

TEACHING LAW STUDENTS SOFT SKILLS ONLINE

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I INTRODUCTION

During the height of the COVID-19 pandemic lockdowns, universities globally had no choice but to move all their teaching online. Traditional theory-based units, eg, prescribed areas of substantive blackletter law subjects ('Priestley 11'), and practical clinical units, eg, law clinics, were required to be taught and conducted virtually through online learning management systems, and conferencing, communication, and collaboration applications. As pandemic restrictions lessen, students are returning to university campuses. However, the pandemic has substantially altered how students learn, the way academics teach, and course availabilities and offerings by universities. It is not surprising that a 'pedagogy of the pandemic' body of scholarship of learning and teaching literature has emerged.

This article discusses soft skills within the discipline of law and provides practical suggestions as to how the teaching of soft skills can be taught online in conjunction with substantive law units. In particular, the discussion will focus on the soft skills required for effective collaborative work. These practical suggestions are informed by literature and the teaching experiences of the authors, who taught during the COVID-19 pandemic lockdowns in Western Australia. This article does not consider whether the teaching of soft skills online is the optimal method of imparting these skills, however the authors contend that there is a benefit to law students learning soft skills in an online context given that many law graduates will ultimately work in online teams at least some of the time.

II SOFT SKILLS IN THE LAW DISCIPLINE

There is no universally accepted definition of soft skills. There are various descriptions that are used interchangeably to define non-technical skills that share similar characteristics to soft skills – for example, transferable skills, employability skills, enterprise skills, capabilities, personal attributes and competencies.¹ For the purposes of this article, drawing on the works of Kiser, soft skills within the law discipline include:

intrapersonal and interpersonal competencies such as practical problem solving, stress management, self-confidence, initiative, optimism, interpersonal communication, the ability to convey empathy to another, the ability to see a situation from another's perspective, teamwork, collaboration, client relations, business development and the like.²

Although there is a strong doctrinal focus at the forefront of legal education in Australia, with emphasis on coverage of substantive blackletter law and technical legal skills,³ there has been growing recognition of the importance of soft skills within the legal academy. For example, the 'Bachelor of Laws Learning and Teaching Academic Standards Statement' specify that upon completing a Bachelor of Laws, graduates must have learnt, acquired, and demonstrated the following soft skill related Threshold Learning Outcomes (TLO):

TLO 5: Communication and collaboration

Graduates of the Bachelor of Laws will be able to:

- a) communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences, &
- b) collaborate effectively.

TLO 6: Self-management

Graduates of the Bachelor of Laws will be able to:

- a) learn and work independently, &
- b) reflect on and assess their own capabilities and performance, and make use of feedback as appropriate, to support personal and professional development.⁴

Similar soft skills are also acknowledged in the Council of Australian Law Deans (CALD) Australian Law School Standards.⁵

III TEACHING PEDAGOGY OF SOFT SKILLS IN LAW SCHOOLS

There is relatively little that has been written about the pedagogy of teaching soft skills to law students and lawyers, particularly in Australia. One notable exception is an article by Rogers which discusses how clinical legal education is an ideal forum for teaching soft skills.⁶ While the authors do concur with Rogers that clinical legal education is an ideal environment for soft skills to be taught, there is merit in the teaching of soft skills also being embedded throughout the law curriculum and taught in conjunction with the prescribed areas of substantive law.

A summary of the literature on teaching soft skills suggests that the key elements to successfully teaching these skills include:

- connection and team cohesion within the class;
- shaping teaching and assessments to include particular elements;
- providing appropriate feedback; and
- including elements of reflection in the learning exercises.

Each element will be discussed in turn and some suggestions regarding appropriate teaching and assessment exercises in an online context will be shared.

Connection and Team Cohesion

Studies have shown that online study tends to create and nurture an individual-centric model of learning, which can in turn cause student isolation.⁷ As a result, online learning tends to decrease student participation in group activities. When teaching online, to directly minimise the adverse impact of student isolation, academics can deliberately encourage inclusivity and team cohesion by being actively involved in group discussions and facilitating collaboration among peers. Encouraging team cohesion within classes has numerous benefits, including assisting with student wellness, and enhancing the environment to allow for exercises that can lead to soft skill development.

Numerous studies have highlighted the importance of law teachers building meaningful connections and rapport between students, and between the teacher and the group.⁸ Tsaoussi suggests that building rapport encourages discussion, which in turn allows for soft skills to be developed more easily.⁹ Strategies to assist an academic to build rapport between themselves and the students teaching online can be as simple as learning student names, making regular eye contact, and using exaggerated body language to show interest in the course and the students from behind the camera.

Stone has suggested that a strong teacher-presence provides online students with a sense of belonging, helping them to feel connected to a community of learning and increasing their likelihood of persisting.¹⁰ It is important that the academic's presence also extends beyond what occurs in the virtual classrooms. Stone highlights the importance of academics being responsive to emails, making themselves available online for consultation, posting notices regularly, and being active in online chats and reflections.¹¹

The importance of being visible should not be underestimated. In online classes, students should make themselves visible wherever possible to their peers and the academic as seeing each other enhances the possibility of building rapport in the group and assists in establishing trust.¹² It was evident through teaching in various pandemic lockdown periods, that students have a disposition to not turn on their camera during virtual classes. To address this problem, the authors asked students to turn on their cameras by simply explaining at the beginning of the teaching period that in a professional context it is considered rude not to have a camera on in a virtual meeting or forum. By first explaining the business etiquette of virtual meetings, students appeared more willing to have their camera on, be visible and present.

Curriculum, Teaching and Assessment Design

For already curriculum-heavy law schools, the teaching of soft skills will need to be incorporated into existing units. This can most easily be done by adopting teaching methods and/or assessment methods that will allow skills teaching alongside substantive law.

Myers et al have undertaken a study to assess which traditional teaching practices are most effective in teaching 'interpersonal skills' and 'desired graduate traits' when adapted for online teaching, in the context of information technology students.¹³ Myers et al found that group assessments were as effective for teaching soft skills online as they are in person, if the groups are: properly formed and managed, the nature of the assignment promotes both learning and team development, and students receive individual, frequent and timely feedback.¹⁴ Anecdotally, this scaffolding rarely occurs as many law academics choose not to use group assignments due to their perceptions of students' dislike for group work.

A necessary component for successfully teaching soft skills through group work is to make the soft skills element a part of the formal learning outcomes and/or assessment criteria. This ensures that the skills aspect of the work is considered by the student, and additionally provides them with an explanation for why a group assignment is being used. The academic should also provide guidance to students on how to satisfy the soft skills elements. For example, giving some ground rules for acceptable course participation and how to be courteous and respectful to other members of the group in virtual communication and collaboration applications.¹⁵ Another example is that many law schools provide students with etiquette rules for the internet, otherwise known as 'netiquette', and make it clear that they are being monitored.¹⁶

Michaelsen and Sweet suggest that the most important aspect of designing written group assessments is to ensure that the assessment allows for maximum group interaction.¹⁷ This can be achieved by requiring groups to use substantive law and principles to make decisions that involve a complex set of issues but allow the group to report their decisions in a relatively simple form. When a group assessment focuses on decision making, students are more likely to engage in a 'give-and-take content-related discussion'.¹⁸ Conversely, tasks that involve complex outputs, eg long essays, tend to limit discussion and group interaction.¹⁹ This is presumably because students focus on dividing the work to achieve the complex output in time.

Mock mediations are a less commonly used assessment format that is ideal for soft skills teaching. In addition to the collaboration skills potentially learned, the mediation can also teach the substantive law of the course, persuasive speaking and creative problem solving. This reinforces to students that soft skills are fundamental skills for lawyers.²⁰

Teaching of soft skills could also be incorporated into simulated client interview exercises. Just as interviewing real clients in a legal clinic environment is an ideal platform to teach soft skills, a number of projects have shown that many of the learning benefits of interviewing real clients can be replicated by using simulated clients.²¹ One theory as to why role plays are better vehicles for teaching soft skills than readings or lectures is that they are more likely to lead to reflection on the learning.²²



Providing Effective Feedback

The main consideration here, is that the lecturer should give feedback on the skills aspect of the task specifically. Anecdotally, law academics tend to focus on providing feedback with respect to the student's understanding and grasp of the substantive law, or (in some cases) advocacy skills. Law academics tend to shy away from providing feedback on students' soft skills on the mistaken assumption that it is not their role to teach or comment on such skills.²³ This can be partly addressed by including a specific soft skills criterion into the required learning outcomes and assessment rubric.

The potentially awkward nature of providing feedback with respect to students' soft skills can also be partly addressed by limiting comments to what the student has control over, and by being specific in providing suggestions for improvement that are descriptive not evaluative. For example, a law academic should not say:

You should be more polite when you engage in mediation – you came off as rude and abrasive on some occasions.

Instead, the law academic could say:

I noticed that on one occasion you cut off the other party when they were talking about being depressed. Although it may not seem relevant, negotiations will often be more successful if parties do not feel cut off. If you need to move things along, perhaps a comment like “I am so sorry to interrupt you, but I am really concerned that we will not be able to cover everything today. Would you mind if we returned to this later?”

Reflective Elements

As conscious reflection has proven to enhance learning, including in the development of soft skills,²⁴ law academics should ideally create exercises and assessments to ensure that they incorporate active reflection into teaching. This may be by way of guided group discussion after an exercise or adding a self-reflection component to a task – for example, by imposing a self-reflective component within the assessment rubric. For the reflection exercises to be most successful, it is important to teach law students the reason for the reflection, and how to go about reflecting on an experience to optimise the learning experience.

Self-reflection is a valuable tool to aid student learning, as it not only requires students to evaluate their performance, but to also consider how they can learn more effectively. An additional benefit of self-reflection for law students is that they may develop reflection skills that will be useful later in practice.²⁵

IV CONCLUSION

While the future teaching modes and deliveries of universities are uncertain, it is unlikely that universities will revert to complete on-campus face-to-face delivery. Moving forward there will undoubtedly be, at the very least, a hybrid approach of face-to-face and online delivery. Legal academics need to be comfortable with teaching substantive law subjects and legal skills, both technical skills and soft skills, virtually.

The COVID-19 pandemic has particularly highlighted the importance of human connection and

empathy. Given that the practice of law predominantly involves people, soft skills are fundamental to the successful practice of law. Research suggests that law academics tend to be resistant to teaching soft skills. The main reasons cited are that it is beyond the scope of their role as a law academic, and that it is not possible to add those skills to the already crowded curriculum.²⁶ On that basis, the practical suggestions made in this article sought to address the problem of the crowded curriculum by looking at how to adapt existing teaching methods and assessments, so as to incorporate soft skill teaching without adding to the workload of law students or academics.

ENDNOTES

- 1: For a comprehensive discussion regarding the terminology used to describe non-technical skills, see Deloitte Access Economics, 'Soft Skills for Business Success', Deloitte (Report, May 2017) <<https://www2.deloitte.com/au/en/pages/economics/articles/soft-skills-business-success.html>> 4-5.
- 2: Randall Kiser, *Soft Skills for the Effective Lawyer* (Cambridge University Press, 2017) 4.
- 3: See, eg, Colin James, 'Lawyers' Wellbeing and Professional Legal Education' (2008) 41(1) *The Law Teacher* 85, 91-2.
- 4: Sally Kift, Mark Israel and Rachael Field, 'Bachelor of Laws Learning and Teaching Academic Standards Statement' (Standards, December 2010) <https://researchrepository.murdoch.edu.au/id/eprint/54827/1/altc_standards.pdf> 10.
- 5: 'Australian Law School Standards with Guidance Notes', Council of Australian Law Deans (Standards, 30 July 2020) <<https://cald.asn.au/wp-content/uploads/2020/07/Australian-Law-School-Standards-v1.3-30-Jul-2020.pdf>> .
- 6: Justine Rogers, 'Teaching Soft Skills Including Online: A Review and Framework' (2020) 30(1) *Legal Education Review* 1.
- 7: Caroline Haythornthwaite et al, 'Community Development among Distance Learners: Temporal and Technological Dimensions' (2000) 6(1) *Journal of Computer-Mediated Communication* 35, cited in Trina Myers et al, 'Cultivating ICT Students' Interpersonal Soft Skills in Online Learning Environments Using Traditional Active Learning Techniques' (2014) 7(3) *Journal of Learning Design* 38, 39.
- 8: See, eg, Aspasia Tsaoussi, 'Using Soft Skills Courses to Inspire Law Teachers: A New Methodology for a More Humanistic Legal Education' (2020) 54(1) *The Law Teacher* 1; Christina Do and Aidan Ricciardo, 'Meaningful Connectedness: A Foundation for Effective Legal Teaching' (2019) *V Curtin Law and Taxation Review* 3.
- 9: Tsaoussi (n 8).
- 10: Cathy Stone, 'Opportunity through online learning: Improving student access, participation and success in higher education', National Centre for Student Equity in Higher Education (Report, March 2016) <https://www.ncsehe.edu.au/wp-content/uploads/2022/06/CathyStone_EQUITY-FELLOWSHIP-FINAL-REPORT-1.pdf> 72.
- 11: Ibid.
- 12: Ibid 25.
- 13: Myers et al (n 7) 38.
- 14: Ibid 40.
- 15: See, eg, Kimberley Moore and Brian Pearson, 'Soft Skills in an Online Class' (2017) 27(5) *HortTechnology* 583, 583.
- 16: See, eg, 'Teaching & Learning: Guide to online discussion boards, Learning Design & Netiquette', University of Tasmania (Guidelines, 3 May 2018) <<https://www.teaching-learning.utas.edu.au/communication/online-discussions/design-netiquette>>; 'Online Classroom Netiquette', Loyola Marymount University (Guidelines, 2022) <<https://tech.lls.edu/netiquette/online-classroom-netiquette/>>.
- 17: Larry Michaelsen and Michael Sweet, 'The Essential Elements of Team-Based Learning' (2008) 116 *New Directions for Teaching and Learning* 7, 12.
- 18: Ibid.
- 19: Ibid.
- 20: Kathleen Marcel and Patrick Wiseman, 'Why We Teach Law Students to Mediate' [1987] *Missouri Journal of Dispute Resolution* 77, 84-5.
- 21: See, eg, Wilson Chow and Michael Ng, 'Legal Education Without the Law - Lay Clients as Teachers and Assessors in Communication Skills, (2015) 22(1) *International Journal of the Legal Profession* 103.
- 22: Soile Pohjonen and Sari Lindblom-Ylänne, 'Challenges for Teaching Interaction Skills for Law Students' (2002) 36(3) *The Law Teacher* 296.
- 23: See generally, Sophie Sparrow, 'Teaching and Assessing Soft Skills' (2018) 67(2) *Journal of Legal Education* 553, 556.
- 24: Pohjonen and Lindblom-Ylänne (n 22) 296.
- 25: See generally, Colin James, 'Lawyers' Wellbeing and Professional Legal Education' (2008) 42(1) *The Law Teacher* 85.
- 26: Sparrow (n 23) 556.

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