LAW TEACHING RECONCEPTUALISED

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What is required is a union of disciplinary area and pedagogy to develop what could be termed pedagogical content knowledge.¹

INTRODUCTION

For many years programmes designed to improve the quality of teaching in institutions of higher education focused on how to teach — the techniques of teaching. The Australasian Law Teachers Association Law Teaching Workshop was no exception. This quite technical emphasis parallels a "technical rationalist" perspective, which reflects an epistemology of practice derived from positivist philosophy.² The maintenance of such a philosophy allows one to adopt an atomistic view of knowledge, one which is based on the assumption that teaching is a "bag" of skills that we collect and perform; thus, good teachers display a range of techniques and methods which are readily transferable irrespective of subject matter. By divorcing discipline and pedagogical epistemologies, for example in education and law, this approach fails to recognise that good teaching is grounded in a marriage of the two, as we advocate here. Moreover, it inhibits the further development of our understanding of what constitutes good teaching in law.

In this article we describe the redesign of the Australasian Law Teachers Association (ALTA) Law Teaching Workshop, which was made possible by the award of a Commonwealth Staff Development Committee (Cathie) grant to Griffith University and the Queensland University of Technology in 1994. This new, holistic model embodies a reconceptualisation of law teaching in which teaching as a practice is not only embedded in the epistemology of education but also in that of law.

THE ALTA LAW TEACHING WORKSHOP: 1988–1993

In order to understand the need to reconceptualise the Workshop in 1994, one must appreciate the historical context in which teacher education programs in law have developed in Canada and in Australia. The Committee of Canadian Law Dean were instrumental in establishing a national clinic for Canadian law teachers over fifteen years ago. This program has since become internationally recognised. However, until 1987 there were no national initiatives which were specifically designed to improve the teaching of law in Australia. In 1987 Professors Neil Gold³ and Mary Gerace of the University of Windsor, Canada were invited by Professor Jack Goldring to offer a version of the Canadian Law Teaching Clinic to law teachers in Australia.⁴ This model has provided the base for the annual ALTA Law Teaching Workshop from 1988 to 1993.

In the Canadian and in the Australian contexts, various organisers have introduced new content to the Workshop over the years.⁵ Thus in each country the Workshop has evolved to meet some of the perceived needs of legal educators and participants. For example in Australia, sessions on gender and culture, assessment, and large group teaching were included in response, in part, to the suggestions of the participants. It appears that the introduction of some of these topics has contributed considerably to the popularity that the Australian Workshop has experienced since its inception in 1988.

That the enthusiasm amongst participants for the Workshop has continued since its inception is evident in the formal evaluation conducted by the Centre for Legal Education in 1994. There is much support for the workshop amongst those who participated in it, with many (of the former participants) indicating that they have incorporated the information from particular sessions into their teaching. As a result, many believed their teaching has improved \dots^6

This response is echoed in that of the Australian Law Deans who stated that the Workshop plays

an important role in the professional development of their staff and (in) keeping them up-to-date with developments in educational theory and techniques ... Many deans indicated that while only one staff member benefits fully from the workshop, many others at the home institution also benefit, mainly through informal seminars and discussions run by participants.⁷

Despite its success, the Workshop has maintained many of the features of its original Canadian counterpart⁸ When looked at from an historical perspective, one might conclude that the Canadian Law Teaching Clinic embodied educational principles of its time; however, it was designed when the development of ideas about teaching and learning had begun to be challenged. The mid-1970s saw a movement away from the strongly positivist, quantitative, measurement- oriented view of education to more hermeneutically oriented, qualitative perspectives that emphasised an interpretive approach. Educational researchers began to focus on the *student's perspective of the experience of learning* rather than the teacher's perspective of teaching.⁹ The outcome of this change produced a totally different way of approaching and understanding dilemmas in teaching. Conceptually it provided a new paradigm for understanding education which illustrated the impoverishment of the previous approaches.¹⁰ Thus, for example, we were able to see, for the first time, how the learning context that we produce as teachers affects how students approach their learning, which, in turn, affects what they learn. It also enabled us as educators in our respective disciplines to see the importance of discipline-specific educational practice.

Notwithstanding what has since been recognised as revolutionary developments, the ALTA Law Teaching Workshop has remained teacher-centred with a considerable emphasis on teaching methods, techniques, and devices.¹¹ For example, the Workshop did not specifically address knowledge that is considered central to teaching and learning. Student learning was addressed but primarily through the exploration of learning styles and the use of inventories. However, one can argue that a learning style is simply a research construct, and the notion that one can measure a learning style derives from the earlier, arguably less valuable research perspective discussed above. The notion of a learning style appears to be contrary to our current thinking which maintains that our best source for learning about learning is from students themselves. Moreover, and more importantly although the Workshop encouraged participants to draw on their experience and develop their techniques, it failed to develop a pedagogy of law.

During the last few years, the principal organisers of the Workshop were aware of the limitations of the Workshop Model¹² but were unable to address the problem due to a lack of funding.¹³ In 1994 the award of a Cathie grant provided finance for a formal, external review and for the employment of academics whose main job was to develop a new Workshop model. Our primary task as researcher and consultant respectively¹⁴ was to redesign the Workshop, using some of the feedback that former Workshop participants had offered over the years.

THE ALTA LAW TEACHING WORKSHOP RECONCEPTUALISED

In redesigning the Workshop we recognised the need to embody a model which captures the dynamism of the inter-relationship of teaching and learning rather than one which reflects a more static conception of education as teacher-centred. Integral to this idea is the notion that learning is transformative, that it involves individual conceptual change on the part of the learner. A good teacher organises and illustrates knowledge in such a way that students can grasp it, organise it, and make it their own — in effect transform it.¹⁵

The Workshop was designed so that participants could examine their conceptions of teaching and learning, and explore their teaching practices in light of an increased understanding of what learning entails. In particular, we hoped that participants would seriously consider, reflect on, and question their deeply held beliefs about what teaching and learning involves against the background of the challenges implicit in the teaching of law, thus creating their own legal pedagogy.¹⁶ In contrast to the earlier Workshop which primarily emphasised generic teaching skills,¹⁷ we intentionally attempted to integrate the disciplines of law and education.¹⁸ We believed that the Workshop needed a strong basis in legal epistemology. In short we

wanted to present the ambiguities in law teaching as dilemmas upon which each participant could reflect.¹⁹

Thus, we shifted from the earlier, quite narrow focus on the demonstration of effective teaching practise towards a deeper examination of the inter-relationship of legal epistemology, educational theory, and legal educational practise. In so doing we hoped to develop and establish the notion of teaching as scholarship amongst legal academics.

WORKING PRINCIPLES

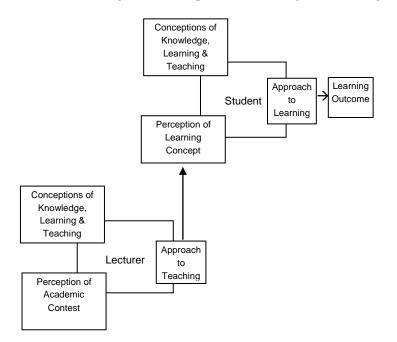
In order to achieve this goal we developed a series of working principles for the teachers of the Workshop, which are grounded in current understandings of teaching and learning. We agreed that the Workshop teachers would encourage participants to:

- draw on and develop the skills, attitudes, and values that are prized in good legal practice.²⁰
- consistently state the intended learning outcomes at both a Workshop and a sessional level.
- model good teaching. For example, the Workshop teachers would make explicit and transparent the
 assumptions underlying their practice, work as a team in the planning and implementation of the
 Workshop, manage cooperative learning activities, and encourage the participation of all individuals in
 Workshop activities.
- be open to the different ideas that the participants espoused about the nature of law, and the teaching and learning of law.
- encourage participants to take responsibility for their own learning.
- include reflective practice as in integral and integrated element within the Workshop setting.²¹ The teachers would introduce and demonstrate the importance and role of reflection, evaluation, and feedback in assessing teaching and student learning outcomes. A processing segment in which the teachers outlined what they did and why, what they hoped to achieve, and what they think they had accomplished closed most sessions.²²

The "Model"

The ideas discussed above are embedded in an integrative or relational model of learning and teaching developed by Ramsden²³ and others. Bain illustrates his interpretation of this approach in diagrammatic form (Figure 1). We used Figure 1 as a simple, thematic model for Workshop purposes.²⁴

Figure 1: Conceptions of Learning and Teaching: A Simplified Model



In each session the Workshop teachers focused on a segment of the model and the relation of that segment to the overall schema. They also attempted to make all aspects of the model relevant to the work of the participants. For example, on day 1 they focused on the creation of a learning context for the Workshop participants while illustrating at the same time the impact of the learning context on student learning outcomes. On day 2 they developed the theme of conceptions of learning, thus linking perceptions of the learning context with ideas about student learning.

In Figure 2 we illustrate the plan of the Workshop and in footnotes we summarise the objectives for the sessions.

Figure 2: Workshop Plan

Day	Session 1	Session 2	Session 3	Session 4
Day 1 The Learning Context			Setting the learning context: • Who are you? • Why are you here? ¹	Conceptual framework & theoretical assumptions: • Introducing the Workshop & the model ²
Day 2 Conceptualising Learning	Introduction to teaching, reflection, & feedback (Teaching 1) • Individual 20 minute video-taped teaching session	Teaching 1 (continued)	Learning outcomes • Exploration at macro level (employers' expecta- tions) ⁴	Approaches to/conception s of learning • Exploration at micro level (student videos) ⁵
Day 3 Conceptualising Teaching	Teachers' conceptions of legal knowledge, teaching, & learning ⁶	Linkages • Relating students' & teachers' conceptions of/approache s to learning & teaching ⁷	Afternoon free	Afternoon free
Day 4 Conceptualising & Instituting Change	Teaching to promote student learning • the use of media in law teaching ⁸	Promoting learning through assessment ⁹	Review & summary • revisiting expectations • outstanding issues ¹⁰	Preparation for teaching 2
Day 5 Reconceptualis- ing Practice: Promoting Learning	Individual 40 minute video-taped teaching session (Teaching 2) ¹¹	Teaching 2 (continued)	Teaching 2 (continued)	Teaching 2 (continued)
Day 6 Conceptualising Transitions	Reflective practice & evaluation • The role of reflection & evaluation ¹²	Transitions & evaluation of the Workshop ¹³		

Notes:

¹ The primary objectives were: to have the participants meet and learn about one another; to elicit the expectations that the participants held about the Workshop; to establish a climate for learning; and to heighten awareness of the importance of the learning context in promoting student learning.

² The main objectives were: to introduce the theoretical framework of the Workshop; and to begin the process of modelling, reflection, and feedback.

³ The main objectives were to begin to put into practice the processes of reflection and feedback; and to establish a baseline for

teaching.

- ⁴ The main objectives were to develop a knowledge of the variety of outcomes which can be achieved in legal education; to develop an awareness and knowledge of the dynamic relationship between substantive law, context, and generic skills; and to provide an opportunity for participants to consider these issues in relation to their own work.
- ⁵ Extracts from videos of first year law students at Griffith University were shown. Student permission to show the videos at the Workshop was obtained and requisite university authorities were consulted.
- The main objectives were: to introduce the notions of approaches to and conceptions of learning; to explore students' approaches to and conceptions of learning law in relation to a specific assignment; and to begin to consider the implications for law teaching.
- ⁶ In individual and pair work the participants examined their own conceptions of legal knowledge, teaching, and learning and began to explore how these conceptions can affect students learning.
- ⁷ The main objective of this session was to deepen awareness of the relational nature of teaching and learning by consolidating the notion that student learning outcomes are affected by a number of factors: how both teachers and students conceptualise law, learning, and teaching; how teachers see their work environment and how students perceive their learning context; and how both teachers and students approach learning.
- ⁸ Media was used to illustrate the main objectives of this session which were: to identify the various teaching methods, techniques, and devices that can be used to promote learning; to consider how they can enhance learning; and to discuss various circumstances in which they can be used most effectively to promote student learning.
- ⁹ The main objectives set for this session were: to identify why assessment is conducted; to discuss what assessment involves; to identify the relationship between assessment and learning outcomes; to describe a range of assessment strategies; and to identify assessment strategies which promote student learning.
- ¹⁰ In this session we reviewed the expectations that participants had for the Workshop, discussed outstanding issues in individual group activities, drew together what was learned, and considered how what was learned at the Workshop could be put into practice in the teaching session scheduled for the next day.
- ¹¹ This teaching session was designed to build upon the first video-taped teaching session. Participants were asked: to combine their subject matter knowledge with what they have learned at the Workshop in a teaching session; to practise giving and receiving constructive feedback again; to reflect on their teaching as they did in Teaching 1; and to take risks, try something new. The main objective of this session was to determine whether learning occurred.
- ¹² In this session we considered the role, function, and use of evaluation generally and specifically.
- ¹³ In this final session we checked to see that the participants' expectations for the Workshop had been met, considered barriers to change, and discussed ways to introduce change so that student learning is promoted.

MATERIALS

We distributed journal articles and sessional objectives as pre-reading so that the participants had some knowledge of the aims and objectives of the Workshop.²⁵ Whenever possible the Workshop teachers attempted to integrate the readings into the classroom experience. In an attempt to reinforce the new model, we showed excerpts from videos in which first year students in the Faculty of Law, Griffith University talked about learning and learning law.²⁶ The evidence of the videos strongly supports recent research findings on learning, and the different voices of the students who were interviewed graphically illustrated how students' perceive what happens to them when confronted with a particular law assignment.

EVALUATION OF THE WORKSHOP: A PROCESS OF CONTINUING REFLECTION AND EVOLUTION

Recognition of the need to review, reflect on, and evaluate the Workshop has grown over time.²⁷ The actual impact of workshops such as the ALTA Law Teaching Workshop is difficult to determine with any degree of exactitude. Moreover, there is relatively little data on the efficacy of similar teacher training workshops.²⁸ Evaluations conducted at the end of a seminar may simply measure satisfaction rather than the likelihood that change will be initiated as a result of what was learned.²⁹ Causal conclusions are difficult to make because of the number and potential effect of variables which intervene between the time a workshop is held and the implementation of ideas discussed at the workshop. And this problem is exacerbated by the so-called "Hawthorne" effect.³⁰

Nevertheless, we found that informal and formal evaluations that incorporated participant feedback into the Workshop design provided useful formative and summative data for its ongoing development. Moreover, the Cathie grant provided funding for a formal, external evaluation of the new design by Paul Ramsden and Gordon Joughin.³¹ As part of their review Ramsden and Joughin conducted follow-up interviews of some of the participants 5–6 weeks after the Workshop. Taken together, these reports have provided a rich source of information.³²

In their Final Report the Evaluators stated that

the conceptual framework is an appropriate one for the ALTA (Law) Teaching Workshop and we would like to encourage its continued use. In supporting its use, we note the following features:

- It is derived from real teaching and learning situations, and it makes sense to teachers.
- It is relatively uncomplicated.

• It is supported and used by leading educationalists and is backed by an extensive and growing body of empirical research, including research in legal education.

• It is consistent with, and supported by, The *Quiet* (*R*)*evolution*,³³ which we understand will be the workshop's textbook in future.³⁴

CONCLUSION

[I]t is worth pointing out that, to the extent to which they succeed in bringing about long-term change, workshops are highly economical. An investment of a few hours of an academic's time may result in changes which have important consequences for the learning experiences of hundreds of students. Where this occurs, and our data suggest that it happens more frequently than we are apt to suppose, then the benefits of workshop participation are achieved at a remarkably modest cost in relation to total institutional budgets.³⁵

In this article we have described how we have developed a new model for the Australasian Law Teaching Workshop, one which we think appropriately reflects current thinking about teaching and learning. As with any successful educational undertaking, this model will be reshaped and refined by the future Workshop Committee teachers as their understanding of how students learn law grows. That the Workshop will keep pace with changes in educational theory and practise is more likely now than ever before with the formal commitment of financial backing from the Australian Law Deans in 1994. In addition, as a result of the new Workshop model some of the members of the Workshop Committee have come to value more highly the importance of working directly with educationalists since such a major reconceptualisation of the Workshop would not have been possible without a close collaboration between individuals working in law and in education.

That the joint project was not only possible but successful is reflected in the feedback that has been received. The evaluators concluded overall that the 1994 Workshop was "very successful" and "is highly regarded by the deans, the schools of law, and participants".³⁶ Although they stated that it did not "require any significant change"³⁷ the evaluators did offer some (what we consider to be invaluable) suggestions, which highlighted the need for participants to incorporate what they have learned from the Workshop by changes in their practise as teachers of law.³⁸ One significant lesson for us as project designers is the recognition of the need to limit the content of the curriculum so that participants have time to reflect on and synthesise relevant concepts. Ashamedly we did what many novice teachers do — we overloaded our "students". As Stephen Brookfield so aptly describes,

Teaching is the educational equivalent of white-water rafting... All teachers sooner or later capsize, and all teachers worth their salt regularly ask themselves whether or not they are doing the right thing.³⁹

We have learned from the experience. Luckily, we didn't get our feet too wet.

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- ¹ R Neumann, Valuing Quality Teaching Through Recognition of Context Specific Skills (1994) 37 Australian Universities' Review (No 1) 8, at 9.
- ² D Schön *Educating the Reflective Practitioner* (San Francisco: Jossey-Bass, 1987) 3.
- ³ Professor Neil Gold was the Founding Director of the Canadian Law Teaching Clinic.
- ⁴ The Clinic is described in M Le Brun and R Johnstone *The Quiet (R)evolution: Improving Student Learning in Law* (Sydney: Law Book, 1994) vii-x.
- ⁵ The first co-ordinators and foremost developers of the ALTA Law Teaching Workshop were Ben Boer, Graeme Cooper, Richard Johnstone, and Marlene Le Brun.
- ⁶ Centre for Legal Education, *Evaluation of the Australasian Law Teachers Association Law Teaching Workshop* (Sydney: Centre for Legal Education, 1994) iii.
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- ⁷ *Id*, at iv.
- ⁸ B Boer, The Australasian Law Teaching Workshop (1989) 1 Legal Educ Rev 1 at 145.
- ⁹ F Marton, DJ Hounsell & NJ Entwistle eds *The Experience of Learning* (Edinburgh: Scottish Academic Press, 1984) and P Ramsden *Learning to Teach in Higher Education* (London: Routledge, 1992).
- $^{10}\,$ For a discussion in the context of law, see Le Brun & Johnstone, supra note 4, chapter 1.
- ¹¹ Boer, *supra* note 8, at 146.

- ¹² Interestingly, in addition to appreciating the need to reconceptualise the Workshop model, the Workshop teachers' observations about what makes a workshop successful mirror those of RM Feller, R Leonard & RL Porter, Oh No, Not Another Teaching Workshop! (1992) *JCST* (February) 207, at 209: supportive administration; an inaccessible venue; a well-matched instructional team; light lunches followed by active learning; the establishment of and insistence on the participatory nature of the workshop; and the early introduction of the concepts of teaching and learning styles and the consequences of mismatch. See discussion *infra* about learning styles.
- ¹³ Initially the participants completed a questionnaire at the close of the Workshop. The Workshop organisers then briefly discussed the responses during the time they set aside at the end of each Workshop to review the Workshop. Due to financial constraints, they had little contact with one another until the day of the next Workshop, one year later. As a result, long term planning was difficult and systemic changes virtually impossible to make.

Thereafter the award of matching grants from the Law Foundation of New South Wales and the Victoria Law Foundation funded an annual planning meeting.

- ¹⁴ Barbara Hamilton provided considerable assistance with locating and compiling materials in her role as part-time research assistant.
- ¹⁵ LS Shulman, Knowledge and Teaching: Foundations of the New Reform (1987) 57 Harvard Educ Rev (No 1) 1, at 8.
- ¹⁶ Support for this sort of approach can be found in P Ramsden, Theories of Learning and Teaching and the Practice of Excellence in Higher Education (1993) 12 *Higher Education Research and Development* no 1, 87.
- ¹⁷ Boer, *supra* note 8, at 145.
- ¹⁸ Neumann, *supra* note 1, argues in particular for the need to focus on the specific context in which teaching occurs if we wish to increase our knowledge of effective teaching. That the discipline context may also affect attitudes towards teaching and attendance at teaching workshops is discussed in ES Botman & AD Gregor, Faculty Participation in Teaching Improvement Programs (1984) 14 *Canadian J of Higher Educ* 63, at 72.
- ¹⁹ To illustrate: although we did not directly address whether the teaching of law should in fact be about the transmission of rules of law or whether teaching in law should involve more (or something else altogether), we did explore the relationship between how a law teacher conceptualises law and how law is taught.
- ²⁰ In particular we decided to use the American Bar Association Section of Legal Education and Admissions to the Bar Legal Education and Professional Development An Educational Continuum: Report of the Task Force on Law Schools and the Profession Narrowing the Gap (Chicago: American Bar Association, 1992) Part II.
- ²¹ For example, as illustrated in the work of Donald Schön and David Boud.
- ²² We thought that this approach helped to give the Workshop coherence on multiple levels. For exam le, in so doing we modelled some of the skills which we draw upon regularly when we teach-and when we practise-law.
- ²³ See in particular Ramsden, *supra* note 9.
- ²⁴ J Bain, seminar entitled Academics' Conceptions of Learning and Teaching: Implications for University Education, in series Reaching More Students, supported by the Griffith Institute for Higher Education, Griffith University, 1994.
- ²⁵ Particular emphasis was given to the work of Marton, Säljö, Biggs & Ramsden.
- ²⁶ For a description see C Bond & M Le Brun, Promoting Learning in Law: First Year Law Students' Conceptions of Learning Law — A Preliminary Study, proceedings of the Australasian Law Teachers Association (ALTA) Conference (Hobart: 1994) forthcoming.
- ²⁷ For a good introduction to the role of reflection in the improvement of teaching and learning as well as in professional practice, see D Boud, R Keogh & D Walker eds, *Reflection: Turning Experience into Learning* (London: Kogan Page, 1985,1994 reprint) and DA Schön, *supra* note 2.
- ²⁸ B Wilks & S Sikes, Guidelines to Practical Impact Evaluation (1988) 13 *Innovative Higher Education* (No 1) 54, at 55 note that most impact studies reported in the literature are primarily in the areas of medicine or government education programs. See Wilks & Sikes for a list of various impact studies, for an outline of some of the problems which can arise when one attempts to determine the impact of the effects of instructional programs such as the ALTA Law Teaching Workshop, and for guidelines for the conduct of an impact evaluation. See also S Mahler & DE Benor, Short and Long Term Effects of a Teacher-Training Workshop in Medical School (1984) 13 *Higher Education* 265, and DJ Boud, EA de Rome & JP Powell, University Teachers' Evaluations of the Impact of Workshops on Their Teaching in IR Dunn (ed) *Issues and Solutions in Teaching and Learning in Higher Education* (Sydney: Higher Education and Research and Development Society of Australasia, 1984) 69.
- ²⁹ Wilks & Sikes, *supra* note 28, at 55. RJ Menges, BC Mathis, D Halliburton, M Marincovich & M Svinicki, Strengthening Professional Development: Lessons from the Program for Faculty Renewal at Stanford (1988) 59 *J Higher Educ* 291, at 297 note that some self-report data measures satisfaction; they may not provide evidence of increased knowledge or skills.
- ³⁰ This can occur when the productivity of participants increases because they are involved in an experiment. For a description of this effect in a discussion of law faculty retreats see WH Pedrick, The Law Faculty Retreat: Path to Victory? (1985) 35 *J Legal Educ* 88, at 93.

Despite these problems, some attempts have been made to catalogue the impact of teaching-training workshops on performance. Mahler & Benor, *supra* note 28, claim that a four-day workshop that was designed to help teachers replace lectures by introducing student participation in a medical school context did significantly change the instructional behaviour of the teacher participants. Moreover, their research suggests that the effect of the course was sustained over long periods of time. Mahler. & Benor, at 272, do, nevertheless, recognise the difficulty of predicting the impact of workshops on teacher performance. Some individuals may derive no benefit at all, while some may derive benefit, which is quickly extinguished. Others may prove to be slow learners who gain momentum and commitment as time passes and ideas take hold.

- ³¹ G Joughin & P Ramsden, Evaluation of the ALTA Teaching Workshop: Final Re ort (Brisbane: December, 1994).
- ³² For an example of the use of an outcome model of evaluation of a teaching workshop see DJ Boud, EA de Rome & JP Powell, *supra* note 28.
- ³³ Le Brun & Johnstone, *supra* note 4.
- ³⁴ Joughin & Ramsden, *supra* note 31, at 3.
- ³⁵ Boud, de Rome & Powell, *supra* note 28, at 74.
- ³⁶ Joughin & Ramsden, *supra* note 31, at 11.
- ³⁷ Joughin & Ramsden, *supra* note 31, at 11.
- ³⁸ Joughin & Ramsden, *supra* note 31, at 7–9
- ³⁹ S Brookfield *The Skilful Teacher: On Technique, Trust, and Responsiveness in the Classroom* (San Francisco: Jossey-Bass, 1990)

at 2.