

HKU SUMMER INSTITUTE

HIGHER EDUCATION FOR TOMORROW: CHANGES. CHALLENGES. CHOICES

JUNE 19, 2019

Authentic Learning and Assessment: the example of Tort Law

**Professor Rick Glofcheski
Faculty of Law
University of Hong Kong**

UNIVERSITY AS A DISRUPTION OF LEARNING

- From a very early age I've had to interrupt my education.....to go to school.

George Bernard Shaw

- The only thing that interferes with my learning is my education.

Albert Einstein

Let's do the best that we can with our students for the short while that we have them

WHAT I WOULD LIKE OF MY STUDENTS

That they become...

Self-directed, self-regulated learners

Independent learners

Collaborative learners

Creative thinkers

Life-long learners (the habit of learning)

That they be able to...

Apply learning to practical settings

Solve ill-defined problems

THE ROLE OF ASSESSMENT IN LEARNING

“Students learn what they think they will be tested on” (Biggs and Tang, 2011) [what and how]

“From our students’ point of view, assessment defines the actual curriculum” (Ramsden, 2003)

“The goals proposed for learning...will be subverted if they are not supported by assessment methods that reinforce those learning objectives” (Redmond-Roper, 2001)

If this is true, then assessment is the key to unlock the door of productive, sustainable learning



Context: Tort law

- Compulsory year 2 course
- 250 students
- Common law and legislation
- Text book and case law
- Lectures and tutorials
- Such courses typically assessed largely be in-hall examination

HOW LAW IS TAUGHT AND LEARNED

- Students read case reports written by judges, and textbooks/journal articles
- In lectures, cases are subjected to a critical reading by the teacher, to uncover their meaning and their contradictions internally and across the body of case law. Students take notes.
- This is a model adopted by teachers from their own teachers, perpetuating the same method over the generations, and meets the expectations of the profession.
- This is a model premised on the notion of knowledge transfer: the lecturer transmits knowledge which students are required to master and reproduce/apply on final examinations

HOW LAW IS ASSESSED

- There are now multiple possibilities, but assessment still takes place largely by way of examination, usually consisting of a series of hypothetical, often exaggerated fictional narratives created by the teacher
- Typical student practice is to become familiar with all the cases, even by name, and then practice writing answers to the kinds of questions typically set by that teacher; this can involve anticipating the questions based on past papers and clues dropped by the teacher, followed by intense revision in the lead-up to the examination. **In this model student effort is not spaced throughout the year.**


Assessment and real-world relevance

There is little if any attempt to align learning and assessment with the skills and attributes required in real-life settings.

Most law examinations typically consist of a series of teacher-designed neatly-sequenced events covering a range of legal subject matter. In the aggregate the sequence is both improbable and unrealistic.

Student focus is on mastering this format.





Ben was driving a coach full of rugby supporters to the Rugby Sevens Tournament in Causeway Bay. Just as he was reaching to answer his cell phone, Tom, a five year-old boy, stepped into the road in front of the coach to retrieve his football. Ben applied the brakes and swerved but crashed into Tom, who was seriously injured. James was working on scaffolding nearby and when he saw the coach swerve out of control he jumped from the scaffolding and was injured when he fell to the ground. In fact, the coach missed the scaffolding, and finally crashed into Michael's street-front restaurant. The collision caused the gas cooker in the restaurant to explode. The shop was damaged and Michael suffered burns to his body. He also suffered lost profits as a result of the closure of his restaurant for 2 months of repairs. The coach passengers were uninjured, but Mary, a front row passenger, now suffers psychiatric injury.

Some problems with the hypothetical problem

They are recognizable as hypothetical, ie they are often exaggerated and in the sequences presented bear only limited resemblance to the world of real events

They are teacher-invented, and carry the expectation of a pre-conceived solution which the students must uncover

Students may focus on what the teacher was thinking rather than the problem itself

They are not very conducive to identification and discussion of social policy issues

They may distance students from the social policy context, that legal problems are puzzles to be solved, rather than real problems suffered by real people

Survey-based Study on How Law Students Learn (2006): Focus – What the Students said

“All we need is a knowledge of the case principles and basic ability to apply the principles to hypothetical facts.”

Deep (task-based) learning activities not valued because...

True? “its not relevant to examinations which don't require deep understanding, just need to know what the teacher wants”



Moreover, many students reported that most of their learning is soon forgotten



What is Authentic Learning

- requires learning that goes beyond mere recall
- requires the making of connections between doctrinal learning and the real world
- involves complex, ill-defined problems (requiring higher order thinking)
- involves self-directed learning
- requires real-world applications of learning
- takes into account the broad social context
- is sustained (work is spread over time)
- requires learning by doing (task-based)
- requires independent learning (individually or in groups)
- involves learning by discovery
- does not sacrifice the intellectual rigor of the discipline

CONCRETE EXAMPLE 1

News Reports as Learning and Assessment Tools



Characteristics of news reports:

- The material is realistic, authentic and relevant to the community.
- It is generally complex, requiring multiple perspectives in analysis, including social policy
- The material is often factually incomplete, thereby mimicking a realistic professional scenario
- Its authenticity and relevance can foster a more serious approach to analysis and develop the habit of spotting issues in unflagged situations
- It fosters good reading habits



<https://www.scmp.com/news/hong-kong/law-crime/article/2007061/hong-kong-ho>

<https://www.scmp.com/news/hong-kong/education-community/article/2077337/or>

<https://www.scmp.com/article/713675/natural-causes-ruling-death-outside-caritas>

CONCRETE EXAMPLE 2

Photo/essay







PHOTO/ESSAY LEARNING OUTCOMES



- recognize the relevance of tort law in events as they happen in the community
- more confidently identify tort law issues in unflagged fact situations
- identify and anticipate tort law problems
- recognize how tort law connects to the events of ordinary life
- more confidently provide legal analysis and opinion in unflagged fact situations

CONCRETE EXAMPLE 3

Reflective Media Diary

1. Student independently identifies tort law-related events as reported in the media

5. At conclusion of diary period, student selects 10 items for submission; 6 weeks later, selects 2-3 events and provides comprehensive legal analysis for submission

2. Conduct a diary for the first five months of course, of student-selected events reported in the news media; diary requires student legal reflections and some attempt at analysis

3. Web-based email diary to ensure timing and integrity of work (no need for teacher monitoring)

4. Student monitors events as further reported in the media

Learning outcomes: identification and characterization of legal issues in unflagged situations; legal analysis; independent learning

Media reports as authentic assessment



- Again, the local newspaper provides a steady supply of material
- The material is realistic, authentic, relevant to the community, and constantly being generated
- It is generally complex, often requiring multiple perspectives in analysis, including social policy
- The material is often factually incomplete, thereby mimicking a realistic professional scenario
- Its authenticity and relevance fosters a serious approach to analysis and develops the habit of identifying issues in unflagged situations
- The learning is self-managed; knowledge is constructed by the student
- Habit-forming, the possibility of life-long learning
- The skill acquired holds the real possibility for learning beyond the assessment

Some Diary samples

<http://moodle.hku.hk/course/view.php?id=52482>

click



RMD Survey conducted by CETL - 49 replies
For Qs 1-6 please answer Yes or No.

1. Did you find the reflective media diary a useful learning experience? Yes (49)
2. Did you find that the reflective media diary increased your awareness of current tort-related issues of importance in the community? Yes (48)
3. Did you find that the reflective media diary helped develop your ability to identify and analyse unflagged tort law issues on your own? Yes (47)
4. Did you find that the reflective media diary project helped develop your ability to think independently about tort law?
5. If offered the choice all over again, would you still select the reflective media diary project over the research essay option? Yes (42)
6. Would you recommend that the reflective media diary project be continued in future years? Yes (47)
7. Are there any other comments that you would like to make about your reflective media diary project experience, including any suggestions for improvement of the project? Yes (48)
See below

CONCRETE EXAMPLE 4

Activity-based Collaborative Learning

The Flipped Classroom

From passive to active learning

From content-centered to inquiry-based

From instructional paradigm to learning paradigm

From teacher-dependent to independent

From “sage on the stage to...guide on the side”

A wealth of pedagogical advantages

Educating the Next Generation

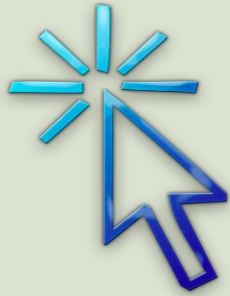
A depiction of the University of Bologna, Italy, 2nd half of 14th Century











Full video presentation on flipped classroom

<http://tl.hku.hk/elearningblog/?pid=18128>

<https://drive.google.com/file/d/0BxmcC8nrnYLIId0YydHZHZkdNREE/view?pli=1>

Jamie and Lillian:

<https://youtu.be/8UrbvtHFrdI?t=3m2s>

Jen Li:

<https://youtu.be/pjXSO5A0HQI?t=1m24s>

SURVEY ANALYSIS

Post Oct 20-LGC Survey – Qualitative comments

1. How did you find the problem-solving classes in LYH?

| # | Answer | Response | % |
|---|-----------------|----------|------|
| 1 | Very useful | 39 | 34% |
| 2 | Useful | 68 | 60% |
| 3 | Not very useful | 7 | 6% |
| | Total | 114 | 100% |

2. In a few words, if you found the problem-solving class useful or very useful, in what ways were they useful?

| Theme | Keywords | Frequency | Examples |
|--------------------------------------|---|-----------|---|
| Application | Apply, application, real-life cases, practice, implementation | 39 | I was able to learn how the tort law concepts of duty of care apply to real cases. |
| Knowledge consolidation | Check/enhance understanding, check misunderstanding/ mistakes | 31 | It helps me better understand and remember the consideration factors of duty of care. |
| Learning from peers | Exchange, learn from others, group work, work together | 28 | It also is an opportunity to discuss with other classmates and get ideas and inspirations from them. |
| Problem-solving skills | Structure of tackling problems, steps of analysis, exam-like problems | 15 | I'm experiencing how to do news analysis, which we will face in examination. |
| Thought provoking | Independent thinking, reflect, in-depth discussion | 13 | It is good to provide more compulsory chances for each small group of students to have more in-depth discussion of what is being taught these days and make a case analysis together. |
| Expression (oral and written) | Writing structure, organize answer, talk to classmates | 11 | The class also acts as a useful preparation for future legal practices as it encourages students to articulately express themselves in both oral and written forms. |
| Pre-class learning and self-learning | Preparation, self-paced learning, learning by themselves | 8 | Knowing that I will have to discuss with my fellow classmates in class, I tend to get more prepared than usual. |
| Multiple perspectives | Think from other perspective, know how others think | 6 | By exchanging and countering opinions on the spot, students are also able to take multiple perspectives on the problem, which is hard to achieve in individual studies. |
| Tutor/Lecturer support | Explanation, help, feedback, interaction, exchange | 6 | Tutors prompt and clear explanation |
| Engaging | Participation, speak, on track, interactive | 5 | Very useful, made me understand the problems better and engage in debate with other students. |

5. Would you prefer to have problem-solving classes instead of lectures?

| # | Answer | | Response | % |
|---|--------|--|----------|------|
| 1 | Yes | | 48 | 42% |
| 2 | No | | 66 | 58% |
| | Total | | 114 | 100% |

6. Answer Q6 only if you answered No to Q5. 6. Would you prefer a mix of such problem-solving classes and lectures?

| # | Answer | | Response | % |
|---|--------|--|----------|------|
| 1 | Yes | | 76 | 93% |
| 2 | No | | 6 | 7% |
| | Total | | 82 | 100% |