of being banned from the forum). Should the Russians be praised for their editorial focus, or is this the longstanding Russian penchant for censorship emerging?

Spain

There appears to be only one Usenet newsgroup for Spanish law.⁵² It started operation in March 1998 and had had 9479 topics posted as of June 23, 2006. Because of its general nature, questions vary widely, but appear to be mainly in the areas of civil law and family laws. Reading of the answers to the last several dozen questions posted suggests that the question-answerers are knowledgeable about the law, since they use technical legal vocabulary. To see the kinds of questions and answers currently appearing in the Spanish newsgroup, I looked at the fifty legal questions from the period March 1 through June 23, 2006, that had at least one answer. I ignored spam, policy discussions, and questions that received no answers. Not surprisingly, since there is only one legal advice discussion forum for Spain, the questions covered many areas of the law. The largest area of discussion was housing: tenant's rights (6), condominiums (6), building code (1), problems with neighbors (1), housing sales (4), mortgages (3). Questions on family property (2) and inheritance (2) also involved housing. Problems of individuals also included automobile title (1), family law (1), insurance (1), and consumer law (1). Some questions dealt with the relation of individuals to the state: criminal punishment (1), tax (4), immigration (1), criminal law (1), administrative law (1). There were 7 questions on employment law. There were very few business-related questions: commercial rental (1), sales (2), contracts (1), company law.

Switzerland

The one Swiss newsgroup found⁵³ has had 788 topics posted since it began October 2001. I examined the fifty questions posted between April 10 and July 9, 2006. All were serious, to the point, and in the German language. Business topics included contracts (6), company law (2), real estate (2), landlord's rights (1), export (1). Consumer topics included travel (4),

⁵²es.humanidades.derecho.

⁵³<ch.soc.law>.

employee's rights (5), family law (2), traffic violations (4).

Ukraine

There is one Usenet discussion group with very few postings⁵⁴ and one LiveJournal community⁵⁵ devoted to Ukrainian law. The fifty legal questions posted in the LiveJournal community from February 24, 2006, through July 12, 2006, were examined. Most questions were in Russian, but a substantial minority were in Ukrainian. Questions asked in Ukrainian were often answered in Russian. (All educated Ukrainian speakers in Ukraine know Russian, but not all educated Russian speakers there are fluent in Ukrainian.) There was no spam and there were no off-topic questions. A few postings were not questions, but rather reports of recent events in the law. The answers tended to be highly to the point and informative, with citations to specific legal provisions. Business law issues included six questions on company law, one on bankruptcy, two on import-export, one on a construction permit. Most of the questions were on law affecting private individuals, these questions were not concentrated in any particular area, but covered such issues as contracts, mental health law, torts, employment, consumer protection, medical malpractice, immigration, citizenship, inheritance, social benefits, and family law.

United Kingdom

There are several general Usenet newsgroups for United Kingdom Law⁵⁶ plus general groups for English law⁵⁷ and Scots law⁵⁸. By far, the largest number of postings appear in "uk.legal," which has had over 90,000 since April 2004. However, there are a very high percentage of off-topic postings. One of the general newsgroups is effectively moderated,⁵⁹ since it appears to consist entirely of on-topic postings. There are also specialized newsgroups for family law and public law.⁶⁰

United States

For the United States there are two un-moderated general Usenet

⁵⁴fido7.kharkov.laws.

⁵⁵<http://community.livejournal.com/ua_pravo/>.

⁵⁶alt.uk.law, free.uk.legal, uk.legal, uk.legal moderated.

⁵⁷england.legal.

⁵⁸scot.legal.

⁵⁹uk.legal.moderated.

⁶⁰free.uk.legal.family-law, free.uk.legal.public-law.

group,⁶¹ a moderated general Usenet group,⁶² and a number of topical Usenet groups.⁶³ In the un-moderated general Usenet groups, there are a large number of serious questions, but an even larger number of political rants. By contrast, there are only serious legal questions in the moderated group .

PARTICIPANTS IN LEGAL DISCUSSION SITES

Modes and Patterns of Participation

There are three ways to participate in Internet legal question-answering forums: (1) by asking questions, (2) by answering questions, and (3) by viewing what others have written ("lurking"). In typical legal discussion forums, typical question-askers participate irregularly (only when they have a question, but typical question-answerers participate on a regular basis (when they know an answer). As mentioned above, detailed statistical information on Usenet legal discussion forums is readily available.⁶⁴ These statistics show patterns of asking and answering questions. However, they do not show patterns of lurking. As will be explained below, information on lurking is limited and difficult to obtain.

Question-Askers and Question-Answerers

In many discussion forums, the same people sometimes post topics and sometimes post comments. However, in forums where expert advice is sought, participation patterns are different. Generally there are a large number of different question-askers, but a small number of question answerers, who often answer but rarely ask questions. Legal advice sites follow this expert advice pattern. Typical are the following statistics on the Russian law site "fido7.pvt.law":⁶⁵ These show that nearly all the posts of the most active participants are answers, rather than questions.

⁶¹misc.legal, us.legal.

⁶²misc.legal.moderated.

⁶³us.taxes, law.court.federal, misc.legal.computing, misc.legal.moderated, alt.child-support, alt.activism.death-penalty, alt.law-enforcement, alt.law-enforcement.traffic, alt.lawyers, misc.int-property, misc.taxes, misc.taxes.moderated.

⁶⁴<<http://netscan.research.microsoft.com/>>.

⁶⁵Statistics gathered on June 13, 2005 from
<<http://netscan.research.microsoft.com/reportcard.aspx?tp=10&sd=2/9/2006&ng=fido7.pvt.law>>

| Participant | Questions Posted | Answers Posted |
|-------------|------------------|----------------|
| A | 0 | 38 |
| B | 1 | 21 |
| C | 1 | 24 |
| D | 1 | 17 |
| E | 0 | 14 |
| F | 2 | 12 |
| G | 0 | 12 |
| H | 0 | 11 |
| I | 0 | 9 |
| J | 1 | 8 |
| K | 0 | 7 |
| L | 0 | 6 |
| M | 0 | 6 |
| N | 1 | 5 |
| O | 1 | 5 |

Gathering information on those who post answers or questions is possible to some extent. Some who ask or answer questions provide information about themselves in their post. Statistics are readily available for the screen names of the most frequent question-answerers on Usenet and details are available in Google Groups on their posting history in various Usenet forums, but unfortunately there is no systematic way to associate these screen names with biographical data. On Orkut and LiveJournal, the problem is reversed. No statistics are available showing the most frequent question-answerers, but once a participant's question-answerer's is known, it is easy to associate the name with biographical data. On LiveJournal, and Orkut, each user has a profile containing as much personal information as the user wishes to provide. This data is not absolutely reliable because it is totally unverified and because some posters create multiple personae with different biographies.

Usenet question-answerers sometimes compensate for the unavailability of biographical information by indicating something about themselves in their answers. As will be discussed below, in the United States, providing such information may raise issues related to regulated lawyer advertising.

LiveJournal users' profiles often give their professional qualifications. Thus we learn that one LiveJournal user was graduated from the Moscow

State Juridical Academy in 2005.⁶⁶ Another provides a link to his personal website, where he gives a complete resume, including his legal education and the jobs he has held.⁶⁷ Such information can be quite helpful to a question-asker in determining the weight to give to a particular answer.

Orkut functions largely as a site for communication between friends and for making friends. For this reason participants tend to post rather detailed biographical information. And unlike the participants in Usenet groups and LiveJournal, the participants tend to use their real names. Thus, for instance, one question-answerer to legal questions on Orkut provided his real name and the following information about himself.

I'm from Italia, Sao Paulo state. I'm 36 years old. I'm a law student and I've organized a community ("Direito Italia" [Italia Law]) for students and professionals in the area of law in my city. The address of the community is:

<http://www.orkut.com/Community.aspx?cmm=1546743>.

Intern in the special courts and the consumer protection agency.

Also work with advertising and graphic design, create logotypes, website edits, and other works about the Copyright Law. Don't fail to visit my site: www.reinaldoferreira.com.br.

I'm president of the Municipal Culture Council of Italia, which has a community at:

<http://www.orkut.com/Community.aspx?cmm=7130268>.

...

In line with the social aspect of Orkut, we also learn the following about this person:

relationship status: single
birthday: September 4
age: 36
here for: friends, activity partners, business networking,
dating (women)
children: no
ethnicity: caucasian (white)

⁶⁶ <<http://lilian-klerfe.livejournal.com/profile>>.

⁶⁷ <<http://lapiduslawyer.livejournal.com/profile>>.

languages i speak: Portuguese
political view: left-liberal
humor: campy/cheesy, clever/quick witted, friendly
sexual orientation: straight
fashion: casual, contemporary
smoking: no
drinking: socially
pets: i love my pet(s)
living: alone, with pet(s), friends visit often, party every night
hometown: Itatiba
webpage: <http://www.reinaldoferreira.com.br>
passions: Nature, animals, my friends, the law, cultural events, good-humored women.

On LiveJournal and Orkut, question-askers also reveal a good bit about themselves in their profiles. Not surprisingly, question-askers are often less educated and in lower status occupations than question-askers. Thus, for instance, we learn that one Brazilian question-asker engages in a very typically Brazilian occupation:

education: High School
high school: Escola Estadual fernando Magalhães
occupation: Depiladora
industry: Medical and Health Care
job description: Uso o método "Brazilian Bikini Wax",
trabalho a domicilio
work email: nilda_depilation@hotmail.com
work phone: (21) 88122337
career skills: Depilação pelo método "Brazilian Bikini Wax".

In addition to the kinds of information discussed above, question-askers often necessarily reveal considerable information about themselves in stating their legal problem. The questions themselves often reveal a great deal about the question-asker's personal situation. For example, the following question appeared in *misc.legal.moderated*.⁶⁸

Illegal to rent guest house in Los Angeles?

From: [miner2049er](#) - [view profile](#)

⁶⁸http://groups.google.com/group/misc.legal.moderated/browse_thread/thread/84a67270c30a7a33/8283b516e5fd8212?lnk=st&q=illegal+to+rent+in+los+angeles&rum=3#8283b516e5fd8212.

Date: Sat, Apr 15 2006 11:04 am
Email: "miner2049er" <google_gro...@excite.com>
Groups: misc.legal.moderated
I am in Los Angeles, California.
For almost two years, I have lived in a guest house in Sunland 91040, in the city of Los Angeles, rented to me by the owners of the main house.
I was just told on the phone by two officers at LA Dept. of Building and Safety that it is illegal to rent a guest house. I told them that every week in the classifieds I see many guest houses offered for rental, and people also rent out rooms in their homes.
Also, where might I find the exact LA city code that says it is illegal to rent out a guest house? I know it is somewhere inside <http://lacodes.lacity.org>
Thanks in advance for any replies,

Miner2049er.

Lurkers

"In Internet culture, a lurker is a person who reads discussions on a message board, newsgroup, chatroom or other interactive system, but rarely participates."⁶⁹ The decentralized structure of Usenet makes the collection of statistics on Usenet lurkers impossible. A lurker may read a posting in a Usenet law group using any of many thousands of news servers. Only the particular news server used by the lurker would have any information about the lurker. However, since large numbers of lurkers access the Internet through Google and Yahoo, those organizations can collect not only statistics, but also information about individual users.⁷⁰ Google can also collect statistics and individual user information on lurkers on its Orkut website. LiveJournal can collect statistics on lurking on the discussion forums that it hosts. However, none of this information is publicly available. If a user is registered for a Google service, such as Orkut or G-mail and has clicked on "Remember me on this computer" when signing on to the service, then Google could potentially link the personal data from the user's registration form and use it to more precisely target advertising. Google's Orkut has access to the personal information of all lurkers, since only registered

⁶⁹<<http://en.wikipedia.org/wiki/Lurker>>.

⁷⁰Saul Hansell, "Advertisers Trace Paths Users Leave On Internet," N.Y. Times, Late Edition – Final, August 15, 2006, Section C, p. 1, col. 1.

members may enter Orkut. In contrast, LiveJournal allows, but does not require, users to sign on in order to look at discussion forums.

Information gathered by Google and kept as a trade secret allows Google to place targeted advertising in the margins of its displays of legal groups. For instance, a post with the heading "Can a canadian sue an american?"⁷¹ contained an advertisement by an immigration lawyer headed "Fiancee & Marriage Visas." The post read:

Can a canadian sue an american?

From: chris...@gmail.com - view profile

Date: Sat002C Apr 22 2006 12:12 am

Email: chris...@gmail.com

Groups: us.legal

Hello.. Interesting question here, that I have not been able to get an answer for.

I have a good Canadian friend (I'm American) who had an American boyfriend for about a year. She gave this boyfriend several loans (yes, they were loans - this is not the issue here) over that year, which the boyfriend promised, in writing, several times, to pay back.

He suddenly split on her, and now refuses to pay back any loans.

She's back in Ontario, but will be going back to the US this summer to visit. Can she bring a suit against him in a small claims court in the US while she's here on a tourist visa? Or is she not entitled to do this since she is not a US citizen? If not, can she get a US citizen to sue him on her behalf?

The total amount is about \$5,000 US, for car repairs, a computer, and other things that were for his personal use and were clearly loans, as she has agreements and promises to repay in writing.

⁷¹<http://groups.google.com/group/us.legal/browse_thread/thread/216118ce039f529/3deaebd72f625e5a?lnk=gst&q=%22can+a+canadian+sue+an+american%22&rnum=1#3deaebd72f625e5a>.

The advertisement read:

Fiancee & Marriage Visas
100 Success, fast and reliable
Board of immigrations
www.fiancee-visa.com

Presumably this targeting was due to some combination of the facts that: (1) the heading mentioned the United States and another country; (2) the body contained the word "boyfriend"; and (3) this was a law-oriented discussion forum. Of course this advertisement was not very well targeted, since the posting concerns someone who want to sue her boyfriend rather than marry him.

In LiveJournal and Orkut, but not in Usenet, outsiders can get some idea about who lurkers are. LiveJournal allows users to set up a "friends list," which is constantly updated with the contents of the personal blogs and "communities" (discussion forums) whose names are placed on the friend's list by a particular user. If a LiveJournal user puts the Russian law forum "ru_pravo" on his "friends list," the user's sign-on name will appear in the "Watched by" list on "ru_pravo". The ru_pravo community has 2433 members and is "watched by" 1771 users.⁷² The appearance of a name on the "Watched by" list means that each new topic on "ru_pravo" will appear on the "friends list" of the person with this name. Of course, not every user will read his or her friends list and users not "watching" ru_pravo on their friends list may nevertheless browse on the site sometimes. However, several deductions can be made. The number of lurkers for a "community" discussion group are roughly proportional to the number of names on the "Watched by" list. Thus, it is possible to compare lurkers by community.

Orkut uses a somewhat different scheme. Users can register discussion forums in a list of "friends." Users can access these "friend" groups with one click. However, there is no mechanism for systematic feed from these forums the way that there is in LiveJournal or Usenet. The list of registered users for each discussion group is available at the page for the respective discussion forum. The number of lurkers most likely has some relation to the length of this list. Thus, for instance, the Orkut community "Direito" lists 87,060 members,⁷³ while the Orkut community "Direito

⁷²<http://community.livejournal.com/ru_pravo/profile?mode=full>.

⁷³<<http://www.orkut.com/Community.aspx?cmm=27615>>.

Marítimo" has only 171 members.⁷⁴ Usenet newsreaders also facilitate lurking by allowing users to list groups that they wish to follow. But these lists, unlike those on Orkut and LiveJournal, are unavailable to the public.

TOPIC TYPES

The main purpose of the present research is to look at questions posed by individuals on specific legal problems. The country-by-country survey above notes that such questions are present in almost every forum. Some forums, however, have a dual purpose, serving not only as a place for asking questions, but also as a place for discussing serious legal issues, such as the Brazilian discussion of affirmative action mentioned above. Unfortunately, however, many groups are marred by unrelated spam and off-topic posts and minimally related rants.

Spam and Off-Topic Posts

Just as a study of e-mail would be inadequate without the mention of spam, any analysis of discussion groups would be lacking if it did not mention spam and off-topic posts.⁷⁵ There is a huge contrast between the forums relating to civil law and common law countries. Most of the common law forums have an extremely high percentage of spam and off-topic posts. Such obnoxious posts are less common in civil law country forums. At this point, I am not sure if this reflects a difference in the character of the users or difference in the character of the forum organizers and monitors.

Spam posts are quite similar to the annoying and disgusting advertisements that are suffered by e-mail users. To make matters worse, they are often posted to multiple groups. Here is a typical spam post from the group "fr.misc.droit.internet".⁷⁶

Horny Girls JrG8i5

From: bitchig
Date: Sun, Apr 16 2006 6:35 am
Email: "bitchig" <s...@bitchig.net>

⁷⁴<<http://www.orkut.com/Community.aspx?cmm=836570>>.

⁷⁵ See Phaedon John Kozyris, *Abusive Advertising on the Internet Through Spam: Problems and Conclusions: General Report*, prepared for the 2006 Congress of the International Academy of Comparative Law, Utrecht, Netherlands.

⁷⁶<http://groups.google.com/group/fr.misc.droit.internet/browse_thread/thread/eefaaf30e5a1781c/94f38d9a4217f9d6>.

Groups: fr.misc.divers, fr.misc.droit, fr.misc.droit.famille,
fr.misc.droit.immobilier, fr.misc.droit.internet, fr.misc.droit.travail,
fr.misc.enfants.bebes, fr.misc.engueulades, fr.misc.euro,
fr.misc.finance

Do you wanna talk with horny naked girls by cam? Here you
can... FREE

<http://publichub.net/shoreupus/>

MqQZiw3

Non-spam off-topic posts range from reasonable statements that are somehow in the wrong discussion groups to crazy rants. Here is a mild rant, from the group "aus.legal":⁷⁷

Satan and the evil

From: research...@lorenzocrescini.it - view profile

Date: Thurs, Apr 20 2006 1:03 pm

Email: research...@lorenzocrescini.it

Groups: aus.legal

The dialogue with you makes me fully aware of the origin and the nature of some dreadful phenomena of the modern mentality: the dissatisfaction, the uncertainty, the rebellion, the intimate unhappiness of the contemporary human beings. They have lost the deep, metaphysical sense of the existence, the meaning of their own life, the hope of any destiny. The Light illuminating all the environment has been extinguished, and all the men are going on like blind ones, looking for a point of orientation and support, getting cross at each other and embracing one another as at random.

Website of the author www.lorenzocrescini.it/right

Email ricerca...@lorenzocrescini.it

ANSWER QUALITY

The most important question, but also the hardest to answer, is that of answer quality. The quality of answers in each discussion forum varies from totally wrong to highly professional. The mix of answers is different in different discussion forums. Not surprisingly, the quality of answers by lawyers tends to be considerably better than the answers by non-lawyers.

⁷⁷<http://groups.google.com/group/aus.legal/browse_thread/thread/c5ea50a58143409f6903181045f1e4e2?hl=en#6903181045f1e4e2>.

Thus, forums such as the Russian-language forums that have more lawyer question-answerers, tend to have an overall better quality of answers.

What really matters to the question-asker is the receipt of good legal advice. The interactive nature of Internet forums can lead to better answers in two ways. First, all answers are viewable by all forum participants. Often a wrong answer will be followed by a correction by someone else. Here is an example.⁷⁸

Small Claims Court? How and costs?

From: outofpocket - view profile
Date: Mon, Mar 20 2006 10:05 am
Email: outofpocket <w...@hotmail.com>
Groups: uk.legal.moderated

I just require some straightforward advice please:

I'm a student who does web design on a relatively small basis just to make ends meet. Unfortunately one of my clients has been promising to pay me for over 3 months now and finally I have lost patience and need to know where I stand.

The website is complete, the amount owing is only £390.00, and the client is very happy with it and has not complained once about anything. Unfortunately when I ask for my account to be settled they keep saying they are having financial difficulties at the moment and ask for a little more time.

1. How much will it cost me to issue proceedings to claim the money owed?
2. What happens if they haven't got the money?
3. If I do win my case could it be a case of being paid back by some measly amount per month because of their circumstances?

Many thanks!

Someone answered that it would cost £30.00. This was followed by a

⁷⁸<http://groups.google.com/group/uk.legal.moderated/browse_thread/thread/670e68c12b84d5bf/72d28116e56ab10b#72d28116e56ab10b>.

detailed correction by someone else:

It depends on the amount being claimed.

<http://www.hmcourts-service.gov.uk/infoabout/fees/county.htm>

Incidentally the advise given to the OP is incorrect, it will cost him £50, not £30, to claim £390.

Second, the question-askers often will fail to state key legally-relevant facts. A question-answerer can ask the question-asker to clarify key facts, and so provide a better answer. For instance, the following appeared in a Russian forum:⁷⁹

Credit for an apartment, guaranty

Dear lawyers! A friend asked me to act as her guarantor for a loan for purchase of an apartment. The amount isn't tiny, the payment period is 30 years.

Please say in what instances can they make me pay for the credit for the borrower.

How likely is this?

If the borrower for some reason can't pay up on the credit will this obligation lie first on her close relatives or right away on the guarantor?

Frightening.

Thanks

One question answer, an experienced lawyer, replied:

it's necessary to look at the contract . . .

everything depends on it . . .

post it . . .

I'll say definitely if you should do it or not

The following question appeared on a French forum:⁸⁰

⁷⁹(My translation) <http://community.livejournal.com/ru_pravo/949847.html>:

⁸⁰<http://groups.google.com/group/fr.misc.droit/browse_thread/thread/cba0053db13b9f16/3aae240b861b0978?hl=en#3aae240b861b0978>.

Surendettement et vente forcée

From: JLV12 - view profile

Date: Tues, Feb 21 2006 3:36 am

Email: "JLV12" <j.vince...@tiscali.fr>

Bonjour,

dans le cadre d'un plan de surendettement de ma mere, il pourrait etre envisagé une vente forcée de sa maison. Que se passe t il dans ce cas sachant que mes parents n'avait pas de contrat de mariage avant le deces de mon pere et que le maison appartient pour moitié à ma mere et pour l'autre moitié à moi et mes deux freres? La moitié ne suffisant certainement pas à couvrir toutes les dettes, va t'on aussi s'attaquer à notre part à nous? N'y aurait il pas la possibilité pour mes freres et moi de s'opposer à la vente? Merci pour vos réponses. JLV

The following appeared in a reply by "Papageno":

Bonjour

Avant de tenter de vous répondre .

Les dettes sont elles personnelles à votre Mère (comme nées après le décès) ou dépendent elles également de la succession de votre Père ?

A vous lire

Papageno

The answer to this supplied the missing information:

en fait, mon pere est decede en 96 ne laissant pas de dettes derriere lui. Ma mere a fait son premier emprun de type reevolving en 97 puis un autre et ainsi de suite souvent par la suite pour payer ses precedents credits, pour en arriver aujourd'hui à une dette d'environ cent mille euro. Je précise qu'elle touche quand meme une pension mensuelle de mille deux cent euro

This answer allows "Papageno" to give some good advice:

Vous êtes en indivision avec votre Mère .
Dans quelles proportions ? (usufruit de la Mère sur votre part
?) Le créancier va demander la licitation judiciaire (vente
forcée par adjudication) à moins que vous ne consentiez à
une vente amiable . Ce que je ne peux que vous inciter à faire,
ses revenus personnels étant notoirement insuffisants.
A terme seule la partie du prix revenant à votre Mère sera
saisie le reste vous sera reversé .
--
Papageno

In a civil law country, a high quality answer is likely to contain a
reference to a specific law or regulation. Thus, for instance, the question:⁸¹

Photo identité

From: Le Fou - view profile
Date: Fri, Feb 17 2006 5:30 am
Email: "Le Fou" <ehil...@club-internet.fr>

Salut,

On entend souvent dire : "Selon la loi, pour les papiers
officiels, la photo d'identité doit être prise de face, sur fond
neutre, tête nue...", certaines administrations précisent même
la taille (3,5 x 4,5 cm ou 4 x 5 cm), toujours selon LA loi...

Quelle est cette loi ?

Merci.

--

A'tchao

Le Fou

Received the answer:

From: Thierry VIGNAUD - view profile
Date: Sun, Feb 19 2006 1:49 pm
Email: Thierry VIGNAUD <thierry.vignaud@NO-
SPAM_laposte.net>

L'arrêté, en annexe, précise néanmoins toute une série de
conditions auxquelles doivent répondre les photographies

⁸¹<http://groups.google.com/group/fr.misc.droit/browse_thread/thread/822723028dc166ad/03a3215eca857929>.

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numero=INTD9900220A>

In one of my initial approaches to the problem of answer quality I am looking at strings of consecutive questions and trying to develop a method for rating the answers. For instance, consider the following summary (by me) of a series of questions which appeared on a Russian site in February 2006.

Q. Worker was paid only official pay and vacation time based on official pay when fired. Can he get compensation based on under-the-table pay?⁸²

A. Disagreement

Q. How to correct errors in official corporate documents⁸³

A. (None yet)

Q. Trademark registration.⁸⁴

A. Detailed and excellent advice.

Q. Issues arising if husband wants to give his share of an apartment to son.⁸⁵

A. Some wrong, some high quality.

Q. Not really a question. A sample of a resident-unfriendly apartment building management contract.⁸⁶

Q. Is Constitutional right to communications privacy violated if someone publishes an email from someone else with information about the sender that results in the sender receiving a large number of unpleasant SMSs?⁸⁷

A. Somewhat murky answers.

Q. Can a lease contract be broken because the landlord's family wants the apartment?⁸⁸

A. Good answers and offers of help.

⁸²<http://community.livejournal.com/ru_pravo/814273.html>.

⁸³<http://community.livejournal.com/ru_pravo/813844.html>.

⁸⁴<http://community.livejournal.com/ru_pravo/813821.html>.

⁸⁵<http://community.livejournal.com/ru_pravo/813380.html>.

⁸⁶<http://community.livejournal.com/ru_pravo/813291.html?mode=reply>.

⁸⁷<http://community.livejournal.com/ru_pravo/812930.html>.

⁸⁸<http://community.livejournal.com/ru_pravo/812643.html>.

Overall the legal advice was quite good. From my observations to date, the quality of the Russian law forum answers are the best in any forums.

Of course, so far I have merely glanced at a few hundred of the tens of thousands of answers. A serious attempt to determine answer quality would require a much larger and more scientific sample and careful question-by-question evaluation.

There are several factors inherent in online discussion groups that may lead to high quality answers. Incentives to provide good answers include altruism, prestige, and mutual benefit.⁸⁹ Mutual benefit, however, is lacking in legal discussion forums, since the question-askers and question-answerers are separate groups. As with open source software, such as Linux, peer criticism leads to better quality information.⁹⁰

IMPLICATIONS FOR REGULATION OF THE PRACTICE OF LAW

States in the United States, of course, are rather unique in their prohibition of "unauthorized practice of law." In the vast majority of countries, there are no laws restricting the giving of legal advice, though there may be restrictions on performing certain functions, such as appearing in court on behalf of clients. It is clear that much of question answering in legal discussion forums is the practice of law in the suggested definition of the American Bar Association Task Force on the Model Definition of the Practice of Law's "Guidelines for the Adoption of a Definition of the Practice of Law."⁹¹

Each jurisdiction's definition should include the basic premise that

⁸⁹James E. Katz and Ronald E. Rice, SOCIAL CONSEQUENCES OF INTERNET USE: ACCESS, INVOLVEMENT, AND INTERACTION 351-352 (2002); Peter Kollock, *The Economies of Online Cooperation: Gifts and Public Goods in Cyberspace*, in COMMUNITIES IN CYBERSPACE 220 (Mark A. Smith & Peter Kollack eds., 1999).

⁹⁰Karim R. Lakhani & Eric A. von Hippel, How Open Source Software Works: 'Free' User-to-User Assistance, 32 Research Policy (6), 923-43 (2003); Karim R. Lakhani & Eric A. von Hippel, "How Open Source Software Works: 'Free' User-to-User Assistance?" (May 2000); MIT Sloan Working Paper No. 4117-00. Available at SSRN: <http://ssrn.com/abstract=290305>.

⁹¹American Bar Association Task Force on the Model Definition of the Practice of Law, "Guidelines for the Adoption of a Definition of the Practice of Law," Adopted by the American Bar Association House of Delegates on August 11, 2003 <http://www.abanet.org/cpr/clientpro/Guidelines_PracticeofLaw.pdf>, p. 1.

the practice of law is the application of legal principles and judgment to the circumstances or objectives of another person or entity.

The actual definitions of the practice of law vary from state to state in the United States and are typically found not in clear statutes but in hard-to-interpret court decisions.⁹²

Some question-answers offer disclaimers stating that they are not lawyers. As an example:⁹³

I am not a lawyer; this is not legal advice. When you read anything legal on the net, always verify it on your own, in light of your particular circumstances. You may also need to consult a lawyer.

Others indicate that while they are lawyers, they are not practicing law. For instance one lawyer has given over 700 answers, each with the disclaimer:⁹⁴

This posting is for discussion purposes, not professional advice. Anything you post on this Newsgroup is public information. I am not your lawyer, and you are not my client in any specific legal matter.
For confidential professional advice, consult your own lawyer in a private communication.
Mike Jacobs
LAW OFFICE OF W. MICHAEL JACOBS
10440 Little Patuxent Pkwy #300
Columbia, MD 21044
(tel) 410-740-5685 (fax) 410-740-4300

While this is useful information for their readers, I doubt that such disclaimers can turn the practice of law into non-practice of law. Furthermore, the posting of hundreds of answers to legal questions along with one's name, address, and telephone could be subject to the regulations on

⁹²<http://www.abanet.org/cpr/model-def/model_def_statutes.pdf>.

⁹³<http://groups.google.com/group/misc.legal.moderated/browse_thread/thread/c18e256173a7d05c/1fc3723f5dce8ec9>.

⁹⁴<http://groups.google.com/group/misc.legal.moderated/search?group=misc.legal.moderated&q=%22mike+jacobs%22+%22not+your+lawyer%22&qt_g=1&searchnow=Search+this+group>.

lawyer advertising.⁹⁵

It is also clear that under the law of many states, most question answering would constitute not only the practice of law, but also the unauthorized practice of law. States may define "unauthorized practice" more narrowly than "practice," for instance, by defining unauthorized practice as practice done for payment of compensation.⁹⁶ Of course, a definition based on compensation exposes the state to the attack that the unauthorized practice measures are meant not for consumer protection, but rather for lawyer cartel protection.⁹⁷ Requiring compensation as an element would exclude question answering in online forums because this answering invariably is done without charge. If compensation is not required as part of the definition of practice of law, nearly all lawyers who answered questions about law in the United States would be engaged in unauthorized practice because most lawyers are licensed in only one or a few states, while questions are posed by people from every state, usually with no indication of the state whose law is involved. Thus, the quasi-monopoly rights of lawyers licensed in a particular state to give advice on that state's law would be violated.⁹⁸

I have found no instances of unauthorized practice proceedings being brought against those who answered questions in legal forums. However, two questions remain about potential restrictions on online question answering: (1) could they be enforced? and (2) should they be adopted? Even though I have yet to thoroughly evaluate answer quality, http://www.abanet.org/cpr/model-def/model_def_statutes.pdf<http://www.cato.org/pubs/regulation/reg20n1c.htm> I suggest that the answer to both questions should be "no." Undoubtedly bad advice is given in legal discussion forums and some forum users may be harmed by taking action on bad advice. However, short of something like China's attempt to construct a Great Wall around its Internet users, I do not think enforcement would work. Given difficulty of obtaining good, reasonably priced legal advice, I think that legal discussion forums fill an important gap.

⁹⁵ Victoria Slind-Flor, *The National Pulse: Is a Lawyer's Blog an Ad? Query to Kentucky Panel Sets the Internet Buzzing*, 4 No. 24 A.B.A. J. E-REPORT 5 (available in Westlaw, TP-ALL database). My thanks to my colleague Nina Tarr for bringing this article to my attention.

⁹⁶ http://www.abanet.org/cpr/model-def/model_def_statutes.pdf.

⁹⁷ George C. Leef, *Lawyer Fees Too High? The Case for Repealing Unauthorized Practice of Law Statutes*, <http://www.cato.org/pubs/regulation/reg20n1c.html>.

⁹⁸ See Larry E. Ribstein, "Lawyers' Property Rights in State Law" (November 27, 2000). George Mason Law & Economics Working Paper No. 00-43. Available at SSRN: <http://ssrn.com/abstract=251750> or DOI: 10.2139/ssrn.251750

IMPLICATIONS FOR COMPARATIVE LAW RESEARCH

In the past, only those comparatists working at the best endowed law libraries could effectively study different approaches to the law on the books in different countries. The appearance of free and paid legal databanks on the Internet has somewhat alleviated the precipitous decline of law libraries' international collections. However, the shortcomings of such comparative doctrinal research have led to increased interest in field research on the actual workings of different legal systems. But, this option is only open to comparatists with the time and money for travel. Internet discussion forums offer every comparatist, at no cost, the chance to learn what legal problems really concern ordinary people in countries throughout the world and how lawyers and others in these countries provide practical answers to them.

CONCLUSIONS

A significant new mode of delivery of legal services is emerging. It is easily accessible for research by the comparative lawyer. It is also a challenge to the legal profession, because it ignores traditional restrictions on the practice of law, with all their disadvantages and advantages. The future could see this phenomenon stamped out by government action like that aimed at Internet child pornographers, casinos, and Chinese dissidents; could see it tamed by strict compulsory quality controls, like those for the practice of law in the United States, could see voluntary quality controls, like those common in open source software development; or could see it free, like the world of blogs. While observing and pondering these developments, the comparatist can enjoy a rich source of information on the practical legal problems facing ordinary people in various countries.