

A REFLECTION ON THE BOND MODEL OF TEACHING

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The vision of the founding professors at Bond Law was to provide a more personal education by a faculty who were truly committed to teaching excellence. So it was that they developed the Bond lecture/tutorial model for law. The model was not new. In fact it was and still is the standard Australian university teaching method. What made the Bond model different was that it mandated small tutorial groups. In many institutions a 'tutorial' is in name only, as 30 or more students are crammed into a tutorial. Currently a tutorial group at Bond is capped at 12 students. There is no question that the Bond model has worked and the law faculty, in particular, is recognised for its quality teaching.¹

The law faculty is now celebrating its 20th anniversary and it is an appropriate time for reflection; to look back at past struggles and achievements, but also to look to the future and consider how the next 20 years can be better. In my view, notwithstanding the successes, the teaching can be better and there is a need to take a good hard, critical look at the lecture/tutorial model. To be blunt – it is not the be and end all.

What is fascinating is how in education we tend to embrace teaching methods to the extreme. By that I mean the educational 'system' demands conformity. We see this in the lecture/tutorial model, which is the prevailing mode of teaching in all the law core courses at Bond. The core constitutes the bulk of a student's education: for a LLB student or JD student the core represents 19 out of the 24 law courses. No wonder students become expert at the tutorial game. There are certain tutorial techniques that they have honed to perfection:

- The later is better technique – students in later tutorial groups obtain the answers from earlier tutorials and it is amazing how the later students are so much better informed;
- The pre-emptive strike technique – students eagerly volunteer to answer certain questions in order to say just enough to show a modicum of

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¹ In 2009 *The Good Universities Guide* <http://www.gooduniguide.com.au> gave Bond a five star rating for teaching quality.

understanding and in order to hide their total lack of any in-depth preparation;

- The 'laptop hiding' technique – when called upon students descend into their laptops in supposed search of their answer, and as they search they stall in the hope that the tutor will move on to another student; and
- The 'who blinks first' technique – students have learned the power of patience. They have learned that tutors fear silence and rather than waiting for a student to answer the tutor will break the silence and answer his or her own question.

Despite these criticisms the tutorial model works. The problem is the overkill and diminishing returns. I suggest that it is time to diversify and introduce different teaching methods, which may well enhance the learning for students.

My own legal education experience is with the Socratic method, also called the case method or case dialogue method, which is the teaching staple in law schools throughout North America. Ironically one of the criticisms of the Socratic method is that it too is used to excess, once again, the 'system' demands conformity in delivery.² The question is not, which teaching method is the better? Rather, the more useful question is, what can we learn from each other? Let us now look at the problems of the existing lecture/tutorial model and then look to the strengths and weaknesses of the Socratic model to see what it does offer.

The lecture/tutorial model

The primary criticism of the lecture is that it involves passive, low level learning. In other words students sit, listen, observe and may or may not absorb.³ They are largely passive recipients of knowledge. There is little critical analysis, evaluation or application done by them. They occupy a seat and take notes.⁴

This reality is further aggravated by the fact that we really do not expect students to have prepared for the lectures. Even if readings are assigned for the lecture there is

² William Sullivan, Anne Colby, Judith Wegner, Lloyd Bond and Lee Shulman, *Educating Lawyers: Preparation for the Profession of Law* (2007) 47-86. See also: Benjamin Madison, 'The Elephant in Law School Classrooms: Overuse of The Socratic Method as an Obstacle to Teaching Modern Law Students' (2008) *U. Det. Mercy L. Rev.* 293.

³ John Biggs and Catherine Tang, *Teaching for Quality Learning at University* (3rd ed, 2007) 107-110.

⁴ For a further critique of the 'traditional lecture' see Mary Keyes and Richard Johnstone, 'Changing Legal Education: Rhetoric, Reality, and Prospects' (2004) 26 *Sydney Law Review* 537.

little incentive for the students to do so; the lecturer will provide the answers. The result is a largely unprepared audience. Hardly the stuff of advanced thinking! True many of us do engage, but it is difficult to do so in any meaningful way if the students have done no reading for the class. The engagement takes on a superficial quality.

The problem becomes even more acute at Bond because the core subjects are streamed. Students can watch from the comfort of home. Why bother to come to class and many do not. The result is no engagement as opposed to at least some engagement should they turn up to class. In many of the later semester core subjects only 25-30% of students attend lectures. Streaming also puts constraints on the professor. Do you lecture to the stream majority or to the assembled minority?

Does streaming impact on the learning? In my view it does. This past term I taught evidence, which is a core subject often taken by students in their last few semesters. I actually had a fairly strong turnout – approximately 65%, perhaps because the students knew that I did not lecture and that the class was more interactive, which does not stream well. Table 1 shows the marked difference in results between attendees and non-attendees who sat the examination. Those who attended did much better than those who did not. The class average was 63.6%. Attendees had an average of 66.1% and non-attendees had an average of 56.7%. Certainly there are many more variables that impact on a student's performance than class attendance, however, the fact that we accept, if not encourage students not to attend lectures, does impact on their learning. The non-attendees for the most part can pass the course, but little more. This hardly inspires excellence.

Table 1 Attendance and Grades

Grades	Attending Students	Non-Attending Students
High Distinction 85-100%	5	0
Distinction 75-84%	14	1*
Credit 65-74%	17	6
Pass 50-64%	22	18
Fail	1	5
Averages: Class Average 63.6%	66.1%	56.7%

* The one 'non-attending student' who received the Distinction, could not attend because of work commitments. But she was a very diligent student and extremely hard working.

The real question is what kind of professional ethos are we cultivating? Don't attend class, get through, do minimalist work. These attitudes do not make a sound foundation for professional practice. This too is a current criticism of law schools. There is a gap between a student ethic and a professional ethic.⁵ A professional does not provide minimal service, but strives for more. Many of our students are content to do the minimal. A professional ethos is lacking. It is difficult to engender such an ethos when a student may only attend the law school for their four tutorial hours per week and nothing more! So much for the touted 'personal' education. The students of course do not complain. Why would they? Few demands are expected of them and all that they want is the piece of paper – learning of the law is inconsequential.

Does the tutorial make up for this lack of engagement? The tutorial is the place for active learning – maybe. Some instructors treat the tutorial as a vehicle for further information. Students are not called upon to apply the law, but observe how the instructor or tutor applies the law. Not good. Yet, I would suggest that in the majority of cases the tutorial does cultivate active learning. Students are called upon to use, apply and evaluate the law. The problem of course is that you are only doing so for one out of the three credit hours per week.

Socratic method

The Socratic method conjures images of the tyrannical professor browbeating the bedraggled student. Some would say learning through intimidation. The Socratic method, like any method, can and no doubt is misapplied by some instructors. The same holds true for any teaching method. There are many, many bad lecturers. We should not let the abuses taint the overall value of the process. There is no question that the Socratic method inculcates in the students an ability and process for dissecting, analysing, using and identifying the key findings in a case. The students learn how to read a case and understand how it can be used. These are abilities that I have found English and Australian students far weaker at doing than their Canadian counterparts - yet they are essential lawyering skills.

To be clear there is no one Socratic method. There is a tendency to associate the Socratic with the professor continuously asking questions to be answered by called upon students. A key feature of the pure Socratic is the fact that students are involuntarily called upon to participate – to answer the questions. Frankly, few professors these days do such continuous questioning.⁶ Most use a variety of

⁵ See Sullivan et al above at n 2, 126-161.

⁶ For a thoughtful summary and review of the current state of the Socratic method see: Amy Mashburn, 'Can Xenophon Save The Socratic Method?' (2008) 30 *T Jefferson L Rev* 597.

interactive techniques. For that reason the terms 'case method' or 'dialogue method' are perhaps more accurate phrases for the approach. For example, in a given class the instructor may set the legal scene with a 5 to 10 minute mini-lecture, which leads into a discussion of the assigned case, to be followed by problems put to the students as a whole to resolve or to be discussed in smaller break-out groups. The essence of the approach is that the students are required to use, apply and analyse the material assigned.

The Socratic method remains the prevailing teaching means in Canada and the United States. Although in fairness, increasingly instructors seem to be transforming it more and more into a straight lecture.⁷ In order to accommodate the Socratic approach 'sectioning' of courses takes place in the North American law schools. Consider a contract course with 200 students. In Australia a course coordinator would take the course and lecture to the 200, with tutorials to follow. In Canada such a course may well be divided into three sections. Each instructor would take a section. The three instructors may or may not coordinate their teaching. Sometimes instructors have different emphasis, different approaches and may teach differently. For example, a law and economics professor may well teach a course differently from a traditional doctrine professor. North American law schools embrace this diversity and eschew the notion of a standardised template in terms of content or methodology. Where there would be agreement is in the use of a case discussion method. Cases and materials would be assigned for each class and the students would be expected to have read the material and be prepared to discuss it in the class. Normally a three credit course would be split into two 1 ½ hour classes. There would be no tutorials.

The classes, if taught in a true Socratic or discussion fashion, involve active participation by the students. In fact, in North America there is an expectation that students have an obligation to assist each other and the class as a whole to function.

The Socratic method works; perhaps too well. Students coming out of first year in North American law schools are imbued with a lawyer's analytical ability. The method works because the students generally have the maturity to engage in the process and the responsibility to prepare properly for the classes. Keep in mind that in North America law is a second degree and the average age of students may well be 23-25. What works well in North America may not work so well with 17-year-old school leavers.

⁷ Sullivan et al above n 2 at 52.

A criticism of the Socratic method is that it is overdone. After first year in law the students do know how to read and apply cases – yet the method continues. Secondly, it is thought by some that the Socratic method results in a narrow ‘legalistic’ view of the world. Broader policy questions are put aside by the push and pull of precedent.⁸

Is it learning through ‘intimidation’? Yes and no. There is an expectation, especially in a professional faculty that the students will properly prepare for class. If a student is prepared for class, they will learn a great deal from the discussion. Students who have not done the reading are left wallowing. If a student is uncomfortable speaking in front of a larger group, safe questions can be found to overcome that hurdle. I use a ‘soft Socratic’, which is intended to create a positive learning environment. I do try to engage the entire class through a variety of techniques. I do call on students and yes that results in a measure of discomfort, but the purpose of the calling is not to humiliate or intimidate; it is an invitation to contribute to a joint learning enterprise. Students are told that if they are not prepared for a particular class to tell me in advance and they will not be called on. I well appreciate that a student faces a variety of demands and cannot always be on top of the readings.

What the Socratic method does offer is active student engagement. But there is a price. The instructor must prepare very well for the class and know the case better than the students. Lectures are easy by comparison. With a lecture the instructor has complete control over the content. In a Socratic dialogue the questions may be prepared, but the student answers are not. There is a degree of loss of control, as the instructor must react and respond to the student answers. At the same time the discussion must be controlled. Discussion for the sake of discussion is not good enough. The objective of the Socratic class is to have the students reason through the process with the instructor acting as guide.

A proposal

If we accept that there are problems with the existing lecture/tutorial model then there is a need to look for better alternatives. I do not suggest replacing the existing system with Socratic teaching. That would not work, especially in the first semester courses, where the students may not have the maturity to engage in the process. Moreover, many of the academic staff are not familiar or comfortable with such teaching. What I do suggest is that we need to allow for individual innovation and if certain instructors wish to try a new more engaging style then we should encourage that teaching creativity.

⁸ For a more detailed critique of the Socratic Method see Madison above n 2.

I also appreciate that a pure Socratic method has its drawbacks; it can be an impersonal experience in a large class setting. One administrative attraction of the Socratic method is that it rationalises teaching in large groups. So it is that in many American Universities the sections will have 100 students or more. If we transferred that model to Bond one instructor could teach a course in three credit hours with no tutorials. What a cost savings for the university! That is not what I propose. The Socratic method is more effective in smaller classes. Nor do I suggest that we abandon the tutorial system. We modify it; we create a hybrid. Tutorials would still be held, but cut in half with only five per term and not the existing 11 weeks of tutorials. Let me explain by taking the existing course that I just finished teaching in evidence and rework it into a Socratic/tutorial hybrid.

a) The existing course in Evidence

The evidence course is three credits. This translates into 36 contact hours. The course is taught the traditional way with a two hour lecture followed by a one hour tutorial. The tutorials start in week two. There were approximately 90 students in the course, which is fairly typical. Nine tutorials were scheduled. I taught the entire course; I took all the tutorials. Therefore I had an 11 hour credit load per week. Table 2 represents the teaching contact hours over the 12 week semester.

Table 2 Existing Lecture/Tutorial Course

Week	1	2	3	4	5	6	7	8	9	10	11	12	Total Hours
Lecture Hours	2	2	2	2	2	2	2	2	2	2	2	2	24
Tutorial Hours		1	1	1	1	1	1	1	1	1	1	1	11

b) A hybrid Socratic/tutorial course

First the 90 students would be divided into two sections. One convenient way of dividing the class is by undergraduate (LLB) and postgraduate (JD). However, this division would have the unfortunate offshoot of separating many foreign, more mature JD students from the Australian cohort. There is value in diversity. At any rate the class would be sectioned into two groups of 45 students. They would then be taught in 1 ½ hour teaching times. I personally find that 1 ½ hours without a break is the ideal teaching time. Let us assume that the classes are taught Mondays and Wednesdays, with four hours of tutorials scheduled for Thursday afternoon. Each section would have their tutorials in alternate weeks. There would also be time for a

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mid-semester break. One of the drawbacks of the Bond three-semester system is that it results in an unrelenting concentrated 12 weeks of teaching. With a little more flexibility a mid-semester week break is possible. Table 3 outlines the hybrid course.

Table 3 Modified Socratic/Tutorial Course

Week	1	2	3	4	5	6	7 Break	8	9	10	11	12	Total Hours
Section 1 Lecture Hours	1 ½	3	3	3	3	3		3	3	3	3	3	31 ½
Section 1 Tutorial Hours		1		1		1			1		1		5
Section 2 Lecture Hours	1 ½	3	3	3	3	3		3	3	3	3	3	31 ½
Section 2 Tutorial Hours			1		1			1		1		1	5

The hybrid Socratic/tutorial course has the same number of hours and also requires the same teaching load as with the existing course. Under the hybrid approach the instructor would have six hours of class teaching with four hours of tutorials. There is no need for increased resources, only a change of rooms. A large lecture theatre is replaced by a smaller case study room. Moreover, I would suggest that the course becomes more personal.

Conclusion

The above change is possible, what is needed is the will and timetabling flexibility. Complacency breeds rigidity, bureaucracy and mediocrity. These were the very ills that spawned the desire for Bond to be different and to be better when it was first created 20 years ago. Bond is too young an institution for such complacency to set in. Bond needs to continue to innovate and if something can be done better, then we need to do it. In my view Bond would be a better law school if we introduced sectioning and Socratic teaching in certain upper semester core courses. The method would be more challenging for the students. They would have to prepare for classes

as well as for the tutorials. More would be expected of them, but if you raise expectations the more the students ultimately learn and gain.