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LAW STUDENTS' EXPERIENCES IN AN EXPERIENTIAL LAW AND RESEARCH PROGRAM IN AUSTRALIA

NICKY MCWILLIAM,* TRACEY YEUNG** AND ANNABELLE GREEN***

'I hear, and I forget. I see, and I remember. I do, and I understand'.
不闻不若闻之, 闻之不若见之, 见之不若知之, 知之不若行之[†]

I INTRODUCTION

Australian law schools are continually seeking new approaches to teaching and assessing legal knowledge and skills, not only to improve the quality and effectiveness of teaching, but also to create learning environments relevant to current legal practice that encourage and support students. The negative effects on students of the traditional law school teaching framework have been well documented.¹ More recently, the negative effects of the adversarial paradigm have also been included in these studies.² Research has shown higher levels of depression, anxiety, social isolation, lack of personal autonomy and substance abuse among law students than in other subject disciplines.³

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[†] Quote by Chinese Confucian philosopher Xun Kuang, (312–230 BC), recorded in Ruxiao ('The Teachings of the Ru') Book 8 Ch 11, from the set of 32 books called the Xunzi. The quote has also been attributed to Confucius or Lao-zi. It is derived from the paragraph: 'Not having heard something is not as good as having heard it; having heard it is not as good as having seen it; having seen it is not as good as knowing it; knowing it is not as good as putting it into practice'.

¹ Rachel Field and Sally Kift, 'Addressing the High Levels of Psychological Distress in Law Students Through Intentional Assessment and Feedback Design in the First Year Law Curriculum' (2010) 1(1) *International Journal of the First Year in Higher Education* 65, 65.

² Pauline Collins, 'Resistance to the Teaching of ADR in the Legal Academy' (2015) 26 *Australasian Dispute Resolution Journal* 64, 64.

³ Kennon M Sheldon and Lawrence S Krieger, 'Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being' (2004) 22 *Behavioral Sciences and the Law* 261, 261; Field and Kift, above n 1, 66; Massimiliano Tani and Prue Vines, 'Law Students' Attitudes to

As a reaction, there has been a rise of commentary advocating for law schools to deliver more humanising educational programs,⁴ which redefine traditional notions of competition and success.⁵ This approach aims to increase students' motivation by emphasising a holistic, values-based view of the purpose of the law and legal practice.⁶ By combining the doctrinal, transmission-based 'black-letter style' of teaching with more practice-based programs, including classroom participation, group activities, and clinical and experiential courses,⁷ law schools can provide avenues for students to develop skills that cannot be effectively taught through orthodox methods such as solving problem questions and essay-writing.⁸ The current regulatory framework requires law schools to integrate so-called 'graduate attributes' of communication and collaboration, research skills and self-management into assessment tasks.⁹

Whilst there is ongoing debate¹⁰ about the success of these integrative approaches to learning, studies have recorded that learning at law school through class participation, group work, discussion-based activities, and collaborative and problem-solving activities has a positive impact on students both academically and socially.¹¹ There is an abundance of literature documenting the learning¹² and social benefits: increased social connectedness and positive peer relationships,¹³ increased self-esteem and psychological wellbeing, improved communication skills, positive attitudes towards the learning

Education: Pointers to Depression in the Legal Academy and the Profession?' (2009) 19 *Legal Education Review* 3, 31.

⁴ Kath Hall, 'Do We Really Want to Know? Recognising the Importance of Student Psychological Wellbeing in Australian Law Schools' (2009) 9 *Queensland University of Technology Law and Justice Journal* 1, 1; Molly Townes O'Brien, Stephen Tang and Kath Hall, 'No Time to Lose: Negative Impact on Law Student Wellbeing May Begin in Year One' (2011) 2(2) *International Journal of the First Year in Higher Education* 49, 49; Susan Douglas, 'Humanising Legal Education: Lessons from ADR' (2012) 23 *Australasian Dispute Resolution Journal* 216, 216.

⁵ Lawrence S Krieger, 'Human Nature As a New Guiding Philosophy for Legal Education and the Profession' (2008) 47 *Washburn Law Journal* 247, 247.

⁶ Tani and Vines, above n 3.

⁷ Judy Gutman and Matthew Riddle, 'ADR in Legal Education: Learning by Doing' (2012) 23 *Australasian Dispute Resolution Journal* 189, 189.

⁸ Tammy Johnson and Francina Cantatore, 'Equipping Students for the Real World: Using a Scaffolded Experiential Approach to Teach the Skill of Legal Drafting' (2013) 23 *Legal Education Review* 113.

⁹ *Tertiary Education Quality and Standards Agency Act 2011* (Cth) s 3(b)(i); *Higher Education Standards Framework (Threshold Standards) 2015* (Cth); Australian Qualifications Framework Council, *Australian Qualifications Framework* (Australian Qualifications Framework Council, 2nd ed, 2013).

¹⁰ Sally Kift, '21st Century Climate for Change: Curriculum Design for Quality Learning Engagement in Law' (2008) 18 *Legal Education Review* 1, 1.

¹¹ Alex Steel, Julian Laurens and Anna Huggins, 'Class Participation as a Learning and Assessment Strategy in Law: Facilitating Students' Engagement, Skills Development and Deep Learning' (2013) 36 *University of New South Wales Law Journal* 30; Olivier Rundle, 'Creating a Healthy Group Work Learning Environment in Law Classes' (2014) 14(1) *Queensland University of Technology Law Review* 63.

¹² Heather M Field, 'Experiential Learning in a Lecture Class: Exposing Students to the Skill of Giving Useful Tax Advice' (2012) 9 *Pittsburgh Tax Review* 43, 43.

¹³ Mary Keyes and Kylie Burns, 'Group Learning in Law' (2008) 17 *Griffith Law Review* 357, 361.

process,¹⁴ higher educational achievement,¹⁵ improved critical thinking, problem solving and collaboration skills,¹⁶ and increased creativity. Notwithstanding the advantages, a recent study conducted in the University of New South Wales Law School found that students (and sometimes staff) have a tendency to resist this form of activity as an assessment for academic credit for three main reasons. Firstly, because it is commonly perceived as unfair due to the subjective nature of the assessment; secondly, because group work can be contrived or artificial; and lastly, because there are concerns that workload is often unequally distributed and cannot be reflected in the grading process.¹⁷

Literature on combining research and teaching at law school by involving students explicates shared benefits for students, teachers and the university.¹⁸ For example, it has been found that using research in teaching motivates students and teachers, develops expertise and new perspectives on subject matter, engages participants in new ideas and thinking, gives voice to student comment, contextualises ethics and confidentiality, and contributes to developing a collegiate environment.¹⁹

There is only a limited range of literature documenting student-based research team programs that implement an interdisciplinary approach to cooperative learning strategies and have students working together in a shared learning experience. However, despite the lack of material, the existing studies show that this type of learning enhances not only student academic achievement, but also personal confidence and self-esteem, as well as peer interpersonal relationships.²⁰ The results of a previous American study show an improvement in overall skills, but especially in written and oral communication proficiencies and information technology skills. Students engaged in research and in using other practical skills were, through these tasks, exposed to real-life practice, which was shown to cement their understanding of the theory and practice of the subject area.²¹

The concept and advantages of situational and clinical learning are not new²²—it is the basis of work experience, internships or community

¹⁴ Field and Kift, above n 1, 70.

¹⁵ Kift, above n 10, 1–24.

¹⁶ Tammy L Henderson and Lenore McWey, 'Family Law and Foster Care: Cooperative Research Teams' (2006) 38(2) *Marriage & Family Review* 23, 39.

¹⁷ Alex Steel, Anna Huggins and Julian Laurens, 'Valuable Learning, Unwelcome Assessment: What LLB and JD Students Really Think about Group Work' (2014) 36 *Sydney Law Review* 291, 320.

¹⁸ Molly Townes O'Brien, 'The Learning Journey: Please Take Me with You' (2014) 35 *Adelaide Law Review* 23, 23.

¹⁹ *Ibid* 31.

²⁰ *Ibid*; Henderson and McWey, above n 16.

²¹ A 15-week research family science project about foster care in the United States with similar goals and objectives to the program under study was used to teach parenting education and family law to a group of 10, comprising eight family science students and two members of staff.

²² John Seely Brown, Allan Collins and Paul Duguid, 'Situated Cognition and the Culture of Learning' (1989) 18(1) *Educational Researcher* 32, 32.

and volunteering services programs.²³ These allow students to appreciate the nature and practice of law by experiencing the wider, real-life operation of the legal system.²⁴ Clinical pedagogy in these forms takes into account multiple theories of intelligence that recognise the value of emotional intelligence, problem solving and creative thinking, which are often ignored in orthodox legal education.²⁵

With evidence-based data mainly drawing on North American scholarship, many legal educators have argued for the integration of mandatory alternative dispute resolution (ADR) education into Australian law school curricula,²⁶ contending that this reflects the central role of ADR in mainstream legal practice and procedure and therefore teaches best practice, including competency in ADR theory and practice.²⁷ This is supported by data that points to psychological benefits for students in an ADR learning model that incorporates an experiential framework.²⁸ Since the 1980s, the pedagogical and psychological value of ADR programs (including skills-based, cooperative learning in schools) has been well documented²⁹ but undervalued in legal education and practice.³⁰ These studies have linked ADR pedagogy to improvements in academic achievement,³¹ educational institution climate,³² and students' psychological health, self-esteem, self-regulation and resilience.³³

²³ Margaret Castles, Rachel Spencer and Deborah Ankor, 'Clinical Legal Education in South Australia' (2014) 36(4) *Bulletin (Law Society of South Australia)* 38.

²⁴ John R Peden, 'Professional Legal Education and Skills Training for Australian Lawyers' (1972) 46 *Australian Law Journal* 157, 157; Richard Grimes, 'The Theory and Practice of Clinical Legal Education' in Julian Webb and Caroline Maughan (eds), *Teaching Lawyers' Skills* (Butterworths, 1996) 138; Mary Anne Noone and Judith Dickson, 'Teaching Towards a New Professionalism: Challenging Law Students to Become Ethical Lawyers' (2001) 4 *Legal Ethics* 127, 127.

²⁵ Ross Hyams, 'Nurturing Multiple Intelligences through Clinical Legal Education' (2011) 15 *University of Western Sydney Law Review* 80, 82.

²⁶ Gutman and Riddle, above n 7; James Duffy and Rachel Field, 'Why ADR Must be a Mandatory Subject in the Law Degree: A Cheat Sheet for the Willing and a Primer for the Non-Believer' (2014) 25 *Australasian Dispute Resolution Journal* 9; Collins, above n 2.

²⁷ Gutman and Riddle, above n 7.

²⁸ Jill Howieson, 'ADR Education: Creating Engagement and Increasing Mental Well-Being through an Interactive and Constructive Approach' (2011) 22 *Australasian Dispute Resolution Journal* 58, 58; Gutman and Riddle, above n 7, 193.

²⁹ David W Johnson and Roger T Johnson, 'Conflict Resolution and Peer Mediation Programs in Elementary and Secondary Schools: A Review of the Research' (1996) 66 *Review of Educational Research* 459.

³⁰ Nicky McWilliam, 'A School Peer Mediation Program as a Context for Exploring Therapeutic Jurisprudence (TJ): Can a Peer Mediation Program Inform the Law?' (2010) 33 *International Journal of Law and Psychiatry* 293.

³¹ Laurie Stevahn et al, 'Effects on High School Students of Conflict Resolution Training Integrated into English Literature' (1997) 137 *Journal of Social Psychology* 302, 302.

³² Daniel R Crary, 'Community Benefits from Mediation: A Test of the "Peace Virus" Hypothesis' (1992) 9 *Mediation Quarterly* 241, 241.

³³ Jennifer P Maxwell, 'Mediation in the Schools: Self-Regulation, Self-Esteem and Self-Discipline' (1989) 7 *Mediation Quarterly* 149, 150.

An important aspect relating to empirical studies on the effectiveness of experiential learning in general³⁴ is detailed in a 2004 review of scholarship on assessing experiential learning effectiveness which states that the studies reviewed support the effectiveness of experiential learning.³⁵ However, this review points out that these studies tend not to meet the highest of research design and measurement standards therefore rendering any conclusions tentative.³⁶ A more recent article acknowledged this issue flagged by the 2004 review and references other studies even with this problem are achieving their intended aims.³⁷

A *The Program*

The program that is the basis of this study provides students with an experiential learning opportunity through their participation in aspects of research projects that are at proposal and development stage or currently underway at the University of Technology, Sydney (UTS). The research tasks and assignments vary in terms of purpose, methodologies and the stage at which students are expected to take part. Students participate as research assistants and actively contribute to aspects and phases of research project planning and development of the research. These contributions included: providing input into the development of research questions, conducting literature reviews, and advancing research strategies and methodologies. Some tasks and assignments also offered students the opportunity to participate in ongoing project field work, write ethics applications, formulate surveys, collect and analyse data, transcribe interviews and write reports or other communications. The program also integrated, and encouraged students to make use of, technology and other resources available to the students via the university.

The program was created and supervised by Nicky McWilliam with the dual aims of engaging students as research assistants on a legal research study, and creating a collaborative and experiential learning environment. Within the framework of a research area related to ADR practices in the legal system, students experience real-life reference points for learning the law and have the opportunity to apply relevant legal theory. The program offers students insight and knowledge about the operation of a particular aspect of ADR in the legal system. Working on these projects enables students to develop and apply analytical, research, communication and collaborative skills that are important for legal professionals in the context of tangible projects and outcomes. Additionally, there is a strong focus on gaining an understanding of the

³⁴ Jerry Gosen and John Washbush 'A Review of Scholarship on Assessing Experiential Learning Effectiveness' (2004) 35 *Simulation and Gaming* 270.

³⁵ *Ibid* 270, 282.

³⁶ *Ibid* 284.

³⁷ William J Lahneman and Rubén Arcos, 'Experiencing the Art of Intelligence: Using Simulations/Gaming for Teaching Intelligence and Developing Analysis and Production Skills' (2017) 32 *Intelligence and National Security* 972.

significance of the protocols and ethics of a research project, especially the importance of professional standards and confidentiality.

Students create and manage online data storage systems such as: the Microsoft OneDrive platform, a secure, password-protected cloud-based service for easy access and sharing of de-identified research information, literature relevant to the research and all information generated during the research; Google Calendar, an interactive calendar easily accessed by team members and frequently updated with research workshop times and data collection points (in-person and telephone interview with each time slot accommodating two students); and an Endnote library, a referencing tool to record all literature and scholarship relevant and applicable to the study. All participating students were offered a training session in setting up, inputting data and using Endnote, and in inputting data and using the Statistical Package for Social Sciences (SPSS), a statistical software package used for data analysis.

In contrast to the traditional information transmission model of learning, the program is designed on a pedagogy model whereby the students learn by engagement, collaboration, discussion and participation in the practicalities and tasks required by a legal research project. A vital element of the program is constant and ongoing supervision and mentoring, with regular instruction by the program coordinator. Workshops are held two to three times per week, with each workshop of two hours in duration. Students are assigned tasks and activities in groups of two to five members with a team leader. Tasks are flexible and varied, with students able to participate online, through the University's learning platform, either during or outside workshop times. Students contribute to the program at varying stages depending on when they joined it—from the commencement, planning and development phase through to completion of the research.

Drawing on the theory of ADR practices, a collaborative research study environment is created to help students in communicating ideas, sharing information and working together on tasks as individual researchers and in groups. The program allows individual students to take responsibility for tasks and also to be group leaders, as well as collaborating in cooperative groups with their peers. Information sharing is supported here by cloud computing data-drives, group discussion platforms and shared document facilities—not only for ease of access, but also to promote group collaboration, active communication and the exchange of ideas for tasks. Shared responsibility, rather than individual work, was encouraged, whilst acknowledging the individual strengths of each member.

Due to the inherent administrative intensity of research projects, uniformity in every aspect of the work, from following research protocols to record keeping and data entry, was of the utmost importance across teams. Accordingly, regular formal and informal briefings were conducted by the program coordinator at workshops and also prior to, and after, interviews with the research project participants. Ongoing supervision and support, as well as active mentorship, are essential for maintaining high standards, as well as to establish realistic

and professional expectations in tasks performed, and for effective co-ordination of the program. Monitoring students' progress is also important to maintain a healthy collaborative environment and to ensure that teams work together and accommodate differing individual learning and personality styles.

During the briefing sessions, students are able to assess the research and the research systems, as well as their input in the program. In addition, students are required to keep a weekly journal detailing their views, perceptions and thoughts on their experience of the program. Reflecting, evaluating and managing a journal is another method of learning, enabling students to engage individually with the program. The journals also form part of the project's qualitative data.

B The Study: Students' Perceptions and Experiences

This study examines 28 students' experiences of participating in the program, which was offered to eligible law students at UTS in 2015. Eligible undergraduate and Juris Doctor registered students (43) were drawn from the UTS Brennan Justice and Leadership Program—a volunteer co-curricular program named after Sir Gerard Brennan, former Chief Justice of the High Court of Australia, which aims to develop in students an awareness of social justice and leadership skills. Students were selected to participate in the research after expressing interest and attending an information session. Selection to participate in the program was based on weekly availability to attend workshops. Also included were six students enrolled in the subject *Experiential Law and Justice* in the autumn semester of 2015 for academic credit. The study was conducted after the assessment period.

The research project that formed the subject matter of the program examined the attitudes, views and perceptions of Australian judges across five jurisdictions in relation to court-referred ADR processes.³⁸ As part of the approved methodology,³⁹ students participated under supervision in all aspects of the research project as research assistants and provided researcher observations and reflections, which formed part of the qualitative data for this current study.

The project was one of the first comprehensive comparative studies into the perception of court-referred alternative dispute resolution (CADR) by a cohort of the Australian judiciary. Judges from the NSW Local Court, NSW District Court, NSW Supreme Court (including the NSW Courts of Appeal and Criminal Appeal), the Federal Court, and the Federal Circuit Court were involved in the study. The cohort of judges whose views are represented make up 30 per cent of all judicial members in Australia. The project investigated judicial use and understanding of, and judicial attitudes towards, CADR. Students were actively involved in the study, which explored judicial attitudes that

³⁸ Nicky McWilliam et al, 'Court-Referred Alternative Dispute Resolution: Perceptions of Members of the Judiciary – An Overview of the Results of a Study' (Research Paper No 18/29, University of Sydney Law School, 2018).

³⁹ UTS Human Ethics Committee HREC Ref No 2014000507.

underpin whether or not referral is suggested or ordered; whether these decisions are accompanied by explanations; whether CADR training has been provided to judges; and the types of matters that may be referred to ADR. Students collaborated in teams (with team leaders) in assisting with designing the qualitative questionnaire and with data input and statistical analysis (including descriptive trends drawn from the study). They also accompanied the supervisor (in pairs) at the interviews with the judges, and assisted with transcription and analysis of interviews. Students assisted with the quantitative analysis of responses with a view to considering trends in responses and also future policies that might monitor, promote, limit, or otherwise control CADR.

Led by the supervisor, students participated in information, debriefing, discussion and writing sessions on CADR. These sessions focused on how CADR can be practiced and supported by legal policy, how legal policy can be (and does) develop, the structure of hearings and the nature of court practice (including case management and court culture). These discussions stimulated and provoked further student research.⁷ Students participated in background tasks to the study including literature reviews and research design (including logistic and timetable schedules for interviews and workshops) and research into the studies' limitations.

II METHODOLOGY

A Survey

A written questionnaire surveyed eligible students over a three-month period from August to December 2015. Students were eligible to take part in the survey if they had participated or were currently participating in the research study, which commenced in December 2014.⁴⁰ The entire cohort of 43 eligible students was invited to complete a written questionnaire. The survey was promoted via email from the researcher to students who had previously participated, and in person to current and active students during research study workshops. The research design took into account students who were no longer active in the research and who were overseas, students in full-time employment or who no longer had active UTS email accounts, and also that students and former students have limited time availability.

1 Written Questionnaire

The 20-item questionnaire, which employed both qualitative and quantitative methods, was set out in two parts. Part One comprised 14 questions (Q1–Q14) where respondents circled their level of agreement on a Likert scale from 1–5 (1 = not at all, 2 = a little, 3 = somewhat, 4 = quite a lot, and 5 = a lot). Part Two included:

⁴⁰ Ethics Approval UTS HERAC REF No: 2014000507.

- four dichotomous questions (Q15–Q18) with a 'yes' or 'no' answer and then an open-ended question for the student to explain his or her response, and
- two demographic questions (Q19–Q20) covering age and gender, law degree undertaken and stage of study.

The questionnaire was designed to explore five areas in relation to respondents' experiences of the program:

1. Enjoyment of the program
2. Motivation for volunteering to participate in the research study
3. Skills learned/legal knowledge gained
4. Benefits of experiential learning
5. Benefits of collaborative learning.

2 *Reflection Journal*

Students were asked to keep a weekly reflection journal to record their experiences of the program—including what they did, thought, felt and learned—and to connect this both to the tasks and activities they had undertaken during the research project and to their learning. The students' analysis and evaluation of their participation, involvement and learning from the program formed not only part of the qualitative data for the research study for which they were research assistants, but also for this study.

The reflection journal was important for the study as it provided data that:

- may supplement survey data, and
- may indicate areas from students' observations, learning, engagement in the program and development that would not be captured by the survey.

B *Data Analysis*

The quantitative data collected from the questionnaire were coded and entered into SPSS. They were analysed in terms of descriptive statistics, namely frequencies of responses to relevant questions.

The qualitative data comprising answers to the open-ended questions and students' reflection journals were collated in the five areas explored in the written questionnaire. The qualitative data were also analysed to identify patterns or themes in relation to respondents' experiences of the program.

1 *Participation*

The methodology provided for self-selection participation in the survey. Out of a total of 43 potential student participants, 28 students elected to participate in the study, representing a 65 per cent

participation rate. Twenty-one students, representing 75 per cent of the participant student cohort, maintained a reflection journal.

2 *Profile of Respondents*

Females represented 89 per cent of student respondents in the study, whilst 11 per cent were male. Students fell into the age range of 18–39, with most (68 per cent) aged between 20 and 23. Two students (7 per cent) fell into the age range of 30–40. Of respondents, 71 per cent were LLB students,⁴¹ whilst 29 per cent were Juris Doctor students. Students in all stages of their degree (from their first to their final year) participated in the survey. The majority of respondents (68 per cent) were in the third or fourth year of the LLB degree.

C *Study Limitations*

The findings must be contextualised by the study's limitations which may reduce the reliability of the findings. The study's limitations, which largely concern methodological issues, are set out below and further discussed in Section IV:

- The study involved a small sample size consisting of students who had either volunteered for the program or were enrolled for academic credit in a subject which was based on the program.
- Students who participated in this empirical study of the program had self-selected to take part in this study.
- The validity and measurement of the research design and measurement standards were improvised, unrefined and untested which means that methodology may be unsound and conclusions may be tentative.⁴² However, recent literature has held that, notwithstanding these issues, such studies can and have achieved their aims.⁴³
- The survey questionnaire was conducted by the program coordinator mostly during research sessions.
- Quantitative and qualitative data collated from the questionnaire were anonymous, however reflection journals were not anonymised so there may be a degree of respondent bias from the students.
- The study was a short-term case study with no control conditions which limits the generalisability of the study.

⁴¹ LLB refers to students enrolled in an undergraduate degree leading to admission to practice law. Students can undertake a law degree of four years or combine the law degree with another discipline (eg business, communications) of five years. The majority of undergraduate students are recent school leavers who have completed high school study in the previous two years.

⁴² Gosen and Washbush, above n 34, 270, 282, 284.

⁴³ Lahneman and Arcos, above n 37.

- Females were overrepresented in the volunteer cohort of student participants. Close inspection was not conducted on the effect of gender on the data in relation to the findings.
- The study was conducted by the first author according to research methodology, independent qualitative and quantitative analysis, ethical protocols and a research design structure.
- The implementation and supervision of the program was driven by the enthusiasm and energy of the supervisor who is the first author.

III FINDINGS FROM QUANTITATIVE AND QUALITATIVE DATA

The quantitative and qualitative data were collated in the five areas explored in the written questionnaire. Two further areas emerged strongly from the qualitative data: pastoral care and preparation for the workforce.⁴⁴

A Enjoyment of the Program

The majority of respondents (93 per cent) stated that they enjoyed participating in the study at least 'quite a lot'. The remaining 7 per cent agreed 'somewhat' or 'a little'. This data supports material collected from the students' reflective journals, with participants recording that it was 'one of the highlights' of their university experience (R6), and that the feeling of having 'contribute[d] in a useful way' (S23) had a positive effect on their learning, and at the same time was a source of motivation to 'make sure we all did our best' (S28).

B Motivation for Participating in the Research Program

1 Participate in a Real-life Legal Research Team

Most respondents (89 per cent) agreed at least 'quite a lot' with the statement that they joined the program to be able to participate in a real-life research project, with students noting that it had been a major source of appeal in their participation (S23).

2 Enhance Learning for Law Degree

The vast majority of participants (96 per cent) agreed at least 'quite a lot' with the statement that they volunteered to enhance their substantive learning for their law degree, with one student citing a motivation to improve 'legal research and writing' skills (R14) to aid their performance in their core law subjects.

⁴⁴ Throughout this article, data from students' open-ended questions responses are identified by 'S' and data from reflection journals are identified as 'R'.

3 *Increase Opportunities for Clerkships/Employment*

Whilst 46 per cent of respondents agreed ‘a lot’, 71 per cent agreed at least ‘quite a lot’ that they joined the project to increase opportunities for internships, clerkships or similar future employment in the law.

4 *Interested in ADR*

Eighty-six per cent of respondents agreed at least ‘quite a lot’ that they joined the program because they were interested in ADR.

C Skills Learned/Legal Knowledge Gained

1 *Reinforced Substantive Learning*

Nearly all respondents (96 per cent) agreed at least ‘quite a lot’ that participating in the research study reinforced substantive learning in their law degree, and 86 per cent agreed at least ‘quite a lot’ that participating in research and administrative tasks was beneficial for their law degree. Six students mentioned that a practical approach provided additional general knowledge and skills relevant to their studies; three mentioned that the program gave them an understanding of material from their courses; two mentioned that they learned how to draft correspondence; 11 mentioned that they developed research and referencing skills; and four mentioned that the program enhanced their essay writing skills. Students also mentioned in their responses that the experiential nature of the project was helpful in reinforcing basic principles such as ‘the doctrines of civil practice’ (S9), and developing understanding and legal knowledge in a real-life context (S13, S3). The research project allowed students to apply theory and skills they learned about in other classes (S1, S9).

2 *Interest in New Subject Areas Related to Law Degree*

Eighty-six per cent of respondents agreed at least ‘quite a lot’ that participating in the research study gave them an interest in new subject areas related to their law degree. These areas included laws relating to the administration of justice and procedural justice, as well as the laws relating to the operation of ADR processes in both the civil and criminal jurisdictions.

3 *Skills Development Beneficial to Law Degree*

Ninety-six per cent of respondents agreed at least ‘quite a lot’ with the statement that participating in the research study was beneficial for skill development in their law degree.

All students (100 per cent) agreed that they had developed new skills by participating in the research study. Nearly all the students indicated in qualitative data that they had either learned or improved a wide variety of skills, with many referring to specific and multiple types of skills. Ten students specifically mentioned that the program was

helpful with time management skills, and 20 students mentioned research skills (including general research skills, thematic analyses, reference skills and use of research software such as Endnote, SPSS and NVivo). Students mentioned that the tasks 'enhanced ... knowledge of mediation and ADR processes' (S10), that they learned 'new ways of completing tasks' (S7) as well as practical skills such as 'allocat[ing] tasks and set[ting] realistic time frames' (S14). In addition to developing research skills, students also noted a benefit to their communication and leadership skills in this process (R6).

4 *Knowledge About Ethics and Professional Protocols*

Many respondents (86 per cent) agreed at least 'quite a lot' with the statement that participating in the research study has taught them about the importance of professional protocols and ethics in the legal environment. Specifically, in the open-ended questions, ten students mentioned learning general ethical obligations such as having the opportunity to experience first-hand 'the reasons and importance, and the extent of confidentiality for research and practice' (S6, R4). Additionally, the experience gave participating students a 'foundation in professional conduct and communication' (S4) as well as a practical appreciation of 'the importance to research protocol' (R16) that professionalism and confidentiality carries. This was evidenced by twelve students mentioning learning about the concept of confidentiality; and four students reporting that the program gave them a foundation in professional conduct.

5 *Gained Understanding of the Legal Issues Related to ADR*

Participating in the research allowed most respondents (96 per cent) to gain an understanding of the legal issues relating to ADR. Eleven students mentioned they gained an understanding of the basic principles of ADR, its advantages and disadvantages and the role of ADR in the legal system (S14). Some also added that hearing the perspective of judges had given them 'greater insight into the issues that accompany ADR regarding courts, judges and parties' (S4).

D *Benefits of Experiential Learning*

1 *Motivation with Respect to Law Degree*

The majority of respondents (96 per cent) agreed at least 'quite a lot' with the statement that participating in the research study has motivated them with respect to their law degree, and given them insight into the operation and impact of law in real-life circumstances. Fourteen students mentioned that the practical approach of the program motivated them to follow up with their class work or conduct additional study or research. The insight provided by judicial officers about the court system and ADR in practice gave context and relevance to the students' studies, and inspired students to 'look up cases, read articles'

(S19) and to ‘understand the types of matters heard by judicial officers in [their] jurisdiction’ (S23).

2 *Social Aspect of the Program*

Eighty-nine per cent of respondents agreed at least ‘quite a lot’ with the statement that the social aspect of participating in the research study was a positive experience at law school. In particular, some students noted that team work was ‘great, and even [administrative] tasks were interesting in a team’ (S27), and that meeting new people through the project helped ‘develop communication skills’ (R18). A first-year law student added that the project helped them acclimate to university life, and was ‘always something interesting to do’ (R1).

3 *Being Responsible for Tasks*

Most respondents agreed that completing tasks for which they were responsible was satisfying, with 96 per cent agreeing ‘quite a lot’. Students also indicated that being given responsibility for tasks contributed to the development of their time management skills (R1) and ability to work autonomously. Others noted that the nature of the work done and their contribution to the project made them ‘feel valued’ (R5) as students. Students responded positively to the blend of group and individual work throughout the project recording that they ‘liked being responsible and also having team backup’ (R17).

4 *A New Perspective on Law*

The majority of respondents (93 per cent) agreed at least ‘quite a lot’ that they gained a new perspective on the practice of law and their law degree. Students consistently made comments such as ‘I can say this project is definitely beneficial to my law degree as it has allowed me to gain a new perspective of the legal system and legal work’ (R18).

5 *Merit in ‘Learning by Doing’*

There was merit in ‘learning by doing’ according to all respondents (100 per cent) with 20 students mentioning that the practical aspect of the program was valuable for their understanding of subjects in their law degree and 11 mentioning that research and administrative skills were learning experiences. Students noted that ‘practical experience is vital in reinforcing what you learn in class’ (R11), as well as giving students opportunity to ‘work with lots of different personalities and ... learn skills from peers’ (S7).

E *Benefits of Collaborative Learning*

1 *Conscious of Meeting a Certain Standard*

All respondents (100 per cent) agreed that they were conscious of meeting a certain standard in the group when allocated research tasks. Many students noted that the collaborative nature of the work as well

as their feelings of responsibility towards the team as a whole were a significant motivation to contribute and maintain a high standard of performance (S22, S2, S4, S6, S1, S15).

2 *Working Cooperatively and Collaboratively Promotes Learning*

All respondents (100 per cent) agreed that working collaboratively promotes learning in a law degree. Six students stated that collaboration leads to new ideas. Nine stated that collaboration is a useful skill to learn for law school. Six students also stated that the briefing/debriefing was a valuable learning experience. Students have remarked on learning 'the importance of collaboration ... in producing optimum results' (S15), as well as for the generation of 'new ideas ... to enhance understanding' (S2). Another noted learning the importance of effective administration for self-management of teamwork and efficiency (R20).

F *Pastoral Care and Supervision*

Findings from nearly all students drawn from the qualitative data from both open-ended questions in the questionnaire and reflection journals revealed that students valued supervision and the pastoral care element of the program. Students consistently reported that the program had become a part of their university life. One respondent stated that 'I was going to give up law until I started working on [the] research project' (R3). Another emphasised on the project having been 'a huge part of ... university life' (R6). Students appreciated the accessibility of guidance from the project coordinator (S2) as well as the availability of 'detailed instructions and protocols' (S27) via 'both email and in person' (S11), and felt that 'the coordinator invests time in the program and the students' (R1).

G *Preparation for Workforce*

Qualitative findings from nearly all students from both open-ended questions in the questionnaire and reflection journals revealed that students valued the program as preparation and training for the workforce. Many cited that the experience of prolonged and in-depth teamwork prepared them for the workplace (S17, S6, S3) and others mentioned learning the importance of research analysis to improving practical skills (S10). For example: 'I think this experience will prepare me for the "real world" of legal practice' (S17).

IV DISCUSSION

The experiential nature of the program follows and supports growing scholarship relating to the benefits of adapting legal pedagogy

to include humanising and practical components.⁴⁵ Further, it supports the idea that learning takes place in the context of the subject matter that students experience first-hand, rather than by visual and auditory learning.⁴⁶ Findings show that students recognised they had been given a new and unique insight into legal study through their participation in the program, and the experiences of the program further motivated students in the other areas of their law degree. Students indicated that participating in the research project was especially useful in developing skills to process information in order to further their understanding of different topics learned in their law degree (S3) and that the value of their participation and experience ‘extended into other subjects’ (S26). Students cite the program as a refreshing and unique perspective (S22) that gives a ‘multifaceted character’ (S12) to the legal profession, a contrast to a more detached university experience and reading ‘lengthy ... sometimes boring judgments’ (R18). One student (R11) stated: ‘In my opinion, practical experience is vital in reinforcing what you learn in class and how to actually apply and use the knowledge in real-life scenarios’.

The findings support existing research that an experiential model of teaching can reinforce and enhance substantive learning, but can also produce outcomes that may not be achievable in subjects that focus solely on theory, classroom and textbook learning.⁴⁷ Through active involvement in research and administrative tasks, participants experienced real-life legal situations, particularly in terms of ADR – an area that is understudied and increasingly relevant in the legal industry and in the larger mechanisms of the Australian legal system.

... through participating in admin tasks and analysing the data, I have come to realise that ... ADR isn’t just a concept... it is a mechanism which directly impacts our judicial system, and is considered by those who deliver justice on a daily basis. (R2)

Students reported to have derived satisfaction from the program because of their active participation in research and administration processes, as well as in their interactions with other students (and the subject coordinator). It appeared students felt that the experiential element of the program made learning more memorable and enduring. For example:

I have honestly learned so much from this project and I am always so thankful I was chosen to be part of this lovely research group it was always very enjoyable to meet up with the group. (R4)

Learning from a textbook or computer [is] short-term learning. By experiencing and being involved, I have learned lifelong lessons. (S6)

Although there is also a strong need for law students to work independently, learning how to collaborate in a cooperative environment is vital in a research project. Therefore, due to the heavily

⁴⁵ Barbara Glesner Fines, ‘Fundamental Principles and Challenges of Humanizing Legal Education’ (2008) 47 *Washburn Law Journal* 313; Douglas, above n 4.

⁴⁶ Gutman and Riddle, above n 7, 190.

⁴⁷ Townes O’Brien, above n 18.

administrative nature of a research project and the high requirements for consistency, the program necessarily facilitated a collaborative and cooperative atmosphere, which maintained a high standard of work and was a foundation upon which this research project could operate successfully. Because students were necessarily made aware of the importance of their tasks as well as the consequences of mistakes, the project arguably instilled a sense of responsibility in students that classroom-based group-work projects inherently lack, 'The fact that the research was part of a much larger project made me ensure my work was of the highest standard' (S1).

The program demonstrates that the skills needed to work in environments of uniformity and genuine cohesion with other students are complex and varied, ultimately developing desirable 'transferable skills'⁴⁸ of critical thinking, problem solving and communication through collaborative and cooperative work. This included a shared understanding among a team and the capacity to cooperate in a way that means tasks can be passed on seamlessly from one team member to another, and being able to ensure work completed was consistently accurate and concise. Such skills are not as readily learned in 'classroom group work' exercises. The real and immediate demand for highly developed communication skills, as well as active collaboration and problem-solving skills required to maintain the progression of a research project in an experiential program, were more effective in developing those relevant skills in participating students.

It is through effective administration work, that as a team we have self-managed and generated a hub of ideas ... improving methods [such as] the calendar input, data input and reflecting upon interviews and expanding our general knowledge of the dispute resolution landscape ... we have created a more efficient system which has resulted in more productive and organised research teams. (R20)

Through their active participation, students developed skills that underlie the crucial aspect of theoretical reasoning for increasing group-work-based assessments and experiential law subjects in Australian law schools. In this way, the program overcame one of the biggest problems with respect to group work—that even though there is a general recognition and appreciation of group learning, there is also strong resistance against assessable group work in surveyed law students, due in part to the competitive nature of the degree and pressure to perform, which naturally gives rise to apprehension in collaborating.⁴⁹ The findings clearly show that the program facilitated meaningful student collaboration and group work activities in law schools without the pressure of assessment. However, the 'group work' dimension is, to some extent, assessed indirectly through the accuracy of each team member's individual work.

The subject thus engaged students in meaningful collaborative activities by way of necessity, instead of artificially creating 'situations'

⁴⁸ Steel, Huggins and Laurens, above n 11.

⁴⁹ Ibid.

of enforced group work that may be redundant or even counterproductive: ‘A major part of the program and therefore the study relied on the way we worked together as a team. We all relied on each other to get things done and to do things properly’ (S15); and ‘Given that the project was real rather than hypothetical there was definitely higher concern for accuracy and quality’ (S3).

This study serves as evidence that students can learn the theoretical framework of a research subject through active participation and collaboration.¹ The study further highlights that experiential law pedagogy can be complementary to traditional classroom learning whilst also meeting curriculum needs by achieving desirable ‘graduate attributes’.⁵⁰ Graduate attributes such as critical analysis and evaluation, research skills, communication and collaboration, and self-management can clearly be recognised by students in the findings. With respect to critical analysis and evaluation, students identified in their responses that the program offered them the opportunity to think critically, strategically and creatively in identifying and articulating legal issues, as exemplified by this comment: ‘Participating in an actual research project was especially useful in developing my ability to process information in order to further my understanding of different topics’ (S3).

In the context of research skills, students were acutely aware of learning and enhancing their practical and theoretical research skills. Students in their responses recognised the requirement for these skills not only for research in their tertiary studies but for their professional careers. Clear and accurate communication for analysis of data and for reporting on research tasks was noted by students in their responses, alongside further communication skills necessary for constructive collaborative and group work. For example:

This project has also allowed me to develop some important research skills which I hope I will continue to improve and refine. (R6)

I feel like my time management skills have definitely improved. (S14)

I feel that in the real workplace, a lot of the skills which lawyers need are practical ones and the only way to improve on this is ... through research analysis. (S10)

I can say this project is definitely beneficial to my law degree as it has allowed me to meet a lot of new people to develop those communication skills, and also learning leadership at the same time by assigning work to the rest of the team when required. (R18)

Self-management was evident as a key feature of the program. A high level of autonomy and responsibility is given to the students when they are participating in both individual and group work. Students acknowledged in the findings that they gained experience through the program of initiating self-directed work and learning. This learning is

⁵⁰ University of Technology Sydney, *Bachelor of Laws Graduate Attributes* <<http://www.uts.edu.au/current-students/current-students-information-faculty-law/graduate-attributes/bachelor-laws>>; Tania Sourdin, ‘Meeting Today’s Law Curriculum Needs’ (2004) 78(3) *Law Institute Journal* 65, 65.

reinforced through leadership roles embraced by some students who became team leaders and allocated tasks for the program. The program was also evidence that students valued working constructively and collegially.

A major part of the program and therefore the study relied on the way we worked together as a team. We all relied on each other to get things done and to do things properly. (S15)

In common with previous literature, the program found that contextualising the principles and values of ethical practice and professional protocols and standards, through briefing and debriefing with the project coordinator, creates meaningful insight for the students.⁵¹ This training is important in the research process where maintaining confidentiality and anonymising study data is imperative, and students, as with all their work, are required to uphold standards of ethics and professional responsibility in participating in the program.

You become [sic] to recognise the importance of research protocol. Judgment, responsibility and confidentiality are key characteristics which have ensured that the integrity of the project has been maintained, and that those who are being interviewed have perceived the research as professional, trustworthy. (R16)

In addition, the adherence to a research protocol not only reflected graduate attributes of self-management, and ethics and professional responsibility, but also gave students a sense of how they are bound to conduct themselves as legal professionals. Relevantly, it should be noted that students were conscious of not only the coordinator but their peers modelling behaviour that they respected and from which they felt they could learn. Consistent with prior scholarship,⁵² students were able to gain an understanding of the value and utility of research in law.⁵³ There was also a learning component through discussion and performance of administrative and research analysis tasks:

I learned a lot by observing [the program coordinator] and the way she conducted herself. (R6)

Within the team itself, we had learned the importance of appropriate communication both externally and internally. (R17)

The method by which the program incorporated collaborative and cooperative work between students encouraged a collegial environment in which students felt a sense of belonging and were very positive about the social aspect of the program.⁵⁴ The value of student comment and insights is recognised in the literature⁵⁵ with students demonstrating an appreciation for 'the fluidity of the law ... the basis for law reform and

⁵¹ Townes O'Brien, above n 18.

⁵² Ibid 31.

⁵³ 'For the first time I could see how research skills can be applied after law school' (S8).

⁵⁴ 'I have to say I looked forward to each research session and the conversation was not just about law' (R3).

⁵⁵ Townes O'Brien, above n 18, 30.

social change'.⁵⁶ In each of their reflective journals, students explained their understanding of qualitative and quantitative research, and outlined the nature of their participation as well as their satisfaction with the program. The data collated from the reflection journals overwhelmingly indicated that students felt that their learning and wellbeing was enhanced through the program as a result of the program consisting of learning experiences which were sympathetic to student needs.

Whilst there are no longitudinal studies to show the enduring effects of experiential programs in law, scholarship in this area supports student respondents' views that these sorts of learning experiences, which include collaborative experience, may prove to have positive effects not only on their learning throughout their degree, but also on their wellbeing.⁵⁷ The qualitative data findings were consistent with a 2010 study linking the interactive nature of the ADR environment and students' feelings of belonging.⁵⁸

It probably sounds like an exaggeration, but I always look forward to the research sessions as there is always something interesting to do. I really enjoy working with [the program coordinator] and the rest of the team as there is always a new topic to discuss, and especially for me as an unknowledgeable first year, everyone has given me really good advice and help when I needed it as well as increased understanding on university life itself. (R1)

I am really grateful for the way [the program coordinator] has backed me, even though it is early days and she has really no idea of who I am! It's a lesson in people management – she is giving me all this backing and support because she operates on the assumption that I will be a contributing and competent member of the project. It's a great way to make someone feel valued AND responsible for the consequences of their actions, all at the same time. (R9)

Further, 86 per cent of respondents joined the program because they were interested in ADR and 11 per cent believed that they gained an enhanced understanding of ADR from participating. Ninety-six per cent reported that they gained an understanding of the legal issues related to ADR, and many stated that their interest was enhanced and kindled.⁵⁹ Consistent with prior research, students evidenced the realities of the legal system and the importance of ADR as a skills base for those entering the legal system.⁶⁰ Students also indicated that they did become aware of the value of ADR in terms of positive and constructive outcomes for parties and the community. This is significant because, in terms of teaching ADR, this is an issue raised by many commentators: that ADR processes are not just important in managing issues that

⁵⁶ Ibid 31.

⁵⁷ Douglas, above n 4, 217; Howieson, above n 28.

⁵⁸ Howieson, above n 28.

⁵⁹ 'I signed up to ADR subjects for next semester' (R3).

⁶⁰ Judy Gutman, Tom Fisher and Erika Martens, 'Why Teach Alternative Dispute Resolution to Law Students? Part One: Past and Current Practices and Some Unanswered Questions' (2006) 16 *Legal Education Review* 97, 125.

redress delays and save money, they also have value in producing constructive outcomes.⁶¹

Consistent with the results of other studies examining experiential and cooperative learning projects,⁶² strategic planning, constant monitoring and evaluation are key aspects of a successful program. Some commentators question whether it is the role of university academics to provide pastoral care to students,⁶³ whilst others stress that it is academics who are pivotal in shaping the culture of the legal profession.⁶⁴ Ultimately, it is well documented that the success of such programs depends on the coordinator's dedication, motivation and teaching skills. From the qualitative data, the students were aware that the coordinator 'invests time in the program and in the students'.⁶⁵ Ongoing development, faculty support and continual appraisal of purpose are also important in coordinator-led programs.⁶⁶ The type of time invested in the program by the co-ordinator and the students differs from traditional pedagogy in style approach, preparation and required input.⁶⁷

[The coordinator] gave detailed instructions via both email and in person about how the tasks should be carried out and what needs to be achieved. (S11)

Critically, the largely positive findings of this study must be contextualised by its limitations. The sample is very small, drawn from a single research study, and from a limited group of participants. As students were drawn from a law discipline, and were also self-selected to participate in this study, it is very likely that the respondents are mostly high-performing and academically driven students. Thus, not only are the responses in the study likely to skew positively as a result of voluntary participation, but the scope of the study is narrowed to a focus of how the more able, engaged and ambitious students within a cohort contribute to the pedagogical nexus and existing body of literature within this academic landscape. It is also noted that whilst student respondents largely made general comments about their experience rather than noting specifics, inferences can be drawn from both the nature and content of the study, as well as the project itself.

In relation to the methodology, and similar to other recorded studies in this area,⁶⁸ the program's research design and measurement standards are unrefined, untested and rudimentary. This may mean that the methodology is unsound and conclusions on the programs

⁶¹ Ronald M Pipkin, 'Teaching Dispute Resolution in the First Year of Law School: An Evaluation of the Program at the University of Missouri-Columbia' (1998) 50 *Florida Law Review* 609, 625.

⁶² Henderson and McWey, above n 16.

⁶³ Kate Galloway et al, 'Approaches to Student Support in the First Year of Law School' (2011) 21 *Legal Education Review* 235, 236.

⁶⁴ Collins, above n 2.

⁶⁵ R1.

⁶⁶ Kathy Bickmore, 'Good Training is Not Enough: Research on Peer Mediation Program Implementation' (2002) 21 *Social Alternatives* 33, 35.

⁶⁷ Townes O'Brien, above n 18.

⁶⁸ Gosen and Washbush, above n 34.

tentative.⁶⁹ However, there is literature supporting the conclusions of studies which have been conducted with these methods as the aims of the studies have been achieved.⁷⁰ In any event, despite this study's narrow scope, meaningful insights can be drawn from the results of the program data.

V CONCLUSION

This was a relatively small study with many limitations of scale, scope, methodology and generalisability. However, this alternative teaching framework provides students with the opportunity to participate in research and promoted the development of this important discipline, which benefits students, the profession and the university. The collaborative program contextualises students' doctrinal learning, which in turn enhances substantive learning. The style of the program is based on the theory and essence of ADR as an active and constructive process. The study further revealed an unexpected pastoral care element of the program which reinforces prior findings on the benefits of a cooperative and collaborative learning environment: increasing wellbeing, social connectedness and enjoyment at law school.

Students not only experience the practice and procedure of an academic research study, but also, under supervision, take on a participatory role in all aspects of the operation, method, academic exploration and progression of the study. Through their participation in the program, students are exposed to the realities of the legal system, and how practising law, legal theory and practical skills operate together.

Students' interest in the research area of ADR was enhanced through their participation in the program, which enabled students to gain understanding of mainstream non-adversarial practices in the legal system, underlining the importance of advocating for ADR to be given a mainstream role in current curricula.

The program, by design, differs from traditional doctrinal teaching in terms of teaching style, mode of student participation and peer interaction, as well as assessment format. It could arguably be extrapolated that active participation combined with collaborative learning and the allocation of responsibilities that carry 'real-world' consequences provide students with a more positive and meaningful learning experience overall than do traditionally taught subjects.

Having assessed the program in the context of these limitations, future iterations would involve addressing the validity of measurement instruments employed and reassessing the research design. Further drawing a larger sample drawn from a broader base of students would be advisable.

Notwithstanding limitations, meaningful insights can be drawn from the study. More research is necessary in this important area of legal pedagogy. Indeed, the study demonstrates that by moving beyond

⁶⁹ Gosen and Washbush, above n 34, 270, 282, 284.

⁷⁰ Lahneman and Arcos, above n 37.

the traditional model of legal pedagogy, there is great potential for law schools to explore broadening the student experience which may improve wellbeing and better prepare students for a career in law.