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Author

Akhtarkhavari, Afshin

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Developing skills when studying constitutional law

Mr Afshin A-Khavari, Griffith Law School, Griffith University

Abstract

Private practice has a strong hold on what is taught at Law Schools across Australia. To give students a broader experience, Law Schools have made attempts to embed, amongst other things, skills, ethics, and interdisciplinary understandings of the law into the curriculum. One problem often ignored in doing this is that courses/subjects contain structural limitations for academic lawyers wanting to embed experiences like skills development into their courses. These structural limitations are often ignored because they are deeply built into the subject matter itself. This paper argues that a focus on embedding skills into a courses allows for a more interesting configuration of the content that needs to be taught and allows for deeper approaches to be taken to the alignment between what is taught, practiced and assessed.

Introduction

People often consider the black letter of every government statute as the “stuff” that students learn when doing a Law degree. It is important to broaden the legal education experience of students given the probability that around 50% of graduates do not end up in private practice (Roper 1995, p 79-80). Private practice has traditionally shaped the nature and form of legal education and continues to do so in most law schools today (Keyes & Johnstone 2004). In an important report commissioned by the Australian Universities Teaching Committee, Johnstone and Vignaendra in 2003 reported that “[O]ne of the most significant developments in Australian legal education in the past 15 years has been the incorporation, to differing degrees and in different ways, of the teaching of ethics, legal theory and legal skills in the LLB curriculum (Johnstone & Vignaendra, 2003, p.117).” Escaping the structural pressures of having to teach students only legal rules is difficult and is the subject of this paper.

One way, for instance, that legal education geared towards practice influences students is to focus on cases developed out of courts. The concept of precedent helps standard textbook writers to structure cases for students. The concept however can structure particular patterns of thought that might not be healthy to develop in a new generation of lawyers. For instance, indigenising a subject is an important part of developing a healthy attitude that the law should not just be white. It is an approach that is increasingly considered important in developing holistic approaches to the legal curriculum (Castan & Schultz, 1997). In developing a course, it is easy to use precedent to structure cases and teach students about instances of whiteness/blackness. In that process, however, the relationship of the law to blackness is developed out of a narrative that is litigious and which depends on the white person in the courts deciding the fate of the Other. Recognising this subtle narrative is important and it is hidden by the strong cultural assumption that the law needs to be studied using case law structured around precedent. Developing an appreciation of the fact that a course might be better structured around attitudinal developments might help with escaping certain constraints of tradition like precedent.

There is plenty of research material on the shortcomings of the forms of legal education currently used in Australia (see for instance: Keyes and Johnstone 2004; Sugerma 1984; Pearce, Campbell & Harding, 1987). They range from criticising the content of law degrees (e.g., Australian Law Reform Commission 1997; 1999; 2000) to criticisms of the general approaches taken to teaching in law school around Australia (e.g., Keyes & Johnstone 2004). This article argues that reform in legal education needs to also consider the internal structural pressures within courses that create challenges for someone seeking to give students broad experiences in a particular subject matter. The first part

of this article identifies seven instances, which challenge course designers in constitutional law who want to use it as a vehicle for embedding skills into the law school curriculum. Some of these examples are generic and apply to most law schools in Australia, while some of them exist by virtue of the course being offered at the Griffith Law School.

In the second part of this paper it is argued that a more natural way to embed skills, and avoid the natural structural challenges identified in Part 1 of the paper, is to use them as pillars around which proper alignment of what is taught, assessed and practiced can take place. In other words oral communication is seen as the primary concern of the course and content becomes the vehicle for embedding this skill in the law curriculum. The method adopted for this section is to describe what has happened to the constitutional law course at Griffith Law School over the past few years.

Part 1

This section identifies and critically examines the disciplinary and institutional constraints on academic lawyers interested in teaching skills, attitudes and contextualised knowledge of constitutional law to their students. Once these constraints are identified, it is easier to justify why certain steps have been taken to design a better learning environment for students. Some of the constraints on course design identified in this section are due to the fact that the learning experiences of students at the Griffith Law School (which this study is based on) are intertwined with the fact that they sit in classes of 150 students and complete the subject/course in the earlier stages of their degree (second year for undergraduates and first year for graduate). Seven different categories of constraints are identified and discussed in the section below. These categories are not closed and they overlap with each other. Some of these constraints are naturally shared with other Law courses and some are bound to be unique to Constitutional Law.

Concepts, concepts and concepts

Concepts help us to understand and explain the world. Concepts may relate to physically observable events or may describe social structures and other cognitive phenomena. Some concepts explain the way in which other concepts and ideas work and operate in the real world. Constitutional law contains a vast pool of concepts whose link to reality is by virtue of helping other concepts work. For instance, one can pick up and look at a stone but cannot do the same with a "government". The concept of "external affairs" in constitutional law is not just about anything that is physically outside of Australia (Hanks et al. 2004). A student has to use a variety of concepts when asking whether the government legitimately exercised its external affairs power. The concept of proportionality, for instance, is used in constitutional law to understand some of the limitations that exist in relation to governmental powers (Kirk, 1997). When the concept of proportionality is linked to something real, students have no difficulty understanding it. For instance, it is possible to visualise that the Commonwealth Government buying fifty F8 fighter planes is not proportional to its peacekeeping obligations in East Timor. We might, however, say that an act of government is valid only if it is proportionate to its external affairs power. A student has to work harder in making sense of this last sentence than those that required them to apply themselves to a concrete set of facts.

At the Griffith Law School, students study constitutional law in either the first or second year of their law degree. A second year undergraduate student may not have ever participated in an election. The range of concepts they are familiar with in their everyday life is likely to be limited and adds to the challenges identified above. Most students may not have committed a tort either or had anything serious to do with a corporation. However, they have probably had more association with the culture underpinning corporations law or torts law than with governments and the constitution that structures their power. In other words, they are more likely to have had access to the

intersubjectivity that makes up the culture of corporations law than to those associated with constitutional law. It is the combination of this fact, along with the extensive reliance of the subject on interlocking concepts, that reduces the available time for developing students skills and attitudes.

Plurality, power and social structures

Constitutional law is about social structures that are beyond the control of everyday people. It is about the relationship of large institutions that are controlled and influenced by a diversity of people and events. The plurality of cultures that make up public life also gives constitutional law its depth and breadth. Ideas or concepts used in constitutional law come to mean different things to different people in the same circumstance. For instance, democracy is about representation in one instance and about equality in another. The apparently simple phrase "trade and commerce with another country" in Section 51(i) of the Commonwealth Constitution has created many dilemmas for those simply attempting to interpret it (Hanks, 2004; Blackshield & Williams, 2002).

Developing useful learning objectives in a subject that is broad in its reach and is inherently political and far removed from the everyday experiences of many people, is challenging. Biggs (2003) talks about the levels of understanding that we need to develop in students and ascribes learning objectives to them. In his well-known work, *Teaching for Quality Learning at University*, he identifies a "prestructural" level of understanding as the most basic and "extended abstract" as the most sophisticated (2003, p.47). The challenge with constitutional law is that the prestructural can sometimes seem like "extended abstract". That is, a student who defines democracy in an interesting way can seem as if they are theorising or extending the definition of it.

How much material do you cover?

Given the discussion above, it is often imperative to develop learning objectives that assume a more basic starting point than if the students were in later years of their studies. This means that the start of the student's journey is defined by what they are capable of working with, rather than the structural pressures of using available and sometimes adopted text books, or the end point that is prescribed institutionally through the Priestly 11 requirements for admission to legal practice in Australia (Australian Law Reform Commission, 2000).

The subject matter of constitutional law is broad because it deals with government for a country that is federally structured. For instance, under Section 51 of the Commonwealth Constitution, the Commonwealth has 39 heads of power, each of which has a complex jurisprudence associated with it (Moens & Trone, 2001). Course design in all course is inevitably constrained by the volume of materials that need to be covered. What is important for this analysis is the fact that most decisions of the High Court on the Commonwealth Constitution are set within the context of laws dealing with other subject matters. The implied right to political communication is, for instance, set within the context of developments on defamation law (*Lange v Australian Broadcasting Corporation* (1997) 145 ALR 96). The right to native title is set within the context of the common law developments in relation to property (*Mabo v Queensland (No 2)* (1992) 175 CLR 1).

This adds complexity to helping students understand the materials and takes additional time for the students in and out of the classroom. The kinds of constraints that this places on course design include: having to give students a larger volume of materials to read, thereby reducing the opportunities for deeper approaches to understanding; skills and attitude development become marginal concerns as the focus shifts to completing enough content in order to satisfy curricular requirements; and the black letter law coverage of materials overtakes the need to introduce students to the political and social context of legal decision making.

Public engagement with constitutional issues

The public face of constitutional law is usually built around highly controversial events, as the debate on the dismissal of the previous Governor-General Peter Hollingsworth has shown us. A constitutional law issue usually involves powerful groups in our democracy. This is bound to make the media interested in them. The High Court has jurisdiction to hear all cases in which the Commonwealth Government is involved, even if they have not worked their way up the appeal system (Commonwealth Constitution, section 75(iii)). As a case is being heard in the High Court it is in all probability given a degree of importance by the public that is partly fictional. A case that involves the tortious liability of an individual is also significant and often gets hidden in the incredibly long log of cases that lower courts deal with.

The “sensationalised” nature of certain constitutional law situations is a constraint on course design. Students appear to be more engaged with a subject when they see that it is highly topical and that it is going to affect their life after graduation. However, only a very limited number of cases develop constitutional law issues each year in a way that needs to be taken into account for design purposes. In 2003 for instance, only five judgments were delivered by Australian Courts dealing with one of the current important provisions (s 51(xxix) (external affairs)) of the Commonwealth Constitution (*Re Maritime Union of Australia & Ors*; *Ex parte CSL Pacific Shipping Inc* [2003] HCA 43 (7 August 2003); *Toben v Jones* [2003] FCAFC 137 (27 June 2003); *Oates v Attorney-General (Cth)* [2003] HCA 21 (10 April 2003); *B and B v Minister for Immigration and Multicultural and Indigenous Affairs* [2003] Fam CA 451 (19 June 2003); *Re Minister for Immigration and Multicultural Affairs*; *Ex parte Lam* [2003] HCA 6 (12 February 2003)). In all these five cases, there were scant references to developments in the law not really warranting students engaging with them. Teaching students skills and attitudes becomes difficult because a student’s engagement with the subject is likely to be less sustained unless interesting things are going on in the world (some of which, as argued above, are ultimately not helpful anyway) and they can see the relevance of them for their experiences after graduation.

Identities and the construction of a critical/engaged mind

The hallmark of most constitutional law cases is that governments are subjected to scrutiny, and their decisions are overturned or upheld based on whether or not their powers were exercised legitimately. Based on classroom observations over a number of years, a large number of students always appear reluctant in applying their critical analysis skills to governments. This impacts on how well one can develop student skills during the semester. It is highly likely that the vast nature of issues reliant on complex concepts makes critical engagement difficult for students. It is also possible that students identify governments as fair, just, open and therefore not deserving critical scrutiny. The identity of the government constructs their abilities to critically engage with the course. The fact that identities circumscribe our abilities to think rationally is nothing new (Wendt, 2000). However, in this context it means that students can appear to blindly adhere to what is in the textbooks and other materials put before them. Overcoming this blindness is important for taking them to the next level of understanding.

The strong contrast in the diversity of starting points (i.e., those who readily engage with governments and those who do not) is problematic when aligning teaching and assessment. For instance, a student who struggles to escape from the idea that governments may not always be fair, just or correct would take a different approach to a hypothetical problem than a sceptical reader. The importance of aligning marking criteria with the level of “understanding” expected in the course is important in this context (Biggs, 2003). It might be too much to expect students to enter into a qualitative phase of understanding when being assessed (Biggs, 2003, p.47).

Indeterminacy in primary texts

Unlike a majority of courses that build themselves out of legislative enactments and the work of the Australian Law Reform Commission and other agencies, the High Court of Australia constructs how a majority of people engage with constitutional law. Naturally, legislative enactments help initiate most of the disputes that ultimately become the laboratory within which the High Court does its work. The constraint on course design is that the High Court is never a storehouse of indisputable approaches to the Commonwealth Constitution (e.g. Malbon, 1999). The High Court itself acknowledged, for instance, in *Cole v Whitfield* that “judicial exegesis” in relation to section 92 of the Commonwealth Constitution had not “yielded ...clarity of meaning” or “certainty of operation” (1988) 165 CLR 360 at 383 per the Court).

The practical relevance of the above points for teaching constitutional law is that students presume that certainty in meaning is the standard against which the materials should be judged. Academic interpretations of the work of the High Court differ significantly in relation to many parts of constitutional law (compare for instance the following two texts: Hanks, 2004; Blackshield & Williams, 2002). Students who see textbooks as containing the only right view on something struggle to come to grips with supplements that correct or give different interpretations of the cases dealt with by the High Court. For instance, the High Court in the case of *Re Dingjan; Ex parte Wagner* ((1995) 182 CLR 323) appeared to Blackshield and Williams (2002) to have continued the journey towards a particular view of the kinds of activities that the Commonwealth Government could regulate in relation to trading, foreign and financial corporations. The case of *Re Dingjan; Ex parte Wagner* can also be set within a broader framework and theoretical appreciation of the High Court’s approach to the validity of Commonwealth legislation. When this is done, the case can be read as supporting a particular view on characterisation of Commonwealth laws rather than developing the story on the interpretation of s 51 (xx) of the Constitution. Rather than engaging with and appreciating the difference in views, students are more concerned about which interpretation they should apply to their work. They are concerned with the fact that there is not just one view of the approach, and fail to see that when power is dispersed in a democracy like Australia differences of opinion will naturally emerge. Lastly, they become too reliant on the lecturer developing their understanding of the cases, rather than learning to work with the diversity of views, and critically engaging with the materials and differences in opinion between the judges of the High Court. Heavy reliance on the seeming authority of the lecturer creates limitations for developing student understanding beyond the quantitative stages that Biggs discusses (2003, p.47).

Australian Indigenous students

Constitutional law by nature presents itself as an assault on the identity of the Australian Indigenous student. The Commonwealth Constitution itself is seen as a document that robbed the Australian Indigenous person of their ability to be who they were for centuries before the English settled on what is now Australia. On this basis alone, Indigenous Australians are likely to be seriously constrained in “understanding” constitutional law (Behrendt, 2003; Morris, 2000).

An example of this constraint is the familiar idea of indigenising the subject by covering cases like *Mabo v Queensland (No 2)* ((1992) 175 CLR 1), *Western Australia v Commonwealth* ((1995) 183 CLR 373), *Kartinyeri v Commonwealth* ((1998) 195 CLR 337), *Milirrpum v Nabalco Pth Ltd* (1971) 17 FLR 141), etc. However, problems arise when students are given the chance to deepen their understanding of the contextual background to these cases. In acknowledging that native title existed in the case of *Mabo v Queensland (No 2)*, it is possible to argue that the High Court liberated Australian Indigenous peoples from the stronghold of property law. For some Indigenous nations this case also helped entrench the continuing domination of them and their families

under the common law of Australia. This is because the reasoning process behind the liberating idea of native title was developed in the context of the common law and contains within it the restrictions set by traditional property law on what can or cannot happen.

Talk of democracy, rule of law, sovereignty of parliament, separation of powers, federalism, etc. might appear harmless to students. However, for some Indigenous Australian students, the discussion of these concepts covers the structures of domination that the white man has entrenched on their land. The narratives of the cases listed above support the idea that to escape this domination, expensive litigation is the only way out. One has to ask whether Indigenous Australians really need to “understand” constitutional law. The fact that one has to remain sensitive to teaching Indigenous Australian creates opportunities for educating non-Indigenous students about the cultural assumptions of public law.

Part 2

Escaping disciplinary constraints in course design is not easy and is time consuming. This part of the paper will survey and evaluate the responses to the above constraints developed to teaching constitutional law at the Griffith Law School. The first of the two sections in this part discusses how the course was developed into two parts to ensure that a deeper and holistic approach to learning could be adopted through the course. A presumption running through this discussion is that activities designed to develop skills are better structured if combined with a deep approach to dealing with content. The second section of this part of the paper examines how skills development can act as pillars around which other activities can be organised to sustain a deeper approach to understanding.

At the Griffith Law School, oral communication – communication and presentation as opposed to advocacy, interviewing, mooting, and negotiation (Christensen & Kift, 2000; Kift, 1997) – is a skill that students must start to develop in constitutional law. They must also continue working on their problem-solving skills. Up until now, attitudinal developments have not been mapped through the Griffith Law School curriculum and responses by academics appear to have been *ad hoc*.

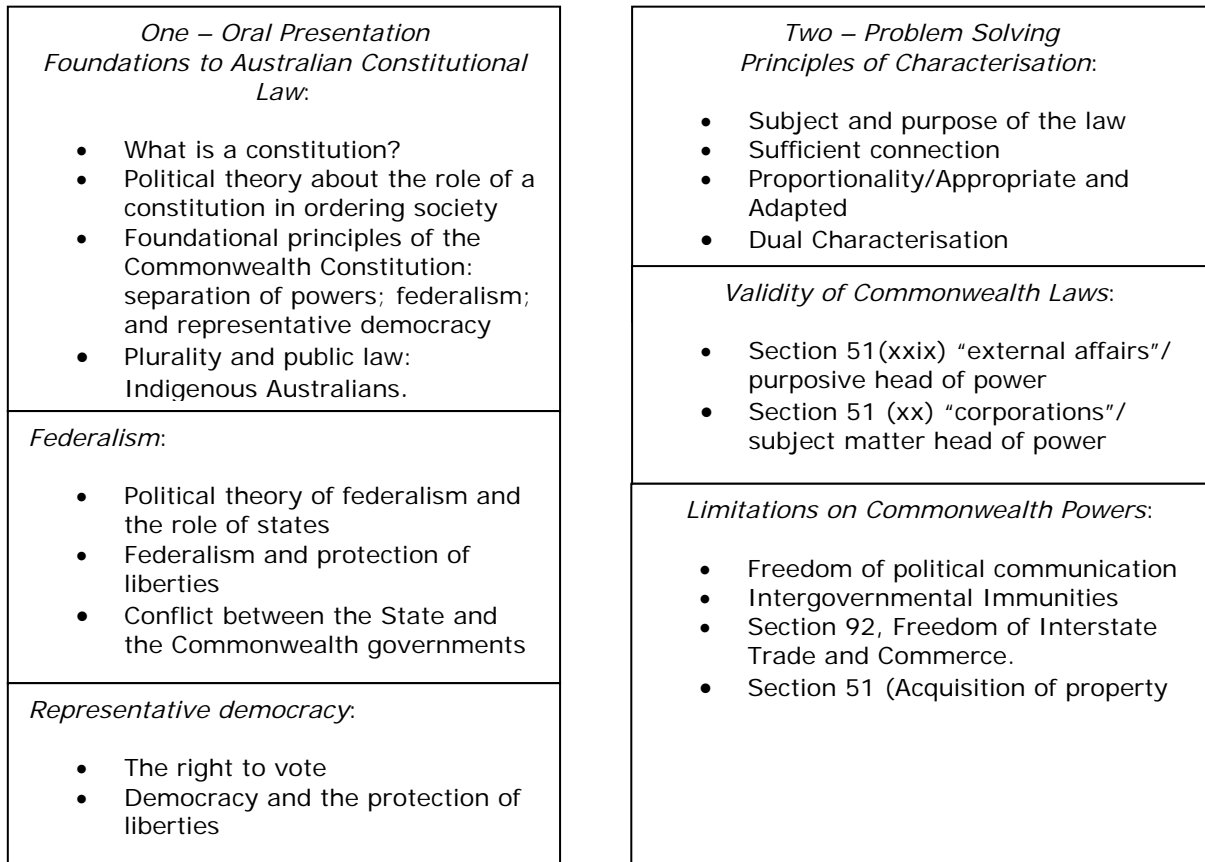
Developing a sense of how public law engages with the plurality of cultures, opinions and views in Australia is a useful view of constitutional law. A student may for instance develop the attitude that the underprivileged are not always protected through the instruments available to public lawyers. However, in this part of the paper only skills development in the course is highlighted as a way of illustrating how factors other than black letter law can serve as pillar for subject design.

A deep and holistic approach to content selection in constitutional law

Ramsden defines a deep approach to learning as helping students appreciate the argument that is being made rather than the text, which is before them; to use the concepts applicable, rather than the formula needed to solve problems (Ramsden, 2003). In this section, an example is given to highlight what a deep approach would look like in contrast to a surface approach. Then activities that sustain this approach and which encourage skill and attitude development will be examined.

The constitutional law course is built around two separate topics. The first helps students understand in a contextual manner the foundational principles of the Commonwealth Constitution. The second assists students with understanding the major principles commonly applied by the High Court in assessing the legitimacy of the power exercised by the Commonwealth Government. Each topic area is held up and supported by a pillar, which is the skill that constitutional law students need to develop, namely oral

presentation and problem solving. The structure of the content areas is represented in the diagram below.



The rest of this discussion highlights how the second topic area is a departure from standard textbook approaches to this subject, and how it is a deeper approach to learning than alternatives that could have also been adopted. The next section discusses how the pillar (skills) component supports each content area.

The Commonwealth Government has 39 heads of power that are enumerated under Section 51 of the Commonwealth Constitution. The placitum found in Section 51 give the Commonwealth Government the power to do something, whereas other implied and express sections in the Constitution limit what it can do. An example of this is the limitation on the Commonwealth Government to avoid making laws that impact our ability to communicate on political matters (e.g., *Nationwide News Pty Ltd v Wills* (1992)).

One approach to teaching could be to gradually take students through the important placitum of Section 51. If adopted, this method would encourage a surface approach to learning because students would look for "signs" in cases, rather than seeing consistent patterns of practice because of the way certain concepts were understood by them. They may, for instance, focus on remembering cases when the concept of proportionality works differently in varying cases. They may fail to see connections between concepts used to determine the validity of a law and instead focus on the application of precedent to the new circumstance.

An alternative approach, which encourages deeper engagement with the materials, has been to isolate and to teach students the common principles discussed by the High Court in relation to Section 51 (see also Castan & Joseph, 2001). For instance, all Section 51 heads of power either deal with a "subject" matter or have a "purpose". There is no

need, therefore, to deal with both Section 51(vi) and Section 51 (xxix). The concept of proportionality works its way through the process of characterisation. Section 51 (xxix) best illustrates the use of the concept of proportionality as well as serving as the example for a purposive head of power.

Adopting this alternative framework for studying characterisation helps students to relate what they learn to new circumstances, including new heads of power in Section 51 that they might not have previously studied. They are equipped with concepts and principles to structure the way they need to think through particular problems or situations. Additionally, they have the means whereby they can question the role of the High Court in determining the validity of Commonwealth regulation.

A number of advantages arising from this approach include:

- Reducing complexity for students by focusing on a limited number of concepts rather than a large series of cases;
- Students can critically engage with the High Court because they have a deeper understanding of concepts; and
- There is more time available to problem solve in lectures, thereby increasing the opportunity for students to learn actively rather than just listening to the lecturer.

This deeper approach to learning must be sustained with proper alignment with the assessment structure and other activities developed for students during the semester. In the next section, this paper will describe the manner in which the assessment structure built around particular skills sustains both topic areas of the course

Constructive aligning of assessment with what is taught!

As discussed above, the course is split into two topic areas that are supported by pillars aimed at developing student's skills in oral presentation and problem solving. In this section, the manner in which this is done is explained and justified.

Pillar one: Oral communication

There are several activities that assist students with their oral communication skills and which form the pillar around which the content area is developed during the semester. These include:

- Participation in lectures;
- Compulsory participation in tutorials for which students get graded;
- Compulsory participation in group work for which students get graded; and
- Compulsory and assessable presentation for 15 minutes on the essay topic based on the first pillar of the course.

At the start of the semester, students receive an essay question for their oral presentation which is also an assessment item, and are also put into random groups of three or four students. The essay question they receive tests their understanding of materials in content area one. They have to individually present their responses to the question to the teaching team half way through the semester. They have seven weeks to work on their question and have the opportunity to integrate the work they do (in the lectures, outside of class, in their groups and tutorials) into their responses to the question. A similar structure, based on group work and oral presentation to a teaching team member, has also been developed in Flinders University Law School (Israel, Handsley & Davis, 2004). The oral presentation lasts for 15 minutes, during which time students are engaged in a discussion with a member of the teaching team for the course.

Several advantages of these structured activities include:

- Skills development is gradual, starting with group work amongst three or four randomly selected students and continuing in tutorials and lectures during the semester.
- Every lecture has the potential to give students an idea on how to present their oral response to their essay question. In this way, there is alignment between the materials taught and assessed, keeping students engaged with the course.
- The group structure encourages greater interaction with the materials because even if only one of the students was actively engaged during the classes, he or she can still potentially help others see what they missed out on.
- The focus of the learning objectives, the lectures, the tutorials and the assessment item itself is on “understanding” principles, concepts and the general intentions behind the Constitution, rather than sign posts and memorisation. This encourages a deeper level of engagement by students with the materials.
- The oral presentation enables students to set their own pace for constructing their understanding of the subject matter by giving them an activity (preparation of their presentation) that they control and have ownership over.

Oral communication as a skill is a pillar holding up part of the course because it helps keep students interested in the content that is delivered, and in that process, it helps overcome the constraints discussed in part one of this paper.

Pillar two: Problem-solving

The activities developed in the second half of the course take both a deep approach to characterising Commonwealth Laws for validity as well as teaching students problem-solving skills. Several formal opportunities for learning problem-solving are built into the activities that support a deep approach to understanding characterisation. They include:

- Solving problems for tutorial discussions;
- Watching the teaching team work through problems in lecture times;
- Feedback structures outside of formal class time (see below); and
- Take home exam which students have three days to complete.

The means by which students learn to problem solve is well canvassed in the literature (e.g., Costanzo, 1995). Problem solving is a pillar of the second content area because all activities that students undertake help them develop an aspect of this skill. The skill is necessary for them to pass this course because the take home exam at the end of the semester is worth 50% of their total marks and it contains one problem that they have to solve. Focusing students on the skill that they are learning encourages engagement with the materials.

Receiving feedback is important for developing problem-solving skills (Costanzo, 1995), and learning a concept well. Giving students adequate feedback is difficult in classes of 150 + students. Available resources dictate that it is difficult to do much more for students other than structure good learning environments in tutorials. Another formalised feedback mechanism built into the lecture periods has, however, proved successful to help students with problem-solving skills. It has the following elements:

- Students are given a hypothetical problem and are asked to work through it in their own time. A written reply to this problem prepared by a member of the teaching team is then handed out and students are asked to develop their own feedback on what they had done right and wrong in their responses. They are then given an opportunity to raise questions during lecture times, or through the electronic notice board available for the course, to help them improve on their problem solving skills.

- After completing the above exercise, students are given the take home exam question from the previous year and are asked to work through it in their own time. On this occasion, instead of giving students a written reply to the problem, they receive a feedback sheet from previous years that had been distributed to students with their marked exam papers. This feedback sheet commonly highlights areas that had not been adequately dealt with by students.
- Students are then given the opportunity to define broad categories, concepts and principles that they need additional help with. Lecture time then becomes an activity where student questions are answered.

The advantages of the variety of exercises available to students to help them learn problem solving are:

- The assessment that comes at the end of the semester is significant and sustains the pillar around which a lot of activities are built for the students;
- A deeper approach to understanding is complemented with formal but not assessable feedback mechanisms;
- Students get to apply themselves to several different problems in different areas of constitutional law. This encourages skill development as well as learning the area well.
- Problem solving helps them see the practical realities of constitutional law and avoids the traps of learning about the law through sensationalised events (discussed above).

Constructive alignment of assessment with learning opportunities created in and out of the classroom are important for qualitative understanding of materials (Biggs, 2003). In this section, it was shown how problem solving can serve as an effective pillar for building activities that not only sustain skills development but a deeper approach to understanding.

Conclusion

Designing a course that helps students with their qualitative, as opposed to just quantitative (Biggs, 2003), understanding of a subject matter is challenging. Embedding skills, attitudes and a contextualised knowledge of the subject into the course is the new challenge for academic lawyers and is the direction in which curriculum development has been heading. In this paper, it has been argued that adopting a well-developed curriculum at the faculty/school level is in itself insufficient unless academic lawyers seek to disturb what constrains them in adopting certain approaches to their courses. Many subject areas might share common constraints and some of these might even be due to the institutional setting in which the course is offered. This paper has sought to identify the way in which this can happen in constitutional law.

Skills development is not an easy thing to do with 150+ students. Using a skill as a pillar around which deeper approaches to content are developed has been an approach advocated in this work as one way of limiting the impact of disciplinary constraints. This allows a range of activities to be developed, in which all of them are aligned to assist the student with their skill set, assess them in what they do and give them a qualitative understanding of the subject matter. Getting a deeper level of engagement from students is the ultimate aim of most teachers. Activities that are well aligned are more likely to stimulate students to dig deeper and make more sense of the world that they are studying. The proper alignment of skills with content is an example explored in this paper as a way to engage students more deeply with the activities that they pursue in the classroom.

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