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# USING INCLUSIVE SOCRATIC METHOD TO REMOVE BARRIERS TO DIVERSE STUDENT ENGAGEMENT IN LAW SCHOOL CLASSROOMS

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## I INTRODUCTION

The Quality Indicators in the Learning and Teaching Student Experience Survey (SES) show that over the past four years there have been growing levels of dissatisfaction among Australian law students. In the most recent SES, data on the law student satisfaction level showed that student satisfaction had declined by 8.6% compared to 2019 levels.<sup>1</sup> Additionally, University of Sydney Law School Unit of Study Survey (USS) data from 2020-2022 evidences persistent issues of low student engagement in the classroom, lack of community and dissatisfaction with feedback.<sup>2</sup> Qualitative feedback from these USSs shows that low student engagement is in part attributed to passive teaching and learning methods, particularly the use of traditional lecture models in large compulsory law units. While this data does not disaggregate the backgrounds of students completing these surveys, low student engagement has clear implications of reduced educational performance, individual wellbeing, and future participation in the legal profession. These implications are particularly acute for students who are traditionally underrepresented in law – notably female students, those who are first in family to attend university, and students from racial, cultural and linguistically diverse backgrounds.<sup>3</sup>

US research shows that at American law schools ‘low-income, minority and female students are experiencing law school differently than wealthy, White and male students’ with many of the former indicating that they faced academic challenges in law school classrooms ‘that did not encourage or allow students from diverse backgrounds to

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<sup>1</sup> The Social Research Centre, *2022 Student Experience Survey* (June 2023) <[https://www.qilt.edu.au/surveys/student-experience-survey-\(ses\)#latest](https://www.qilt.edu.au/surveys/student-experience-survey-(ses)#latest)>.

<sup>2</sup> Stafford Lumsden, ‘USS Results Summary 2020-2022’ (University of Sydney). On file with authors.

<sup>3</sup> See generally, Sean Darling-Hammond and Kristen Holmquist, ‘Creating Wise Classrooms to Empower Diverse Law Students: Lessons in Pedagogy from Transformative Law Professors’ (2015) 25 *Berkeley La Raza Law Journal* 1; Palma Strand, ‘We are *All* on the Journey: Transforming Antagonistic Spaces in Law School Classrooms’ (2017) 67(1) *Journal of Legal Education* 176.

excel.<sup>4</sup> This research also strongly suggests that what educators do in the classroom matters, finding:

Many students from underrepresented groups tied their negative performance directly to teaching styles and biased treatment. Classroom management and demeanor can have real impacts on whether students are empowered to realize their potential, or spurred to silently buckle under fears of confirming stereotypes.<sup>5</sup>

To address these issues in the Australian context, we designed and tested a teaching and learning model for a foundational compulsory private law unit of study, LAWS1017/5006 Torts and Contracts II, at the University of Sydney Law School. Our design represented a break from the traditional lecture model and considered the increasing diversity of the student cohort, reflecting a wider trend among law schools throughout Australia.<sup>6</sup>

Our model draws upon the general academic literature as well as research undertaken by legal scholars to foster supportive and inclusive environments in diverse classrooms.<sup>7</sup> It uses the inquiry-based approach of inclusive Socratic method, which involves a modified approach to the traditional Socratic method, that seeks to encourage empowering and supportive classrooms. We also included in our design embedded feedback mechanisms, authentic assessment, and collaborative activities, aimed at encouraging all students in our classroom to thrive.

## II INCLUSIVE SOCRATIC METHOD

The Socratic method is a widely used pedagogical technique, particularly in US Law Schools, which most commonly involves the lecturer ‘calling on students and asking them questions in order to elicit reasons and arguments’.<sup>8</sup> The Socratic method exemplifies dialogic interactive teaching through its emphasis on questioning, discussion and critical dialogue, requiring students ‘to think on the spot, answer

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<sup>4</sup> Darling-Hammond and Holmquist (n 3) 4-8.

<sup>5</sup> Ibid 10.

<sup>6</sup> Mark Israel et al, ‘Fostering “Quiet Inclusion”: Interaction and Diversity in the Australian Law Classroom’ (2017) 66(2) *Journal of Legal Education* 332, 336-7.

<sup>7</sup> See, eg, Thomas Farmer et al, ‘Promoting Inclusive Communities in Diverse Classrooms: Teacher Attunement and Social Dynamics Management,’ (2019) 54(4) *Educational Psychologist* 286; Charlotte Securius-Carr and Reiner Rohr, ‘Educating for Inclusive Diversity’ in SunHee Kim Gertz, Betsy Huang and Lauren Cyr (eds) *Diversity and Inclusion in Higher Education and Societal Contexts: International and Interdisciplinary Approaches* (Palgrave Macmillan, 2018) 97; Gloria Ladson-Billings, ‘But That’s Just Good Teaching! The Case for Culturally Relevant Pedagogy,’ (1995) 34(3) *Theory into Practice* 159.

<sup>8</sup> Jeannie Suk Gerson, ‘The Socratic Method in the Age of Trauma’ (2017) 130 *Harvard Law Review* 2320, 2324. See also Jamie Abrams, ‘Reframing the Socratic Method’ (2015) 64(4) *Journal of Legal Education* 562, 565 noting that in the US the Socratic method is traditionally characterised by ‘[t]he casebook approach to learning through appellate cases, the Socratic inquisitive dialogue to teach course concepts, and the large lecture hall format.’

precisely, and take intellectual risks.<sup>9</sup> In doing so, it incentivises them to prepare for class and enables legal educators to provide feedback in real time.<sup>10</sup> This pedagogical approach is particularly significant in legal education, where the development of problem-solving skills, critical analysis skills, and effective argumentation is crucial. It also reflects the work of a lawyer, who is expected to have the confidence and oral advocacy skills to represent their clients' interests, and to be able to provide cogent responses both in informal settings with clients and opposing counsel, as well as in more formal judicial settings.

However, US studies have revealed that the traditional Socratic method, which can be adversarial in nature, often had the effect of alienating and intimidating women and minorities.<sup>11</sup> As a result, women and minorities were less likely to engage in class, which negatively impacted their educational performance and sense of wellbeing. More than three decades ago, Professor Lani Guinier and colleagues found:

[M]any women are alienated by the way the Socratic method is used in large classroom instruction...Women self-report much lower rates of class participation than do men for all three years of law school. Our data suggest that many women do not "engage" pedagogically with a methodology that makes them feel strange, alienated, and "delegitimated".<sup>12</sup>

Importantly, a recent article from 2022 reveals that gender differences in law school participation remain. In that article, Shadel, Trawalter, and Verkerke note that studies conducted at several US law schools – including Harvard, Yale, Stanford, the University of Chicago, and the University of Pennsylvania – have shown that even though women comprise approximately half of the students enrolled in US law schools today, they are still 'less likely to speak in the law school classroom than are men.'<sup>13</sup>

Further research by Guinier et al found that in addition to women, people of colour were also 'reluctant partners in the Socratic exchange'.<sup>14</sup> Indeed, when delivered in an adversarial manner, Socratic method 'can provoke intense feelings of anxiety' and may even cause emotional harm for students with poor mental health, particularly PTSD.<sup>15</sup> This is because it

subjects students to the panic that suddenly being put on the spot can invoke, along with the fear of knowing a cold call is imminent. This can

<sup>9</sup> Elizabeth Porter, 'The Socratic Method' in Deborah Maranville et al (eds) *Implementing Effective Education in Specific Contexts* (LexisNexis 2015) 101. See also Abrams (n 8) 565-6.

<sup>10</sup> Darling-Hammond and Holmquist (n 3) 47.

<sup>11</sup> Abrams (n 8) 566; Porter (n 9) 107; Gersen (n 8) 2344-5.

<sup>12</sup> Lani Guinier et al, 'Becoming Gentlemen: Women's Experiences at One Ivy League Law School' (1994) 143 *University of Pennsylvania law Review* 1, 3-4.

<sup>13</sup> Molly Shadel, Sophie Trawalter and J.H. Verkerke, 'Gender Differences in Law School Classroom Participation: The Key Role of Social Context' (2022) 108 *Virginia Law Review* 30, 30-31.

<sup>14</sup> Lani Guinier et al, *Becoming Gentlemen: Women, Law School and Institutional Change* (1997) 91.

<sup>15</sup> Shadel, Trawalter and Verkerke (n 13) 35, 52.

prompt a flight or fight reaction, causing the student to shut down, freeze, dissociate, and/or experience a flashback or panic attack.<sup>16</sup>

As a result of these issues with the traditional Socratic method in the diverse law school classroom, a number of American legal scholars have provided adaptations which allow for a less confrontational approach that cultivates inclusive, empowering, and supportive classrooms. For example, Professor Elizabeth Porter has utilised a Socratic method that focuses on establishing and maintaining a classroom community, choreographing the class, and involving all students; while Professor Jamie Abrams has employed a Socratic method that is student-centred, skills-centred, client-centred, and community-centred.<sup>17</sup> These ‘inclusive’ adaptations of Socratic method take into account participation initiatives to include *all* students in the classroom, regardless of background. As described by Professor Jeannie Suk Gerson of Harvard Law School:

[F]rom the standpoint of equal educational opportunity in most class settings, the Socratic professor is better positioned to ensure that all students have opportunities to practice participation than a professor who relies on volunteers already most inclined to offer up their thoughts...I do not rely on volunteers for the bulk of participation, because when I have done so, that has produced an uneven distribution of participation, skewed male and white, and away from women and minorities, sometimes without my even realizing it.<sup>18</sup>

Gerson’s adaptation of Socratic method involves cold-calling, a hallmark of traditional Socratic method, whereby she expects ‘every student to speak often’.<sup>19</sup> Rather than testing students ‘on whether they did the reading or how well they remember its details’, she will instead ‘show the relevant portion of the text and ask questions arising from it.’<sup>20</sup> This allows students to engage in legal reasoning, while giving them a basis from which they can formulate responses.<sup>21</sup> With every student speaking throughout the duration of the unit, each individual cold-call is relatively low stakes, such that ‘mistakes and stumbles are less magnified.’<sup>22</sup> Gerson also encourages students to not simply be ‘a fixed representative of a viewpoint, background, or group,’ but instead ‘to make arguments and explicate reasons that may go beyond their experience or reflect opinions that they do not hold.’<sup>23</sup> By ‘listening, processing, and reacting to the thoughts and reasoning of others’, students become more open to ‘a world with diverse and divergent

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<sup>16</sup> Harvard Law School Harassment Assault Law-Student Team, ‘Why Alter the Socratic Method’ cited in Gerson (n 8) 2331.

<sup>17</sup> Porter (n 9); Jamie Abrams, ‘Legal Education’s Curricular Tipping Point Towards Inclusive Socratic Teaching’ (2021) 49 *Hofstra Law Review* 89.

<sup>18</sup> Gerson (n 8) 2344.

<sup>19</sup> Ibid 2344.

<sup>20</sup> Ibid 2342.

<sup>21</sup> Other scholars have also made this point. See, eg, Porter (n 9) 102, noting that Socratic method can ‘create a sense of community and shared learning purpose among students.’

<sup>22</sup> Ibid 2344.

<sup>23</sup> Ibid 2343.

views.’<sup>24</sup> She has found that this form of class participation promotes collaboration and operates as an equalizing mechanism among students, evidencing that ‘Socratic method can be part of the solution to gender, race, and class disparities in law school performance and comfort.’<sup>25</sup>

Similarly, research at Berkeley Law School involving a study of the teaching practices of ‘transformative’ law professors to improve legal pedagogy and close achievement gaps revealed that these professors used the Socratic method almost universally. However, the manner in which they used Socratic method was ‘to teach, not intimidate,’ applying it ‘in a way that is not threatening and encourages ongoing participation.’<sup>26</sup> As explained by one of the professors:

There’s a delicate dance—just as the best oral advocates are the ones who make the judges feel like they’re the ones who figured it out, the best professors make students feel that way. It’s almost a Jedi mind trick. Invariably, even when they get it wrong, they’ll say something interesting and creative, and your job is to point out why what they said adds a different dimension to the problem that [the class] should be thinking about. ... You’re not patronizing. You’re being honest. You’re using every opportunity to point out to the shy student that they are contributing to the conversation.<sup>27</sup>

These professors use Socratic method to create ‘an environment where compassionate cold calling is the norm’ and the focus is ‘helping student comprehension, not professional dominance.’<sup>28</sup> This is exemplified in the following statement:

I try to be human, and non-hierarchical. I give them the sense that I don’t know everything, and I don’t. That makes [students] feel at ease with their own vulnerability. I try to laugh at myself to give the sense that if I can laugh at myself, anything they do won’t be that bad, and [that] if anybody is going to be made fun of, it’s me. It’s part of the process of cultivating that environment. I don’t want a thick boundary. That creates a greater opportunity for intimidation to exist, especially for students from marginalized backgrounds.<sup>29</sup>

In conjunction with inclusive Socratic method, these transformative law professors ‘approach teaching with empathy and enthusiasm’, creating an ‘engaging classroom space’, communicating ‘high expectations’ of all of their students ‘while creating safe classroom environments’.<sup>30</sup> They often put students into small groups, which ‘allows shy students to find their voice’ by giving them the

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<sup>24</sup> Ibid 2343.

<sup>25</sup> Ibid 2344. This is supported by a study at the University of Virginia Law School which showed that gender equity in class participation could be better achieved through systematic cold calling as volunteering was more likely to produce participation gaps: Shadel, Trawalter and Verkerke (n 13) 51.

<sup>26</sup> Darling-Hammond and Holmquist (n 3) 48.

<sup>27</sup> Ibid 51-2.

<sup>28</sup> Ibid 18, 46-57.

<sup>29</sup> Ibid 49.

<sup>30</sup> Ibid 17-27.

opportunity to practice their answers before sharing those ideas with the class.<sup>31</sup>

Our inquiry-based model adapts this inclusive Socratic method to the Australian context. The Socratic method has generally not been adopted as widely at Australian law schools as it has in the US, however at least one Australian legal scholar, Dr Alex Evans, has utilised a student-centred approach to Socratic method that combines liberal and humanistic philosophies in the online teaching of postgraduate students at UNSW Law School. Evans' 'soft' Socratic method includes a 'discussant system' whereby students are assigned reading materials in advance, setting expectations for class participation from the outset, and actively welcoming and praising student contributions. Key findings from Evans' research reveal that her adaptation of Socratic method provides important benefits to students including a 'conceptual scaffolding' for each topic covered in class, an increase in student engagement in the classroom, and enhanced student collaboration.<sup>32</sup>

While there has also been criticism of the use of traditional Socratic method in Australia, notably for disadvantaging introverted law students,<sup>33</sup> our research builds on the research undertaken by Evans that a 'soft' or 'inclusive' form of Socratic method can be utilised in Australian law schools as a positive means of engaging *all* of students in the classroom, leading to better academic outcomes and promoting individual wellbeing.

### III AIM AND METHODOLOGY

The central aim of our research was to test and evaluate an adaptation of inclusive Socratic method suitable for the Australian law school classroom, supported by other teaching and learning techniques, to achieve the following outcomes:

- enhance student engagement in the classroom, regardless of educational, cultural, socio-economic, or linguistic background;
- encourage cohort-building among students of diverse backgrounds;
- promote individual empowerment and wellbeing; and
- achieve higher levels of educational success for all students.

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<sup>31</sup> Ibid 55.

<sup>32</sup> Alex Evans, 'A Learning and Teaching Method for the Online Environment that Delivers: Coupling a Soft Socratic Method with a Humanistic, Nurturing Approach' (2022) 32(1) *Legal Education Review* 33, 35, 60, 61, 68. Evans references two other Australian articles that have discussed the benefits of utilising pedagogical techniques that reflect non-traditional Socratic method: Lee Stuesser, 'A Reflection on the Bond Model of Teaching' (2009) 21(3) *Bond Law Review* 164; and 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(1) *UNSW Law Journal* 30.

<sup>33</sup> Rachel Spencer, "'Hell is Other People': Rethinking the Socratic Method for Quiet Law Students' (2022) 56(1) *The Law Teacher* 90.

We used a compulsory private law unit in the first stage of the Bachelor of Laws (LLB) and Juris Doctor (JD) programs, LAWS 1017/5006 Torts and Contracts II, taught as an intensive in-person seminar in Winter School, as a pilot. The pilot was used to design and test our adaptation of inclusive Socratic method supported by other pedagogical techniques, including authentic oral assessment with embedded dialogic feedback, collaborative activities using pre-assigned group allocations, strategic classroom set up, and student questionnaires. This unit follows two separate compulsory units in Contracts and Torts, and generally engages with more complex topics in these areas of law. Torts and Contracts II is also taught in semester 2 in a more traditional lecture/tutorial format, where lectures represent 60% of classes.

The students enrolled in the unit ( $n=53$ ) comprised a diverse group in terms of educational achievement, cultural and socio-economic background, English proficiency, and health needs, with the following demographics:

- 32 JD and 21 LLB students;
- 36 female students;
- 21 international students;
- 13 students taking the unit for a second time, with 5 of those students identified as ‘at risk’ and on formal academic progression plan; and
- 6 students registered with Inclusion and Disability Services.<sup>34</sup>

The cohort of students we taught in our pilot were much more educationally and culturally diverse than those in a typical unit taught during the semester. This is because the Winter School intensive unit is often used as a ‘catch-up’ unit for students at risk who have previously failed the unit (13 students) and those who cannot manage a full student load for health, financial, or other reasons; or as a ‘fast-track’ unit to accelerate the degree for high achieving students. This increased diversity was also one of the strengths of the pilot because it ensured that we were testing within our internal ‘extreme conditions,’ meaning that if the pilot was successful with this cohort, the results ought to be replicable in all our law classrooms.

Data on the effectiveness of our method was sourced from the two Unit of Study Surveys (USS) in this unit, which are administered centrally and collect feedback on the student experience at the unit of study level. The USSs were used to understand the students’ perspectives on the teaching method, reinforced through our own peer mentoring and critical reflective review of teaching. There are limitations in terms of both sample size and using general university unit of study surveys and peer learnings from just one unit. However, findings in this pilot can provide the basis for further research with a larger cohort of students and educators using a more tailored student

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<sup>34</sup> Note that this data set is currently unable to identify students who may have cumulative diversity factors. In addition, the data on students from a low SES background was incomplete and has been excluded due to its unreliability.



survey asking students about their experience of specific pedagogical techniques as well their background. This would enable data to be analysed according to both particular techniques and student demographics. In addition, the use of these techniques by a larger teaching team would provide further data points for analysis. To that end, we have received a Strategic Education Grant from the University of Sydney which will enable us to use these preliminary findings to undertake an in-depth empirical analysis in the future.

### A *Student Unit of Study Surveys*

The USS is the standard university administered survey that each student is asked to complete to evaluate their experience at the unit of study level of teaching quality, skills development, learner engagement, and learning resources, aligning with the national course-level Student Experience Survey (SES). There are eight quantitative items and two open-response items. For the former, responses are recorded on a 1-5 Likert scale, with 1 = strongly disagree, 2 = disagree, 3 = neutral, 4 = agree, and 5 = strongly agree. The quantitative questions are:

- Overall, I was satisfied with the quality of teaching by the teacher(s).
- The work has been intellectually rewarding.
- I developed relevant critical and analytical thinking skills.
- I have had good access to valuable learning resources.
- The assessment tasks challenged me to learn.
- I have been guided by helpful feedback on my learning.
- I felt part of a learning community.
- I have been actively engaged in learning during class.

The two open-ended questions inviting extended qualitative responses are:

- What have been the best aspects of this unit of study?
- What aspects of this unit of study most need improvement?

As this was an intensive unit, the USS was sent to the students upon completion of the unit. The USS is anonymous, and quantitative results are aggregated. Our students were proactively encouraged to take the opportunity to provide us with feedback about the aspects of the unit that worked well, as well as how the design and teaching of the unit could be improved in the future. It is not mandatory for students to complete the survey and University of Sydney Law School data shows that response rates are typically low, with only approximately 30% of law students completing the USS.<sup>35</sup> We applied to the University of Sydney's Human Ethics Committee and were granted permission to use the data from the two USSs for this article.<sup>36</sup>

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<sup>35</sup> Lumsden (n 2).

<sup>36</sup> The University of Sydney Human Ethics Approval 2023/776. On file with authors.

## B *Peer Mentoring and Review of Teaching*

As this was the first time we had co-taught a unit together, we took a collaborative approach to the co-design and review of the unit. Our approach was informed by our individual experiences of teaching stage 1 foundational compulsory units in private law, as well as our professional legal experience in Australia and internationally of what is required to equip students with the fundamental skills required for legal practice.

### 1 *Design Stage*

During the unit design process, in addition to reviewing the literature on inclusive Socratic method, we reflected on particular approaches to teaching and learning that we had each found to be effective for a diverse student cohort with both a high proportion of ‘at risk’ students as well as very high performing students. We then collaborated on designing specific teaching and assessment techniques that focused on inclusive Socratic method and other inquiry-based techniques to promote classroom engagement. We also designed the unit to test whether classroom space and the class schedule supported these inquiry-based approaches in contributing to student engagement.

#### (a) *Class Schedule*

As the unit was in the Winter School, it was taught as an intensive over a three-week period. We designed the schedule to test whether teaching the content over half days versus full days made a difference to student engagement. It was important to understand the cognitive load implications of this unit, particularly for international students with English as a second language and for students with health issues, given the unit requires students to understand complex materials and apply critical thinking and problem solving skills.<sup>37</sup> We scheduled the first half of the course (Contracts) to be taught over a two-week period in the mornings, three days a week. The second half of the course (Torts) was taught in three full days from 9am to 5pm over one week.

#### (b) *Classroom Set-up*

Focusing on the physical set up of the classroom is important to build a sense of community given that ‘the architecture and “furnishings” of a designed environment for learning should not be random or arbitrary’.<sup>38</sup> A Berkeley Law School study found that ‘in an engaging classroom space, every student can participate, and can aid in

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<sup>37</sup> See eg, Helen Hong Yang and Alan Farley, ‘Quantifying the Impact of Language on the Performance of International Accounting Students: A Cognitive Load Theory Perspective,’ (2019) 55 *English for Specific Purposes* 12, which found that similarly complex units in accounting have an increased cognitive load, particularly for students with English as a foreign language.

<sup>38</sup> Peter Goodyear, ‘Realising the Good University: Social Innovation, Care, Design Justice and Educational Infrastructure,’ (2022) 4 *Postdigital Science and Education* 33, 43.

the education of other students. This can augment the extent to which students feel their contributions are valued, and thus can mitigate stereotype threat'.<sup>39</sup> We intentionally selected a seminar room for the first half of the course (Contracts) with clustered desks to allow students to sit in pre-assigned groups to determine whether this seating arrangement contributed to increased engagement and sense of community in the classroom. In contrast, for the second half of the course (Torts), we used a seminar room with seating in semi-circular rows.

*(c) Student Questionnaires*

Ladson-Billings emphasises the need for educators to understand and connect with the cultural context of each student, enabling learners to relate the content to their unique cultural experiences, thereby fostering inclusion and participation.<sup>40</sup> We designed student questionnaires to better understand the unique background of each student, particularly those who may face barriers to learning arising from reticence to participate in class, different prior learning experiences and culture, and language proficiency. Knowing their interests would also enable us to draw on that knowledge during classroom discussion.<sup>41</sup> Accordingly, we asked students questions about their background (previous degrees, work background, majors), why they were taking this course, and something interesting about themselves that they were happy to share. This questionnaire, which was voluntary, was administered on the first day of classes and responses were shared with both members of the teaching team.

*(d) Accommodations for IDS Students*

Given that over 10% of students in the unit were registered with the University's Inclusion and Disability Services, which supports students with disability or carer responsibilities, we ensured that all learning materials were accessible and provided necessary accommodations, such as extra time on exams or assistive technology. In accordance with the University's Disability Inclusion Action Plan, we were not advised of the precise nature of our students' disabilities by the University. This meant that the process of devising the reasonable accommodations was managed by the University's specialist Inclusion and Disability Services team. However, several students chose to voluntarily divulge the precise nature of their disabilities to us, which enabled us to provide advice specific classroom accommodations in an effort to facilitate their ability to engage and participate. These disclosures are further evidence of the high levels of trust and confidence created between the educators and the students.

*(e) Collaborative Activities Using Pre-Assigned Group Allocations*

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<sup>39</sup> Darling-Hammond and Holmquist (n 3) 21.

<sup>40</sup> Ladson-Billings (n 7).

<sup>41</sup> Porter (n 9) 106 notes the importance of this technique for promoting class discussion when utilising Socratic method.

Collaboration is a key legal skill for legal practice. Assigning students to groups reflects the diversity of legal teams, as well as the diversity of clients. Putting students into small groups has also been found to assist student understanding of the content and encourage participation.<sup>42</sup> We pre-assigned students to sit in groups of five or six in each class, and to participate in ‘on call’ panels. The groups comprised students of diverse cultural and linguistic backgrounds and different levels of educational performance, representing our aim of developing mutual respect and understanding, and promoting a supportive classroom community.<sup>43</sup>

*(f) Authentic Formative and Summative Oral Assessment*

Students were assigned to two ‘on call’ panels with other members of their pre-assigned groups based on problem questions provided in the reading guide in advance of classes commencing. This assigned class participation was worth 20% of their overall grade. This form of assessment was designed to develop students’ critical thinking and problem-solving skills, as well as their ability to create persuasive arguments necessary for legal practice. By assigning students to two panels, we adopted a ‘democratizing technique’ to ensure that every student would have an opportunity to participate at least twice during the course.<sup>44</sup> We determined that only the highest panel mark would count for each student, to enable those who lacked confidence to do a practice run with the benefit of feedback on how to improve for the second panel. We also incorporated formative assessment as part of the design in an effort to mitigate diverse students being disadvantaged through this form of authentic oral assessment,<sup>45</sup> and to encourage peer-to-peer learning. This involved setting aside class time for the pre-assigned groups to discuss the problem questions in advance of their ‘on call’; and to formulate questions for other groups who were ‘on call’.

*(g) Embedded Dialogic Feedback Using Socratic Method*

Utilising the Socratic method’s embedded dialogic feedback, we designed our classes to encourage an open dialogue from the outset, and to create a safe and supportive environment for all students to ask questions, discuss, and reflect, which are competencies required in the legal profession. One key technique used to encourage this was providing questions on slides in advance of class so that students knew what to focus on. They were also encouraged to formulate answers prior to class. When the questions were discussed in class, students could obtain feedback in real time. Similarly, we committed to using feed forward, by providing students with guidance on how to improve, to prepare students for future tasks.

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<sup>42</sup> Darling-Hammond and Holmquist (n 3) 37.

<sup>43</sup> Farmer et al (n 7) 291.

<sup>44</sup> Sean Darling-Hammond and Holmquist (n 3) 53.

<sup>45</sup> Joanna Tai et al, ‘Promoting Equity and Social Justice through Assessment for Inclusion,’ in Rola Ajjawi et al. *Assessment for Inclusion in Higher Education* (Routledge, 2022) 9.

## 2 *Implementation Stage*

Once teaching commenced, we engaged in a continuous review process which involved:

### (a) *Providing Structure and Setting Clear Expectations*

Educators clearly articulating expectations of students' performance and conduct, as well as outlining teaching strategies and assessments, signals to students that we care about their efforts and success.<sup>46</sup> From the first class, we spent time explaining both the structure of the unit and our pedagogical approaches; in particular, our use of the Socratic method, what it would entail, and that our aim was to facilitate student engagement and learning by getting them comfortable speaking in class and sharing their perspectives. We also put students into their pre-assigned groups in the first class and explained that this would enable them to discuss problem sets and allow them to formulate questions for other groups. We had them use nametags in each class so that we could get to know their names and they could get to know each other's names.

### (b) *Regular Monitoring and Intervention*

Monitoring student performance and engagement closely and intervening early when signs of struggle were evident by providing regular check-ins and progress meetings to discuss challenges and adjust support as needed. In addition, for students registered with Inclusion and Disability Services we continued to make adjustments as necessary, including the provision of campus transport for a student with mobility issues and providing a replacement assessment for one student experiencing mental health issues.

### (c) *Refining Teaching and Learning Strategies and Approaches Based on Student Outcomes*

Continual refinement of our approaches to teaching and learning was a key feature of the design of our inclusive Socratic model and reflects the deep commitment of the teaching team to continuous improvement and self-reflective teaching practises to enhance student outcomes. For this to be effective, we scheduled multiple opportunities during each class to assess the understanding of individual students and the class as a whole. For example, in the second half of the course, the start of each day was dedicated to addressing any questions that the students had based on the previous day's content. This allowed us to check the level of understanding, clarify any misunderstandings, and seek feedback from the students on the areas they found most difficult. Student feedback highlights that they viewed this as a 'safe space' to ask questions.

Other feedback on student understanding was gathered by the teaching team reflecting on the questions posed by the groups who were not on-call, during the formative and summative oral assessment process. Groups were instructed to ask the on-call group questions

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<sup>46</sup> Israel et al (n 6) 349.

about the assigned problem questions that they found difficult or where they needed further clarification. While these questions were often anticipated by the teaching team, where there was a clustering of questions around a particular aspect of a topic these aspects were given greater attention in the on-call sessions and subsequent topic revision. This led to us using more question trees, flowcharts, and diagrams in those revision sessions to ensure that in addition to understanding the legal doctrine, students understood the correct structure and process for applying the law.

A further feature of this strategy was aiding students to be much more reflective in their own learning. Students were provided with continuous feedback on what a 'good answer' looked like. We would identify to the class when students gave strong responses that would be awarded the highest grades of a distinction or high distinction and praise the student appropriately. Where the answer was weaker, we would use a process of gentle corrections of erroneous content and then ask the class to cooperatively identify the missing elements of a distinction or high distinction answer. Then, together, we would build a high distinction answer. An important aspect of this process was to build confidence in the weaker students to understand that their answer was at least partly correct, and that with a few tweaks they could improve their performance. The following exchange shows how this was practically implemented in the classroom:

Educator: Student X, do you believe that the plaintiff, who resides in a secluded waterfront mansion, has the right to prevent their defendant neighbour from taking photographs of them over the fence? Is that a right that is recognised by the law?

Student X: I am not sure.

Educator: It's Ok. This is a safe space.

Educator: So, what are the factors we consider? I'll walk you through it. How would you classify the right that the plaintiff is trying to protect?

Student X: Is it a right to privacy?

Educator: Does Australian law currently recognise a tortious right to privacy?

Student X: No (unsure).

Educator: That's right Student X. Can you provide me with an authority for that proposition?

Student X: The High Court in *Victoria Park Racing*.

Educator: Great, so what alternative causes of action could we consider here?

Student X: Perhaps private nuisance?

Educator: Excellent. Student X, what is the definition of private nuisance?

Student X: Interference with someone's use of land?

Educator: That is an excellent starting point. Student Y, can you build on that definition?

This process was also valuable because it reinforced to students what a high distinction and distinction answer looked like in the unit, which helped them to understand what was required to achieve these grades. This also likely contributed to the significant drop in appeals we experienced in the unit.

## IV FINDINGS

### A *Student Outcomes*

The student outcomes were remarkable, especially given the demographics of the student cohort. Out of our 53 students, as noted above, 13 students or 25% the cohort had previously taken the unit and had to repeat it due to either failing the unit or a late withdrawal. Further, five of the students, or 10% of the cohort, were on formal academic progression plans due to being identified as ‘at risk students’ who had repeatedly failed multiple subjects. Despite this, we achieved the highest overall pass rate in the last five years. With only one JD student failing the unit, our overall pass rate was 98%. This compares with the average JD failure rate of 7% in this unit.<sup>47</sup>

In our LLB cohort, 100% of students passed the unit, with these students also achieving the highest percentage of Distinctions and High Distinctions out of the 33 total cohorts who have taken the unit over the past 15 years.<sup>48</sup> Importantly, both cohorts of students achieved results that were higher on average than their peer group average, with the results of the JD students also a grade higher than the typical JD student results.<sup>49</sup>

This highlights that our inclusive Socratic and community building approaches do not just benefit the weaker students in the cohort, but can improve outcomes for all students in the classroom. These approaches can therefore be used to stretch the stronger students while also better support the weaker students. This is achieved through peer mentoring combined with tailored questioning designed to challenge each student at their capability.

### B *Results from Unit of Study Surveys*

In terms of quantitative data, the mean scores from the two USSs showed a significant increase from prior years (2020-2022).<sup>50</sup> The mean score for USS Questions 1-6 was 4.83/5 for LLB students and 4.59 for JD students, with overall mean scores of 4.83 and 4.63 respectively. In contrast, the overall mean scores for all units of study (ie LLB, JD and Masters units) at the Law School from 2020-2022 was 4.19, 4.16 and 4.24 respectively.

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<sup>47</sup> Internal University of Sydney data. On file with authors.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Lumsden (n 2).

Mean scores for question 6: *I have been guided by helpful feedback on my learning* were 4.70 for LLB students and 4.38 for JD students. This compares to the mean scores for all LLB units in 2020-2022 of 3.93, 3.94 and 4.06 respectively; and for JDs (and Masters) of 3.8, 3.91 and 3.85 respectively. Given that the USS was completed prior to the majority of summative assessments, these responses were based on dialogic feedback embedded in class, evidencing increased feedback literacy among students.

Student engagement with the USS also significantly increased, with our combined response rate over twice the average Law School response rate at 62%. This reflects that the students felt 'heard', and that their opinions mattered and would be taken seriously by the teaching team. Importantly, this response rate was achieved despite being unable to administer the survey in class time due to the intensive nature of the unit, a factor which is known to improve response rates.

For question 7: *I felt part of a learning community*, mean scores were 4.80 for LLB students and 4.68 for JD students. This compares to the mean scores for all LLB units in 2020-2022 of 3.81, 4.13 and 4.22 respectively; and for JDs (and Masters) of 3.59, 3.9 and 3.87 respectively. Mean scores for question 8: *I have been actively engaged in learning during class* were 4.80 for LLB students and 4.82 for JD students. This compares to the mean scores for all LLB units in 2020 and 2021 of 3.97 and 3.98 respectively; and for JDs (and Masters) of 3.7 and 3.92 respectively (not reported in data for 2022).

The qualitative feedback received from the two open-ended questions were particularly revealing, with 19 JD students and 9 LLB students responding to these questions, providing clear feedback that our pedagogical techniques had achieved their objectives. This was reinforced by informal feedback we received via email from students. Key themes that emerged from this data follow. Individual students have been assigned numerical identification codes based on the order of their response on each of the JD and LLB USS.

*(a) Paced Class Schedule Preferred to Reduce Cognitive Load*

The students reported a marked preference for the half-day, semi-intensive class format adopted in the first half of the course over the full-day, more intensive approach adopted in the second half of the course. This finding shows that students were willing to trade more days of their university break to undertake a paced Winter School unit. This result was reflected both in the USS results and through informal discussions with the teaching team.

The students stated that the more paced format reflected their preferred learning style, giving them more time to digest the complex legal concepts being taught and to practice applying the legal doctrine to the assigned problem questions. This format also better supported students doing the pre-reading and gave them some downtime in between classes. Students liked the shorter sessions covering one or two topics, which enabled them to better focus and made it easier to retain the information and the process of applying the law, consistent with cognitive load theory.



In contrast, students reported that the whole day intensive sessions were 'too much'. They struggled to concentrate for the time required, were exhausted by the end of the day, and found the classes which covered up to three or four topics in a single day too intense. The students needed time to sit with and process the information that they had learnt, and this time was simply not available in the more intensive format. We also found that it was harder to engage the students later in the day, especially during the post-lunch slump. This prompted a re-structure of the lesson plans on the longer days, with the more interactive on-call sessions and revision sessions being scheduled for this timeslot rather than the delivery of new content. This helped to re-energise the classroom as the students enjoyed working together applying the law to solve the problems.

This feedback has prompted a re-think of how intensive courses are structured across the Law School to ensure that our timetabling approaches and how we structure the curricula are flexible, adaptable and student-centred.

*(b) Effective Classroom Set-up Facilitated Interactivity*

The strategic use of clustered desks facilitated interactions and discussions among students, proving to be a better arrangement for engagement in this highly interactive class setting. The classroom design in the Business School, featuring clustered desks as opposed to linear arrangements, was identified by students as beneficial in fostering interaction and engagement, aligning well with the interactive nature of the class.

From the teacher's perspective, the clustered desks were also considered to be the optimal classroom design. This format enabled them to better move around the classroom during group time to provide prompts, ask questions, and to ensure that all students were included and engaged with their group and the exercise. Due to the presence of disability students, including those with a hearing impairment, we were conscious not to move around the room outside of group time to ensure that students did not have to constantly alter their hearing aids or track our location.

A further physical feature of the classroom which was believed to add to a positive learning environment was the presence of large windows in the Business School which created a feeling of openness, in contrast to the closed windowless room in the Law building.

*(c) Questionnaire Responses Created a More Engaged Classroom*

Responses to the questionnaire helped us importantly to learn students' names, backgrounds, and interests to create a richer, more comfortable, and engaging classroom. For example, we knew that we could take a slightly lighter tone to create 'banter' to break up the whole-day afternoon sessions with the student in the class who was also a professional stand-up comic. Equally, where a student was working in a particular field relevant to a case being studied or a problem-based scenario, we found that they could often add particular insights that made the discussions on the cases richer and more engaging. For

example, a problem question on causation and remoteness in contract involved a student entering into a contract for cello lessons in order to compete in a cello competition. One JD student had revealed in the questionnaire that their previous degree was from the Sydney Conservatorium of Music, and this student was asked during class to provide context around music lessons and competitions that assisted other students in thinking through the question.

In an unexpected development, several students disclosed on the questionnaire the nature of their disabilities, while others raised previously failing the unit or took the opportunity to raise other sources of anxiety. Some of these student disclosures necessitated an individualised response from teaching staff to acknowledge the disclosure and discuss how we would work together to meet any additional needs.

*(d) Personalised Accommodations for Disabled Students Increased Wellbeing*

While the policy of devising the reasonable accommodations being managed by the University's specialist Inclusion and Disability Services (IDS) team has obvious benefits in terms of ensuring student privacy and ensuring an internally consistent approach to making accommodations, several students chose to divulge the precise nature of their disabilities to us. Where this occurred, we found that we were able to provide more nuanced advice, and in some instances make suggestions which directly improved student outcomes. These disclosures took different forms, with some students disclosing on their initial student questionnaire, while others approached us before or after class.

The concerns for students extended to particular accommodations for IDS students beyond the assessment adjustments in their academic plans. For example, we shifted the classroom seating plan to better accommodate a student with a hearing impairment, and helped arrange a pick-up and drop-off service for another student with a physical disability who found walking the long distances to one of our classrooms difficult.

*(e) Pre-Assigned Group Allocations Built a Sense of Community*

Allocating students to specific groups enhanced the community feeling within the class, facilitating cooperation, understanding and respect. This was especially beneficial given the rigorous nature of the subject matter. Many students found this sense of community to be one of the best aspects of the unit, noting in the USS:

[T]here was a sense of camaraderie in the fact that we were all going through something tough together. As such, there was a lot of cooperation, patience, and understanding when it came to answering each other's questions. (JD Student #13)

The group camaraderie was very good. I particularly enjoyed how the teachers fostered a friendly environment where I made plenty of friends and connections. (LLB Student #1)

Having the same on call groups was helpful...as it allowed us to get to know each other and made it easier to come to class knowing you know someone in class as it can be quite daunting if you don't know anyone in class. (JD Student #12)

Students commented that sitting in the same groups allowed them to get to know each other and, in doing so, build new peer connections and friendships which made it easier to come to class. The groups also enabled students to engage in peer-to-peer mentoring. As observed by one student:

Participation extended to discussions and deliberations in groups, and allowed advanced students to mentor and lead by example to those who weren't as confident with the material. It meant that we had a stronger sense of familiarity as a group amidst what was admittedly a very large class. (JD Student #15)

The process of assigning students to specific groups was considered particularly valuable for this cohort of students, given that approximately half of the class had commenced their degrees in the COVID-lockdown era of 2020-21. These students in particular commented that they found the facilitated community building helpful.

*(f) Socratic Method Created an Interactive, Engaging and Supportive Learning Environment*

Students consistently highlighted the interactive nature of the classes, contrasting it positively with other units, which they described as 'passive'. Students found that the ability to discuss and reflect on questions during class increased their engagement, contributing to an enriching learning experience where students felt they were active contributors to their learning process. As one student elaborated:

[The lecturers']...fostered a deeply thoughtful, engaging, and positive learning environment. It was a really interesting and refreshing socratic dialogue approach to instruction and engagement with the material, and sought to meet students where they were at while also stretching them. (JD student, #15)

They found having questions on the slides particularly helpful for testing their understanding of the readings and engaging in class discussions, which some noted resulted in enhanced problem-solving skills and a more in-depth understanding of the materials:

[The] questions on slides...guide the class into the right patterned thinking for problem-solving. Working through the slide questions again during individual study has been very effective in helping me understand the course materials, rather than simply memorise it. (LLB Student #4)

The inclusivity of the teaching and the encouragement to participate were crucial in fostering a positive learning atmosphere. This supportive environment created a sense of encouragement, inclusion, and support unparalleled in students' previous experiences, boosting their confidence and participation levels. Students commented:

I felt much more comfortable in class than I normally do ... [The lecturers] went to great lengths to make clear that it was "a safe space" and okay to get things wrong in engaging with the material and testing our understanding, which took the pressure off it feeling like a verbal exam and encouraged open and genuine discourse, inquiry, and, most importantly, understanding. I therefore felt free to participate and enjoyed the experience. (JD Student #14)

I really appreciated the welcoming space both teachers provided, which made learning the content in an intensive setting much more enjoyable. (JD Student #3)

*(g) Socratic Method Enhanced Individual Participation in the Classroom and Preparation for Class*

We observed that all students had prepared for, and were able to participate in, their on-call panels, including those from diverse backgrounds. This was reinforced by feedback in the USSs, where numerous student accounts noted a considerable increase in individual participation in comparison to other units, stemming from the reassuring and comfortable class atmosphere created by the teacher. Others commented that the Socratic method not only enhanced in-class engagement, keeping them intellectually stimulated and responsive, but also encouraged diligent and consistent preparation for each class. For example:

The Socratic method was very helpful. [I]t helped guide my reading of the cases...and allowed me to test my understanding of the readings...My class participation was substantially greater in this unit than others. (LLB Student #6)

Classes were interactive and engaging. My participation was more than normal and the environment was easy to participate in. Sitting in groups for problem questions was really helpful and enjoyable and also improved participation. (LLB Student #7)

The Socratic method of teaching really kept me on my toes and encouraged me to do the readings for each class. (LLB Student #8)

*(h) Enhanced Individual Well-being and Empowerment*

There was a marked appreciation for the teachers' concerns for students' mental and physical well-being, resulting in students leaving with a heightened sense of accomplishment and optimism. As one student noted

I have been going through a hard patch, and thanks to [the lecturers], I gained some confidence and power. (JD Student #1)

Another commented,

I left with a feeling of accomplishment, more optimistic than I have been at any previous stage of the JD. (JD Student #6)

## V CONCLUSION

We piloted an innovative teaching model, using inclusive Socratic method, embedded dialogic feedback and small group based formative and summative oral assessments. This pilot was undertaken in the context of an intensively taught compulsory private law unit at the University of Sydney Law School. The academic results of the pilot were striking:

- our students had the highest pass rate in the unit over the past 5 years;
- we recorded the highest rate of Distinction and High Distinction grades in the LLB cohort in the unit's 15-year history;
- both cohorts of students achieved a grade higher average, with the JD students average result a grade higher than what is typically achieved in the unit; and
- student retention improved significantly.

More importantly, our innovative learning model led to significant improvements in the students' reported educational experience and overall satisfaction with the unit. The students reported that our teaching model made them more engaged learners and gave them a strong sense of belonging within an active learning community.

Other findings from our pilot highlight the importance of student-centred and inclusive approaches to the physical layout of the classroom environment, and a strong preference for a more paced, semi-intensive class format. Students reported that these features created a more friendly, engaging, and inclusive classroom environment and gave students the time they required to acquire and retain complex legal concepts.

As legal education continues to evolve, the insights gained from our pilot project at the University of Sydney Law School provide a compelling case for re-evaluating traditional pedagogical models and embracing more inclusive, interactive, and flexible dialogic teaching approaches. Our research shows that these approaches better cater to diverse cohorts of modern law students, preparing them as future legal professionals for the dynamic and varied communities they will serve.