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Lecturing (and not Lecturing) Using the Web: Developing a Teaching Strategy for Web-based Lectures

(Flexible Delivery in a First Year Law Subject, Part I)

LAWRENCE MCNAMARA*

INTRODUCTION

It is less than a decade since Le Brun and Johnstone sought so effectively to improve law students' learning by bridging "the perceived gulf between educational theory and practice so that our work as [law] teachers is more informed, reflective, critical and, thus, improved in practice".¹ In documenting and building upon theoretical and practical connections, they both identified and accelerated the "quiet revolution" which has been making our classrooms, at their best, places where active, student-centred learning involves critical dialogue on law and justice. In the meantime, however, there has been another revolution fermenting in the academy. But this time it may undermine the developments in law teaching because in many instances the classroom will no longer be the principal site of teaching. The new revolution is one of "flexible delivery".

For many law teachers the move to flexible delivery is not a voluntary one. The continuing shift has been (and is still being) driven by two primary objectives, which apply at both institutional and departmental levels. First, there is constant pressure to reduce the cost of running programs and subjects – in short, there is a widespread need to do more with less.² Secondly, the joint factors of budget and marketing necessities have required universities and departments to capture a greater share of the education "market".³ Where minimal or no attendance on campus is required, a program

may attract students who would not otherwise study at all, or may draw students who would otherwise attend another institution. The concomitant globalisation of higher education is also associated with this trend as previously localised programs are increasingly able to compete in an international market.⁴ With speedy access to large quantities of information at low cost and interactive communication, the Internet is fast becoming the principal vehicle for flexible delivery in higher education.⁵

Anecdotal evidence from the University of Western Sydney Macarthur and other universities would suggest that many law staff are facing the requirement that they make use of the Internet (and especially the World Wide Web) either to replace other modes of subject delivery or to complement them. The problems that arise centre not merely around technology issues – that is, what if one does not know how to put a subject on-line – but also around educational objectives; how does the web differ as a medium for subject delivery, and how should teachers deal with such difference? The potential of the Internet as an educational tool should not be underestimated nor lightly dismissed; it offers genuine opportunities for educational advancement in terms of new teaching and learning potentials.⁶ Unfortunately, these possible benefits seem frequently to exist more as a reaction to the institutional and management demands than as a developmental philosophy underpinning flexible delivery; educational benefits seem at times to arise more in spite of the push to flexible delivery rather than as a perceived reason for moving in that direction. While there is no question that for many academics the move to technology is educationally driven, the identification by Hart of “two camps of interest, one interested in the pedagogy of the technology and the other interested in the pragmatics” seems to be accurate.⁷

As a result of these changes, existing strategies for teaching and learning will need re-thinking if the educational dialogue is to be effectively (re)constituted in the unfamiliar and impersonal contexts which are dictated by institutional imperatives to deliver legal education in a flexible manner. By explaining the development of a teaching strategy for mixed-mode flexible delivery in a first year law subject, this article seeks to explore critically the possibility of achieving educational objectives when lectures are delivered over the web. The aim is to explore the

educational literature and apply it to the demands of flexible delivery so that even in the absence of great technical expertise or an abundance of resources, web-based delivery might still be educationally valuable and administratively manageable. My intention is not to prescribe a method of using the web, but to suggest that a departure from the classroom need not be a bad thing; the critical and reflexive approach to law teaching which dominates the best of contemporary practices in the classroom should similarly inspire our excursions into cyberspace.

The article begins by outlining the project background and rationale. Section Two looks at the context of a shift to web-based lecturing; it discusses approaches to learning, learning objectives and ways in which traditional lecturing seeks to achieve them. The third section turns to the development of a web-based lecturing approach for *Introduction to Law*, identifying with examples and reasons the strategies adopted for the web-lectures. A brief conclusion draws together the rationales for flexible delivery and the objectives of teaching, suggesting that teaching using the Internet requires, like any mode of teaching, a critical, creative and reflective approach if learning objectives are to be effectively met. On the web, this entails a fundamental reconsideration of the very idea of lecturing.

An evaluation and review of the mixed-mode project is the subject of the “Part Two” article which follows in this issue of the journal.⁸ Together, the two articles examine some of the ways in which the challenges of flexible delivery might not only be made manageable but may even become a catalyst for constructive change. It will be argued that while there are numerous reasons to exercise caution, there are good reasons to consider creative but simple web-based delivery as a positive alternative to large group lecturing, carrying significant potential for deep, holistic, student-centred learning.

THE STARTING OUT PROJECT

Introduction to Law is the foundation subject in the Bachelor of Laws degree at the University of Western Sydney Macarthur. In autumn semester 1999, the project Starting Out: An Introduction to Law and An Introduction to Flexible Delivery set about replacing the weekly face-to-face one hour lecture with a weekly web-based

lecture which could be accessed by students at the time and place of their choice.⁹ The rationale of the project was threefold, addressing first the administrative pressures of timetabling and lecture/tutorial structure for the first year cohort, secondly fitting in with the university objectives for increasing flexibility in program and course delivery, and thirdly raising the possibility of significant developmental benefits, including an introduction to flexible learning in a foundation subject at the beginning of students' university education. Familiarity with and acceptance of web-based teaching could only assist in establishing a culture of learning in which the face-to-face lecture is no longer seen as essential, yet learning is not reduced to a seminar alone. A weekly two-hour seminar class still represented a substantial face-to-face component.

A consultant with experience in web design for flexible delivery in university subjects was engaged to design and build the web page in consultation with the subject coordinator. The web page was intended to be simple to use and to contain few graphics or features which would slow the download process.¹⁰ The *Introduction to Law* web page would provide access to all substantive and administrative aspects of the course which might normally be dealt with in lectures. The web-lectures were posted on the Monday evening of each week. The material covered in each lecture would be the subject of the readings and tutorial for the following week so that all students had access to the lectures at least six days prior to their tutorial classes. To facilitate student interaction and input, there would also be a "feedback" email link to the subject coordinator for questions and comments, hypertext links to relevant sites, including relevant news and current affairs, and a discussion page for student chat. Thus, the "electronic lecture" would not be a set of explanatory lecture notes, but rather an active engagement between the teacher and students designed to enhance not merely the flexibility, but also the quality, of learning.

The aim was not to remove the learning aspect of the lecture and leave only the seminar; rather, the aim was to re-define the learning process of the course as a whole. However, the content of the lecture and its relationship with the seminar classes developed and changed over the course of the semester. The most significant development was the gradual conceptual shift that emerged not so much out of thinking through the teaching strategy in advance, but out of *doing* it and *reflecting* upon it. It will be explained that what

began as a substitute or replacement for the face-to-face lecture became a web-lecture based around questions asked of students, rather than explanation provided to them. But this came to occupy a different conceptual place to that of the traditional lecture. The title of this article is its point: the lecture was in the end not a lecture at all, but instead became – much more so in hindsight than at the outset – a qualitatively different resource for student learning. The following explanation of how the teaching strategy was developed is inevitably coloured by such hindsight and thus more complex than it was prior to the project, but it is hopefully richer for the reflection which informs it.

DEVELOPING A TEACHING STRATEGY

Approaches to Learning

The literature on teaching and learning in higher education has over the last ten to 15 years focused on forms of deep and holistic student-centred learning in higher education.¹¹ The idea of “deep learning” underpins almost all the educational literature: it is the approach to learning that teachers in higher education would generally like their students to adopt and engage in.¹² The opposite approach is a surface approach to learning. Entwistle identifies the deep approach as

active involvement stemming from interest in the content which leads to an elaboration of the learning material in seeking personal understanding. In contrast, the surface approach suggests anxiety or extrinsic motivation driving routine memorisation intended to reproduce aspects of the subject matter.¹³

Learning outcomes associated with the deep and surface approaches are described by Ramsden:

Deep approaches generate high quality, well-structured, complex outcomes; they produce a sense of enjoyment in learning and commitment to the subject. Surface approaches lead at best to the ability to retain unrelated details, often for a short period. As they are artificial, so are their outcomes ephemeral.¹⁴

The distinction between deep and surface learning has been described by Goldring as it applies to the discipline of law:

Students taking a surface approach tend to learn by rote, not to question the assumptions that underpin the material nor to relate it to its context. Students with a deep approach examine the arguments critically,

question the assumptions on which they are based and relate them to previous knowledge and understanding. ... Understanding of legal material, both from a perspective of internal consistency and structure, and of its relations to the social context, is essential to the making of sound professional judgments and evaluations.¹⁵

As suggested at the start of this article, Le Brun & Johnstone's book of 1994, *The Quiet (R)evolution*, was a theoretical, practical and exemplary excursion through the themes of the education literature at the time, applying it specifically to teaching in Australian law schools. Like Ramsden, however, their focus was on rethinking, revising and improving traditional teaching methods. Both works centred around rethinking the approach to traditional lecture and small group teaching rather than exploring the possibilities for effective and improved teaching which might lie within new media.

The literature on web-based instruction in law, while not extensive, has gained some currency.¹⁶ Goldring canvassed the issues surrounding the "virtual campus" of the law school in an exploration of teaching law by distance education and, while not arguing for a removal of face-to-face teaching, took seriously and positively the potential of new technologies for a quality legal education.¹⁷ The preference and pressure within most law schools appears to be not, however, for total off-campus delivery but for a mixed mode of flexible and face-to-face delivery.¹⁸ Laurillard & Margetson¹⁹ look at mixed mode issues as they relate to institutional administrative and resource needs generally (more so than at the delivery of individual subjects) , while Johnstone & Joughin²⁰ explore print-based flexible teaching in law which usually relies upon the production of hard-copy materials at the commencement of a subject rather than ongoing electronic delivery throughout a teaching period.

The Law Faculty at UWS Macarthur was founded in 1994 and took its first intake of students in 1995. The Faculty objectives reflect current themes in educational literature and are expressly stated in terms of deep, student-centred learning:

- "Students will be expected to bear a high level of responsibility for their own learning. The model assumes active learning rather than passive instruction and rote learning...."²¹
- The teaching, learning and assessment processes identified aim to achieve such objectives include teaching "to develop deeper learning skills" and an "emphasis on understanding rather than

rote learning.”²²

- “An emphasis of student-focused, active learning, with students taking responsibility for their learning, rather than simply ‘absorbing’ knowledge dispensed by academic staff”²³
- “Encouragement of deep rather than shallow learning ...”²⁴

It is in this context that *Introduction to Law* is located as the foundation LLB subject. The challenge throughout is the pursuit and maintenance²⁵ of deep learning through a medium (computing) that is not traditionally seen as facilitating such outcomes.²⁶

The Possibility of Deep Learning Using Web-lectures

Laurillard has examined the use of technology in teaching in higher education generally, though there is little discussion of the World Wide Web.²⁷ Nevertheless, she reviews teaching in the context of effective use of technology. Teaching, she explains, is not merely the imparting of knowledge; it is the mediation of learning – the aim is to make learning possible.²⁸ Laurillard describes learning as a conversation: “the learning process must be constituted as a dialogue between teacher and student” and as “a form of interaction between teacher and student.”²⁹ Le Brun and Johnstone explain the importance of a student-centred approach to learning, and describe one interpretation of teaching as an “act of intervention in the students’ construction of knowledge.”³⁰ The conversational interpretation need not imply that face-to-face teaching is always necessary; rather, the intervention which constitutes teaching is one which in its totality represents a dialogue. Web-based teaching might thus form one dimension of that dialogue.

While the objective of deep learning permeates the literature on Internet-based teaching in other disciplines, this does not lead to a uniformity in teaching methods. This is unsurprising – traditionally, most subjects are taught in classrooms, but the approaches and activities which occur within those classrooms vary greatly. The use of the Internet can be broken down into two often overlapping approaches: teaching *through* the Internet, and teaching *with* the Internet. In the former approach, the technology is used as a vehicle for learning; students construct their knowledge through the use of the Internet as an interactive tool, working with discussion pages and web-based hypertext media in non-linear models of learning,

taking control over the approach to and structure of their learning.³¹ The focus on interaction gives rise to substantial parallels with the theories and practice of problem based learning (PBL).³² Teaching through the web in any given subject could for instance involve instruction and assessment dominated by a combination of problem-based learning which draws on the searching and retrieval of information through the web, contribution to discussion pages, and perhaps the building of a simple home page.

On the other hand, teaching *with* the Internet is characterised by the use of the Internet as a vehicle for more efficient course delivery, but in an essentially non-interactive and non-collaborative way. This approach would typically involve the delivery of course materials, and basic communication functions from lecturer to students, or student to lecturer. It is easily suited as a supplementary strategy for traditional teaching structures. It often overlaps with the first approach where discussion pages are included in otherwise non-interactive courses or course support web pages.³³

Is one of the two approaches to teaching better than the other? This, I would argue, depends on the teaching objectives, the resources available to students and staff,³⁴ and other aspects of course structure and design. While there is some lament at the under-utilisation of the technology and its potentials,³⁵ this seems to some extent to ignore the context of flexible delivery and more importantly to miss the point. First, highly interactive teaching strategies require time, money and (frequently) technological expertise – resources frequently unavailable or scarce in contemporary higher education. Secondly, if the point is to achieve teaching and learning objectives, then this should drive the use of technology; if the course as a whole does not demand using technology to its limits, then there seems little reason to do so.³⁶

The use of the web in Introduction to Law was intended to replace the lectures. It was not intended to establish a distinct form of computer managed instruction, or the complete basis for course instruction and evaluation. The instructional purpose of the web-lectures bore a closer analogy to distance education or open learning than to interactive computer-based instruction.³⁷ The mixed-mode of teaching offered the opportunity to use different strategies from those employed in distance learning, and the web offered different possibilities than traditional print-based media.

The implications for student workload (and the corresponding impact on learning outcomes) were also a consideration regarding the extent to which hypertext, information and interactivity should drive the web-lectures.³⁸ Hence, the approach to teaching was primarily to teach *with* the Internet, rather than *through* it.

Given this approach, the literature on distance learning is valuable as it provides an excellent guide to the ways in which lecturing over the web might be done creatively and with a view to deep and holistic processes of learning. Among the UK sources which offer general guidance on compiling distance education material Race³⁹ and Rowntree⁴⁰ are both excellent, the latter making good use of a range of examples. For law teachers specifically, Johnstone's 1996 work *Printed Teaching Materials*⁴¹ provides a theoretical background and practical examples, while the later (1997) *Designing Print Materials* by Johnstone & Joughin⁴² is shorter and less theoretical, but still an excellent resource for considering ways in which web-based teaching might be undertaken. These four publications all have examples of how teaching materials may be designed for flexible or distance learning, but their real strength lies in facilitating reflection upon one's teaching.⁴³

With the teaching and learning objectives in mind, and having formulated an approach to the use of the web with the benefit of the literature on distance education, deep learning through web-lectures was seen as a real possibility, though the significance of a mixed mode of web and face-to-face teaching cannot be understated. The web-lectures were to be one aspect of a whole teaching process which aimed to facilitate deep learning; to draw on Laurillard's conversational interpretation, "the question now before us is the extent to which the educational media can support the conversational framework and thereby assist the learning process."⁴⁴

Learning Aims in Introduction to Law

The subject as a whole is designed first to require students to engage in critical analysis of a selection of issues related to the nature and operation of law, legal institutions and the legal process; and, second, to equip students with basic skills to undertake deep learning in other subjects.⁴⁵

Introduction to Law is envisaged as a subject where students encounter, often for the first time, the processes of critical inquiry and analysis which characterise tertiary education. The focus of the subject has always been the course readings. The lectures and tutorials have been ways to draw students into inquisitive and analytical processes. Tutorial questions are very directly related to the course readings and students are required not merely to understand any one article or extract, but to be able to offer some critical reflection upon the readings. They are required to compare and contrast the readings, making judgments about what arguments are convincing, what arguments are flawed, what implications arise from the different arguments in the literature, what questions are raised, answered and unanswered. They are asked to consider how these matters impact upon what they do and the choices they make.

The assessment task related to the “Law, Justice and Jurisprudence” component covered in the lectures and seminars is an open-book final examination. This requires students to answer essay based questions which centre around critique and analysis. The questions usually require students to draw together and analyse different readings from the course; students are informed from the start of the course that it will not be sufficient simply to explain different readings – they must engage in analysis of the materials.

ACHIEVING THE LEARNING AIMS THROUGH FACE-TO-FACE LECTURING

While there is no shortage of critiques regarding the poverty of lecturing as a mode of instruction, there is also a good deal of material regarding how to lecture well and make the most of what is often a teaching framework academic staff are locked into as a matter of university or faculty administration.⁴⁶ Face-to-face lectures then become one part of the whole teaching strategy in a subject; they may not be the preferred or most effective way of contributing to deep learning by students, but still might serve explanatory⁴⁷ and thought provoking purposes,⁴⁸ especially when placed within a subject structure which also involves teaching in smaller groups.⁴⁹

The face-to-face lecture in *Introduction to Law* was used in previous semesters to explain materials as a way of enabling students to grasp the readings effectively, as a stimulus to read the

materials critically with a view to encouraging the deep learning objectives, and as a guide to drawing students into the process of critical inquiry and analysis.⁵⁰

Teaching evaluations in previous semesters indicated that students in the past have found the explanatory aspect of the lectures very helpful. It offered a guide to themes and arguments, which was most useful when readings were difficult. Students were encouraged to listen and take notes where relevant (with the benefit of point-form overheads to structure the lecture and their approach to the materials). In 1998, students were provided with these overheads through the Law Library web-page.

The more sophisticated aspects of the lecture were concerned with analysis of the materials and the arguments. Questions were posed for students, attention was drawn to particular parts of the readings, and they were encouraged to consider how a consideration of specific passages and issues might assist them in answering broader and more thematic tutorial questions.

The benefits of the face-to-face lecture lay particularly in its transient nature. Not reduced to a permanent form, lectures could include express explanations about the materials without fear of substituting for students completing the readings themselves. While students could later use their lecture notes to assist them in reading, comprehending and analysing the materials, the absence of any concrete notes from the lecturer meant that the focus remained on the course materials and readings.

ACHIEVING THE LEARNING AIMS THROUGH WEB-BASED LECTURING

The prospect of a web-based lecture raised some difficult issues. How could a meaningful explanation of the readings be provided, especially for more difficult pieces, without that being merely a simplified and less voluminous precis of the materials?⁵¹ If the focus was to remain on the course readings as the object of study, how could the pitfalls of an approach centring around reading lecture notes be avoided?

Web-lectures as an Explanatory Tool: Some Concerns

If students are to understand the materials and the point of the

course, they need to read and comprehend those materials in a sophisticated manner. Simplified explanations in permanent form may detract from such a project, hence my reluctance in the web-lectures to provide written explanations of the readings.

There are assumptions implicit within this position. The most important of these is that students attach more significance to the written word than to the spoken word. This assumption can be justified to some extent on three different grounds. First, the discipline of law turns on words: they are the tools of lawyers and it is in the written form that law in the Western tradition comes into existence. Within such a discipline the leaning towards the written word will (and arguably should) be the focus of study. Second, *Introduction to Law* was centred around such a premise: the course materials and readings are the focus of inquiry and analysis. Third, students are instructed in legal writing that the best support for their arguments comes from written sources. Moreover, it is frequently difficult to impress upon students the degrees of authoritativeness associated with different works. All law teachers will be familiar with the (depressing) tendency of students to take the “easier” options of reading headnotes rather than judgments, textbooks rather than casebooks, commentary rather than cases, “nutshells” rather than texts, lecture notes rather than course readings.⁵²

It was one of the principal aims of the “Starting Out” project not to offer students yet another alternative to reduce their readings. This would defeat the entire purpose of the Faculty and subject objectives. The lecture as an explanatory tool needed to be different in a web-based format. The transient nature of face-to-face instruction can facilitate a reflective and interpretive student-centred approach, but this evaporates when explanation in lecturing shifts to written form. If the integrity and value of the educational process is to be maintained, written explanation of readings (while still necessary at times) cannot be permitted to drive web-based delivery.⁵³ An alternative approach may be to use the multi-media aspects of the Internet more substantially (including, for instance, video or sound), but this would require a great deal more time, expertise and resources than many academic staff or departments have.

Web-lectures as an Explanatory Tool: A Guide to the Readings

The objectives of the Faculty and the subject underpinned the web-lectures. The web-based lectures were a guide to the readings (just as the face-to-face lectures were also a guide to the readings) with a great deal of specificity, premised upon student centred learning as the most effective way to achieve the subject and Faculty objectives. The lectures sought to take students through the readings very closely, posing questions and directing them to those particular passages in the readings which best explained the article or extract at hand and drew their attention to the issues which were the focus of the questions.

Web-based lectures in this way still serve the explanatory purpose of lectures. Arguably, they enhance some aspects of the learning process because they allow students to work through the material at their own pace.⁵⁴ They enable a lecturer to direct students comprehensively through an argument, focusing on the crucial issues, showing students how to read a complicated piece of work. Such instruction simply cannot be done in a face-to-face lecture.

Some extracts of the lectures follow.

NATURAL LAW

Example 1

The first point Davies [at 61] makes about natural law concerns its source: “it is not created by any person or culture, but [has] an existence independent of the individual or collective will. Natural law is something which is said to exist whether or not any person, judge or legislature has ordained what the law is.”

How does the quote from Cicero demonstrate this point? (Hint: Use the four issues which Davies raised at 61-2.)

INTERNATIONAL LAW & THE ACQUISITION OF SOVEREIGNTY

Example 2

What is sovereignty? If you are not sure, get out a dictionary and look it up before you move on. The British acquired sovereignty over Australia under the rules of International law. International law is a body of law established by custom and by agreement and which regulates the relationships between nations. Among the relevant aspects of such law in the 18th century were rules about how countries (of Europe) could acquire new lands anywhere in the world. There were three ways

identified:

- 1 Cession (which involved treaties)
- 2 Conquest
- 3 Occupation of land that was terra nullius.

If Britain, for instance, acquired land by any of these methods, international law recognised that such an acquisition would be valid. The correctness of such an acquisition could not be adjudicated in British courts; it was the prerogative of the Crown.

While the acquisition itself could not be adjudicated in the British courts (the municipal courts as they are referred to in the judgment), what was an issue for the courts was the system of law to be applied in the new colony. That is, the acquisition of sovereignty is not justiciable, but the consequences of such an acquisition are justiciable. For instance, the question might be whether British law applies immediately? Or does the existing law of the land continue? Or is it some other arrangement that occurs?

Now, under which of these three modes of acquisition was sovereignty acquired over Australia?

The acquisition of sovereignty

What do the three ideas mean? First, cession refers to the making of treaties. Conquest – well, that almost speaks for itself. But the “occupation of land that was terra nullius” – what does that mean?

In short, it means that there was nobody on the land at all. This method of acquisition referred to “desert uninhabited countries” which were then occupied and became the property of Britain. This doctrine – the doctrine of terra nullius – was, however, expanded beyond such empty lands to include some inhabited lands.

- What were the characteristics, as the British perceived them of such lands – “countries already peopled” – to which the “expanded doctrine of terra nullius” applied?
- Why would treaty or conquest not be applicable, in British eyes, to the “occupation” of such lands?
- Does this mean there are four or three categories under which land might have been acquired by a foreign power?

EXPLANATION THROUGH QUESTIONS: AVOIDING SURFACE LEARNING

Adopting a question-based strategy was not without its problems. Ramsden describes one set of teaching materials where

students were prompted with questions about the readings:

When the Gothenburg researchers tried to give students hints about how to take a deep approach to reading a text – by inserting questions that encouraged students to relate the various parts – a curious thing happened. The students in question actually adopted a rather extreme form of surface learning. They “invented” a way of answering the inserted questions without engaging with the text. The research team’s questions, which were intended to be a means of helping students to understand what they were reading, were perceived by the students as ends in themselves. And in order to answer them expeditiously, the students adopted a superficial approach to reading, focused on being able to mention the parts of the text.⁵⁵

The point he draws out is that student learning processes are dependent upon their perceptions of what is required; there is no point in helping students develop deep learning skills “if the educational environment is giving them the message that surface ones are rewarded.”⁵⁶ Unfortunately Ramsden offers little further commentary or insight on what appears to be a significant point; that is, it would seem to warrant more investigation how such outcomes might be avoided, especially when the techniques seem directed at the enhancement of a fundamental skill and learning process.⁵⁷

Rather than dispose of a question-based approach, the focus of the web-lectures and the subject as a whole was the development and application of critical and analytical skills so as to compare, contrast and critique the readings once they had been understood. The web-lectures in *Introduction to Law* sought to avoid the surface learning outcomes by expressly presenting complex questions which were then the focus of seminars. As the following section explains, the key questions to be answered (the seminar questions) could not be sufficiently addressed with only the surface or rote knowledge which might be acquired from the questions which centred on the content of the readings.

Web-based Lectures as a Critical Tool: Inquiry and Analysis of the Readings

How can processes of critical analysis be introduced and taught to students using web-based lectures? The strategy employed built

on the question-based explanatory approach.

Students were frequently asked to compare and contrast materials or particular arguments and themes from different readings. In doing this, they were often reminded expressly of the analytical objectives of the course. It was pointed out to students that these were the types of questions which would feature in the examination; that is, they would be required in exams to reflect upon the arguments and themes in the readings, making an argument in response to a question and supporting their answer with appropriate reference to the course readings.

For instance, where some questions referred students to page references and the content of the materials, others required students to use the answers to the questions regarding content in order to compare and contrast different parts of the materials. In example 3 below, the first three questions refer to the content of the materials, while the last attaches to the critical and thematic issues which arise:

Example 3

If the political association flows from human nature, does it matter who Aristotle included in the political community?

- Or who was excluded from the community?
- And, importantly, does this mean that the law is “natural”, or does it perhaps mean something different?
- How might this relate to the point raised earlier: what if the “natural” is not natural at all, but something socially constructed?

Socratic possibilities

The web-lectures hold within them the possibility of something approaching a Socratic style of teaching, at least insofar as they enable the posing of questions to a student with a view to establishing that a proposition is understood (the content based questions) and then posing questions about that proposition as it relates to other propositions also understood correctly (the critical and analytical questions). The objective is to raise the possibility of contradiction,⁵⁸ or of understanding the possibility of relationships between the propositions that students may not have considered beforehand.⁵⁹ The web-based form of this teaching strategy⁶⁰ may hold great possibilities because it enables students to travel at their own pace, and for each student to engage in the dialogue individually.⁶¹

The dialogue in a web-based format is more significant than in, for instance, a pre-written study guide because it takes account of feedback, understandings (or misunderstandings), or developments which occur from week to week. The conversation which constitutes teaching occurs not just within the web-lecture, but within the subject as a whole.

The relationship between the web-based lectures, the seminars and the exam

The critical and comparative questions (such as the fourth question in example 3) form the heart of the seminars so that the web-lecture constitutes a part of the critical apparatus for deep learning, but is closely connected to the seminars. Students are required to use the knowledge they acquire through the readings and lectures in order to understand more complex issues.

The web-based lectures and the final examination are both written in such a way as to provide students with a solid grounding in both the content of the course and the analytical skills they will need to demonstrate to answer the examination questions. On the other hand, they are also designed to avoid students merely reciting the lecture notes. The examination is intended to contribute to and be reflective of the Faculty and subject objectives of deep learning and critical analysis.

Web-based Lectures and Communication

Among the most significant challenges faced in developing a teaching strategy was the issue of communication in the web-based lectures. Two facets of the communicative process were of particular concern: the degree of formality of the lectures and the de-personalisation of teaching and learning.

The question of formality

The question of formality is significant in the teaching process, be it face-to-face lecturing, seminar teaching or web-based learning. The style chosen by any teacher is generally that with which they are most comfortable. The web-lectures were approached on this basis, and I wanted them to be informal and at times conversational.⁶² The desire was to distinguish them from other written materials students use and to infuse them with the

character of the individual lecturer in order to personalise the learning process at least to some extent.

The problem which arises most pressingly, especially in a first year subject, is that students are expected to write their essays in a formal and scholarly manner. Would a less than formal written presentation mislead students as to the expectations of their own written work? To prevent this problem students were expressly instructed in the first web-lecture that the lectures served a different communicative purpose than an essay, thus the style and tone was informal; essays were to be presented as a formal, scholarly piece of work.

During semester there were no queries nor problems with written expression being informal. There is no way of knowing whether the instruction in the first web-lecture was responsible for this. My impression is that it acted as a clarification; students seemed to understand that formal written expression and correct legal citation would always be required in essays.⁶³

The De-personalisation of learning and teaching

When face-to-face lecturing is abandoned, students are deprived of the presence of an academic. As a matter of information, this may make little difference. As noted above, it may even improve the student's grasp of the materials. Teaching, however, is not only about information and explanation, but about communication. If one role of the academic is to foster an intellectual culture, then this can perhaps be undertaken through the imparting of the desire for knowledge by example. It is difficult to convey one's passion for learning through a non-personal medium. In every student's life they have stumbled across good teachers and bad, inspiring and uninspiring ones. Race describes the benefits of attending a lecture as including the value of a shared experience and the whetting of the appetite to learn – "creating the want."⁶⁴ The shift to web-based delivery is one which needs to be balanced carefully with the significance of such communication and with the possibility that a Faculty might lose its intellectual constituency.

Such an issue is compounded by the casualisation of teaching in academic programs everywhere. If a full-time staff member is to coordinate and lecture in the subject, and those lectures are run across the web, it is quite possible that students could go for a number of semesters before being taught face-to-face by a full-time

member of academic staff.⁶⁵

This problem was addressed at least to some extent by “personalising” the lectures through the use of an informal style, the subject coordinator/lecturer attending each tutorial class in the first two weeks so as to at least identify himself to the class, weekly consultation hours when the lecturer was available to all students in the subject, and by maintaining face-to-face seminar classes. Nevertheless, web-based delivery of lectures is undoubtedly accompanied by de-personalisation of teaching.⁶⁶

CONCLUSION

The teaching strategy implemented in *Introduction to Law* was designed with the aim of achieving the objectives of the UWS Macarthur Faculty of Law LLB program and the objectives of the subject. The *Introduction to Law* web page and the web-lectures were characterised by the use of a closely directed guide to readings which posed questions to students. While there was a limited amount of explanation which enabled some overview, summaries and contextual material to be provided, students were required to complete the course readings in order to adequately grasp the arguments and themes addressed in the subject. The goals of critical and comparative analysis were similarly addressed by posing questions to students, which required them to reflect on the merits of different readings and the implications of different arguments.

The development of the strategy thus represents not so much an excursion forward into the brave new world of Internet technology – the use of technology should not of itself be seen to represent “progress” in teaching. Instead, it is a reflection on what we do, looking back to the rationales and objectives of teaching and learning in higher education. The use of the web was thus not conceived of as a step “beyond” lecturing, but rather as a reconstitution of it in a different medium. The fundamental and conceptual nature of these distinctions became clearer throughout the semester and is considered more thoroughly in the project review.⁶⁷

As Biggs reminds us, there is “no single best method of teaching, some methods are better than others. Better teaching methods are those that are more effective in getting the learner to

engage in productive learning activities.’⁶⁸ The aim here has been to contribute to the development of what might be a better way to use the web for teaching not only with regard in part to content and method, but also with respect to the process of thinking about teaching and course development. The development of teaching strategies for web-lecturing (or any form of web-based teaching) is, to some extent, no different from other forms of course development: a critical, creative and reflective approach should enhance the experience and outcomes for students and staff alike. It is crucial to remember that teaching on the web is a different form of teaching and as such the teaching strategy employed requires a substantial reconsideration. Lecturing over the web is, in the end, not lecturing at all.

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This paper and its companion Part II article (which follows in this same issue) are based on a project funded by and undertaken at the University of Western Sydney, Macarthur in 1999. The articles were written and submitted to *Legal Education Review* with the aim of presenting to the wider academic community the experiences and outcomes of the project, and in doing so to make some critical arguments about the place of technology in law teaching. Although the bulk of the material was later included in the author’s report to the funding body, which has since been published as L McNamara, *Starting Out: An Introduction to Law and An Introduction to Flexible Delivery – Final report on a project funded by the Centre for Enhancement of Teaching and Learning, UWS Macarthur* (Sydney: CELT – UWS, 2000), the articles in this journal locate the material within an analytical and argumentative framework that aims to make the discussion relevant well beyond the specific place and context in which the project was undertaken. I am indebted to the two anonymous referees and to the *Review’s* editors for the extensive comment and criticism which has challenged many of my earlier views and subsequently added a greater depth and rigour to both pieces since the original submissions were made. In addition, I would especially like to thank Andrew Lynch who took the time to share with me great quantities of coffee, to discuss so many of the issues and ideas as this paper developed, and to comment on drafts throughout the process of writing and revision. The flaws are, of course, my responsibility alone.

- 1 M Le Brun & R Johnstone, *The Quiet (R)evolution: Improving Student Learning in Law* (Sydney: Law Book Company, 1994) xi-xii.
- 2 R Oliver & A Omari, Using online technologies to support problem based learning: Learners’ responses and perceptions (1999) 15(1) *Aust Jnl of Educ Tech* 58, at 59; M Freeman, Flexibility in access, interaction and assessment: the case for web-based teaching programs (1997) 13(1) *Aust Jnl of Educ Tech* 23, at 24, 38. Mark Freeman notes both student and staff dissatisfaction with this trend: M Freeman, The role of the Internet in teaching large undergraduate classes (1996) 1(1) *Flexible Online Learning* <<http://www.lib.uts.edu.au/fofp/article/sample2.htm>> (17 February 2000).
- 3 G Hart, Creating an Online Teaching Space (1996) 12(2) *Aust Jnl of Educ Tech* 79, at 91-92.
- 4 D Laurillard & D Margetson, *Introducing a Flexible Learning Methodology: Discussion Paper (Occasional Paper No 7)* (Brisbane: Griffiths Institute for

- Higher Education, 1997) at 1-2; R Mason, Anatomy of the Virtual University, paper presented at the Symposium *The Virtual University?*, University of Melbourne, 21-22 November 1996. For a critical perspective see ACL Zelmer, Flexible Learning: the New World Order and NTEU (1999) 3(6) *Advocate: Journal of the National Tertiary Education Union* 28.
- 5 Flexible delivery should not, however, be equated simply with web- based delivery or computer-based instruction, but includes a variety of factors such as audio or video resources, administrative flexibility and flexibility within degree programs. Laurillard & Margetson, *supra* note 4; I Nikolava & B Collis, Flexible learning and design of instruction (1998) 29(1) *Br Jnl of Educ Tech* 59, at 61.
- 6 For instance, T Greening, WWW support of student learning: A case study (1998) 14(1) *Aust Jnl of Educ Tech* 49, at 54; M Wild & C Quinn, Implications of educational theory for the design of instructional multimedia (1998) 29(1) *Br Jnl of Educ Tech* 73; R Oliver, A Omari & J Herrington, Investigating implementation strategies for WWW-based learning environments (1998) 25(2) *Int'l Jnl of Instructional Media* 121.
- 7 G Hart, *supra* note 3, at 91. The trend towards flexibility in education should be treated with care with regard to both institutional and governmental contexts; the objectives involved could be interpreted far more broadly than identified here, but more worrying and less visible are the implications for the constitution of knowledge within universities. K Nicoll, 'Fixing' the 'facts': flexible learning as policy invention (1998) 17(3) *HERD* 291 presents an interesting (if somewhat convoluted) Foucauldian analysis of the emergence of the notion of flexibility in education policy as being a "discursive invention." She argues that the value of knowledge has been changed as institutions are compelled to reorient and restructure themselves to environments and practices of flexible learning in a climate of economic rationalism. The suggestion is that the buzzword of "flexibility" is not a benign policy term to be used in the ways that academics and institutions might consider it appropriate with regard to objectives regarding the pursuit and passing on of knowledge, but is a value-laden term which pushes universities in particular directions. The result, she argues (at 300-01), is that contrary to the professed objectives of much flexible learning, "rather than becoming free, learners are subjected to more diverse and multiple relations of power involving, in many cases, an intensification of the authority of the employer in learning." By this she seems to mean that institutional structures are actually less flexible because they are geared more to the production of graduates and the demand for particular professional skills in the market. An example of a paper which would be an appropriate subject of Nicoll's criticisms, is R Lewis, The role of technology in learning: managing to achieve a vision (1999) 30(2) *Br Jnl of Educ Tech* 141. On the other hand, Nicoll also acknowledges and argues that, power being discursive, the meaning of flexibility is contestable; (at 302-03) she sees her own paper as a contribution to contesting meaning. To locate this article within Nicoll's understanding of the policy dynamics of flexible delivery, I am seeking if not to contest the meaning of flexibility at an institutional level then at least to contribute to the development of practices which might improve learning in spite of the policy invention she identifies.
- 8 L McNamara, Why teaching matters and technology doesn't: An evaluation and review of web-based lectures (Flexible delivery in a first year law subject, Part II), this issue.
- 9 The project was funded principally by the UWS Macarthur Flexlearn grants scheme with support from the UWS Macarthur Faculty of Law (now the UWS School of Law). The grant applicants were myself (as project leader) and the Dean of the Faculty, Professor Robin Woellner.
- 10 The pace of technological development and expansion of flexible delivery across the University of Western Sydney would no longer require these steps to be taken. Staff will find increasingly that institutions adopt a uniform and supported program or programs through which flexible delivery can be conducted. My suggestion for anyone considering a similar project would be to make the most

- of technology supported by one's institution.
- 11 Most notably in the Australian context P Ramsden, *Learning to Teach in Higher Education* (London: Routledge, 1992) on teaching generally, and Le Brun & Johnstone, *supra* note 1, on teaching law.
 - 12 Ramsden, *supra* note 11, at 18-21 notes that there appears to be a general consensus among lecturers with regard to the aims of higher education. This is not to say that staff expectations of students are unified with regard to expectations of students; Akerlind & Jenkins discuss the need for communication among staff so as to have consistent, fair and realistic expectations about student performance and learning outcomes at different stages of a degree: G Akerlind & S Jenkins, Academics' views of the relative roles and responsibilities of teachers and learners in a first-year university course (1998) 17(3) *HERD* 277.
 - 13 N Entwistle, Approaches to learning and forms of understanding, in B Dart & G Boulton-Lewis eds, *Teaching and Learning in Higher Education* (Melbourne: ACER Press, 1998) 73. See also Ramsden, *supra* note 11, at 46 and throughout. There is not the space in this paper to undertake a review of the basic issues, but good short reviews can be found, for instance, in M Israel, Teaching criminology through interview-based assignments (1997) 8(2) *Legal Educ Rev* 141; C Bond & M Le Brun, Promoting Learning in Law (1996) 7(1) *Legal Educ Rev* 1; R Johnstone & G Joughin, *Designing Print Materials for Flexible Teaching and Learning in Law* (Sydney: Cavendish, 1997). More substantial coverage is found in Le Brun & Johnstone, *supra* note 1, and R Johnstone, *Printed Teaching Materials: A new approach for law teachers* (London: Cavendish, 1996). Note also the idea of holistic learning (for instance, see Ramsden, *supra* note 11, at 42-44) and the relationship of deep and holistic learning with strategic learning: Le Brun & Johnstone, *supra* note 1, at 59-63.
 - 14 Ramsden, *supra* note 11, at 82. See also Johnstone (1996), *supra* note 13, at 11; Le Brun & Johnstone, *supra* note 1, at 59-60.
 - 15 J Goldring, Coping with the virtual campus: Some hints and opportunities for legal education (1995) 6(1) *Legal Educ Rev* 91, at 107-08, referring to F Marton & R Saljo, On Qualitative Differences in Learning II: Outcomes as a function of the learner's conception of the risk (1976) 46 *Br Jnl of Educ Psych* 115.
 - 16 The subject has attracted some attention at conferences: C Clark, Making a start in internet resources to encourage student learning, paper presented at the annual conference of the Australasian Law Teachers' Association 1998, University of Otago, Dunedin. <<http://www.otago.ac.nz/law/ALTA/ALTA%20Papers/Clark.html>> (17 February 2000); D Parker, Using the internet for class teaching: some further reflections, paper presented at the annual conference of the Australasian Law Teachers' Association 1998, University of Otago, Dunedin. <<http://www.otago.ac.nz/law/ALTA/ALTA%20Papers/Parker.html>> (17 February 2000). The published Australian literature on law and the Internet in either law, education or technology journals is negligible. In the US, see M Geist, Where Can You Go Today?: The Computerization of Legal Education from Workbooks to the Web (1997) 11 *Harv J of Law & Tech* 141.
 - 17 Goldring, *supra* note 15, at 110, 115-16.
 - 18 The balance is already changing; the post-LLB Practical Legal Training courses are widely offered in an on-line mode. The LLB program at Macquarie University has a substantial intake of external students. At the University of London, an LLB is offered completely on-line. Nova Southeastern University in Florida, USA, has technology and Internet delivery as its core focus in the Law program.
 - 19 Laurillard & Margetson, *supra* note 4.
 - 20 Johnstone & Joughin, *supra* note 13.
 - 21 *A Vision for the Faculty of Law, UWS Macarthur* (September 1996) at 1.
 - 22 *Id* at 2, 3.

- ²³ *UWS Macarthur Faculty of Law Course Documentation* (1995) at 10 (references omitted).
- ²⁴ *Id.*
- ²⁵ This presumes that current teaching does achieve deep learning outcomes. It is an assumption that the literature may not generally support.
- ²⁶ For instance, Ramsden, *supra* note 11, at 159-60 is pessimistic, though Le Brun & Johnstone, *supra* note 1, at 244-45 were willing to allow for some positive vision. The rapid change in technology and content on the Internet during even the last five years is, however, suggestive of grounds for more optimism.
- ²⁷ D Laurillard, *Rethinking University Teaching: A framework for the effective use of educational technology* (London: Routledge, 1993). The material is now 8 years old, but the critical discussion at 120-26 of hypertext media (such as the web) is excellent. See also 167-71 on computer conferencing (which would now be identified as simple, threaded discussion groups).
- ²⁸ *Id.* at 13-29 [at 13, quoting Ramsden *supra* note 11, at 5]. Particularly relevant to the idea of law as imparting knowledge and what constitutes teaching, Robert Gordon argues that one's understanding of what law is might inform one's approach to teaching law: R Gordon, *Critical Legal Studies as a Teaching Method, Against the Background of the Intellectual Politics of Modern Legal Education in the United States* (1989) 1(1) *Legal Educ Rev* 59, at 76-83.
- ²⁹ Laurillard, *supra* note 27, at 94, 95; generally 96ff.
- ³⁰ Le Brun & Johnstone, *supra* note 1, at 71, 89-92. For an exploration of how law students see learning, see Bond & Le Brun, *supra* note 13, where the authors argue at 28-29 that "learning is not simply the transmission of content or the facilitation of learning. It involves our active intervention to help students learn." On the complexity of lecturers' perceptions of student learning and their own place in it, see S Burroughs-Lange, *University lecturers concept of their role* (1996) 15(1) *HERD* 29.
- ³¹ See for instance, Greening, *supra* note 6, at 49-54; A Brown, *Designing for learning: What are the essential features of an effective online course?* (1997) 13(2) *Aust Jnl of Educ Tech* 115, at 116-17; Oliver, Omari & Herrington, *supra* note 6; Wild & Quinn, *supra* note 6; and to a lesser extent R Cohen, *Business Law in Cyberspace* (1997) 15 *J of Legal Studies Educ* 169. Le Brun & Johnstone, *supra* note 1, at 243-48 address non-Internet forms of computer based instruction with similar goals. Neil Selwyn is less optimistic about the use of the web and places some caveats on the widespread enthusiasm: N Selwyn, *Virtual concerns: restrictions of the Internet as a learning environment* (1999) 30(1) *Br Jnl of Educ Tech* 69.
- ³² Oliver & Omari, *supra* note 2; Greening, *supra* note 6.
- ³³ For instance, this approach dominated the projects in G Hart, *supra* note 3 (a management statistics subject); M Freeman (1997), *supra* note 2 (business finance); Parker, *supra* note 16 (company law); C Clark, *supra* note 16 (company law and an Australian legal system course); and C Hotchkiss, *The Internet as a Teaching Tool in Business Law: New Opportunities and New Resources* (1997) 15 *J of Legal Studies Educ* 257 at 266-69 (intellectual property issues). Anecdotal evidence leaves no doubt that there are many law subjects throughout Australia & elsewhere which use the Internet significantly, though are not documented by publication.
- ³⁴ Freeman (1997), *supra* note 2, at 26 identifies a range of problems that can occur where the teaching process is poorly resourced.
- ³⁵ For instance, Greening, *supra* note 6, at 54; Oliver & Omari, *supra* note 2, at 59-60.
- ³⁶ Greening, *supra* note 6, at 53-54; S Ehrmann, *Asking the right questions: What does research tell us about technology and higher learning?* (1995) 27(2) *Change* 20, at 26-27. Generally, see R Owston, *The World Wide Web: A Technology to Enhance Teaching and Learning?* (1997) 26(2) *Educ Researcher* 27.

- ³⁷ The web has become a significant medium for distance learning both in interactive and non-interactive ways. The most comprehensive exploration has been undertaken by the Open University in the UK where a series of articles examines the approaches and outcomes: P Thomas et al, A holistic approach to supporting distance learning using the Internet: transformation, not translation (1998) 29(2) *Br Jnl of Educ Tech* 149; L Carswell et al, A holistic approach to supporting distance learning using the Internet: transformation, not translation (2000) 31(1) *Br Jnl of Educ Tech* 29; other articles in the same journal are forthcoming. See also M Collins, Comparing Web, Correspondence and Lecture versions of a second-year non-major Biology course (2000) 31(1) *Br Jnl of Educ Tech* 21; R Thompson, J Winterfield & M Flanders, Into the world of electronic classrooms: a passport to flexible learning (1998) 29(2) *Br Jnl of Educ Tech* 177.
- ³⁸ The unwieldy nature of information on the web was a reason to contain rather than expand the use of hypertext. While some links were included, this was generally not part of the subject content but peripheral or incidental to it. That is, the aim was to illustrate for students the potentials of the web, without requiring them to, as it were, climb all the trees in the forest at once. The significance of a manageable workload is noted by Ramsden, *supra* note 11, at 137-38; see also *infra* note 50 and accompanying text. The unknown computing competency would make a highly interactive subject inappropriate for first year students; the necessity for students to understand the medium in order to get the most out of it is noted by Thompson et al, *supra* note 37.
- ³⁹ P Race, *The Open Learning Handbook: Promoting quality in designing and delivering flexible learning* 2nd ed (London: Kogan Page, 1994) esp chs 1-3, 5, 10.
- ⁴⁰ D Rowntree, *Teaching Through Self-Instruction: How to develop open learning materials* rev ed (London: Kogan Page, 1994).
- ⁴¹ Johnstone, *supra* note 13.
- ⁴² Johnstone & Joughin, *supra* note 13.
- ⁴³ For a useful “top 10” list and commentary on references on teaching materials, see R Johnstone & M Le Brun, Our Top 10 Books on Education: For the ‘Educationally-Curious’ Bibliophile (1994) 5(1) *Legal Educ Rev* 105; to that list should be added their own book of that year, *The Quiet (R)evolution*: Le Brun & Johnstone, *supra* note 1.
- ⁴⁴ Laurillard, *supra* note 27, at 105.
- ⁴⁵ The relationship between course content and approach to learning is important with a view to establishing a foundation for future thinking about law and deep learning skills. Keyes & Orr note that legal theory is significant in first year because it enhances both student understanding of course content and student learning in future subjects. It builds a more sophisticated and holistic conception of law and of learning with “a respect for the different possibilities of law and legal knowledge.” It is also consistent with “an educational process creating both an awareness of different ways of thinking and a flexible framework of knowledge.” M Keyes & G Orr, Giving theory ‘A Life’: First Year Student Conceptions of Legal Theory (1996) 7(1) *Legal Educ Rev* 31, at 52.
- ⁴⁶ Le Brun & Johnstone, *supra* note 1, at 257-72 provide a good selection of damning criticisms as well as some guidance on how to avoid the worst pitfalls. For criticism, see also Ramsden *supra* note 11, at 152-56, 165-70; Laurillard, *supra* note 27, at 107-09; A d’Amato, The Decline and Fall of Law Teaching in the Age of Student Consumerism (1987) 37 *J Legal Educ* 461, at 464-65. Race, *supra* note 39, at 182-94 provides a very constructive critique. D Bligh, *What’s the use of lectures?* 5th ed (Exeter: Intellect, 1998) provides a qualified defence of lectures (see esp 24-25) and numerous strategies to improve them. R Cannon, *Lecturing* 2nd ed (Canberra: HERDSA, 1992) provides both critique and guidance.
- ⁴⁷ Le Brun & Johnstone, *supra* note 1, at 263-64.
- ⁴⁸ On promoting thought in lectures, see Bligh *supra* note 46 at 208-13.

- ⁴⁹ It should be noted that small group teaching by no means guarantees effective student learning: Le Brun & Johnstone, *supra* note 1, at 272-91; Ramsden, *supra* note 11, at 156-59.
- ⁵⁰ Cannon, *supra* note 46, at 31, discusses the process of moving from “telling” in lectures to that of learning and teaching: “The basic principle to keep in mind is that where [purposes other than presenting information about a subject] is the purpose, students must be placed in a situation where they have to think...”
- ⁵¹ There was also the need to ensure that the lectures did not increase student workload, especially by simply increasing the readings. On the detrimental effect of heavy student workload, especially that driven by content, see Ramsden, *supra* note 11, at 137-38.
- ⁵² The reflections by D’Amato *supra* note 46, at 465-66 [note 9] identify the worrying nature of this trend with regard to the absence of meaningful critique and analysis, and perhaps even the absence of the possibility of such meaningful engagement.
- ⁵³ I would argue that similar concerns are raised when print-based lecture materials are used. If the objectives are those of ‘deep learning’, it seems difficult to identify the processes by which such learning occurs if explanatory material dominates the educational process. The open-learning literature is similarly ‘un-explanatory’ favouring an active participation by students in the learning process.
- ⁵⁴ Richard Clark notes that the ability to work at one’s own pace was the most common reason given for preferring self-directed study: R Clark, Student Opinion of Flexible Teaching and Learning in Higher Education, in W Wade et al eds, *Flexible Learning in Higher Education* (London: Kogan Page, 1994) 137.
- ⁵⁵ Ramsden, *supra* note 11, at 63; he also identifies – though does not elaborate on – a similar outcome in Australia.
- ⁵⁶ Ramsden, *supra* note 11, at 54.
- ⁵⁷ On critical reading, see D du Boulay, Argument in reading: what does it involve and how can students become better critical readers (1999) 4(2) *Teaching in Higher Educ* 147.
- ⁵⁸ See Le Brun & Johnstone, *supra* note 1, at 282-83 regarding Socratic method as propositions and contradictions.
- ⁵⁹ On Socratic method, see also D’Amato, *supra* note 46, at 466; A Stone, Legal Education on the Couch (1971) 85 *Harv LR* 392 at 406-08.
- ⁶⁰ One suggestion put to me was to refer to it as techno-Socratic, though while this captures the technological aspects, it echoes too much of the lawyer as technician (precisely what I wish to avoid). Another option might be “cyber-Socratic.” On the other hand, maybe such a label should be avoided as it does not take seriously enough the skill and sophistication of good Socratic teaching and overstates the interactive nature of what is a static use of the web.
- ⁶¹ I am unsure of the extent to which it may address some of the concerns identified by Morgan regarding the “hesitant student” and issues of gender, such as the silencing of women in the classroom through Socratic teaching: J Morgan, The Socratic method: Silencing cooperation (1989) 1(2) *Legal Educ Rev* 151. On the one hand, it would seem *prima facie* to address the silencing of women in the classroom (by virtue of removing the classroom), but on the other hand an increased sense of engagement in web-lectures may serve to illuminate exclusion in seminar classes.
- ⁶² This approach is recommended by Rowntree, *supra* note 40, at 155, 207-11; Johnstone, *supra* note 13, at 80; Race, *supra* note 39, at 105-31, esp 106-10, 129-31.
- ⁶³ Race, *id* at 130, argues that conversational lectures, including the use of contractions (see also Rowntree, *id* at 208-09) will not impact negatively on student writing but, if anything, favourably as it encourages them to write in a simple and straightforward manner.

- ⁶⁴ Race, *supra* note 39, at 184.
- ⁶⁵ This is problematic not because casual staff are not good teachers (often students would claim they are better!), but because of the structural impediments they face. Casual staff – while often excellent (and those who taught in *Introduction to Law* while the project ran were all excellent) – do not generally have the same opportunities for staff training and development, nor funding or opportunities to participate in law teaching workshops or the like, nor the continuity in teaching the same subjects regularly which enables more substantial reflection on the relationship between course content and teaching and learning. On the importance of course content vis à vis teaching and learning see Ramsden, *supra* note 11, at 124-37 (esp 124-25), 167.
- ⁶⁶ There is arguably also some concern that web-based delivery removes interaction between students. This was not such a concern in *Introduction to Law* because of the mixed-mode of teaching which retained the weekly seminar classes. In particular, student interaction is perhaps least significant in lectures to large groups.
- ⁶⁷ McNamara, *supra* note 8.
- ⁶⁸ J Biggs, Teaching for better learning (1989-90) 2(2) *Legal Educ Rev* 133, at 144.