

Achieving Our Goals: How Should We Teach Our Students?

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Law teachers in the 21st century face many demands and expectations. These are the topic of discussion in earlier sessions of this Conference. Whatever conclusion one comes to about our role and purpose, there is then a further question: how should we teach our students? Or, to reframe the question in a less one-directional way, what learning environment should we create for our students?

There is a rich and vast body of literature to which one might look to supply an answer to this question, and so I must begin with three confessions, or warnings. The first is that I am not going to refer to that literature, at least not directly or in any academically approved way. This paper is a set of reflections based on my experiences across 30 years as a law teacher, although I acknowledge that those experiences have been influenced by that rich and vast literature. But these days I am not just a teacher, and this leads me to my second warning. This paper is also prompted by my experience (currently just short of four years in duration) as an administrator of teaching allocations and teaching loads in this Law School. This pragmatic perspective – the need to ensure, every semester, that in a climate of limited resources the teaching gets done – has conditioned the way in which I answer the question posed above. My third warning is that this paper is written from an Australian perspective and, more specifically, from my experience at the ANU College of Law.

The answer to the question posed above involves consideration of two issues: changes in student culture and what it means to be a law student, and consideration of the actual methods we use to teach law.

A shifting student culture

Many of my colleagues who have been teachers of law for more than a few years have noticed a change in the way in which our students engage with their role as 'law student'. I can summarise this with a hypothetical: if I were to randomly select one of our students and ask them to describe what they do, I suspect that the answer would not necessarily be 'I am a law student' or even 'I am a university student'. The answer, I suspect, would more likely be 'Well, I working three days a week in job doing X, and I'm studying law, and I am a member of the Y community group and ... etc'. In short, being a law, or a university student, no longer supplies the key identifier for many of our students. Studying law is just one of many things that they do. We are just one of a number of things that demand their attention.

At the ANU College of Law we have been grappling with this phenomenon as we seek to impart in our students a culture of civic responsibility, of using the law to achieve socially beneficial outcomes. These goals demand that students be engaged

with their law studies, yet our daily observation is of declining patterns of class attendance and demands for more accessible, instantaneous access to course content. At the same time, our students quite properly demand a high quality and cutting-edge legal education.

In 2008 the ANU College of Law conducted an on-line survey of our students so that we could inform ourselves about how they perceive their law studies and how those studies figure in their lives. The results showed that 67% of the 300 respondents were engaged in either part-time or casual work, with 6% holding full-time jobs. Only 16% said that they did not work at all. The average work load was 16 hours a week. Over 70% said that they worked to supplement their income, rather than simply to gain work experience. At the same time, most students said that their law studies were a very high priority in their lives. Over 75% said that their decision to study law was motivated by an interest in the subject (rather than family pressure, or simply achieving the requisite entry score).

In short, our students are highly motivated but pressured. They see their law studies as important, but majority of students today, study is just one of the things that they do. They juggle work, family, study (often in combined degrees),¹ and other commitments. The idea of the 'full-time' student who has no other major commitments in their weekly life other than being a student is a thing of the past. As educators our challenge is to determine the extent to which we must adjust to this reality, and the extent to which we are entitled to demand or, at least, expect that our students will carve out some space in their busy lives for their law studies. Critically, we must think carefully about the methods we use to engage our students in their legal education.

How should we teach our students?

I've been prompted to think about this question by my Dean – Professor Michael Coper. He and I have been engaged in an ongoing, friendly (and often amusing) debate about the role and value of 'the lecture' in modern legal pedagogy. By 'lecture' I mean a large group of students being taught by a single teacher. Although the method of teaching can be very interactive, I use it here to describe the class where the teacher doing most of the talking. I can summarize our positions quite easily: Dean Coper thinks that we should abandon lectures (at least those that involve the teacher doing most of the talking),² whereas I think that lectures, of all types, can be useful. I use this debate here as a convenient way of addressing the question about how we should teach.

I want to defend lectures, or to be precise, to defend good lecture practice. I do this by looking at what the opponents of lectures want to put in place instead of lectures. Then I say something about lectures themselves.

¹ Approximately 85% of undergraduate law students at the ANU are enrolled in combined degrees (eg Arts/Law or Commerce/Law). The combined degree requires 5 years of full-time study.

² To be fair, I think that Dean Coper acknowledges the value of truly interactive, large-group classes. I suspect that he would not classify this as a 'lecture'.

The attack on lectures usually has two steps. The first step is to caricature the lecture, typically by drawing upon the very worst of our own lecture experiences. Lectures, I am told, encourage passive learning; they are boring; they are the antithesis of good pedagogical practice. All of this is true – some of the time. But it is not true all of the time, and it is certainly not intrinsically true. Lectures are not in and of themselves bad. We have all sat through some atrocious lectures. Some of us (I include myself here) have occasionally delivered lectures that, let's face it, were rather dull and uninspiring. But does this mean that we should abandon lectures? Certainly not. Does it mean that we have to work to bring out what is good in lectures? It certainly does. And does it mean that lectures have a place in any good pedagogical system? Without any doubt.

Having identified the evil, the second step in the anti-lecture argument is to identify the remedy. Lately I have heard of two main ways in which we can be saved from the horrors of the lecture. One option is to embrace small group interactive teaching; the other is to use on-line education.

A pragmatic response to the small group teaching argument

Small group teaching has the virtues of more immediate and direct contact between teacher and student. The small group context fosters greater opportunities for engagement, discussion, debate, and the dynamic exploration of ideas. It permits students to test and develop their understanding. It promotes active learning. All of this is true – some of the time. But it is not true all of the time, and it certainly is not intrinsically true. Small groups are not in and of themselves good. We have all sat through atrocious tutorials and seminars. Some of us (I include myself here) have occasionally run some small-group sessions that, let's face it, were rather dull and uninspiring. Does this mean that we should abandon small group teaching? Certainly not, but neither does it force us to conclude that small group teaching is *the* answer to my question.

Small group teaching can be great, but in one important context it cannot substitute for the lecture. That context is the course (usually an undergraduate course) with a large enrolment. Take my Corporations Law course as an example. A typical enrolment is 250 to 290 students. A typical teaching team is two or three full-time academics and three or four part-time casual tutors. The full-time teachers will usually be involved in teaching other courses at the same time. Let's assume that to be really effective a small group should have no more than 15 students in it. That means I would need to have between 16 to 19 small groups running each week for our 13 week teaching semester. And let's assume (I admit that this might be a contestable assumption) that we want to keep the class contact hours at the standard rate of 4 hours per week, and that the maximum duration of a small group session is 2 hours (and that is probably contestable too). So, that is 32 to 34 small groups running each week.

You can see where this argument is heading: the problem for the 'small groups instead of lectures' argument is that it just isn't feasible with current resources – human resources, physical resources and time resources. There simply are not

enough teachers, rooms or timetable slots to permit it, certainly not if we are going to apply the same approach to each and every large undergraduate course. Of necessity small group teaching must occur alongside large group sessions (ie lectures).

A brief response to the on-line teaching argument

The argument here is that we can do away with lectures – and even small groups – by using the flexibility of internet technology and computer software. We can substitute or augment face-to-face interaction with screen-to-screen interaction.

I am struck by the similarity between this argument and the campaign to abolish company general meetings. General meetings, we are told, are anachronistic, expensive, under-attended and inefficient. They should be replaced with virtual meetings held in cyberspace, where shareholders can log in, ask questions and vote. Curiously, not many Australian companies have actually taken this step. Why? A survey of 217 Australian companies that I conducted found that company directors actually place value on having a face-to-face meeting with their shareholders.³ As one director put it, it is important that the shareholders and directors see each other eyeball to eyeball. This is backed up by research that suggests that human beings are hard-wired, through evolutionary processes, to be social beings. We seek human contact. General meetings are one, albeit imperfect, example of this.

So too with the role of lectures in menu of teaching options. Of course this does not lead me to conclude that lectures are the only way to go, nor that on-line education is to be ignored. But it does suggest that the 'on-line *instead* of lectures' argument has limitations which must be recognised.

What's good about lectures?

Thus far, this has been a weak defence of lectures, so I now turn to consider some stronger arguments. Again, it is important to emphasise that I am not advocating lectures as the only form of teaching. Lectures must be combined with other forms of teaching: small group and/or on-line. Nor do I suggest that lectures are always needed. In courses with smaller enrolments, for example, small group teaching will obviously be feasible. So, my argument is directed to the large course teaching experience.

Think of a large room in which there are many people sitting and facing someone at the front of the room who is communicating something to them. This description fits the standard idea of a lecture; it also fits a theatrical performance or a solo musical performance. The similarity is not immaterial: lectures can be, and ought to be, a form of entertainment. A lecture can, and should, make students realise that the subject matter of the lecture is interesting and intriguing. A lecture is where students are given a framework for their further learning on a given topic. It should give them the confidence to tackle often difficult material in their own time.

³ Stephen Bottomley, *The Role of Shareholders' Meetings in Improving Corporate Governance* ANU Centre for Commercial Law Research Report, (September 2003)

Lectures can impart skills. The cynic might suggest that these skills are limited to staying awake or feigning interest, but a serious answer points to two key skills: listening, and distilling information that is presented orally.⁴ These are obviously important skills for lawyers in practice. A good lawyer must be able to listen to their client, to lawyers for the opposing client, to colleagues, to judges. They must be able to distil the information that is important and separate it from the rest. Of course the need for these skills is not limited to lawyers. It extends to all professional conduct – indeed to most walks of adult life. These two skills suggest a third skill that lectures can facilitate. While the skills of listening and distilling are important, so too is the skill of putting one’s message clearly, and of ensuring that the listener ‘gets the message’. A good lecture will do this, and students in a good lecture can learn from this. That is how I learned my lecturing skills: I recalled my own experiences as a student, and I watched my peers. As someone trying to listen and distil the lecturers’ message I could readily identify what worked and what didn’t work, and then try to put the good bits into my own lecturing practice.

Finally, lectures have the advantages of consistency and efficiency. I hesitated as I wrote that last sentence because, even as a Head of School, I am suspicious about using efficiency as a yardstick for measuring what we do. To explain what I mean, I’ll again use my own experience in teaching corporate law. There are some things that, as a teacher, I need to be assured – as far as is possible - that the students have ‘got right’. This sounds very un-post-modern, but there are some principles and ideas in corporate law that really do not have the space for contested meanings or relative degrees of interpretation. A lecture is one good way of getting a consistent explanation about these things across to a large number of students at the one time. Equally, there are some ideas that do – and should - give rise to debate (eg what is the purpose of a corporation: to make profit, or to be a good social citizen?). On some of these debates, I have my own ideas which I think are important enough that students should hear them (and be able to interact with me about them). Again, a lecture is a good way in which I can do this. I certainly can’t get around to every tutorial or seminar group to do this, and I can’t be sure that the tutors will convey my ideas in the way that I would like.

There are excellent lecturers in our midst. They are entertaining and erudite. They excite attention in the subject matter of the lecture. They recognise that a lecture is not primarily about giving information,⁵ and it is not simply the live rendition of written material. They encourage students to learn by giving them the confidence that they can learn. All this takes effort and commitment. Lecturing can be rewarding, for the lecturer and for the students.

Conclusion

I have left myself a quarter of a page to draw these threads together. The purpose of this brief discussion about lectures has been to highlight some key tensions in contemporary legal education in my law school. Whatever our aspirations as legal educators, we are confronted by resource constraints, but this is nothing new. What

⁴ James Goding, ‘Do Lecture Us, There’s No Substitute’ *The Australian*, 29 November 2006

⁵ Goding, note 4 above.

is new is a shift in the way in which our students engage with us and the education process. The changing world that is the focal point of this Conference is happening right at our doorsteps. We must be flexible in our response to this. A 'one size fits all' approach will not help. And we must be realistic in our expectations. Dogmatism (eg 'lectures are bad') will not assist us.