Does the active learning approach for legal problem solving and legal reasoning improve student engagement?
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Abstract

Active learning approaches to teaching promotes student learning through both encouraging student reflection and engagement by focusing the responsibility of learning on the student.\(^1\) Where a student takes responsibility for their own learning, their learning is ultimately improved. Norman and Schmidt suggest that if students engage in their own learning, they retain knowledge longer and they are more self-directed to learn.\(^2\) Active learning approaches promote this outcome and students engaged in such approaches to teaching, become more interested in their own learning.\(^3\) Approaches to teaching that emphasise active learning approaches have been used in various disciplines, such as within social sciences as instructional tools with great success.\(^4\) Take for instance, class discussions and collaborative learning approaches. Educators in business law often face challenges with engaging students in the learning process\(^5\) particularly as there interests often lie within other disciplines areas. Furthermore, the learning of core skill in law can often appear counter intuitive and these students have less interest.\(^6\) As such, active learning approaches can be helpful in the law to encourage student engagement and reflection and importantly for students to take responsibility for their own learning.

The development of core skills in legal problem solving and legal writing are skills that, as educators, we wish all students would develop.\(^7\) We don’t exclusively want students to be able to recite substantive law.\(^8\) These skills are the types that are transferrable in a professional context and as such are also highly valued.\(^9\) Thereby any approach that fosters the development of such core skills will be beneficial from a pedagogical standpoint and also useful in a practical sense.\(^10\) Further, any approach that has a practical emphasis ensures the retention of learning.\(^11\) Kolb suggests that if students engage learning for meaning, they increasingly reflection, and develop their own understanding.\(^12\) Past research suggests that through active learning that student learning is enhanced,\(^13\) and students learn for meaning.\(^14\) Similarly the ability to write clearly and concisely is a necessity of success within tertiary education.

Coles suggests that where adults can relate their learning to experiences their learning is enriched.\(^15\) In teaching law particularly, we want students to draw important linkages between theoretical academic content and its practical application.\(^16\) Therefore, any approach that facilitates the nexus between a students’ theoretical understanding of law with the practical application of that law has a practical application outside academe and is useful within commercial settings.\(^17\) It is for this reason, that approaches that promote active learning are useful in business law. Driven by these considerations, a research project was undertaken at the School of Business, University of Ballarat to consider what impact the provision of support in the form of active learning approach would have in the development of these core skills for business law students. This project thereby involves consider the usefulness of an active

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7 Gerry Nash, ‘Skills Course or Clinic’(1980) 54 Australian Law Journal 535.
9 Ibid.
11 John Biggs, Teaching for Quality Learning at University (2nd ed, 2003).
12 Ibid n 3.
14 John Biggs, Teaching for Quality Learning at University (1999).
15 Colin Coles, ‘Differences between conventional and problem-based curricula in their students’ Approaches to Studying’ (1985) 19 Medical Education, 4, 308-309.
learning approach to the instruction in business law. Furthermore as mentioned, and key to this project, how student learning might be enhanced through the use of workshops in law.

**Keywords:** Active Learning; legal problem solving; legal writing; student engagement.

**Why focus on Legal Problem solving and Legal Writing?**

Firstly, legal problem solving has been used in the teaching of law due to the benefits to students that arise from this type of learning. This approach to teaching involves having students consider plausible solutions to problems that in many respects reflect real life problems.\(^\text{18}\) The student scopes out the problem and determines what knowledge they have of relevance to resolve the challenge. In this sense, an important linkage exists between problem based learning as a self directed learning approaches to facilitate the learning process.\(^\text{19}\)

Legal reasoning and writing is similarly a cognitive process where a student needs to be able to contextualise the issue being posed and to confines this within the discipline of study, that is law and in this instance, business law. Here, we are referring to a far more practically orientated ability of the student within Australian Universities to be able to rationalise the operation of the law in society. For an early business law student, the ability to understand aspects of the problems within broader legal contexts is vital in a practical sense. Skills in this area are dependant upon a students ability to comprehend and to meaningfully apply analyse the application of law.\(^\text{20}\) In a more applied sense, students use the evidence of argument to inform their thinking.\(^\text{21}\) While legal reasoning is a function of understanding the nature of the legal system, we want to understand and to be able to explain the general meaning of law and evaluating an argument for business law students.\(^\text{22}\)

**Background to the study**

This project was run within the School of Business at the University of Ballarat with students studying business law at both undergraduate and postgraduate levels. This duration of the project was one year from the period of June 2009 until June 2010 and undertaken at the University of Ballarat’s, Mount Helen Campus, in addition to a number of affiliated partner institutions included; International Institute of Business and Information Technology (IIBIT) in New South Wales, Melbourne Institute of Technology (MIT) in New South Wales and Victoria and AMI Education Australia in Victoria whereupon this study was undertaken. The business law subjects included in this project were as follows: Fundamentals of Law, Commercial Law (undergraduate) and Commercial Law (postgraduate). These student programs undertaken by respondents included; the Bachelor of Business, Bachelor of Commerce or Masters of Business Administration or Masters of Professional Accounting programs. Funding for this project was obtained through an internal learning and teaching grant from within the School of Business at the University of Ballarat for $3,000. The budgeted allocation was primarily utilised for travel to the various affiliated partner institutions.

**Methodology**

The project, itself involved three distinctive stages. The first stage of the project involved the delivery of a skills workshop that focussed on the development of legal problem solving skills. The second stage of the project involved a follow on skills workshop focussed on the development of legal reasoning skills. The final

\(^{18}\) Christopher Enright, Legal technique, (2002).

\(^{19}\) Ibid n 1.


\(^{21}\) Ibid n 18.

\(^{22}\) Ibid.
stage of this project, involved the collection of data, from the students participants of the workshop. All of the three stages ran consecutively across a workshop session, over a duration of two hours. Each of these stages will now be discussed in more detail.

The first stage, involved the delivery of a practical workshop session on legal problem solving skills. This stage of this project provided students with a framework for understanding legal problem solving. Further, this session involved teaching students about the appropriate use of models in resolving legal problems with a focus toward encouraging students to utilise a legal problem solving model to resolve hypothetical legal problem scenarios.\textsuperscript{23} Within the workshop, students work toward identifying the legal rules that relate to the specific legal problems identified.\textsuperscript{24} In reinforcing the active learning process, students were encouraged to carefully plan their response taking before applying the relevant law, and applying that law to the factual situation to derive an appropriate solution.\textsuperscript{25} An analogy is made here with Mathematics, in that the working out is as important as the solution. In working through this conceptual process, a student is able to exercise a measure of academic judgement to consider how the law may apply and then apply the relevant law to the facts to derive an outcome, which is an important analytical ability in law.\textsuperscript{26} This analytical ability also demonstrates higher level skills.\textsuperscript{27} This also reinforces the need for students to demonstrate understanding.

The second stage of the workshop focussed on legal writing. This stage commenced by outlining the process of answering questions and writing these up for students, in particular the role of analysis and critical thought.\textsuperscript{28} Further, to enhance skills in legal writing, the key steps of analysing and responding to question in law were discussed. In reinforcing the experiential process, students were encouraged to carefully read the question posed and to plan their response taking into account, relevant course content. This approach allowed students to critically consider a question and apply their knowledge, a higher order skill.\textsuperscript{29} For instance a question on contract law would accordingly necessitate a response from a student framed within their understanding of this topic. Students were again asked to be critical in their response and to contextualised their response to the context of the course and to draw linkages with relevant course content. A template essay response was used within this stage of the workshop to demonstrate to students how the key components to an appropriate response might be framed.

The final stage of the project, involved administering a survey instrument to student participants. This stage primarily was the data collection stage of this project that followed the workshop. The survey was developed to measure student perceptions in relation to the usefulness of workshop. The questions asked within this instrument pertained to student perceptions as they related to; legal problem solving and legal reasoning both before and after the workshop. This survey instrument had 26 questions which were quantitative and 2 which were qualitative. The survey instrument contained questions pertaining to a students’ respective level of confidence, intimidation and apprehension in regard to the aforementioned skills of legal problem solving and legal reasoning. Student perceptions can be a useful gauge for educators to consider the benefits of adopting certain pedagogical approaches versus others approaches to teaching. Indeed, perceptions have been used to measure many human endeavours as measurements.\textsuperscript{30} As such, the responses derived from students provide some insight into the perceived benefit of workshops as an experiential tool to developing core skills in business law. The following section will discuss the results derived from the student participants in this study.

\textsuperscript{24} Ibid.
\textsuperscript{25} Ibid.
\textsuperscript{26} Ibid n 24.
\textsuperscript{27} Paul Ramsden, Learning to Teach in Higher Education (2002).
\textsuperscript{28} Ibid n 27.
\textsuperscript{29} Ibid n 28.
Results

Of the pool of potential respondents, 106 student responses were attained and the incomplete responses removed from the analysis. From the student feedback obtained, some inferences will be made from the data collected. Foremost, it should be pointed out that the student respondents were obtained from students at University of Ballarat at Mount Helen and from affiliated institutional partner campuses in Melbourne, Sydney and Adelaide, previously mentioned. For the purposes of this study, no distinctions are made between the student respondents obtained from the Mount Helen Campus University of Ballarat students and other students participating in this study at any other partner institutions. Likewise, no distinction was made between the postgraduate and the undergraduate student cohorts however it could be presumed that the undergraduate students outnumbered postgraduate students as this is consistent with enrolment and was anecdotally observed. Lastly, data relating to the specific location of students was not collected, nor were individual identifying particulars, from the participants in these workshops.

To give the results some context, it is prudent to commence the discussion of results with some demographic details. Of the 106 responses, the male response rate was 55 compared with 51 female respondents surveyed and 83 respondents were under the age of 25 years. Students were asked if they had studied business law in the past and as expected, 68 respondents stated that they had not studied law as a part of a degree program in the past. It was anticipated that most students would be undertaking business law for the first time as the students chosen to participate in this project, were enrolled and completing first year law subjects. However, 38 respondents stated they had completed a law subject, as a part of a degree program and this was an unanticipated outcome. This may be attributed to students studying out of sequence and repeat enrolments. In addition, students were asked if they had participated in a similar workshop in the past, many 87 responded that they had not participated in a similar workshop during their studies.

Students were asked to reflect on their past experiences in respect of both legal reasoning and legal problem solving. Students were asked if they felt apprehensive about legal reasoning and legal problem solving prior to the workshop, in their studies in law. This feedback related to as a measure of 'dread' that a student may have in relation to responding to legal questions within tutorials, in legal reasoning and legal problem solving. 72 students suggested that they felt apprehensive with using legal problem solving to solve tutorial problem and likewise 66 students felt apprehensive about using legal reasoning to solve tutorial problems. These findings perhaps support the underlying rationale behind these students having decided to attend the workshop, in the first place. Interestingly, the level of apprehension and intimidations students experience with using legal problem solving and legal reasoning before the workshop was similar, as expressed in figure 1 below.

Figure 1

![Figure 1](image)

Figure 1. – The frequency results for students in regard to how apprehensive students felt about using legal problem solving and legal reasoning to solve tutorial problems before the workshop

In considering student perceptions following the workshop, students were asked to respond as to whether they felt that the workshop would assist them in completing future tutorial work. It was important, from a
pedagogical standpoint, to ensure that the core skills were transferable to future studies in law. 65 students suggested that they felt they would be better able to equipped answer tutorial problems more quickly following the workshop. Further, most student responses suggested they would use these skills in their future studies. 94 student respondents suggested that they would use legal problem solving and 98 students would use legal reasoning in answering questions in other law courses. These results suggest a preparedness, on the part of students, to transfer these core skills to future studies, a positive support for utilising workshops in law. Students were asked about the extent to what they felt they have the resources necessary to deal with legal problem solving and legal reasoning. 94 student responses stated they now felt, after having attended the workshop) that they had the resources for legal problem solving and 90 student respondents similarly suggested that they now have the resources for legal reasoning. These responses may be attributed to the many things, but anecdotally these support the usefulness of such a workshop toward the development of core skills in law. This statistics are expressed as in figure 2 below.

**Figure 2**

![Figure 2](image_url)

**Figure 2.** The frequency findings for students in regard to how student felt after having attended the workshop in terms of having the resources necessary to use legal problem solving and legal reasoning.

A comparison between the two variables provides insight in the benefits of the workshops. In comparing the student apprehension before the workshop and student confidence after the workshop, it could be inferred that students felt more comfortable with legal problem solving and legal reasoning having attended the workshop. From the descriptive statistics relating to the apprehension before and after the workshop is can be seen that strong correlations exist of between the aforementioned variables, with results of 0.769 for legal problem solving and 0.703 for legal reasoning. Although, as these questions are somewhat different (non linear) and care needs to be taken in comparing these two measures. They nonetheless provide a interesting measure of student perception before and after the workshops.

Finally, another useful indicator of the student’s perception of the usefulness of the workshops in regard to the extent to which students’ felt comfort in recommending the workshop to other fellow students. Within social science disciplines, significant research has taken place in support of the strength of recommendations of this nature.31 In respect of this question, 103 students suggested that they would recommend such a workshop to other students. This strong support is also reflected in the qualitative student feedback from students. The favourable responses to open ended question reflects the sentiments of the students in relation to the provision of such workshops follows.

- Very useful to gain understanding of law problem solving and essay questions are answered in order to achieve above average results in course.

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• It is a beneficial workshop, it helped me to have more knowledge about legal problem solving and legal reasoning answers. It will help me in my future exam also. It made it easy for me to write down my exam paper and also it’s time saving. Be quick enough in revising the question in open book test by listing out the main points. It's really beneficial.
• After attending this workshop I feel that now I am able to do my assignment in a better way. Now it is easy for me to solve the tutorial questions in an effective way.
• Thanks! You make the ideas and concepts easy to understand and have provided me with a basis for answering questions that will be useful in all my law subjects.
• I like the workshop and I think that it will helpful in making the assignment and it will helpful in exam in writing answers in a correct systematic matter.

Discussion

The findings of this trial support the assertion made by other academics within the field that the use of an active learning approach can better facilitate the student engagement. This is perhaps best illustrated through the respective measure of apprehension that has been lowered for students and the increased levels of confidence felt by students in relation to the use of these core skills. This approach also reflect good practices in teaching and learning that have application beyond business law. In this instance, the approach has been useful within the context of teaching business law to enhance the development of skills in both legal writing and legal problem solving.

One of the challenges with problem solving is that is it can be difficult to teach\textsuperscript{32} It also involves a dynamic approach to teaching that involves a knowledge of the law.\textsuperscript{33} Therefore this can be resource intensive.\textsuperscript{34} Furthermore, due to the technical nature of this instruction, specialist instruction is required.\textsuperscript{35} Although, similarly, the learning facilitator plays a key role in fostering the learning process and directly influences productive students outcomes.\textsuperscript{36} However, putting these challenges aside, it can enrich the student learning process.

The literature supports that an active learning approach promotes student learning through a process of reflection and engagement.\textsuperscript{37} An active learning approach similarly assists students develop skills through engaging students in the learning process.\textsuperscript{38} The particular usefulness of this approach is in developing critical and analytical skills that students can use with great success.\textsuperscript{39} Indeed, such approaches are particularly useful in business law as skills in reflection help students to draw important linkages between theoretical academic content and its practical application.\textsuperscript{40} An approach that facilitates the link between a theoretical understanding of law with the practical application of that law; has practical application outside academe and is useful within commercial settings.\textsuperscript{41} Similarly, the ability to write clearly and concisely is another important higher order skill.

\textsuperscript{32} Audrey Blunden, ‘Problem-Beased Learning and its application to in-house law firm training’ (1990) 8 Journal of Professional Legal Education 2, 120.
\textsuperscript{33} Ibid.
\textsuperscript{34} Ibid 115-138.
\textsuperscript{37} Ibid n 1.
\textsuperscript{38} Ibid n 3.
\textsuperscript{39} Ibid n 4.
\textsuperscript{40} Ibid n 17.
\textsuperscript{41} Ibid n 18.
Objective evaluation of the method

There were some limitations with a approach adopted that are discussed below. One of the key limitations that faced this project was the inability to imbed the important attributes of this project into the curriculum of the courses selected. In doing this, it might have more closely enabled the student outcomes to be assessed, would have allowed for additional student feedback into the process and also would have more closely aligned the tasks undertaken in the workshop with the assessments undertaken within the class. However, as a result of the approach undertaken there was a divide between this workshop and the activities and assessment undertaken within the course. A notable example of this was the voluntary nature of the workshops which influenced student attendance and the ability of students to provide ongoing feedback in relation to this project.

Limitations

There are some limitations with adopting such as active learning approaches in tertiary education. The key limitation is based upon the labour intensive nature of instruction.\(^42\) In particular, with considering the approach to preparing students to deal with problems in an academic setting, some students find it difficult to change their approach to learning and to similarly adjust to a new methodology of instruction.\(^43\) Directly jumping into a process of instruction that relates to problem solving or similar represents a departure from traditional modes of study and therefore is reliant upon pre-existing knowledge whereupon\(^44\) a student may anchor their learning.

The method of delivery is often a limiting feature of delivery when it comes to education within the tertiary education sector. Further, little time exists to explore content that might be of interest to the student.\(^45\) Firstly, this workshop could not be included as a part of the curriculum and as such, the workshop seminars were completed outside established class time. Similarly, the timing of the workshop will invariably have had an impact upon the student's ability to contextualise this learning experience within the broader curriculum. The voluntary nature of student participation in this project was a limitation to participation in this project. However, this limitation was driven by ethical and administrative reasons. Foremost, there are ethical hurdles to overcome in surveying the students you teach and also there are institutional hurdles in making short term change to curriculum. As such, a more streamlined approach was adopted. Secondly, the methodology adopted was a limitation to the findings derived from this project as the design of the survey instrument and the methodology undertaken were, in reflection, limitations to the depth of findings and the quality of the data collected.

Conclusion

The findings of this project describe the insights of a project undertaken around changing the learning environment to promote the development of core skills in business law. This research project represented the chance to engage in research of relevance to their teaching of law to students of business law, and to consider the usefulness of active learning approaches to the teaching of law. The finding tentatively suggest, that, it is possible to have students engage within a learning process through the use of a workshop, but the student themselves must make the choice to engage in this process. However, once a student engaging in their own learning the potential for self directed learning and higher level learning improves. Through adopting an approach to active learning, students draw linkages between theoretical academic content and its practical application.\(^46\) The findings from this research suggest that while a student

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43 Ibid 98.
44 Ibid.
46 Ibid n 41.
may feel apprehension in relation to using legal problem solving and legal reasoning to solve legal problems that these apprehensions can be reduced and confidence enhanced through providing an approach to experiential learning, such as a workshop. In this regard, this project supports that an active learning approach is useful in the teaching of social sciences, like business law. Furthermore, from the findings in this research project, the responses provide a support to the use of workshops in law as an approach to develop core skill in business law.

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