

FLIPPING THE CHALK AND TALK WITH LAW STUDENTS *ON & OFF LINE*: THE ADVANTAGES OF TRANSFORMATIVE PEDAGOGY UTILISING TECHNOLOGY

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The priority of the chalk and talk of the traditional law lectures is becoming outdated in a technologically driven world where there are vast opportunities for legal educators to extend transformative pedagogical practices from lectures into and beyond the online environment. A key globally recognised educational goal is critical reflection. Multiple technologies can enhance critically reflection by maximising law students' active, deeper learning, help students develop communication and collaborative skills and provide essential connections with the legal profession. The paper provides five transformative pedagogical techniques to benefit the legal knowledge and skill development of law students in a neo-liberalist environment.

INTRODUCTION

University students frequently use multiple types of technology for both socialising and for learning. Digital access to the law is bound to challenge and dramatically change the nature of both legal education and the legal profession. In legal education, new technology is becoming difficult to resist because materials are convenient, cheap, ecological and readily updated.¹ Australian law schools should transform legal pedagogy from the traditional chalk and talk lecture to include multiple technologies in curriculums.² A transformative pedagogy, is one that focuses on active student learning, enabling students to express their own individual and cultural perspectives.³ It also encourages students to connect with each other using technologies including social media to gain knowledge and skills. Such a transformative approach is likely to deepen law students' learning, enable them to develop critical reflection through communication and collaboration and prepare them for a technologically driven world.⁴

The neoliberalist focus in Higher Education commodifies services, increases administration academia and leads to Universities competing against each other to maximise profit.⁵ Administrators strictly circumscribe how many hours are to be devoted to teaching students, which vastly underestimates the time needed for interaction between students and educators⁶ and to give adequate feedback and guidance. A transformative pedagogical approach may

¹ Edward Rubin (ed), *Legal Education in the Digital Age* (Cambridge University Press, New York, 2012), 7-8.

² Anne Matthew and Des Butler, "Narrative, machinima and cognitive realism: Constructing an authentic real world learning experience for law students" (2017) 33 *Australasian Journal of Educational Technology* 148.

³ Raewyn Connell, "Southern theory and world universities" (2017) 36 *Higher Education Research & Development*, 4-15.

⁴ Nickolas James, "More than work ready: Vocationalism versus professionalism in legal education" (2017) 40 *University of New South Wales Law Journal* 186 argues that employability should not be the only focus of legal education.

⁵ Margaret Thornton, "Law student wellbeing: A neoliberalism conundrum" (2016) 58 *Australian Universities Review* 44.

⁶ Noam Chomsky, *The Death of the American Universities*, (Jacobin), <<https://www.jacobinmag.com>>.

improve some of the limitations of neo-liberalism by blending technology with interactive work, which can be done both in and out of the classroom.⁷

Firstly, this paper evaluates the chalk and talk of traditional lectures, outlines the advantages of students connecting in a partially flipped classroom and the benefits of using multiple technologies for enhancing student learning. A flipped classroom is defined as one that generally provides pre-recorded lectures, audio or video, followed by in-class activities.⁸ It recommends using short video clips and multiple technologies to connect learn about law and the legal profession. Secondly, the paper shows how critical reflection can be developed through communication and collaboration. This includes developing connections with the legal profession by involving practitioners in courses as well as attending real court or virtual court. It recommends incorporating technology and peer learning in groups both in and outside the classroom through distance learning, using reflective journals as well as using a variety of technologies to suit students' learning needs. Thirdly and finally the paper concludes by arguing that a transformative pedagogy has significant benefits in developing the modern law students' legal knowledge and skills in a neo-liberalist world.

I TRANSFORMING CHALK AND TALK LECTURES WITH MULTIPLE TECHNOLOGIES

The traditional lecture is one whose main approach is that of chalk and talk. This involves a lecturer delivering a face-to-face lecture with students listening and note taking.⁹ The Socratic method of lecturing is common and involves the lecturer asking questions to the students during the lecture but it often fails to involve full class participation. Sometimes students do not take comprehensive notes because they can rely on Power point slides available online, misinterpret the material and do not get the opportunity to ask questions during class.¹⁰ This approach can also result in students missing lectures, particularly if they think they can learn in a more productive manner or if they have to do paid work. Another problem with the traditional lecture is that students do not normally exercise higher level learning such legal analysis, application of knowledge, evaluation and critical thinking or reflection during the lecture period itself.¹¹

Higher level skills are essential for law students and are contained both within the Threshold Learning Outcomes for law (TLOs)¹² and University Graduate Attributes.¹³ While lectures convey important knowledge, software platforms motivate the development of alternative

⁷ Thornton, n 6, 44, Connell, n 4.

⁸ Lutz-Christian Wolff and Jenny Chan, *Flipped Classroom for Legal Education* (Springer, Hong Kong, 2016) 9.

⁹ Marlene Le Brun and Richard Johnstone, *The Quiet Revolution: Improving Student Learning in Law* (Law Book Company, Sydney, 1994), 257.

¹⁰ Le Brun and Johnstone, n 9.

¹¹ Le Brun and Johnstone, n 9.

¹² *Learning and Teaching Academic Standards Project BACHELOR OF LAWS Learning and Teaching Academic Standard Statements*

<http://www.cald.asn.au/media/uploads/KiftetalLTASStandardsStatement2010%20TLOs%20LLB.pdf>.

¹³ *Policy on Generic Attributes of Graduates of the University of Tasmania*

http://www.utas.edu.au/data/assets/pdf_file/0003/66234/genericattributes_grads.pdf.

approaches to the traditional lecture.¹⁴ It is not surprising that an increasing number of courses provide material online within a Virtual Learning Environment (VLE) which provides a technological portal to an array of relevant course materials.¹⁵

Unfortunately, as promising as technology is, there remains problems with reliability, access and operative skills. Legal educators need to provide clear instructions about how to navigate the platforms. Connections between students and staff can be made quickly and easily through email communications and online discussion.¹⁶ Such platforms also allow students multiple opportunities for learning particularly from video or audio clips. It is increasingly likely that current students either watch or listen to virtual pre-recorded videoed lectures or mini-lectures.¹⁷ It is also evident that as students are surrounded by technology they tend to rely on online research rather than printed materials.¹⁸

Research also shows that learning is optimised when ‘it is active, experiential, collaborative and, reflective.’¹⁹ The use of the technological space easily allows for the process of student transformation, more powerfully than the lecture.²⁰ The benefit of students watching or listening to videos and reading materials outside the classroom means that deeper, active learning can take place in the flipped classroom. An extensive literature review of two hundred and one law schools in the United States, the United Kingdom, Australia, New Zealand and Asia evaluated the flipped classroom.²¹ The studies show that the flipped classroom has significant benefits in terms of engagement and flexibility for learning and cost. Flipped classrooms are not without problems. One of the problems of entirely flipping a classroom is that students may not have read or listened to the material before class.²² Delivering small segments of video or audios during class time can fix this concern and is defined as a partially flipped classroom.

Recommendation One: Mini-videos clips, interactive activities and connecting with the legal profession

The first recommendation is that traditional face-to-face lectures be removed from law classes or reduced in number to allow more time in class for active student learning. Australian law schools’ lectures are 50 minutes long normally with the lecturer relying on PowerPoint slides to illustrate the main ideas of the lecture.²³ Legal knowledge can be transmitted from a wide range of different sources within expanding software platforms.

¹⁴ Ronald Perrin and Gregory Laing, “The Lecture: a teaching strategy through the looking glass” (2014) 8 E *Journal of Business Education and Scholarship of Teaching* 70.

¹⁵ Christine Talbot, *Studying at a Distance: A guide for students* (Open University Press, 4th ed, 2016), 84.

¹⁶ Wolff and Chan, n 9, 3; Talbot, n 15.

¹⁷ Talbot, above n 15, 91, [5.1].

¹⁸ Catherine Lemmer, “View from the Flip Side: Using the “Inverted Classroom” to enhance the Legal Information Literacy of the International LLM Student” (2013) 105 *Law Library Journal* 469.

¹⁹ Wolff and Chan, n 9.

²⁰ Maria Northcote and Kevin Gosselin (eds), *Handbook of Research on Humanizing the Distance Learning Experience* (IGI Global, 2016), [Chapter 4](#).

²¹ Northcote and Gosselin, n 20, 6.

²² Northcote and Gosselin, n 20, 106-107.

²³ Wolff and Chan, n 9, 16; Matthew and Butler, n 3, 148.

Short video clip modules can be viewed to allow class time for teaching in an interactive seminar format. Lectures can be broken down into smaller topic areas of 10-15 minutes of mini-lectures and pre-recorded for students' convenience to either listen to or watch at times that fit their schedules.²⁴ Unlike a live lecturer, recordings can be played, replayed, stopped and started in different learning environment either in the classroom or outside it. Studies of teaching law students with technology videos out of the classroom and examining the content in classroom show students' positive engagement with the technology.²⁵ Students can then ask questions about the video clips in class and obtain immediate feedback.²⁶ Many university students are time-poor and do not prepare before coming to class. One way to resolve the problem of the under prepared student is to have students complete work in class. Videos can be shown in class, short readings can be summarised, questions can be posed and feedback can be given during discussions. Researching online can also be undertaken in class.

Greater connections between the academy and the practising profession can be made by including guest lecturers from the profession into courses,²⁷ which could also be done by video. Guest lecturers from the profession can discuss and model skills they use in their work environments aligned with the intended learning outcomes of the courses and threshold learning outcomes. Short recorded mini-lectures from legal practitioners in private firms, legal aid, Community Legal Centre lawyers, Attorney-Generals or any other legal professional or para-legal are likely stimulate interest in legal knowledge, skills and practice. These lectures could also contain information about how legal practices use technology. This demonstrates to both legal educators and students the digital competencies presently needed.

II DEVELOPING CRITICAL THINKING, CRITICAL REFLECTION, COMMUNICATION AND COLLABOURATION USING GROUP WORK AND TECHNOLOGY

There is no universally accepted definition of critical thinking. As we communicate and collaborate we use critical thinking skills to persuade our audiences. Critical reflection forms part of critical thinking and includes communicating experiences or knowledge, analysis, evaluation, contextualisation and transformation. Such skills are also globally recognised as key skills for employment in the twenty-first century²⁸ and also form part of Threshold Learning Outcomes for law graduates.²⁹ European law schools have been criticised recently for the failing to teach these skills.³⁰ Australian law schools embed such skills into the curriculum. Legal educators can implement transformative pedagogical techniques in the

²⁴ Wolff and Chan, n 9, 25.

²⁵ Kirsten Gerdy, Jane Wise and Alison Craig, "Expanding Our classroom walls: Enhancing Teaching and Learning Through Technology" (2005) 11 *The Journal of Legal Writing Institute* 263; Frances Bernat and Kelly Frailing, "Perfecting Lessons Learned for Criminal Justice Online Graduate Education: Reflection, Integration and Application" (2015) 26 *Journal of Criminal Justice Education* 330.

²⁶ William Slomanson, "Blended Classroom: A Flipped Classroom at the Lectern" (2014-215) 64 *Journal of Legal Education* 95.

²⁷ Ailsa McKeon, "How should academic, the practising profession and the courts assist each other with the education of Australian lawyers" (2016) 90 *Australian Law Journal* 357.

²⁸ N 13.

²⁹ N 13.

³⁰ Arthur Dyevre, "Fixing European Law School" (2017) 1 *European Review of Private Law* 151-168.

classroom by encouraging engaging communication and collaboration through peer learning and group work. For distance learning technology is essential and dedicated, enthusiastic educators are also needed to support students who may not like distance learning.

Recommendation 2: Engage students with communication and collaboration through peer learning in groups

The second recommendation promotes in-class activities to engage students, using communication and collaboration in groups. In law school, collaboration between staff and students also increases the opportunity to develop rewarding academic and social relationship networks.³¹ In the classroom rapport normally develops overtime facilitating student engagement and learning. James and Field argue that mastery of communication is critical to the effective study of law.³² Effective collaboration is also important for managing group work towards problem solving.³³ Group discussions allow students to collaborate on problems with a focus on using the strengths of individual team members towards a common goal.³⁴ The use of classroom activities can help the students to discover each other's strengths and weaknesses. There is an initial tendency for quieter students to rely on the communication skills of more confident students. Some students are intimidated by speaking in front of large groups therefore groups can be made smaller or students can research and take notes using written communication skills.³⁵ By contrast, confident students may take a leading advocacy role with oral communication of ideas to larger audiences.

Higher Education is elite and neo-liberalist so the communication of minority group voices needs to be strongly supported in the classroom.³⁶ Peer learning allows students to understand perspectives in law from the context of different social, religious and moral positions. Some of the most interesting and engaging classes allow students to voluntarily reflect on and share real life stories about their diverse backgrounds. Homelessness, discrimination on the grounds of transgender, age, homosexuality, disability, bullying, asylum seekers, unwarranted police treatment, domestic violence and addictions can be the realities of past lives. Discussing such social justice issues facilitates critical thinking about reforms to the law and how to achieve them is most important. Peer learning can also be very beneficial where students can draw on experience and knowledge to help other class members. Indigenous or international students are sometimes grateful to explain the law from their cultural perspectives. Where students are comfortable to share their professions police officers, legal secretaries, or court administrators can be encouraged to share knowledge about their specialties. It is so encouraging to see younger generation students assisting more mature aged students with navigating technology to benefit all class participants.

³¹ Dyevre, n 30.

³² Nickolas James and Rachael Field, *The New Lawyer* (John Wiley & Sons Australia, Ltd, Milton, 2013).

³³ James and Field, n 32, 334.

³⁴ James and Field, n 32, 335-337.

³⁵ James and Field, n 32, 337.

³⁶ Connell, n 4.

Recommendation 3: Supporting Distance Students engagement with communication and collaboration

Law schools are implementing more distance learning to outreach to more students and maximise profit. This is because they compete with each other for student numbers and to cut the costs of employing teaching staff. The ironic reality is it is more difficult to engage students in such forums and is time consuming and costly to do it exceptionally well. This is certainly the case with electronic marking and the submission of multiple marks for multiple assessments. Nevertheless, there can be benefits to such environments where appropriate support networks are provided to the students, which encourage engagement with communication and collaboration.

Distance courses involve discussion posts online. Where students have to answer questions in an online discussion they can feel intimidated about their posting standards or take the view there is no need to post answers which are the same or similar to other student posts. Discussions should be encouraged but not as the only way to communicate. Students make connections though developing online study forums or in groups including those specifically set up on Facebook. Students may feel more at ease to contribute on social media than they do in more formal online discussion platforms.³⁷ Online law cafes provide an online exchange forum for students to informally ask questions and provide peer support to each other. I have found that discussions need to be assessed as part of a participation grade otherwise students are unlikely to post even if incentives such as bonus marks for participation or small prizes are offered. Collaboration has been recognised as a success factor for distance learning and integration of technology can facilitate this.³⁸ Students and educators can collaborate by making short video clips to add to discussion posts, weekly Skyping or mobile phone communications. YouTubes and Power Point slides can also be shared and students can work collaboratively sharing Google documents.³⁹

Recommendation 4: Teach students how to critically reflect and implement reflective journals about court experiences

Reflective journals are being successfully used in higher legal education.⁴⁰ Over a six-year research period, I developed a model of critical reflection based on the themes, which emerged from the textual journal data of 99 foundation law students. The model recommends that law students be taught critical reflection by describing experiences followed by the analysis, evaluation, contextualisation and transformation of these experiences. Students like to visit court and reflect about the court experience discursively. Asking students about standout or golden moments about their experiences can assist in focusing their reflective thoughts into an area. Reflections can be developed into more formal journals once students have been given instructions and guidance on how to undertake reflective journaling.

³⁷ Daniel Berger and Charles Wild, "Turned on, tuned in but not dropped out: enhancing student experiences with popular social media platforms" (2016) 7 *European Journal of Law and Technology*, <<http://ejlt.org/article/view/503/639>>.

³⁸ Northcote and Gosselin, n 21, Chapter 1.

³⁹ Northcote and Gosselin, n 21 Chapter 6.

⁴⁰ Kelley Burton, "Using A Reflective Court Report to Integrate and Assess Reflective Practice in Law" (2016) 9 *Journal of Learning Design*, <<https://www.jld.edu.au>>.

Reflective journals can be an excellent form of less traditional assessment, where students can reach higher levels of critical thinking.

Electronic reflective journals or e-portfolios can be used for reflections about court. Students can learn from court experiences and achieve higher levels of critical thinking through reflecting on those experiences. Attending court on a regular basis scaffolded through the undergraduate law degree ought to be considered as part of the law student experience. Court experience allows the students to see how practitioners comply with duties to the court and make critical judgements about whether justice is being administered. At the end of a degree, a newly graduated student could be exposed to a court system with little knowledge about how about how to operate and how to act within it. There needs to be more attendance at court to grasp court administration rules, which may not be taught at University as matters of administration are largely a matter of each court or tribunal.⁴¹

Students can improve understandings of the layout of the court and court procedure by doing those short tours, including virtual tours and quizzes prior to attending court. Virtual tours and quizzes are available in some courts.⁴² Once court visits have taken place or while they are taking place, talks from the court staff and judiciary may also be able to be prearranged to further assist students' understandings of the legal system. For example, some courts in NSW have group court tours.⁴³ Knowledge about the court can also be enhanced through prescribed readings and online lectures and mini lectures, followed up with a court visit.

One way reflective journaling can be taught is through mini-videos presented by the educator on each of the topics together with a simple instructive journal including basic and more advanced journaling writing advice and activities. Reflective journals could be submitted as a written work or in a video clip. Reflective experiences could include students' own learning and legal knowledge. In video clips students show oral problem-solving skills as well as reflective skills. Students can develop technological expertise to upload short videos. This method would allow students to feel more comfortable with presenting to a camera rather than a person. Assessment of the students' work would be more appropriate towards the end of the semester after students have had the benefit of hearing from guest speakers about oral problem-solving skills.

Recommendation 5: Use multiple technologies: digital platforms, YouTubes, Quizzes, Games and M-Learning

Lecturers can construct classes with technology that promotes deeper learning and learning skills.⁴⁴ Prescribed reading guides can easily be uploaded to digital platforms to enable

⁴¹ James and Field, n 32, 358.

⁴² <<http://www.courtlists.tas.gov.au/VirtualTour/main.html>>.

⁴³ <http://www.supremecourt.justice.nsw.gov.au/Pages/SCO2_contactus/SCO2_group_visits.aspx>.

⁴⁴ Bernat and Frailing, n 25; Talbot, n 15, 23-26.

students easy access.⁴⁵ Shorter readings can also be done in class time as students are often time poor. It allows the opportunity for informed class discussions. YouTube videos of lawyers can also be used effectively in class or out of class. They are an effective way to disperse legal knowledge quickly and effectively. YouTube videos can be used as a means of marketing legal firms and making the law more transparent to students. I encourage students to use mobile phones, tablets and computers in my classes as a means to address the problems with researching or referencing. Students find such active collaborative involvement in problem solving really satisfying.⁴⁶ They also prefer to obtain immediate feedback, which can be done in the classroom.

Quizzes can be set on-line out of class to assess content with feedback given in class.⁴⁷ Students are also likely to be engaged by teaming with peers to moot the answers to quiz questions as well as enhancing peer learning, communication and collaboration skills.⁴⁸ Games are likely to provide a highly suitable pedagogical structure for today's Game Generation.⁴⁹ I trialled mini lectures including video clips and two interactive problem-solving games within a first-year law cohort. The first game involved matching three different clients in different areas in Tasmania, within the court jurisdiction for their different legal issues. The students took the role of lawyers for Dazza from Devonport, Bazza from Burnie and Lazza from Launceston. In the second game, the students advised the clients about common law and legislation in the area, exploring the inter-relationship between common law and legislation. These activities appear to be much more engaging than traditional lectures on legislation, court hierarchy and precedent and they encouraged to reflect on their legal knowledge. The games I developed are primitive compared to exploring the possibilities of developing online virtual world games used for education.⁵⁰ Using the computer interface,⁵¹ with graphics, animation and full-motion over text⁵² is likely to be engaging for active, experiential and active learning with immediate feedback.⁵³ The costs of developing such technologies may be a barrier, which could be lifted if inter-disciplinary collaborations between faculties allow this.

An electronic page can be an isolating experience for students, however, it has real benefits of allowing students to construct knowledge in multiple ways. M-learning is mobile learning including using mobile phones.⁵⁴ for internet searches, facetime or phone discussions. All of these activities actively involve the learner and encourage critical thinking and reflection essential for learning, particularly if the student decides on their preferred learning

⁴⁵ Ken Parish, 'Flexible, Blended and Intensive Learning in Law' in Sally Kift, Michelle Sanson, Jill Cowley and Penelope Watson (eds), *Excellence and Innovation in Legal Education* (LexisNexis Butterworths, Australia, 2011).

⁴⁶ Slomanson, above n 26, 99.

⁴⁷ James and Field, n 32, 358; Talbot, above n 15.

⁴⁸ N 13, TLO 5; James and Field, n 32, 335-341.

⁴⁹ James and Field, n 32, 145.

⁵⁰ Rubin, n 1, 133.

⁵¹ Rubin, n 1, 143.

⁵² Rubin, n 1, 144.

⁵³ Rubin, n 1, 145-146.

⁵⁴ Rubin, n 1, 34.

technological tool.⁵⁵ Mobile phone applications (Apps) contain flash cards on law, commentaries on cases and tips for law students. The Apps are mainly for law students in the United States, although there are a few applications for Australian law students, including an Austlii and an Australian Constitution App. These can be used in classes on how to research the law using library databases, journals, e-books using their phones, tablets or computers. Just-in-time solutions can be developed by both the teacher and other students to allow the learning experience to become more collaborative and connected. It also aligns with legal skills expected of students. Students can learn by their mistakes and develop the confidence to tackle research independently for assignments and other assessments.

CONCLUSION

A transitional pedagogy allows for multiple types of technology to be harnessed to allow law students to expand their minds to connect with each other, their teachers, the profession and other law related work environments. When developing curriculums educators need to consider various strategies including video mini recordings of experienced lecturers in the area, lawyers and experts in fields. Class activities need to encourage using computer, mobile phones or tablets as a means for learning. Guiding students with pedagogical instructions relating to critical reflection can form the basis of how students can make sense of popular culture, the court room and the profession, in order to transform their perspectives. The practice of skills in class allows for students and teachers to communicate and collaborate to connect in the learning space and make the classroom democratic, against the backdrop of neo-liberalism.

⁵⁵ Rubin, n 1, 30-33.