THE CHALLENGE OF TEACHING LAW SUBJECTS WITH LARGE AND DIVERSE STUDENT COHORTS

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I. Introduction

Engaging students so that their learning is rich, enjoyable and thought-provoking can be a challenge in any subject. In law subjects designed for non-law students, where the student cohort is often large and diverse, the challenges can be magnified. Obvious areas of concern relate to teaching and learning strategies and developing assessment tasks that are valid and can be marked in a timely fashion. Large and diverse cohorts also present challenges for the management, administration and resources of a subject.

The federal government's plan to increase participation in tertiary education[1] will undoubtedly increase the number and diversity of students enrolled in first-year law subjects for non-law students. This article[2] considers these issues through examining the redesign of Introduction to Business Law (IBL), a compulsory first-year law subject for students enrolled in the Bachelor of Business and Commerce (BBC), a new degree at the University of Western Sydney (UWS).

II. Background

When IBL became a compulsory core subject in the first-year program of the BBC, it became necessary to redesign it. Prior to 2008, although the students enrolled in IBL came from over 20 different programs, over half were enrolled in an accounting or property degree in which IBL was the foundation subject for a sequence of compulsory law subjects in their degrees. Professional accreditation requirements[3] also meant that IBL was a necessary subject for accounting students. Such vocational relevance was thought to have helped stimulate interest in the subject.

The BBC was designed to allow students to complete a broad range of business-related subjects in their first year of tertiary study before nominating their specific discipline (such as accounting, management or marketing). This not only meant that the student cohort enrolled in IBL was expected to increase in 2008,[4] but also that it would be an increasingly heterogeneous group, with a greater proportion of students who might perceive little relevance in IBL to the discipline area in which they later sought to specialise. With more students undertaking IBL as a standalone law subject, the need to make it relevant to their overall studies and to their lives was clearly one of the initial challenges in the redesign of the subject.

The diversity of the cohort did not simply arise from the various business-related disciplines being studied. Two-thirds of UWS students come from Greater Western Sydney — a socially,

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[1] Michael Turtle, *Universities Get Big Slice of Budget Pie* (2009) ABC News <http://proquest.umi.com/pqdweb?did=1708128851&sid=2&Fmt=3&clientid=8429&RQT=309&VName=PQD&cfc=1> at 18 December 2009.

[2] This article is based on a presentation to Law for Non-Law Students at the 64th Australasian Law Teachers Association Annual Conference, Parramatta, 5–8 July 2009.

[3] See, eg, Institute of Chartered Accountants in Australia and CPA Australia, *Professional Accreditation Guidelines for Higher Education Programs* (2009) <https://www.cpaaustralia.com.au/cps/rde/xbcr/SID-3F57FECB-82300D04/cpa/professional_accreditation_guidelines_230109_(2).pdf> at 18 December 2009.

[4] In autumn 2007, there were 1165 students for whom results were submitted in IBL and in spring 2007 there were 1128. In autumn 2008 there were 895 students for whom results were submitted and in spring 2008 there were 1676.

economically and culturally diverse region. Their backgrounds, entry qualifications and learning experiences vary, with a significant proportion being the first in their family to attend university,[5] while many have transitioned to university from TAFE courses and many have paid work commitments that compete with their academic pursuits.

III. The Impact of Large and Diverse Student Cohorts

Fundamental to the teaching and management of a subject with a large and diverse student cohort is teamwork. There needs to be a strong, cohesive team for whom responsibilities are clearly articulated. Yet hand-in-hand with the increase in student numbers at tertiary institutions has been a casualisation of the workforce[6] and sessional staff are frequently engaged to teach in the large first-year subjects. This adds another dimension to the challenges of managing a subject with large enrolments. Sessional staff must be recruited, trained, managed and, hopefully, inculcated with a shared passion for engaging the students in learning.

Prior to 2008, with only two or three permanent staff allocated to its teaching program, the IBL unit had been anchored by an experienced team of casual or sessional staff. With the larger student cohort in 2008, the team of sessional staff increased to 12, seven of whom were new to the subject. Managing such a team clearly demanded considerable time and resources. In addition, given that classes were held on four different University campuses and in distance mode, opportunities for face-to-face contact with others in the IBL teaching and administration team were minimal. Apart from orientation sessions which allowed staff to meet each other and familiarise themselves with the new assessment regime, they were kept apprised of any IBL concerns by regular emails.

Institutional recognition of the need for administrative staff to be allocated to support subjects with student cohorts of this size is also critical. The issue should not be whether there will be such support, but for which tasks and for how long? For IBL, an administrative assistant was allocated to provide support for two and a half days per week. Core responsibilities connected to this position included dealing with student enquiries (an email site dedicated to IBL students was set up) and recording student results.

Budgetary constraints will always dictate the amount of support for a subject; indeed, it permeates all decisions on subjects with large and diverse student cohorts, and can dictate pedagogical approaches adopted by the teaching staff.

IV. Assessment

As assessment can drive student learning,[7] the IBL assessment regime was aligned with learning outcomes. Prior to 2008, IBL had been assessed in a traditional style, with two essays (worth 15 per cent and 25 per cent, respectively) and a final examination worth 60 per cent. The restructure of the subject retained the final examination but replaced the interim assessments with an online multiple-choice test on the Australian legal system, and an assignment. The assignment required students to locate a newspaper article on a current business law topic, answering some questions about the article and finding some primary sources relating to that area of law.

The complexity of the learning outcomes for the assessment tasks was designed to increase over the course of the semester. The interim assessment tasks (each worth 20 per cent) were not complex. Students were required to demonstrate knowledge and understanding for the multiple-choice test. They were expected to 'identify', 'find' and 'understand' single conceptual issues.

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5 University of Western Sydney, *The Vision, Mission and Strategic Plan of the University of Western Sydney* (2004) 11.

6 Sally Kift, 'Assuring Quality in the Casualisation of Teaching, Learning and Assessment: Towards Best Practice for the First Year Experience' (Paper presented at the 6th Pacific Rim First Year in Higher Education Conference, Christchurch, 8–10 July 2002).

7 Paul Ramsden, *Learning in Higher Education* (2nd ed, 2003) 182.

Similarly, the outcomes for the assignment required lower-order cognitive skills, though they also required students to access and manage information.

The final examination required a more conceptually complex level of understanding. For example, students were required to 'explain' and 'analyse' problems. Expecting students to apply concepts to a problem requires a reasonably high level of understanding,[8] and the literature suggests that a first-year undergraduate-level subject (such as IBL) would typically have fewer learning outcomes at that level compared with subjects in the latter stages of study.[9]

With such diversity in the cohort's learning experiences and backgrounds, it was hoped that students' success in tasks requiring lower order 'foundational' cognitive skills would increase their confidence and motivation to undertake conceptually more complex tasks such as problem solving.

Whether this 'scaffolding of skills' approach succeeded is difficult to assess. Students averaged higher results for their interim assessments in 2008 than in 2007 and the student feedback contained many favourable comments about these tasks. However, achievement in IBL final exams was not markedly higher in 2008 compared with 2007. No doubt this issue will be the subject of further consideration.

A. The Multiple-Choice Test

Opinion regarding the use of multiple-choice testing is divided. For some, they focus on lower order cognitive skills[10] and encourage only reproduction rather than understanding. However, their use in law subjects for non-law students, where student enrolments are often large and diverse, seems to be widely accepted. Indeed, Selby, Blazey and Quilter point out that where multiple-choice tests are created with attention to design they need not necessarily focus on the lower level cognitive skills.[11] The authors provide a cogent argument for their adoption as one part of an assessment regime.

Biggs and Tang suggest that the educational context affects the learning style adopted by students.[12] So using multiple-choice tests that assess lower order cognitive skills does not necessarily prevent students from developing deep learning styles through other assessment tasks.

The initial set-up costs of multiple-choice tests in terms of money, time and labour expended writing banks of questions can be significant. However, immense savings can be made through reducing the post-test volume of marking and the assessment-related administration.[13] The marking of a multiple-choice test needs fewer safeguards to ensure the reliability of the assessment than the marking of an essay by a team of markers. It is essential that clarity of the questions are reviewed the first time they are used for assessment purposes. If too many students were incorrect in their answers to particular questions, there may be a problem that needs to be fixed. It is also important to ensure that the multiple-choice test does not selectively reward rote learning.

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8   Described in the taxonomy of learning developed by Biggs as a 'relational' level of understanding: see John Biggs and Catherine Tang, *Teaching for Quality Learning at University* (3rd ed, 2007) 76–80.

9   University of Western Sydney, *Assessment Guide: Implementing Criteria and Standards-Based Assessment* (2008) 13.

10   Lee Dunn et al, *The Student Assessment Handbook: New Directions in Traditional and Online Assessment* (2004) 54.

11   John Selby, Patricia Blazey and Michael Quilter, 'The Relevance of Multiple-Choice Assessment in Large Cohort Business Law Units' (2008) 1 *Journal of Australasian Law Teachers Association* 203.

12   Biggs and Tang, above n 8, 26.

13   Richard James, Craig McInnis and Marcia Devlin, *Assessing Learning in Australian Universities: Ideas, Strategies and Resources for Quality in Student Assessment* (2002) 32 <www.cshe.unimelb.edu.au/assessinglearning> at 18 December 2009.

For IBL, the decision was made to run the multiple-choice test online. Online testing has several benefits. Prompt feedback is an obvious advantage in subjects with large student cohorts.[14] Furthermore, online feedback can be constructive. The online learning system at UWS allows for feedback responses to be set up for each question, which can provide the student with guidance in the areas of the test in which they were unsuccessful.

It was also decided to permit students to undertake the test from off-campus, chiefly to allow a flexible mode of assessment. With a smaller cohort, the test could have been conducted in a supervised computer laboratory during class time; however, the size of the cohort made this impracticable. Also, in the spring semester, some students were enrolled through distance education, so the issue became not should we allow students to undertake the test from off-campus but how to do so.

A critical issue was how to minimise the opportunity for collusion and cheating. Students were given strong warnings against such conduct in the lectures, tutorials and in the information sheets for the task. However, as with any student assessment undertaken without invigilation, it is impossible to ensure that there is no cheating or collusion. The test was designed to minimise cheating. Twenty questions were chosen randomly from a database. Each question had four or five possible responses. The time students were given to answer each question was chosen to allow them adequate time to respond without, hopefully, allowing them time to share their responses with others. The test was also programmed so that students could not re-visit a question once it had been completed, and the results were available only once the test period had concluded. As well, irrespective of their result in the multiple-choice test, students were required to obtain at least 25/60 in the final examination.

Despite these precautions, it is difficult to verify whether cheating and collusion was in fact minimised. As noted above, the average mark in both autumn and spring 2008 was higher than the average marks for the essays students completed before 2008; however, this is not of itself indicative of widespread cheating in the multiple-choice test. There were also some students who performed well in the test but poorly in the final exam. However, again, this does not necessarily mean that those students had cheated in the test.

The IBL test was also programmed to allow each student two attempts within a set period (as long as the second attempt was not within twenty-four hours of the first). The higher mark was recorded as the student's assessment mark for the task. The first attempt may be viewed as a revision exercise that would encourage the student to revise the examinable topics. It was also hoped that the potential to improve their mark would relieve students of the performance anxiety that can accompany this type of assessment and encourage them to revise and re-sit the test. Many of the students took up this opportunity.

Although the online learning system could provide feedback on each question in the test, it was decided that general feedback would be given in the lectures on topics that had proved challenging for students. This decision was made in an effort to preserve the integrity of the database of questions. If an online test that can be taken from off-campus remains a feature of this assessment task, strategies to permit more individualised feedback should be considered.

Conducting the test online also raised equity concerns. While over two-thirds of Australian households had internet access in 2007–2008,[15] the fact that many students from UWS come from lower socio-economic groups meant that accessibility issues had to be addressed. As well, with such a diverse student cohort taking the subject, assumptions about students' use and proficiency with online learning environments had to be avoided; indeed, the literature

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14 See Dunn et al, above n 10, ch 10.

15 Australian Bureau of Statistics, *Household Use of Information Technology, Australia, 2007–08* (2009) <http://www.abs.gov.au/ausstats/abs@.nsf/PrimaryMainFeatures/8146.0?OpenDocument> at 18 December 2009.

suggests that a digital divide may exist between students.[16] Accordingly, on-campus computer laboratories were booked so that students who had no computer access at home would be able to complete the test and the test period ran over a number of days to provide flexibility. Detailed information sheets were provided, and a practice test was conducted in the week prior to the test to familiarise students with the format.

A threshold issue to whether the test could be taken online was whether the university's infrastructure was suitable to support the activity given the size of the cohort. Assurances were given and the test was successfully piloted over the summer of 2007–2008 with 150 students. However, in autumn semester 2008, the university's infrastructure proved to be insufficient for the assessment. The morning after a surge of usage one evening during the test period, about 10 per cent of the students reported that they had been adversely affected. By spring 2008, the servers had been upgraded, the information sheets updated with clearer instructions on how to obtain help and the tests were concluded with minimal technical problems.

B. The Assignment

The use of current affairs to stimulate interest in a topic is a recognised strategy to enhance teaching. This assessment task was based on a similar assignment used in the Business Law course at the University of Technology, Sydney. Educational literature suggests that student control over the nature and timing of activities is important with diverse student cohorts.[17] This task allowed students some flexibility in choosing their own newspaper article within an area of law prescribed by the unit coordinator.

C. The Final Examination

A heavily-weighted final examination is a traditional component of law subjects for non-law students. This might be because of institutional constraints, for professional accreditation reasons[18] or to ensure that a portion of the assessment is completed in a controlled environment. For IBL, an invigilated final examination was included in the assessment regime and this was the primary vehicle for assessing problem solving skills. The challenges relating to the reliability of marking were addressed in spring semester 2008 through the use of marking forums in which markers were assigned to teams to mark a number of exam scripts. This proved a useful strategy to refine the marking guidelines developed by the unit coordinator, to compare approaches to marking and to facilitate reliability.

V. Mode of Delivery

A combination of a large group weekly lectures and small group tutorials is the traditional mode of face-to-face delivery of law subjects to large cohorts from non-law backgrounds, as it was for IBL. Three hours of face-to-face teaching time each week was divided into a two-hour lecture and a one-hour tutorial.

As part of the redesign of the subject, the tutorial was extended to two hours to give students an opportunity for more thorough and detailed consideration of certain topics; however, resource constraints meant that tutorials were held only once every second week. The weekly two-hour lecture was retained.

The effectiveness of this fortnightly tutorial scheme is unclear. In their evaluation of the unit, a number of students praised the flexibility and convenience of this fortnightly mode of delivery. However, a greater number of students articulated concern that meeting only once

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16 Gregor Kennedy et al, 'First Year Students' Experiences with Technology: Are They Really Digital Natives?',(Preliminary Report, University of Melbourne, 2006) <http://www.bmu.unimelb.edu.au/research/munatives/index.html> at 18 December 2007.

17 Dunn et al, above n 10, 48.

18 The Institute of Chartered Accountants in Australia and CPA of Australia, above n 3, 6.

a fortnight diminished the quality of their learning. Some suggested that the opportunity to discuss the issues raised in the weekly lectures should be provided on a weekly basis.

Viewed in this light, retaining the two-hour lecture each week raises pedagogical issues. The literature on large classes suggests that the size of the cohort itself is not the key factor in 'good teaching'; rather, it is the combination of various factors, in particular the interaction of the cohort size, the learning environment and the learning activities.[19] Allocating a large portion of the face-to-face teaching time for a subject to lecturing in large lecture theatres might be sending a message to students that the subject will be content-driven and that the learning style expected of them is passive.

For IBL, the lecture sizes varied with campus and mode of enrolment (day or night). On one campus, the size of the day cohort meant the lecture had to be scheduled in the 1,000-seat graduation hall. The effectiveness of the weekly lectures was challenged by students and their dissatisfaction, expressed in student feedback, mirrors criticisms raised in the literature of the impersonal communicative environment engendered by lectures.[20] The mode of delivery and the learning activities during the lectures remain significant issues for IBL. While the mode of delivery requires ongoing consideration, two strategies to reduce student disaffection might be placing a cap on the size of the lecture theatre and providing a podcasts for portions of the lectures.

VI. Resources and Information and Communication Technologies

Improving the resources and support material for IBL was also important in the redesign of IBL. In anticipation of the marked increase in student numbers, all resources (traditional and online) were reviewed with a view to making them relevant and engaging, and to foster student autonomy.

For example, since the size and heterogeneity of the IBL cohort meant that tutorials could not be conducted for specific discipline groups within the BBC, the tutorial material had to have broad appeal. It was decided that, as the majority of students had come to the subject straight from school, and since 94 per cent of people in the 18–24 years age bracket in June 2006 used mobile phones,[21] material relating to mobile phone use might arouse student interest. A single tutorial problem relating to the sale of a mobile phone was developed and the scenario provided the basis for tutorial discussion throughout the semester.

Central to redesigning the resources was the decision to use a customised edition of a new textbook that had an online interactive version (Activebook) with a variety of exercises that students could undertake online.[22] It was hoped that this would enhance student learning by making the IBL experience more 'student-centred', and that it would allow students more control over how and when they learned. The online activities in Activebook included online pre-chapter 'warm-ups', review questions, tests and hypotheticals with feedback and model answers. To accommodate a learning style that was more visually-oriented, diagrams and charts were provided which could be 'adjusted' by students.

A feature of Activebook was a registration tool that allowed staff to monitor student usage of the online text on a chapter-by-chapter basis. However, it was not essential to register to use the site and only a small number of students did actually register; thus, accurate measurement of use of the text was not possible. From the data relating to the students who did register, it seemed

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19 Australian Universities Teaching Committee, *Teaching Large Classes Project 2001 Final Report* (2003) 4.

20 See, eg, Selby, Blazey and Quilter, above n 11.

21 Australian Department of Broadband, Communications and the Digital Economy, *Online Statistics* <http://www.archive.dbcde.gov.au/2008/01/statistical_benchmarking/online_statistics> at 18 December 2009.

22 A customised edition of Andy Gibson and Douglas Fraser, *Business Law* (3rd ed, 2007) was prepared for IBL.

that, in autumn and spring semesters 2008, activity peaked at the beginning of each semester prior to the online test and then diminished significantly.

Student reticence to engage in the online activities in the textbook may have been because they were additional to those prescribed in the tutorials; because their value to student learning was not sufficiently emphasised; or because the online resources should have been better integrated with the learning activities in class.

As well as enhancing self-directed learning through Activebook, the redesign of the subject sought to maximise opportunities for peer learning through the 'Discussion Board' tool in the online learning environment. However, despite exhortations to use the tool for this purpose, and despite threads being set up for certain topics, it was (with a few exceptions) predominantly used for administrative questions directed at the Discussion Board Monitor (a member of staff who was allocated the responsibility to oversee communications on the site). By the end of semester, the site was being used by students virtually only to ask the Discussion Board Monitor to answer revision exam questions.

While peer learning through the use of the Discussion Board tool did not succeed in IBL last year, its potential to create a community of learners remains. It obviously requires more than merely providing a forum in which students can communicate with each other. As with the Activebook, it may be that structuring its use into a tutorial activity will initiate more engagement.

VII. Conclusion

Teaching and managing large and diverse student cohorts in law subjects designed for non-law students is challenging. Resources and institutional support are critical to managing curriculum issues, to developing appropriate teaching and learning strategies, to ensuring valid and authentic assessment, and to enabling timely and meaningful feedback to assist student learning.

The strategies used to enhance the learning in IBL are not novel or unique, and many are already being used in law subjects with large and diverse enrolments. The journey to improve IBL continues and, while the unit coordinator in 2009 has retained the assessment regime adopted in 2008, it has been supplemented by assessment criteria and standards, as well as a range of exemplars to provide guidance to problem solving.