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# OPTIMISING THE FIRST YEAR EXPERIENCE IN LAW: THE LAW PEER TUTOR PROGRAM AT THE UNIVERSITY OF NEW SOUTH WALES

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DOMINIC FITZSIMMONS\*, SIMON KOZLINA\*\* AND  
PRUE VINES\*\*\*

## I INTRODUCTION

Struggle is the common experience of first year students undertaking a degree in law in tertiary education. This struggle takes many forms: the newly found freedoms for those accomplished students recently released from high school; the need to ‘re-think’ and transfer skills for graduate or mature aged students or; the ‘burning both ends’ struggle for part-time students balancing paid work with study. So, studying first year law is difficult, and not just because of the challenging nature of the subject matter.

In this article we argue that peer-to-peer small group tutoring is a highly effective form of building a community of critically active participants at UNSW Law School. The purpose of this article is to highlight the significant factors that make it effective from the perspective of the co-ordinators, the students and the Law Peer Tutors. First, we will describe the philosophies or theory underlying the program. Second, we will outline how the program is organised and maintained. Third, we will analyse data gained over the past five years (2001–2006) and organise it under three headings: confidence through participation, collaboration and caring; and tolerating uncertainty. These three headings focus on three important themes in contemporary debates about education: active learning, learning in terms of building relationships, and approaches to learning content.

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## II THEORY

In terms of philosophy or theoretical framework, this program reveals an extensive list of readily identifiable influences. The UNSW Law School builds its foundations of teaching quite clearly on notions of social justice both in terms of content and teaching. The program draws heavily on ideas from a broad spectrum of theories of liberatory education. In particular, Brazilian educator, Paulo Freire's dialogical approach to learning is significant to all peer-to-peer learning as it is based on mutual respect, and rejects the more traditional notions that students as 'learners' are 'empty vessels' filled by the 'knower'. This notion of dialogue is hardly new; it can be traced back to Socratic philosophy and in more recent times was suggested by Antonio Gramsci in 1930s Fascist Italy, where it was used as a way of countering the 'know-all' attitude of authoritarian societies. Indeed, today it is considered an essential feature of the teaching and learning landscape in democratic societies.

For Freire, the idea of dialogue is essential to teaching democratic values, which is fundamental to the Foundations of Law course. So, the Law Peer Tutors become what Freire calls 'democratic educators', who 'must do everything to ensure an atmosphere in the classroom where teaching, learning and studying are serious acts, but also ones that generate happiness'.<sup>1</sup> As African American educator and social theorist, bell hooks correctly notes, what is demanding and difficult is less the content of the work, but rather having to actively work against the expectations that students bring with them about what academic work is and how it is studied:

as democratic educators we have to work hard to find ways to teach and share knowledge in a manner that does not reinforce existing structures of domination (those of race, gender, class, and religious hierarchies). Diversity in speech and presence can be fully appreciated as a resource enhancing any learning experience.<sup>2</sup>

Here hooks is not offering a recipe for what should be done in any situation, rather her point supports the assertion that by thinking differently about the content of law, the students and themselves, the Law Peer Tutors can be supported to act differently, and thereby create more learning space for the students in their groups.

Significantly, peer to peer tutoring means that the role of the mentor is not marginalised as a mere facilitator of learning, rather the focus is on the relative expertise in terms of knowledge and study strategies, to which the younger learners can be encouraged, cajoled and inspired to learn. The Law Peer Tutors then adopt Freire's notion that they must act with younger students, rather than for or

<sup>1</sup> Paulo Freire, 'Pedagogy of the Heart', cited in bell hooks, *Teaching Community: A Pedagogy of Hope* (1998) 44.

<sup>2</sup> bell hooks, *Teaching Community: A Pedagogy of Hope* (1998) 45.

on behalf of them.<sup>3</sup> By working with students, they are more able to empower them in quite specific and material ways. While this program is infused with idealism in terms of potential, it is also quite pragmatic in terms of the threshold of learning. Although the context is significantly different, the underlying aim is similar to Freire's, for whom appropriate pedagogy was to make Brazilian dispossessed farm workers literate, so that they could be registered to vote, so that the large numbers of dispossessed could no longer be totally excluded from political power. Our aims in a relatively privileged law faculty are perhaps somewhat more immediate — to build a community of critical learning in which students are able to adapt to the demands of first year law.

First year students could hardly be called 'oppressed' even in a relative way. However, university systems effectively disempower students if a law degree is treated solely as vocational. For example, if a course only encourages a transmission approach or only asks students to apply knowledge to a given situation uncritically, then we are consolidating approaches to law which are both unintellectual and impractical. So, the Law Peer Tutor program is an effective way for students to learn to be academically literate in terms of law by critiquing the concept, the context and the content of law.

One effective way in which students can be empowered is to see themselves as part of a learning community and then act accordingly. This communitarian notion is discussed in partnership with the idea of building social capital. Robert Putnam has been acknowledged as a latter day pathfinder, even if unintentionally, of the importance of social capital to respond to the apparent decline in traditional forms of community making.<sup>4</sup> Martin Krygier, Australian legal philosopher, in particular, has drawn on these notions to speak about the strengths of traditions in law.<sup>5</sup> As a response to the increasing emphasis on individualism in educational systems, the Law Peer Tutor program has implemented small group learning. Indeed, rescuing law from the myth of heroic individualism is part of our task. This example of informal collaborative learning ensures that students are made aware of the strengths which emerge from working with others on a common project in which all bring different capacities and knowledges.

Part of the strength of collaboration is a respect for what others bring with them to the bargaining process, particular those who belong to groups which are systematically socially marginalised. On entering the degree there are many different types of students: their blueprint of 'law' is fragmented, contradictory, and general uncritical in an academic sense. The first year program is an attempt

<sup>3</sup> Paolo Freire, *Pedagogy of the Oppressed* (first published 1970, 1996 ed) 30.

<sup>4</sup> Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (1993).

<sup>5</sup> Martin Krygier, 'Law as Tradition' (1986) 5 *Law and Philosophy* 237.

to help them contextualise this knowledge and become critically aware agents in the formation of law. So, initially we must be aware of these ‘depositions’ of knowledge; and consequently, the habits that we engender as teachers or Law Peer Tutors become the process which turns these depositions into ‘dispositions’.<sup>6</sup> These dispositions can also be expressed as the Graduate Attributes which represent the benchmark of attainment for students at UNSW.

A number of different approaches current in adult education also inform the philosophy which underpins the program. Many of these approaches can be grouped under the rubric of student centred learning or self directed learning in which students are expected to take responsibility for their own learning.<sup>7</sup> Shifting the expectations of the student that the Law Peer Tutor will be the expert on all matters is a crucial step to allow students to move from apparent surface to deep learning strategies. As has been pointed out on numerous occasions, it is incorrect to view this deep-surface dichotomy as referring to unchanging properties of the student, rather they are strategies adopted by each student to adapt to different situations. Deep learning strategies are a valuable tool, but they should be used appropriately — often a surface approach will be quite suitable for short answer or MCQ assessments.

In order to encourage different learning strategies and thereby create new types of learning communities, we need to affirm and then critique the assumptions that students bring with them. These assumptions underlie their existing views and attitudes on social modalities, such as ‘race’, gender, class, sexuality, age, ethnicity, geographic location and ability. Generally, students are quite unaware of their unreflexive positioning. There is little in the education system which prepares them for this kind of reflection, and even in their law course little time is given for critiquing the supposed neutrality or objectivity of how we look at law. bell hooks’ writings over the past decades have highlighted how the normalising of knowledge has effectively marginalised other views and ways of acting.<sup>8</sup> By unveiling the hidden discourses of law, we are able to introduce students to the rules of the game, in terms of both academic skills as well as content. Consequently, these rules are not seen as arbitrary,

<sup>6</sup> See especially; Pierre Bourdieu, *Language and Symbolic Power* (1991); Pierre Bourdieu, *Outline of a Theory of Practice* (1977).

<sup>7</sup> There is a rich literature across the spectrum of education. Some important foundational works include, David Johnson, Roger Johnson and Karl Smith, *Active Learning: Co-operation in the College Classroom* (1991); Paul Ramsden, *Learning to Teach in Higher Education* (1992); Stephen Brookfield, ‘Self-Directed Learning, Political Clarity and the Critical Practice of Adult Education’ (1993) 43(4) *Adult Education Quarterly* 227.

<sup>8</sup> See, eg, bell hooks, *Yearning: Race, Gender, and Cultural Politics* (1990); bell hooks, *Teaching to Transgress: Education As the Practice of Freedom* (1994); bell hooks, *Feminism is for Everybody: Passionate Politics* (2000).

rather emerging from conventions based on social/political ideas and events.

At UNSW Law School there is an ‘aphorism wall’ containing quotes from philosophers, activists, intellectuals and scholars, chosen by faculty staff which all in some way answer the question: ‘what is law?’ Each sentence to a great degree echoes the many divergent opinions about the content, practice and context of law. Next to Aristotle is Gerard Winstanley (political radical and spiritual visionary from the 1649 ‘Diggers’ revolts), who sits uncompromisingly above feminist Carol Pateman and next to Sir Owen Dixon, who would probably be very uncomfortable with the company he keeps here. It is eclectic, and thereby represents a clear cross-section of the philosophies underlying the faculty’s work. Often the Law Peer Tutors will take their groups down to the wall, and ask them to think about these comments, and put together their own reactions to these comments, as well as to historicise decisions in law, rather than to see it as a museum piece.

Since the 1980s there have been many studies focussed on the benefits of peer-to-peer tutoring. Frances McGlone summarised concisely many of the threads from both a perspective of legal education and also of university education in general.<sup>9</sup> In particular, she notes the importance in the Australian perspective of Madeline Le Brun and the Supplemental Instruction movement in the USA.<sup>10</sup> In addition, official reports into legal education, such as the Pearce Report 1987<sup>11</sup> and Craig McInnes’ review of this report in 1994,<sup>12</sup> emphasise that these concerns are a well ploughed field. Indeed, McGlone quotes appreciatively from Janet McCrae that learning from peers who have more extensive knowledge has been a fundamental part of education since ancient times in all cultures.<sup>13</sup>

One further point on theory before discussing the elements of the program — all discussions of a concept start with definitions, even when unstated. There is always the need to clarify the normal or perhaps tortured understandings of terms shared or not shared by

<sup>9</sup> Frances McGlone, ‘Student Peer Mentors: A Teaching and Learning Strategy Designed to Promote Cooperative Approaches to Learning and the Development of Lifelong Learning Skills’ (1996) 12 *Queensland University of Technology Law Journal* 201.

<sup>10</sup> Marlene Le Brun and Richard Johnstone, *The Quiet (R)evolution: Improving Student Learning in Law* (1994).

<sup>11</sup> Dennis Pearce (ed), *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (1987).

<sup>12</sup> Craig McInnes and Simon Marginson, *Australian Law Schools After the 1987 Pearce Report* (1994). For a more recent assessment on support for student learning in law at various Australian universities, see Samantha Hardy, ‘Improving Law Students’ Written Skills’ (EDGE Teaching Fellow Report, University of Tasmania, 2005).

<sup>13</sup> Janet McCrae (1993) 4 *Peer Tutoring Newsletter*, cited in McGlone, above n 9, 205.

writer and reader. The phrase ‘Law Peer Tutor’ contains significant terms that convey a significant degree of ambiguity, especially when placed together. While many have examined the rhetoric of this discourse, it is always illuminating to return to the words themselves — first separately, then in various compound forms.

First, ‘Law’. It is a discourse that, try as it might to be participatory and inclusive, tends to be segregated and exclusive. The moniker ‘Law’ immediately suggests something distinctive, a difference from other peers or tutors. It certainly places the ‘peer’ and the ‘tutor’ in a particular context — one mediated by norms, standards and professional expectations. Consider the significance of the phrase ‘Peer Tutor in Law’ — this label might emphasise the commonality of peer tutoring in many different disciplines. Our label reverses this, whether intentionally or not.

Second, ‘Peer’. Lawyers trained in the common law tradition might turn to the Peers of the House of Lords, and elsewhere. This notion of ‘peer’ has little to do with having ‘common’ experiences or views — although being united in not being a commoner might be relevant. More relevantly, ‘peer’ in both the regular and noble sense suggests an equal, a person of similar rank and station, someone to whom one can be reasonably compared. In this context, it is the supposedly shared status of ‘student’ that provides the basis for comparison or equality. Of course, our program necessarily distinguishes between members of this peerage by immediately distinguishing between first year students and senior students — much like the distinction between a marquis and a viscount, although without the coronets. More seriously, our program assumes a shared experience amongst all students, whether junior or senior, that can be the basis of our peer groups. This assumption is challenged when our students may be of different ages or language capabilities.

Third, ‘Tutor’. The more traditionally understood role of the university tutor comes to mind — modified in some way in this context. In this light, the tutor is an agent of the lecturer and maintains a privileged position as a source or provider of knowledge. Despite efforts to disavow this position, students may have expectations of someone in this position and these expectations can often be difficult to manage.

So, what does the amalgam ‘Law Peer Tutor’ convey? What do I expect of a Law Tutor? Can someone be a peer and a tutor? Are first year and final year students peers in law? To us, it reflects the mixed (and sometimes inconsistent) hopes of the program’s founders and participants. In particular, it highlights the aim to be both ‘friendly’ (peer) and ‘about learning’ (tutoring). Certainly, in our program the notion of a ‘tutor’ was an important signifier to distinguish the program from other ‘non-academic’ peer mentor programs run by Colleges, Cultural Groups and Student Associations. The term ‘tutor’

provided a distinct ‘academic’ context to the operation of the peer mentoring program. Yet, the tension inherent in the title remained present. As discussed below, student expectations for academic content always required ‘handling’ or ‘management’. The call for academic direction or content, for the font of knowledge to flow, was a constant pressure provided by students on the tutors.

Ultimately, the question becomes what is modified — is it the concept of the Peer that provides a role for the group’s tutor or do we see the traditional role of the tutor modified into a peer mentoring context or paradigm? The founders of the program adopted the first, students seem to adopt the second. The challenge then is to match these expectations.

The important question therefore is what kind of expertise does a tutor or mentor need. All expertise is to some degree relative, so it comes down to a decision about where to set the threshold of power difference between students and peers. Students are well aware of this and so Law Peer Tutors must be very careful not to fall into the trap that being a ‘lawyer’ means to be a ‘knower’. As all teachers recognise, when you choose to say for the first time ‘I don’t know’ in a class is a crucial decision. If you say this too early in the semester, you may lose credibility; if you say it too late, students will ignore the message and assume that you are not being genuine in ‘not knowing’. Likewise, for Law Peer Tutors trying to work against this traditional approach of being the knower takes both a great deal of thought and perhaps a re-thinking of their own position in relation to knowledge. Integrity here lies in the recognition that Law Peer tutors are only a few steps further along the journey, and so have many newly acquired strategies for overcoming challenges to learning.

### III ORGANISATION OF THE PROGRAM

A fundamental part of teaching is to help students to devise strategies to understand the content of first year law. This concern is hardly new; the training of lawyers has been a focus of intellectual thinking and legislative review since mediaeval times. Since the 1970s the twin influences on legal education have been social justice as a fundamental element of transformative education, and the new vocationalism underpinned by economic rationalism. As a result, a significantly new focus has been placed on the methods and methodology of teaching law. Curiously, both influences stress the importance of the individual as the agent of change. So, being aware of the social and cultural identity of students and their ‘learning baggage’ has become important in terms of how the interplay of the individual identity and the identity of the law school can both help and hinder their endeavours to learn. The Law Peer Tutors program is one response to helping the students confronted by the pressures



exerted by these twin influences which are often not obvious when they begin.

Academic researchers, Paul Redmond and Chris Roper identified a number of competencies to which contemporary legal education aspires: general intellectual development; specific law-based skills such as case reading, problem solving, general professional attributes, such as professional ethics, and constructing and delivering an argument; and practical legal and ethical training.<sup>14</sup> The first year is particularly designed to lay the foundations for these first two skills.

A recent strategy at UNSW to better induct students into university study is titled *The First Year Experience* and is promoted by the newly-established Learning and Teaching Unit. This strategy has been adopted in different forms at many Australian universities as the pressure on students to see themselves as ‘consumers’ of education has clashed with the traditional roles of intellectual critique and vocational preparation. The UNSW Law School has participated in the *First Year Experience* by taking both a broad and narrow focus: first, by clearly adopting methods outlined in the *Guidelines on Learning that Inform Teaching* as part of the regular classes in the *Foundations of Law* course; and second, a more specific process, by expanding the *Law Peer Tutor* program begun in 1997. This latter initiative is available to the 350–400 students who begin their law studies at UNSW each year.

The *Law Peer Tutor Program* at UNSW has two levels of mentoring. The most obvious level is between the *Law Peer Tutors* and the students in their groups. The other level, which is crucial to the success of the program, is the training and ongoing mentoring of the *Law Peer Tutors* by a *Peer Mentor*, who is a *Learning Adviser* from the *Learning Centre*.

This first level begins with the allocation of students by the *Program Co-ordinator*. In response to applications by students, the *Program Co-ordinator* uses email to allocate students to *Law Peer Tutors* who have outlined their preferred meeting times, generally in blocks of 1–2 hours. The *Program Co-ordinator* can also act as point of pastoral care for both *Law Peer Tutors* and for first year students. In this arm, the first year students meet in groups of 2–4 with their *Law Peer Tutor* for between one and two hours every week during session. Discussion in groups is driven by students — the role of the *Law Peer Tutors* is to facilitate discussion by asking questions and by using their experience to highlight different perspectives on issues discussed in classes, as well as to show students how to learn. Despite much pressure from students, the role of the *Law Peer Tutor* in this program is not to be an alternate font of knowledge.

<sup>14</sup> Paul Redmond and Chris Roper, *Report of the Hong Kong Review of Legal Education and Training* (2001) 73.

The second arm of mentoring consists of training and meetings between the Law Peer Tutors and the Peer Tutor Mentor, Dominic Fitzsimmons, a Learning Advisor at The Learning Centre and also lecturer in first year law. The role of the Peer Tutor Mentor is to support and encourage the peer tutors through fortnightly de-briefing meetings. The role of the de-briefing meetings is to allow Law Peer Tutors to share concerns or questions with other peer tutors. Traditionally, the Peer Tutor Mentor has played an active role in suggesting techniques and methods that the Law Peer Tutors can use to facilitate the students in overcoming challenges of learning new skills such as reading cases, legal writing and how to apply legal concepts in actual cases. The Mentor also invites members from other units such as Counselling to talk with Law Peer Tutors. At the beginning of each year, the Peer Tutor Mentor also conducts initial training and induction sessions for Law Peer Tutors. While not as exhaustive as some other training schemes — the sessions last for half a day — they cover an extensive range of issues from developing academic skills, to building workable groups, to developing empathy with stressed and needy students.

Responses from students indicate that one of the most important factors which influence their learning is the quality of the Law Peer Tutors. So, there are a number of things that we look for when appointing students as Law Peer Tutors. Generally, they are recruited from law students in their final or penultimate year of study. Positions in the Program are advertised and students are required to submit a CV and academic transcript. Traditionally, we have required students to have a good level of achievement at law school (a credit average or higher) although there has been a strong emphasis on not merely selecting students with outstanding academic records, but those who are able to demonstrate some form of empathy. Students who have a broad range of experiences and are involved in social or cultural activities have proved, not surprisingly, to be some of our most effective and popular peer tutors. Frequently, Law Peer Tutors continue from year to year. We encourage this continuation so that turnover is minimal, as often it takes at least one semester to learn the ropes and it is more valuable for the Law Peer Tutors themselves to pass on knowledge rather than the Convenor or Mentor of the program. While generally Law Peer tutors are part of the program for two years, several have reached the three year mark. Carrying on the traditions, rather than having to constantly re-invent them, is a core factor in the ongoing sustainability of this program.

Funding for the Program is shared by The Learning Centre, a specialist unit of UNSW dedicated to assisting students in improving their academic skills, and the Law School. The Learning Centre funds the initial training and induction, and the fortnightly de-briefing sessions between the Peer Mentor and the Law Peer Tutors, while

the Law School funds the hours peer tutors spend with first year students. Law Peer Tutors are paid at the rate of a Level 5 Research Assistant.

The Law Peer Tutors program is designed to complement the pedagogy and practice of the first year Foundations of Law course. Since its inception in 1970, the mode of teaching of first year students at UNSW Law School is based on a number of transformative pedagogical values. For example, students are taught in classes of less than 30 if at all possible. They meet in seminar format with their teacher twice a week for two hours each. They are expected to read material before, and the majority complete the reading and are able to participate in facilitated discussions. Their assessment is varied and includes a mark for class participation. Class participation is fundamental to the philosophy of the Law School because it is seen as a valuable way to introduce students to the intellectual discourse of law, such as in journal articles, conferences, media and other forms of public events. By drawing on these materials, teachers can implement Freire's notion of the 'dialogical' as a form of teaching and discussion in the academic community, in which intellectual reflection is intimately connected to just social action. Classes, therefore, are interactive and are based on a version of the 'Socratic' method of 'question-and-answer'. Some examples include mini moots, small group discussion of constructed or hypothetical scenarios, analysis of current events in the light of legal theories and frameworks, or individual presentations of facts and interpretations.

As a result, first year legal studies raises a number of issues for students and for the faculty. A predominant challenge for any student help program, as revealed in previous literature, is that there is not a single set of 'first year student problems' nor a single group of students. This challenge can be met by recognising these problems and helping students to devise strategies to understand both the content of first year law and how to study in a new environment. Being aware of the identity of students and their 'learning baggage' may help us to advise them in their endeavours to learn. At UNSW there are some disparate groups who enter with different concerns.

The first group is the largest cohort numerically, the school leaver group who enter immediately after completing the HSC. Usually, they undertake a combined law degree and in first year law study only Foundations of Law, Legal Research and Torts. The challenges for these students are generally balancing the intellectual with the social: on the one hand, they have extraordinary freedom in comparison to the 'spoonfeeding' or 'hothousing' at both private and state selective schools, and on the other hand, they are challenged and stimulated by the more diverse social life offered on campus. Notably, many such students feel lost in the anonymity of university compared to the paternalism and maternalism of their previously

well-knit social support groups. Crucially, having ‘succeeded’ at high school, they often carry the ongoing burden of parental, peer and self expectation.

A second group are the ‘Grads’, fulltime students who have completed another degree. Their load of law subjects is much larger (five per session) as their focus is only these subjects. They often suffer an overwhelming sense of stress and dismay that mastery in one discipline cannot automatically be transferred to another. Often they are significantly older, are caring for families and have some kind of accrued cultural capital. So, their use of time in class discussion is predicated quite differently. These feelings are exacerbated by the need to study subjects that assume a fair degree of legal skill and knowledge at a time when students are still making their way through the ‘foggy dew’ of legal terminology.

A third significant group known as transfer students, who like the first group have just finished high school, but ‘transfer’ into law after one year of university study. They are quite similar to the first group in many ways, for example, their expectations to immediately acquire the cultural capital of being a lawyer. Yet transfer students at UNSW face a heavy subject burden which resembles the pressure placed on graduate students.

Fourth, part-time mature aged students take the course while doing a fulltime job. These students work hard to balance the competing demands of work, home, university, and the constant desire to sleep ‘just for a little while’. While often appearing physically exhausted in class, the broad experiences that part-time students bring to class discussions always add a pragmatic and realistic understanding to the legal issues under analysis.

Additionally, many students enter law as a result of high marks in science-based subjects. For these students the constant requirement to participate orally in class can be a struggle. For this reason developing communication skills is seen as a core component of the Law Peer Tutor program.

Finally, there are the growing numbers of students for whom English is unfamiliar, untrusted and additional to their everyday languages. As law is a language-based discipline, greater ability, knowledge and more attention to linguistic detail is needed than in other disciplines, such as commerce or engineering. Particularly challenging is the requirement at UNSW that up to 20% of a student’s final mark may come from class participation. Yet, despite the best intentions of language proficiency testing, this kind of total academic immersion in a subject is often a threatening and challenging experience, which has led many students to sheer despair.

## IV ANALYSIS OF DATA

The data represents responses generated from participants from 2002 to 2005. This was collected through an online survey form and written responses to specific questions. In the semester following their participation in the program, both First Year students and Law Peer Tutors are invited via email to submit feedback. Response rates have varied from year to year (possibly in line with changing survey practices by the university, which could indicate ‘survey fatigue’ amongst our students). The results displayed in this work represent a consolidation of those responses. While the figures are not comprehensive nor statistically significant, they provide an opportunity for the developers of the UNSW program to reflect on its aims and effectiveness. The analysis presented below is a product of the reflexive process undertaken by us and is shared in that light.

Overall, the responses suggest a number of tendencies which are shared by Law Peer Tutors and First Year student participants. The data is remarkable in its consistency across several years, which suggests that the fundamentals of the Program are accepted and function well on many levels. It also hints that the students who enter the program are able to put something into the program and to get something beneficial from it. Overall, the results, collected both in written and electronic form, demonstrate that the program was successful because it adopts an integrated approach to learning. By this we mean that not only does it provide a safe and congenial atmosphere for learning, but also it provides the appropriate type of challenges in terms of learning the fundamental skills for studying law.

In examining the program, we were informed by the theories examined above and were concerned to identify how the programme contributed to three issues: confidence, networks and academic achievement. Through evaluating the students’ feedback, it appeared that these three issues had been addressed in particular ways. Confidence was being achieved through the ability to participate directly in the learning process, in ways not always possible in the classroom. Networks amongst students were being established through a shared notion of collaboration and care amongst those in the peer groups. Academic achievement was the most problematic issue and saw a conflict between the expectations of Law Peer Tutors and First Year students — something that came to be labelled ‘tolerating uncertainty’.

### *A Confidence Through Participation*

Confidence is like the wind, you can feel it when you have it, but when it’s not there, it can be paralysing. Much educational research has posited the benefits of learning through participation,

but this is often a Catch 22 situation. If you have little confidence, you do not participate. Yet if you don't participate, then you cannot gain confidence. So, by working in small groups and becoming quickly acquainted with students, the Law Peer Tutors can create an environment in which some form of participatory learning can occur.

This aspect of the program focuses on the student, their motivations, backgrounds and expectations, as students must be able to confidently see themselves as law students. Activities take into account these varied motivations and are designed to be interactive, so that students can learn and practice skills of academic literacy specific to law: speaking, reading, writing, researching. Such activities include: the kind of questions you ask when thinking like a lawyer, and use of current journals or newspaper articles to focus on what makes something a legal issue. Here one of the most important tasks for the Law Peer Tutors is to build on Paulo Freire's comment that we should focus on 'problem posing' before 'problem solving'. One of the main difficulties with problem solving is that the boundaries of what can be asked are already set, so a student rarely has to question what is relevant except in very narrow terms. Critical thinking should be about questioning the context, as well as the content of an issue. After all, in whatever positions students occupy, they will be faced with fragmented stories rather than cleverly designed scenarios focussed on a single issue of law studied in that previous semester. Connected to this approach is the understanding that we are not just training students for events contemplated in the far-off future, but also so that students are confident to participate in various forms of advocacy for social justice in the here and now.

As Ben White noted, when writing from the peer mentor's perspective in 1994 in relation to the Queensland University of Technology pilot program, learning the lawyerly skills necessarily spills over into their other studies, classes and learning relationships outside of law.<sup>15</sup> However, we would go further and argue that it is not the gaining of these skills which is paramount, but rather the attitude or disposition to turn these depositions into something material.

A strength of our program, like many similar programs, is its voluntary nature. If students self select, they are more likely to be prepared to own their own learning, rather than see the program as some kind of remedial work. Additionally, self selection also indicates a willingness to work on new acquaintances. More than 70% of students in the 2002 survey indicated that it helped them to make friends and to feel that they belonged 'socially' in the Law School. It appears then that these connections are vital to

<sup>15</sup> Ben White, 'The Student Peer Mentor Program in its Trial Year — A Mentor's Perspective' (1996) 12 *Queensland University of Technology Law Journal* 221.

the resilience of students, and can help them when the pressure of assignments becomes intense towards the end of semester. Indeed, one student noted that this kind of social caring is enduring: 'We still keep in touch and help members of our peer group'.

When examining the level of care and collaboration, it is useful to consider why students joined the program in the first place. It appears that the most commonly cited reasons for enrolling in the Program reveal a conscious choice that there was something that they needed to improve. So, it is quite a clear tactic, particularly in the highly competitive Law School. These reasons include: 'poor English skills/NESB' (42%) of students and 'wanted extra help outside class' (33.3%). Other reasons show a more conscious understanding of the learning context: for example, students saw this as an opportunity which offered some form of advantage, or that it was compulsory for international students, or that the program acted to reassure them of what was expected at university level. All responses give a clear indication of the range of motivations and perhaps also expectations that students bring with them to their first meetings with the Law Peer Tutors.

Data over the four year period reveal that these expectations are durable, particularly in relation to the difference between the peer tutoring meetings and their core law classes. The majority of participants (54%) expected that small peer groups would provide more personalised assistance through detailed discussion of material inadequately covered in class. The most salient expectation cited by the students which differs from our aims for the program was that there would be individual help, as well as small group discussion of material inadequately covered in class. Here the role of Law Peer Tutors was quite clear: they needed to explain that this was not a content-based tutorial, nor was it aimed at their individual needs. Rather it was directed at the group as a whole because of our principle that collaborative learning was more useful.

Furthermore, many comments revealed the extent to which students wanted to talk law outside of class but in a safe learning space. Often this meant that they could propose 'questions which students would hesitate to ask in the ordinary classes'. In this way questions 'large or small' could be discussed, and as a result new skills in communication could be acquired. Certainly, the concept of law as a subject that could be learned was also an early expectation, and help with this coincided with the idea of forming study groups to focus on specific areas. As a whole the students also expected a certain level of communicable knowledge from the Law Peer Tutors, which seems to indicate that recognition of having done the

<sup>16</sup> Ann Black, 'Student Perceptions of Teaching Methods: An Analysis of How Perceptions Can Impact Upon the Learning Process' (1996) 14 (2) *Journal of*

same course is important to students' motivation to participate in the meetings.

Pleasingly, data consistently shows that the program met the majority (83%) of participants' expectations. Some comments spelled out that the system itself was good, while others singled out the role their Peer Tutors played as important factors in their feelings towards exceeded expectations. A small minority of students made comments similar to this: 'More direct rather than general assistance on the assignment would be helpful'. Here we reach the important balancing act of the program. As the program is based on notions of equity and of helping students with general skills we direct Law Peer Tutors not to give specific advice on student assignments: the in-class test (mid semester), and the Extended Case Note. This provides some not-so-silent rancour amongst students, and some soul searching on behalf of Law Peer Tutors that they 'are not doing' their job.

While these comments offer much to ponder, they need to be read in conjunction with the result that while half of the participants in the program were aware of expectations of them at the start of the program, the other half were unaware of the expectations. This could well indicate that Law Peer Tutors need to clarify all expectations and ground rules during the first meetings with students. This drawing of boundaries can often present an important challenge for 'rookie' Law Peer Tutors, who reveal that they are hesitant in acting like a 'tough lecturer' for fear that nobody will turn up next week! All first time teachers can recognise this feeling, so this is often a focus of discussion in early meetings between the Learning Centre and the Law Peer Tutors. In the end, social justice means that clear ground rules need to be drawn, otherwise the Law Peer Tutor may tutor 'defensively' throughout the session which benefits nobody. Finally, however, clear ground rules enable the students to know when, how and to what extent to participate; simply knowing the context can help them to more confidently make decisions about the legal problem they face.

### *B Collaboration and Care*

A vital aim of this program is what we call 'collaboration and care'. This combination indicates that studying law is less an isolated activity, and more a part of a process of life long learning, where students share ideas and learn to evaluate their own assumptions through open discussion, rather than assume there is a 'right/wrong' answer. Here the focus is that all learning is collaborative to some extent.

An outcome of this process is that students hear and try out other types of learning strategies. In this way, the hierarchy of power based on knowledge is broken, allowing other ways to be seen as valid.



So the knowledge and experience of students are valued, and they are not seen as blank slates needing to be written on or broken pots needing to be fixed. The program is designed to encourage students to care about their work and see how it makes sense in their everyday lives.

The program also represents collaboration between the Law Faculty and the Learning Centre. There is a recognition of the different capabilities brought to this role. At a policy level, the Law Peer Tutor program is an example of collaboration between Law Faculty and The Learning Centre. The Peer Tutors are paid, so there are significant rights and responsibilities attached to their interaction with students, how they talk about law, and the activities they choose to do. Yet, there is a broad notion of trust placed in the Law Peer Tutors to act reasonably and equitably.

The Law Peer Tutors Handbook is an example of this ongoing mentoring and collaboration, and provides both a common foundation for the work, but also gives Law Peer Tutors and students a material basis for activities. This Handbook has two sections. The first section is designed for the Law Peer Tutors and includes both a clear outline of rights and responsibilities of all participants a number of handouts about mentoring tutoring skills, working with small groups, duties and expectations of law peer tutors, and points of help. The second section aims to help students, and includes a number of short handouts on specific academic skills, such as essay writing, exam preparation, class participation, note taking, legal research, and how to read and summarise a case. Law Peer Tutors played a key role in deciding the format and content of the Handbook because they are working directly with students. Indeed, the activities they use in sessions with students form the basis of this Handbook. This form of peer to peer tutoring offers many immediate challenges particularly in terms of law, where many students believe that only experts have 'the' answer, and that there is a 'right' answer. As a result Law Peer Tutors have become very adept at working with this initial resistance in order to help develop in students a critical and questioning approach to their study of law. The Handbook and the Meeting Diary have become a useful resource to help transfer this knowledge through different 'generations' of Law Peer Tutors.

Collaboration between Law Peer Tutors and students is based quite clearly on respect and critique and establishing a trusting environment quite rapidly. Therefore, Law Peer Tutors need to get to know their students quite quickly. As the groups are no more than 4 people this does not take long, and is the clear focus of the early meetings between students and Peer Tutors. Feedback from surveys shows that significantly more women than men take up the opportunity to participate in the program, generally at a ratio of 2:1. These figures appear to point to the well researched statement that

women are more likely to seek help with learning than are men. Additionally, the age of participants is roughly 19–20 years of age, apart from the steady number of graduate students who often show the greatest determination to ask questions. As research into mature age students surveyed indicates, their choice is guided more by their experience of life, so it is a more considered choice, rather than HSC entry students whose motivation is much more influenced by exam marks, acquiring cultural capital associated with studying law, and bending to pressure from family and friends. Perhaps one of the most significant figures is the response to the questions: what languages other than English were spoken at home? Data has consistently revealed that more than 80% of students in the program spoke languages other than English at home. This figure is also mirrored by the Law Peer Tutors themselves who more often than not were not first language speakers of English.

This shared experience can certainly ascribe a very different and deeper dynamic to the collaboration — this authenticity adds a certain integrity to the comment: ‘these are the strategies that I use’. Curiously, our experience of teaching first year Foundations of Law classes underlines the attraction of law for first and second generation migrants and their families. This attraction of the professions for children of migrants is not unusual as the accumulation of cultural capital in Bourdieu’s terms is an ongoing necessity for migrant families; in addition, this necessity often tends to lead to increased pressure on the students as they feel that they are carrying a family burden. As noted previously, the vast majority of the Law Peer Tutors are in a similar position — whereas lecturers are not — so they can often lend a friendly ear to listen, to empathise and then to offer some concrete strategies to turn an apparent disadvantage into an advantage.

While Law Peer Tutors are encouraged to be creative in their approach to facilitating meetings, and there is great variety in how they do this, it appears that there are a number of common factors. In identifying the content of peer group meetings, 78% of participants noted that the groups engaged in both general conversation and detailed analysis of cases and material. A slightly smaller proportion of peer groups (74%) engaged in legal problem solving techniques, while 59% of peer groups engaged in the explanation of English and legal words and 56% of groups discussed essay writing techniques. These figures indicate a general tendency about what kinds of activities occurred, rather than a strict format which was followed each week.

By adopting this kind of flexibility, Law Peer Tutors are able to demonstrate an environment of caring about students and the ideas they hold. The majority of participants (74%) found that they could discuss problems openly with their tutor to ‘a great extent’. The

remaining 22% of participants could discuss problems openly with their tutor to a 'moderate extent', but only 4% felt that they could 'not at all' discuss problems openly with their tutor. The training of Law Peer Tutors is vital to creating this kind of environment; facilitation of this kind is not an inherent process, but rather requires a practiced empathy, able to be applied calmly and discretely, particularly when dealing with the everyday experience of cultural diversity. Indeed, most participants rated their tutor as either 'very aware' (48%) or 'quite aware' (30%) of special or cultural needs of peer group members.

Nevertheless, there are always challenges in working with both inexperienced Law Peer Tutors, stressed students, and the barriers of language. One student stated it quite plainly: 'Some group members had language difficulties that were not addressed by peer tutor groups.' This response indicates also the limits of the effectiveness of peer tutor groups. Learning a new language takes time and effort, and some guidelines for entry have been rather flexible in the past. Here the Law Peer Tutors find themselves in a mostly powerless situation because the students just do not have the language capacity to deal with studying law, and no amount of tutoring in one semester can bridge that gap.

Yet, on the other hand, Law Peer Tutors were able to exercise well the power they did possess. One student commented encouragingly: 'My tutor was aware of the special needs of international students studying in a second language.' Here the intervention of the Learning Centre has proved crucial; the resource on academic reading and writing were able to plug a few gaps in terms of possible strategies to adopt which were not demeaning, but could build on the linguistic competency that students already possessed.

That studying law is a struggle is endorsed by all research, and recent work by the Learning Centre at UNSW has shown that resilience should be seen as one of the essential ingredients for student success. Here the Law Peer tutors can play a crucial role because they have the time to both listen deeply and then to suggest some specific strategies for the students in their group. The success of this aspect of the program was related by one student's comment: 'My peer tutor encouraged students to study during difficult times.' These difficult times are often beyond what lecturers can notice in classes of 35 students or more, so the Law Peer Tutors are often the most effective agents of building resilience. Indeed, the majority of students rated their tutor as either 'very effective' (48%) or 'quite effective' (33%). Students noted that what made the Law Peer Tutors effective was not only that they were 'reliable', 'organised', and encouraging, but also that they modelled a critical stance in relation to learning knowledge as they 'insisted that group members come to their own conclusions, rather than spoon feeding.' In addition, one

intriguing response was that the Law Peer Tutor was ‘opinionated at times’, which can be interpreted in both a positive and negative light. Perhaps this indicates that the Law Peer Tutor was attempting to impose ideas or to show off knowledge, which is a temptation for all Law Peer Tutors when starting their work. However, equally possible is that the Law Peer Tutor has deliberately chosen to express an opinion about a current event in order to stimulate a debate. In effect, this donning of the mantle of the ‘devil’s advocate’ has been a favourite teaching tactic since Socrates. Yet, it appears overall that the right balance is struck, and that a sustainable community of sorts is created, as one student attests: ‘My tutor was not only a tutor, but also a counsellor, text book, guide for university work and also a good friend.’

Generally, a good measure of the program’s success is the goodwill generated by word of mouth. Here the recommendations of students are crucial. The majority of participants would recommend the Peer Tutor Program to other first year students. This figure has remained relatively constant: more than 65% of students would ‘highly recommend’ the Program, and around 25% would moderately recommend the Program. Indeed, a number of students who were participants in the program have then become Law Peer Tutors in subsequent years, which is perhaps the most enduring recommendation of the effectiveness of the program.

Not only is it the content of the discussion which is attractive to students, but also it is the manner in which ideas are expressed by the Law Peer Tutors. Comments showed that students appreciated the down to earth explanations of complex legal concepts which matched their current level of knowledge. Indeed, recent discussions on standards reveal that many lecturers lose sight of what can be expected of first year students; after all, it is a long time since they were in first year. Also the students noted the value of talking about what was expected in terms of legal assignments as well as how to do them. Significantly, a number of students recognised the access and equity basis of the program (for example for international students and those of Non English Speaking Background), but they also mentioned that it was a program that would be useful for all students. Some responses raise the further issue that although the program is successfully shaking off its status as being for students with a ‘deficit’, it is perhaps now being seen as a ‘mark generating machine’ by students, particularly those familiar with private coaching and tutoring programs aimed at ambitious school children. This is a tendency that needs to be watched carefully.

And the final word in this category belongs to a student who sees the program as more than just help with academic skills or in making friends. For this student the quality of the learning relationship has

quite important long term outcomes: 'Peer tutoring program is vital and very effective survival guide for any 1st yr students.'

### *C Tolerating Uncertainty*

This aspect focuses on the students' relationship with the content of the program, that knowledge is not only conditional, or functional, but also transformative. As noted, First Year is about social and academic acculturation; that is, learning the rules of the game, and in this process the program offers a chance to talk 'law' outside the often competitive context of the classroom. So, establishing good networks or communities of social and academic support is crucial in tolerating the student's need to turn the 'unfamiliar' into the 'knowable'. Learning something new is also about risk, and here the Law Peer Tutor program creates an environment which encourages students to think and act critically both within and without the boundaries of law as a discipline.

The tendency of first year law students seems to focus unswervingly on 'the answer' — that mythical place of correctness, exactitude and certainty, where everything suddenly becomes clear. One of the aims of UNSW's first year law course is to delay that trigger-response in order to allow the student to understand an issue more deeply and critically. As the Law Peer Tutors reorient their own thinking about law and put this into practice, they encounter resistance. One student summed up this tendency succinctly in a gloss on the most recent (2006) survey: 'Instead of us asking questions, you should give the tutor an outline of what is relevant and what we should be learning and know! Because we don't know what to ask!' Here the weariness and the frustration is quite keenly felt, but also buried beneath this demand is a student who accepts that law will test them in ways that are quite unforeseeable. This response also echoes Freire's lamentation that schooling is set up to 'domesticate' rather than to 'educate'. So for him, schooling is failing people and society because it allows little room for the asking of questions. As a result, students have not been trained in asking questions to elicit information beyond 'what is on the exam'. Many students who ask this kind of question choose to opt out of the program early, which is a shame because their narrow approach will handicap their later studies. It may also lead to the discourse of cynicism which unfortunately continues to dominate the corridors of law schools.

A further challenge was that these responses reflected a significant difference in the expectations of participants in the program. At one level, we saw the educational value in providing a supportive but not prescriptive learning environment outside of the formal classroom. At another level, the Law Peer Tutors were balancing their own experiences as a first year student with the instructions we provided through the training and de-briefing sessions. At a third level, the

First Year students had very urgent academic expectations that focused on marks and achievement.

Applied to the Peer Tutor Program, the idea of 'tolerating uncertainty' means not just withholding conclusions for a short time but also that it is okay for students not to understand everything straight away. The role of the peer tutor groups is to provide an opportunity for students to raise and discuss these concerns in a setting that is not laced with assessment or 'continual evaluation'. Students also get to see the doubt and confusion of other students, which might lead to the realisation that 'I am not alone' in the struggle to understand the course.

However, this notion of 'tolerating uncertainty' was not always readily appreciated by First Year students and goes to the heart of the normative and philosophical underpinnings of the Law Peer Tutor Program. The clash was between a program that focused on improving the transition to studying law at university and the First Year student need to perform well in their assignments. Obviously, these two aims are not necessarily contradictory however they very easily can be and this was highlighted in the experiences of some of our First Year students and Peer Tutors.

One of the challenges of the program is how to prepare our Law Peer Tutors to handle these conflicting expectations. One tendency has always been to 'give in' and provide the answers the students want. As noted earlier, this pressure combines with the tutor's desire to appear knowledgeable. It creates a real risk that the aims of the program can be subverted by participants who are only doing what they think is best in the circumstances. Strategies to deal with this include a heavy emphasis in training on the specific, and in some ways, limited role Law Peer Tutors have in conveying academic content to their First Year students. Another technique can be to conduct role-plays to practice how to deal with demands by students for that type of assistance. This can be supported in the tutor debriefing sessions by appreciating that other tutors are receiving similar pressure but that a common position must be maintained.

The following results manifest the extent to which the Program has achieved its outcomes of assisting first year students with studying, university life, assignments and learning skills. Most participants found that the Program assisted either to 'a great extent' (44%) or to a 'moderate extent' (37%) with studying in general. Of the remaining students, 11% found that it helped only to a 'minor extent'. In addition, it reveals the extent to which the program may have assisted in specific areas of legal study in which first year students may require extra assistance. The majority (48%) of participants indicated that it assisted in studying law to 'a great extent', with a further 44% indicating that it assisted to a 'moderate extent'. As a consequence, in reference to written assignments, the

majority of students (52%) indicated that the program assisted with law assignments to 'a great extent'. A further 30% of participants claimed that it helped to cope with law assignments to a 'moderate extent'. More specifically, in terms of case reading skills, responses consistently show that almost two-thirds of participants indicated that the program helped them to 'a great extent'. In addition, 30% of participants found that it helped them to a 'moderate extent' with case reading. These responses are encouraging because case reading is often seen as both the most important and most challenging type of reading skill for first year students. It is also, perhaps, the skill which needs the most scaffolding work in first year classes. Case reading needs to be taught less through implication and more through clear explication; less as an art, and more as a craft.

Lastly, responses of students also show the extent to which the Program may have helped the understanding of law in less immediate terms. For example, adapting to the general demands of university life was also considered a significant feature by the majority of participants (50%) who found that the Program assisted to 'a moderate extent' to cope with the demands of university life. Of the remaining participants, 23% found that the Program helped to a 'minor extent', 15% to 'a great extent'. Additionally, the acquisition of and familiarisation with new learning skills is also crucial to learning the law. Indeed, the majority of participants found that the program helped either to a 'great extent' (52%) or 'a moderate extent' (41%) in putting into practice these learning skills.

As noted before, the origins of the program lie firmly in providing additional help to students of Non English Speaking Background. Perhaps the most challenging aspect of the feedback provided over the years has been the questioning of the extent to which the program assisted in English for law. The majority of participants (41%) indicated that the Program assisted in English for law to a 'moderate extent'. The remaining students suggested that the Program assisted to only a 'minor extent' (26%), to a 'great extent' (18%), and 'not at all' (15%) in coping with English for law. These figures may well be explained by the inexperience of the Law Peer Tutors, as it is a special skill to teach what is effectively a new language in law to students still grappling with a second language in English.

This factor is compounded by the different needs of students, as well as by the shifting language requirements set by the Law School as a means of entry. There is a very broad range of language skills possessed by the students in First Year Law. While there is a solid core of students who are more than proficient in English, there is a sizeable number of students for whom English, especially formal legal English, will be a challenge. Although the university provides other resources for these students, the aims of our program quite obviously extend to dealing with this type of problem. Several possible strategies

have been considered over time. One was to ‘stream’ the groups, such that students with specific English language difficulties would be placed together. One aim of this approach was that students may develop an affinity or collegiality with other students dealing with similar issues. However, one significant limitation to this approach was that it denied the opportunity to see and hear law being discussed in non-academic terms to the very students who would most benefit from the exposure. Students who may be alienated by the language of the classroom may have a greater opportunity to understand and appreciate in the context of a peer tutor group. Another strategy was to pay no attention at all to the language capabilities of students when allocating them to groups. In this way, the beneficial opportunities mentioned above might be obtained. One drawback was a feeling by some students in those groups that students with limited English skills did not participate in or contribute to the group. There were feelings from both proficient and less-proficient English speakers that the differences were a hindrance to effective learning.

Again, the solution comes back to the skills of the Law Peer Tutor to deal with these conflicting skills and expectations. The challenge of providing both a generalist and targeted program at the same time is one of the on-going challenges we face. The goodwill and sincerity of our students and tutors nearly always ensures that an effective peer group is established, however this issue certainly requires greater thought and research, particularly in working out what are the limits to what we can do and achieve.

Some interesting qualitative answers were provided about the type of practical assistance offered. Generally, there have been four different kinds of responses. Firstly, Law Peer Tutors were able to clarify expectations of lecturers in terms of assignments. Questions ranged from the different levels of grading, which may be the first experience for these students, to the format of the finished work, as well as to the kinds of strategies adopted by Law Peer Tutors in doing their own work. Sharing such common experiences of struggling with new concepts was particularly appreciated by students. Additionally, promoting discussion of law in general and in terms of the class readings was also a focus of the meetings. At times Law Peer Tutors were also able to help students reflect on their own marked written work, particularly after the in class test. Putting this first assessment into context is always an important task and challenge for Law Peer Tutors. This assessment can prove to be either a milestone or a millstone; anecdotally, the Law Peer Tutors are crucial in ensuring that students can turn this anxiety and uncertainty into something more positive and enduring.

Curiously, many of the Law Peer Tutors themselves also did not do very well on that first assessment, which indicates that they have being able to rise to the challenge of studying law after initial



setback. So, they are in a good position to comment on what is needed. Overall, responses from students show that the program improved most students' understanding of law. The majority of participants (55%) felt that the Program had improved their understanding of law to 'a great extent'. A further 37% indicated that their understanding of law had been improved to a 'moderate extent'. Although it is reasonable to assume that by the end of a semester a student would have improved their understanding of law as a subject, it is the confidence which they have gained in this process which is a better indicator of long term effectiveness.

Intimately connected to a better understanding of law is the assumption that this will translate into marks gained. It is difficult to go beyond just a pragmatic assumption at this point, yet responses did suggest some link. More than 30% of participants felt that the Program helped to improve their law marks to a 'great extent'. In addition, the majority of students (52%) indicated that the program assisted in improving their marks in law to a 'moderate extent'. The remaining 15% indicated that it assisted but only to a 'minor extent'. Admittedly, the question of what influences a shift in marks is fundamentally overdetermined, but the important point here is that the students have attributed this increase to their participation in the program.

As for the long-term or practical impacts, the majority of participants (89%) felt that the peer tutor meetings helped them to acquire tools that they could later use themselves. Indeed, one student noted that acquiring these tools was one of the reasons for enrolling in the program: 'Because my skills of expression and legal analysis were not developed.' In addition, first year law studies have recently been diminished by an increased *über-competitiveness* expressed by first year law students, as a result of the pressures of clerkship and later career opportunities; this appears to be a wholly inevitable consequence of recent pressures on higher education funding. Here too, according to a number of responses, the Law Peer Tutors have been a calming influence in contextualising law and the culture which surrounds it.

Together, these figures indicate deeper learning strategies have been assimilated by students which will prove to be sustainable and thereby be more useful throughout their whole degree.

## V CONCLUSION AND RECOMMENDATIONS

There are a number of important conclusions to be drawn from our experience over the past ten years.

- Firstly, to some degree these results confirm the research by Ann Black in the early 1990s on law students at University of Queensland, where one of the findings was that more than 90%

of students perceived that there was a marked influence (either positive or negative) of teaching method on how they learned.<sup>16</sup> So, if the aim of the UNSW Law School is to promote social justice as both content and process, then the Law Peer Tutor program plays a crucial role in encouraging and putting into practice a collaborative and critical approach to the study of law, which helps to create a sustainable community of learners.

- Secondly, we have benefited from the consistency of convenors of the program — this has enabled the program to create a tradition without needing to be reinvented. Although there are always struggles for money, the success of the program means that they are less brutal.
- Thirdly, the training and ongoing mentoring of Law Peer tutors is crucial. It is also recommended that this take place outside of the faculty to ensure some form of confidentiality and neutrality. Collaboration with units such as the Learning Centre, Counselling, Access and Equity, and Indigenous Research and Academic Support can ensure that the program does not become isolated as a law ‘tutorial’.
- Fourthly, the program must have a strong philosophical basis, even if this is only marginally obvious in the everyday running of the program. However, this philosophy must fit in with the context of the overall law program, otherwise it will seem pointless to the students who learn one thing in a peer group meeting, and then are expected to do the opposite in the classroom. A reading list for aspiring Law Peer Tutors is also recommended so that they get used to thinking differently, which may then compel them to act differently.
- Fifthly, paying the Law Peer Tutors recognises the value of their work, and particularly in the context of today’s market economy, it offers a form of credibility which volunteer programs can lack in the eyes of the student as ‘consumer’.
- Sixthly, another challenge is to promote awareness of cultural difference and issues of equity and access. This awareness and willingness to act concerns not only the background of students, but also styles of academic learning, thinking and writing. It is important to encourage and sometimes cajole students to ask questions and explore the broader context of law in Australia.
- Seventhly, a vital part of the Program is that Law Peer Tutors know the very clear difference between ‘lecturing’ and ‘tutoring’ or ‘facilitating’. As noted, knowing and acting on this distinction is a key part of early training. Indeed, one of the most important

<sup>16</sup> Ann Black, ‘Student Perceptions of Teaching Methods: An Analysis of How Perceptions Can Impact Upon the Learning Process’ (1996) 14(2) *Journal of Professional Legal Education* 203, 214.

strengths they must show is not to yield to student requests for summary sheets or rewrites of assignments.

- Finally, these kinds of programs offer mutual benefits; the adage that teaching is the best way to learn something certainly holds true for the Law Peer Tutors. This outcome perhaps should be the focus of further study.