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**THE RELATIONSHIP BETWEEN CLASS
PARTICIPATION AND LAW STUDENTS'
LEARNING, ENGAGEMENT AND STRESS: DO
DEMOGRAPHICS MATTER?**

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The Relationship Between Class Participation and Law Students' Learning, Engagement and Stress: Do Demographics Matter?¹

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1. Introduction

Student participation in the classroom has long been regarded as an important means of increasing student engagement and enhancing learning outcomes by promoting active learning.² However, the approach to class participation common in U.S. law schools, commonly referred to as the Socratic method, has been criticised for its negative impacts on student wellbeing.³ A multiplicity of American studies have identified that participating in law class discussions can be alienating, intimidating and stressful for some law students,⁴ and may be especially so for women,⁵ and students from minority backgrounds.⁶ Using data from the Law School Student Assessment Survey (LSSAS), conducted at UNSW Law School in 2012, this Chapter provides preliminary insights into whether assessable class participation (ACP)⁷ at an Australian law school is similarly alienating and stressful for students, including the groups identified in the American literature; in addition, we compare the responses of undergraduate Bachelor of Laws (LLB) and graduate Juris Doctor (JD) students.

The LSSAS is, we believe, one of only two empirical studies⁸ to gauge Australian law students' perceptions regarding the potential benefits of ACP, their satisfaction with their levels of engagement in class discussions, and their self-reported anxiety and confidence levels in relation to participating in class. Although differences in the survey instruments used limit the direct comparability of the LSSAS survey results with the findings of American studies, they provide a preliminary indication that Australian students' experiences of law class discussions both align with, and differ from, their American counterparts' in significant respects.

The LSSAS findings indicate that most respondents recognise the potential learning and

¹ This Chapter is an adapted version of a longer empirical study on class participation by the authors, which includes analysis of additional issues and is anticipated to be published in a journal article in late 2014.

² For an overview see: Alex Steel, Julian Laurens and Anna Huggins, 'Class Participation as a Learning and Assessment Strategy in Law: Facilitating Students' Engagement, Skills Development and Deep Learning' (2013) 36 *University of New South Wales Law Journal* 30.

³ For an overview of this literature, see, eg, Robert Schuwerk, 'The Law Professor as Fiduciary: What Duties Do We Owe to Our Students?' (2004) 45 *South Texas Law Review* 753, 771 at n 42; James B Levy, 'As a Last Resort, Ask the Students: What They Say Makes Someone An Effective Law Teacher' (2006) 58(1) *Maine Law Review* 50, 54 n 14.

⁴ Michael Hunter Schwartz, Sophie Sparrow and Gerald F Hess, *Teaching Law by Design: Engaging Students from the Syllabus to the Final Exam* (Carolina Academic Press, 2009) 92.

⁵ For an overview of this literature, see Jennifer L Rosato, 'The Socratic Method and Women Law Students: Humanize, Don't Feminize' (1997) 7 *Southern California Review of Law and Women's Studies* 37, 37 at nn 3–5.

⁶ For an overview of the American literature on the silencing and other negative effects of the Socratic method on minority students, see Elizabeth Mertz, *The Language of Law School: Learning to 'Think Like a Lawyer'* (Oxford University Press, 2007) 178–85.

⁷ We adopt the term assessable class participation and the abbreviation 'ACP' from the work of Armstrong: Marilyn Armstrong, 'Assessing Students' Participation in Class Discussion' (1978) 3 *Assessment in Higher Education* 186.

⁸ The other survey, conducted by the UNSW Tertiary Education Research Centre (TERC) in 1976, also examined UNSW Law student attitudes to class participation: Marilyn Armstrong, 'The Assessment of Class Participation in the University of New South Wales Law School' (University of New South Wales, 1976) 45.

social benefits associated with class participation in legal education,⁹ but remain divided over their willingness to participate. Further, in alignment with general trends identified in American studies,¹⁰ LLB students,¹¹ women, international students, and non-native English speakers perceive they contribute less frequently to class discussions than JD students, males, domestic students, and native English speakers, respectively. Importantly, students are more likely to be anxious about contributing to class discussions if they are LLB students (compared to their JD counterparts), and if English is not their first language (compared to native English speakers). There were no significant differences in students' self-reported anxiety levels based on gender, which diverges from the findings of American research.¹²

2. Class Participation and Law Students' Distress

The focus of this Chapter is on assessable class participation, which for the purposes of this Chapter will be described as:

[A]n active learning technique, based on social learning theory principles, which seeks to promote students' learning and understanding through interactions with their peers within the physical or virtual classroom. ... As such, ACP is sharply distinguished from many traditional forms of summative assessment as being directed primarily at achieving a peer-based attainment of competency and awareness, rather than the essentially private assessment of work by the teacher.¹³

This definition of ACP represents the ethos underpinning the approach to ACP at UNSW Law.¹⁴ In a 1976 UNSW Law document, the rationale behind ACP was described as follows:

Courses at this Law School are based on the discussion method of teaching where students are encouraged to take an active role in the classroom.

'It was thought that there was an educational advantage in a system that encouraged students to think for themselves, formulate ideas and develop skills in argument. ...'

To facilitate class discussion, the assessment of students' participation was introduced. The allocation of marks for participation in class, emphasizes the importance of the classroom as a source of learning and development of skills. It motivates students to prepare for classes, and encourages students to contribute to discussion.¹⁵

Although it is of course recognised that ACP at UNSW Law is not monolithic, and is influenced by differences in individual law teachers' interpersonal and teaching styles, as well as varying class dynamics, the responses of the students who completed the LSSAS will nonetheless reflect their experiences at a Law School for which this model of ACP is 'central' to the educational model.¹⁶

⁹ For an outline of these benefits, see Steel, Laurens and Huggins, above n 2.

¹⁰ See above nn 4-6.

¹¹ As American legal education is based on a graduate system, there is no comparable U.S. data examining the perceptions of undergraduate and graduate law students.

¹² See above n 5.

¹³ Steel, Laurens and Huggins, above n 2, 32 (citations omitted).

¹⁴ For an overview of the history of and approach to ACP at UNSW Law, see *ibid* 33-5.

¹⁵ Armstrong, above n 7, 1, quoting Richard Chisolm (1975) 'Assessing Class Participation' in D Connor and C Wieneke (eds), *The Assessment of Students*, Resource Document No 3. Tertiary Education Research Centre, UNSW (citations omitted).

¹⁶ Steel, Laurens and Huggins, above n 2, 34.

This Chapter examines whether key trends identified in American literature on the Socratic method may be applicable in an Australian legal education context. The transferability of these trends should not be assumed a priori as there are salient differences in the approaches to class participation in America and Australia. For example, the Socratic method utilised in U.S. law schools, which involves students, who may be cold called, answering a string of questions about legal issues and reasoning and their application to hypothetical fact scenarios,¹⁷ is regarded as a ‘signature pedagogy’ of American legal education,¹⁸ and has been identified as a contributing factor to elevated distress levels amongst law students.¹⁹ By contrast, the Socratic method is only used in modified form, if at all, in Australian legal education;²⁰ as described above, ACP is the preferred approach to class discussions at UNSW Law, and anecdotal evidence suggests other Australian law schools facilitate class discussions in ways that are more analogous to ACP than the pure Socratic method.

Prior American research ‘strongly suggests’ the Socratic approach to class participation contributes to many law students becoming ‘depressed, anxious, and disengaged’.²¹ In particular, women²² and students from non-English speaking and other minority backgrounds²³ may find participating in class more stressful and anxiety-provoking²⁴, and may therefore be less likely to participate in class discussions, than other students. In some cases, students who struggle with class participation begin to doubt their fitness for the study and practice of law, despite strengths in other legal skills.²⁵ Some Australian commentators have suggested similar effects exist in Australia.²⁶

This Chapter will make a preliminary contribution to this debate by providing empirical evidence of different types of students’ reactions to various aspects of ACP in the LSSAS. It is, however, important to recognise that law students are taught in a range of methods throughout Australia – including lectures, distance education, and seminar style classes. This study only considers the effects on student wellness of assessing class participation in a smaller class environment.

¹⁷ Jeffrey D Jackson, ‘Socrates and Langdell in Legal Writing: Is the Socratic Method a Proper Tool for Legal Writing Courses?’ (2007) 43 *California Western Law Review* 267, 272-3.

¹⁸ William M Sullivan et al, *Educating Lawyers: Preparation for the Profession of Law* (Jossey-Bass, 2007) 23-4.

¹⁹ See above n 3.

²⁰ Steel, Laurens and Huggins, above n 2, 51.

²¹ Hunter Schwartz, Sparrow and Hess, above n 4, 92.

²² See above n 5

²³ See above n 6. Although the LSSAS did not ask students questions pertaining to their ethnic background, students were asked if they are native English speakers and/or international students. Although it is recognised that such demographic groupings do not necessarily align with the concept of ‘minority students’ as discussed in the American literature, these are the closest proxies we have based on the data available from the LSSAS.

²⁴ These types of anxiety can range from ‘standard low-grade nerves’ to ‘severe public speaking anxiety’: Heidi K Brown, ‘The “Silent But Gifted” Law Student: Transforming Anxious Public Speakers into Well-Rounded Advocates’ (2012) 18 *The Journal of the Legal Writing Institute* 291, 293.

²⁵ Jennifer Jolly-Ryan, ‘Promoting Mental Health in Law School: What Law School Can Do for Law Students to Help Them Become Happy, Mentally Healthy Lawyers’ (2009) 48 *University of Louisville Law Review* 95, 124.

²⁶ See, eg, James and Field, who state: ‘[T]he way law and its culture are taught and ... the isolated, competitive environment that can exist at law school’ are factors contributing to Australian law students’ high levels of distress’: Nickolas James and Rachael Field, *The New Lawyer* (John Wiley & Sons, 2012) 348.

3. The 2012 LSSAS

In 2012, all UNSW LLB and JD students were invited to participate in the UNSW Law School Student Assessment Survey.²⁷ The LSSAS was administered online via Survey Monkey and students were invited to participate via email on a voluntary and anonymous basis. The survey questions were deliberately written in more colloquial, rather than formal, language with the aim of enhancing students' engagement with the survey. Accordingly, the questions in relation to ACP were not intended to be formal or rigorous psychological self-assessment measures, but rather to provide an environmental scan of the types of student preferences, resistances and stresses in relation to ACP, and their perspectives on its utility for learning and skills development. The data were analysed using SPSS Statistics software.

A Profile of UNSW Law Courses

UNSW Law offers both an undergraduate combined LLB degree and a graduate JD degree, both of which qualify students for legal practice in Australia. Due to practitioner admission requirements, two-thirds of both degrees are comprised of compulsory doctrinal courses required for admission to legal practice,²⁸ and courses are taught using a similar interactive, seminar-style approach, meaning that there is substantial similarity, and hence comparability, between the teaching methodologies of both degrees.

The combined LLB degree is structured so that students complete fewer law courses while they simultaneously complete the bulk of their non-law degree in the first three years, and in the fourth, fifth and in some cases sixth years of the dual degree program, the balance shifts to predominantly law courses. The most popular combinations in 2012 were with Business (57%), and Humanities (37%).²⁹ As the JD is a graduate degree, JD students have already completed an undergraduate degree in another discipline, and most have also had experience in the work force. Thus, the survey responses reflect the attitudes of both school leavers and mature graduate law students.³⁰

B Data and Coding

A total of 317 LLB and JD students started the survey and, of these, 295 answered the questions on ACP that are the focus of this Chapter. LLB students accounted for 200 (67.8%) survey participants, representing the views of approximately 12.4% of 2012 LLB students, and 95 JD students (32.2%) participated, constituting approximately 20% of 2012 JD

²⁷ The survey contained 81 items spanning six areas of law school assessment: (1) class participation; (2) group work; (3) legal problem questions; (4) essays; (5) examinations; and (6) general assessment and feedback questions. The items were a mixture of forced choice likert scale responses to statements, open-ended text based answers to questions, and multiple choice single answer questions, and were developed based on a literature review and the investigators' hypotheses of likely student issues. A related article analysing survey responses to the questions on group work in this survey is: Alex Steel, Anna Huggins and Julian Laurens, 'Valuable Learning, Unwelcome Assessment: What LLB and JD Students Really Think About Group Work' (2014) *Sydney Law Review* (forthcoming). The survey, which had ethics approval (no 12 058) formed part of UNSW Law's contribution to a university-wide Assessment Project, and helped to inform aspects of the Law School's 2011-2013 Curriculum Review.

²⁸ Consultative Committee of State and Territory Law Admitting Authorities, 'Schedule 1: Prescribed Areas of Knowledge' (1992) <http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=30440CF8-1C23-CACD-222E-59CF362D9B5A&siteName=lca>.

²⁹ Business includes both Commerce/Law and Economics/Law. Humanities includes Arts/Law, International Studies/Law, Social Science/Law, Criminology & Criminal Justice/Law, Media/Law and Social Work/Law.

³⁰ Steel, Huggins and Laurens, above n 27.

students.³¹ Based on demographic information provided by each of the respondents to the LSSAS, responses were coded to reflect respondents': (1) degree (LLB or JD); (2) gender (male, female or other); (3) student residency status (domestic or international); (4) first language spoke (English or other than English); (5) other degree (commerce-related or other); and (6) year of degree (1–6(LLB); 1-3(JD)). The demographics of respondents to the LSSAS are reported in Table 1.

<Insert Table 1 here>

The analysis that follows is based on students' responses to eight questions that were asked in the LSSAS that pertained to students' views on the potential benefits of ACP, their satisfaction with their levels of engagement in class discussions, and their self-reported anxiety and confidence levels in relation to participating in class.³² These questions, and the number and proportion of respondents that strongly disagreed, disagreed, agreed or strongly agreed with each are shown in Table 2. Respondents' comments in relation to each question, except for question 8, were coded using a 4-point Likert scale where 4 = strongly agree, 3 = agree, 2 = disagree, and 1 = strongly disagree. In relation to Question 8, where students were asked to rate the quantity of their ACP compared with other students, the following 4-point Likert scale was employed: 4 = I am usually one of the most talkative; 3 = I participate as much as most people; 2 = I participate less than most people; and 1 = I am one of the least talkative.

<Insert Table 2 here>

C Model Specification

In order to identify significant differences between various demographic sub-groups in relation to each of the relevant survey questions on ACP, we ran a series of linear regressions and cross-tabs. The model specification for the regressions was:

Response to Questions = $f(\text{LLB}, \text{female}, \text{international students}, \text{English not first language}, \text{other degree commerce(-related)}, \text{year of degree})$;

Where LLB, female, international students, English not first language, other degree commerce(-related) = 1 if included in this group respectively, 0 otherwise, and year of degree is a continuous variable coded 1-6.³³ Each of these independent variables was chosen as,

³¹ At the time of the survey there were 1,612 LLB students (cohorts of 381, 372, 320, 316 and 223 students in each of the five years, noting that fifth and sixth cohorts have been combined) and 488 JD students (cohorts of 204, 153, 131 in each of the three years). Across the year cohorts, the LLB responses averaged 9% for years 1-4 and jumped to 21% for the 5th year. The JD cohorts averaged a response rate of 20% across the three years. The representativeness of our study, particularly for LLB students, constitutes one of the potential limitations of our research.

³² There were 26 questions on ACP in the LSSAS, but we are limiting the focus of our regression analysis to the eight questions that pertain to these issues of relevance for this Chapter. An additional question, Q9, is also discussed below, but was not included in the regression or in Table 2 as the responses did not correspond with a four-point Likert scale.

³³ The year of respondents' degree has been coded as both a continuous variable, and as a dummy variable where first year = 1, 0 otherwise, to isolate whether first year students' responses were skewing results. Additional sensitivity analysis using the dummy variable 'first year' (not reported, except in relation to Q 1 where the 'year' variable was significant) did not reveal any significant differences compared to the continuous variable 'year', indicating that first year students' responses did not skew the results.

based on the trends identified in the abovementioned U.S. literature and anecdotal evidence,³⁴ they were perceived as being more likely to be associated with students' negative reactions to ACP. Multicollinearity tests indicated that multicollinearity was not an issue for this model.

4. Analysis of Students' Responses

Do students value the potential benefits of ACP?

There were three questions (Q1 – 3) that attempted to gauge the extent to which students recognised the potential benefits of ACP pertaining to deep learning, engagement and skills development.³⁵ Overall, 63.8% of students agreed or strongly agreed that ACP enhances their learning (Q1). Non-native English speaking students were less likely to perceive the benefits of ACP for their learning than native English speakers ($t = -2.160$, $p < 0.05$), and respondents' degree year also had a significant influence on levels of agreement with this statement ($t = 2.562$, $p < 0.05$). Additional analysis separating out the first year students to examine the difference between first year students and students in later years did not indicate significant results, suggesting that students' appreciation of the learning benefits of ACP increases as they progress through their degrees.

Overall, 68.9% of respondents agreed or strongly agreed that ACP makes classes more interesting (Q2), and an almost identical proportion of respondents (69.1%) agreed or strongly agreed that ACP helps them to improve their oral communication skills (Q3). Female students were slightly less likely to agree with the latter proposition than males ($t = -1.888$, $p < 0.10$), and respondents' year of degree also slightly influenced results ($t = 1.943$, $p < 0.10$).

In another survey question (Q9), which was not included in the regression analysis or Table 2 as the responses did not correspond with a four-point Likert scale, students were also asked what percentage of their final grade should be based on class participation, and a response of 0% was permitted. In other words, they were asked if they believed ACP should be summatively assessed. Significantly, 91.6% of LLB respondents felt it should be assessed, as did 81.6% of JD respondents, although students' views on its appropriate weighting varied. This evidences a very high level of support for the continued inclusion of ACP as an integral component of the assessment regimes of UNSW Law courses.

Students' responses to their level of involvement in ACP

Three questions (Q4, 7, and 8) related to students' perceptions of their level of involvement in ACP. Question 8 provides an appropriate starting point to contextualise the following discussion. In relation to this question, which asked students to 'rate the quantity of [their] participation in class compared with other students', 42.7% of respondents indicated that they 'participate as much as most people', and 24.1% of respondents identified themselves as 'usually one of the most talkative'. Significantly, LLB, female, non-native English speaking and international students were less likely to rate their quantity of participation highly compared to JD, male, native English speaking and domestic students ($t = -2.307$, $p < 0.05$; $t = -2.252$, $p < 0.05$; $t = -2.906$, $p < 0.01$; $t = -3.687$, $p < 0.01$, respectively). These results appear

³⁴ It should be noted that it was expected that students whose other degree was Commerce-related might be more likely to have negative reactions to ACP as anecdotal evidence suggests that, compared to their counterparts in other discipline areas, such as the Humanities, they are likely to have less experience of in-class discussions. For similar reasons of relative inexperience, it was predicted that LLB students were less likely to have positive reactions to ACP than JD students.

³⁵ Steel, Laurens, Huggins, above n 2, 35.

consistent with the findings of American research indicating that women and students from minority backgrounds do not participate in class discussions as frequently as others.³⁶

Two related questions pertained to whether students were ‘happy with [their] level of involvement in ACP’ (Q4), and whether they would ‘prefer to sit and listen’ than actively engage in class discussions (Q7). Overall, 62.7% of respondents agreed or strongly agreed with the former statement, and 48.2% agreed or strongly agreed with the latter. Similarly to the results for Q8, LLB and female students were significantly less likely to be happy with their level of involvement in ACP compared with JD and male students ($t = -2.223$, $p < 0.05$; $t = -2.035$, $p < 0.05$, respectively). The year of degree was also significant ($t = 2.002$, $p < 0.05$), indicating that students’ contentment with their involvement in ACP increased as they progressed through their degrees. Female, non-native English speakers and international students were also more likely to prefer to sit and listen than male, native English speaking and domestic students ($t = 1.747$, $p < 0.10$; $t = 1.948$, $p < 0.10$; $t = 2.529$, $p < 0.05$, respectively).

Students’ anxiety and confidence levels in relation to ACP

The survey question of highest salience in terms of assessing the stress students experience as a result of participating in ACP is Question 5, where students were asked to rate the extent to which they ‘often feel anxious about contributing to class discussions’. The majority of respondents (53.9%) agreed with this statement, with 17.6% of these strongly agreeing.

When regressions were run based on demographic sub-groups, LLB respondents and students for whom English is a second language demonstrated far stronger support for the statement in Q5 than their JD and native English-speaking counterparts ($t = 3.450$, $p < 0.01$; $t = 3.086$, $p < 0.01$). This indicates that the most important variables accounting for law students’ self-assessed anxiety about contributing to ACP are their status as LLB students, which may be further equated with relative youthfulness and inexperience in tertiary studies compared to JD students, and a lack of native proficiency with English, which makes intuitive sense given the rapid pace and sophistication of some of the oral exchanges in law school classrooms. Interestingly, female respondents’ agreement with this statement did not differ significantly from male respondents’; to this extent, our results differ from previous American research cited above.³⁷

Despite the high levels of anxiety reported, a significant majority of students (81.0%) agreed or strongly agreed that they felt confident expressing themselves in English for law assessments (Q6). Mirroring the results of Q5, compared to JD students and native English speaking students, LLB students and non-native English speaking students were more likely to disagree with this statement ($t = -3.678$, $p < 0.01$; $t = -2.432$, $p < 0.05$, respectively).

Significant correlations also existed between those who would prefer to stay silent in class (Q7) and those who were anxious about contributing (Q5) (Pearson’s $r = 0.545$ for LLB and 0.424 for JD students, both at the 0.01 level of significance (2-tailed)). As percentages, 41.6% of LLB respondents and 28.7% of JD respondents agreed that they were both often anxious (Q5) and preferred to stay silent (Q7). There was also a strong negative correlation between levels of contribution (Q8) and anxiety (Q5) in class (Pearson’s $r = -0.597$ at the 0.01 level of significance (2-tailed)), with 95.9% of those who participated less than most people and

³⁶ Above nn 5 and 6.

³⁷ Above n 5.

91.7% of the least talkative in the LLB, and 84% and 100% respectively in the JD, agreeing that they experienced anxiety surrounding ACP. Further, there were significant negative correlations between the extent to which respondents were happy with their levels of contribution (Q4) and the extent to which they felt anxious (Q5) (Pearson's $r = -0.527$ at the 0.01 level of significance (2-tailed)). These correlations existed across both degree programs and in each year.

Interestingly, the existence of anxiety around contributing in class does not necessarily impact negatively on student learning. Of the 53.9% of respondents who agreed that they were often anxious when contributing in class (Q5), 48.8% still considered that ACP enhanced their learning (Q1), and 56.8% indicated it made classes more interesting (Q2). When these responses were combined, 37% found ACP neither enhanced learning nor made classes more interesting, which corresponds with 20.3% of all respondents. Of that 20%, there was no significant gender difference (51% female), two thirds had English as a first language (66.7%) and most were local students (85%), suggesting anxiety and negativity towards ACP were not linked to demographic factors. Further, of that 20% of respondents, only 33.3% thought ACP should not form part of a final grade (that is, 7% of all respondents). This suggests that despite broad levels of anxiety, most respondents still find learning benefits associated with ACP and wish it to be retained as a form of assessment.

5. Discussion and Conclusion

This Chapter has reported empirical findings from an Australian law school regarding students' perceptions of the benefits of ACP, and self-assessments of their levels of engagement and anxiety in relation to in-class participation. It provides evidence that law students, even in an environment of smaller class teaching, are evenly split over whether they would prefer to speak in class or remain silent. This is a significantly high degree of resistance to class participation that teachers will need to bear in mind. There are also relatively high levels of anxiety associated with contributions in class. Again, roughly 50% of respondents reported that they often felt anxious in class, however, contrary to our expectations based on prior U.S. research, the reported anxiety levels of male and female respondents were comparable. What this study does not capture is the level of anxiety that students are suffering, nor how great this anxiety is in comparison to other forms of learning and assessment approaches.

Although differences between the demographic groups of interest varied for each of the eight questions analysed, the cumulative evidence suggests that, like in the U.S., the students that are most likely to find ACP challenging and stressful in various ways are women, non-native English speakers and international students. Additionally, LLB students expressed more concern than JD students, indicating that age and relative experience mediate students' perceptions and experiences of ACP. However, there was no clear demographic pattern for those students who did not value the potential learning outcomes associated with ACP. Further, one variable that did not account for significant differences in students' responses on the questions pertaining to their engagement, or anxiety and confidence, levels was the discipline of their other degree, suggesting that prior or concurrent tertiary experiences do not predict reactions to ACP.

Whilst *prima facie* these results might suggest comparability with U.S. studies on the negative effects of the Socratic method, the results of our survey, which asked a series of more specific questions around student attitudes to ACP, paint a more complex picture.

Specifically, our results suggest that for most students ACP is a positive experience overall, despite elevated anxiety levels. There are high levels of student acceptance that ACP makes student learning more effective and the classroom environment more interesting (and by implication, more engaging). Our findings indicate that there is a group of approximately 20% of respondents who are both anxious and find little learning benefit in ACP. Yet of those respondents, most would still prefer ACP to be a component of the final grade. This suggests that for this small group of students, ACP is a lesser evil than other forms of assessment.

The overwhelming indication that respondents want participation to be assessed suggests that ACP is viewed as a positive component of the assessment suite, and that students would be strongly opposed to its removal, even on grounds of student anxiety. Further research is thus needed to determine whether the negative impacts experienced by certain sub-groups of students can be linked to particular forms of participation, and the impact that different teaching and marking styles have.³⁸

Our results thus draw into question whether ACP is a significant contributing factor to Australian law students' elevated distress levels as has been 'strongly suggested' by the research on the Socratic approach in the U.S.³⁹ Interestingly, recent research by Larcombe et al at Melbourne Law School indicates that there are other variables, beyond students' course experiences, that may be the most salient contributing factors to law students' elevated distress levels.⁴⁰ This raises further questions about whether students' stress about ACP may be relatively insignificant compared to other stressors, which constitutes a valuable opportunity for further research.

³⁸ A range of valuable pedagogical strategies for supporting students' diverse needs, learning styles and preferences can be sourced from the extant literature: See, eg, Steel, Laurens, and Huggins, above n 2, 52-4; Stuckey et al, *Best Practices for Legal Education: A Vision and a Road Map* (Clinical Legal Education Association, 2007) 207-225.

³⁹ Above nn 3-4.

⁴⁰ Wendy Larcombe et al, 'Does an Improved Experience of Law School Protect Students Against Depression, Anxiety and Stress? An Empirical Study of Wellbeing and the Law School Experience of LLB and JD Students' (2014) 35 *Sydney Law Review* 407.

Table 1: Demographics of Respondents

Categories of respondents	Demographics of Respondents	Number of Respondents (n = 295)		
Degree	LLB	200		
	JD	95		
Gender	Female	170		
	Male	116		
	Other	9*		
Student Residency Status	International	29		
	Domestic	266		
First Language Spoken	English	219		
	Other than English	76		
Other Degree	Commerce	121		
	Other	174		
Year of Degree		LLB	JD	Total
	1 st year	46	36	82
	2 nd year	39	30	69
	3 rd year	30	25	55
	4 th year	35	2**	37
	5 th year	39	2**	41
6 th year	11	0	11	

* These 9 responses were coded 0 for gender (as female = 1), and sensitivity tests excluding these responses revealed similar results.

** The JD is a three-year degree; perhaps these four students who indicated they were in 4th or 5th year undertook a part-time study load or needed to repeat failed subjects.

Table 2: Descriptive Statistics

	Strongly Disagree	Disagree	Agree	Strongly Agree	Total (n = 295)
Q1: Overall, CP enhances my learning.	27 (9.2%)	80 (27.1%)	127 (43.1%)	61 (20.7%)	295
Q2: Overall, CP makes classes more interesting.	25 (8.5%)	67 (22.7%)	135 (45.8%)	68 (23.1%)	295
Q3: Overall, CP helps me to improve my oral communication skills.	22 (7.5%)	69 (23.4%)	149 (50.5%)	55 (18.6%)	295
Q4: Overall, I am happy with my level of involvement in CP.	19 (6.4%)	91 (30.8%)	144 (48.8%)	41 (13.9%)	295
Q5: I often feel anxious about contributing to class discussions.	45 (15.3%)	91 (30.8%)	107 (36.3%)	52 (17.6%)	295
Q6: I feel confident about expressing myself orally in English for law assessments.	11 (3.7%)	45 (15.3%)	147 (49.8%)	92 (31.2%)	295
Q7: I would prefer to sit and listen instead of participating in class discussions.	32 (10.8%)	121 (41.0%)	97 (32.9%)	45 (15.3%)	295
Q8: In general, how would you rate the quantity of your participation in class compared with other students?	I am one of the least talkative.	I participate less than most people.	I participate as much as most people.	I am usually one of the most talkative.	295
	31 (10.5%)	67 (22.7%)	126 (42.7%)	71 (24.1%)	