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Shoot the G.I.T.S. or the rants of a frustrated law lecturer

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Subject: Education. **Other related subjects:** Construction law**Keywords:** Construction industry; Examination; Hong Kong; Legal education; Teaching methods***Const. L.J. 114 Abstract**

A light-hearted, tongue-in-cheek review of construction students at one Hong Kong university studying law in a module where a Socratic-like method is used in order to improve the students' analytical, thinking and problem-solving skills. According to focus group feedback from these students, this pedagogy is helpful; yet, the high failure rate of these students indicates a disconnect between the students' perception and examination performance. This article investigates this disconnection in terms of whether the students' English language ability and the students' performance on the territory-wide university entrance examination have an influence upon their law module examination results.

Introduction

Grossly incompetent tertiary students (GITS)... my GITS: shoot them to put them out of my misery! However, as mass murder of students, no matter how justifiable, is frowned upon by my employer, an alternative teaching method to the traditional mass lecture should be explored in order to transform stupid students into educated students of the kind preferred by employers, i.e. qualified. This rant will continue in due course, but, first, the preliminaries ... [For those readers who have yet to realise, or appreciate the facetious tone of the foregoing, the author would be grateful if the reader would do so now.]

Law intrudes into nearly every daily activity, whether or not this intrusion is noticed. For example, going to work on public transportation involves a contract relationship respectively between the individual and his employer, and the individual and the public transportation provider. During the ride to work, there may be instances of tort law involved, such as the nuisance of a noisy cell phone conversation, or a noisy iPod; or being jostled by someone in a crowd. As a result of the impact of the law's pervasiveness, many building- and construction-related teaching programmes include a module or course on legal matters.

This article examines the result of this author's experience and observations in relation to teaching a foundation law course to first-year students. This article provides background data as to the school, the subject students of this study and ***Const. L.J. 115** this author. The second part of this article will present some of the data gathered over the past six years in an attempt to determine the factors which might affect students' performance in a multiple-choice examination. The final section contains the conclusion and recommendations.

Section I: Background**A. History and goals of the university****1. The Polytechnic University of Hong Kong (PolyU)**

Established 70 years ago as the Hong Kong Polytechnic, the institution achieved university status in 1994. Presently:

"The Hong Kong Polytechnic University (PolyU) is the largest government-funded tertiary institution in Hong Kong, with a total student headcount of about 32,500 ... [and] ... is fully committed to academic excellence in a professional context with a view to design, develop and deliver application-oriented education and training programmes. ...The University has 27 academic departments and units grouped under six faculties,

as well as 2 independent schools and 2 independent research institutes. It has a full-time academic staff strength of around 1,200. The total consolidated expenditure budget of the University is close to HK\$5 billion per year." ¹

"It is a prime aim of the University to equip students not only with professional competency but also the ability of independent thinking, good communication skills and a global outlook." ²

PolyU's "Code of Ethics for Teaching" states: "Teachers should endeavour to stimulate and foster the acquisition and understanding of knowledge and the spirit of inquiry; teachers should encourage students to think independently and to form their own rational judgment based upon knowledge." ³

Therefore, this university's mission is to offer application-oriented programmes and produce graduates who can apply theories in the real world. ⁴

2. The BRE Department and the subject course

The Department of Building and Real Estate is one of the oldest in the university. As noted on the department's website: "Our aim is to provide programmes that are application orientated, and produce graduates who can apply theories in practice" and ***Const. L.J. 116**

"Industry is looking for graduates who can work in an interdisciplinary way to create innovative solutions to the challenges of the physical and economic environment of the 21st Century." ⁵

It is the goal of the department, and this hapless lecturer, to produce graduates capable of independent analysis and reasoning skills which are utilised across interdisciplinary fields. It is hoped that students will be able to demonstrate flexibility, creativity, and, disparate viewpoints in forming their own conclusions.

The focus of this article will be an entry-level module, *The Legal Context for Construction and Real Estate (BRE 206)*, which serves as a foundation/pre-requisite for successive law modules within the department. As such, all first-year students in the following programmes of study are required to achieve a passing grade in this core module before progressing further in their studies: Higher Diploma Building Technology and Management (Engineering); Higher Diploma Building Technology and Management (Surveying); BSc (Hons) in Property Management, and BSc (Hons) in Surveying. The contents of this module encompass the subjects concerning the Hong Kong legal system, contract, tort, property, dispute resolution, and legal reasoning. Approximately 180 to 300 students are enrolled each year in this module, which is offered only in the first semester of each academic year.

The syllabus for BRE 206 contains the following information:

the Intended Learning Outcomes specific to this module include:

applying the basic concepts, principles and remedies in the law of contract and tort;

using knowledge and reasoning skills to solve legal problems out of factual situations;

communicating effectively.

Intended Learning Outcomes generic to all modules in this department include:

skills to identify, analyse and solve problems;

effective communication skills.

The syllabus further states:

"The teaching strategy involves:

"Learning how to use law to identify legal issues—understanding legal concepts and rules.

Learning how to apply legal knowledge.

Critical judgment—justifying conclusions.

Problem-solving—integrating learning.

B. The students

1. The good (for a laugh—or at least discomfortingly humorous)

To begin, some anecdotes about Hong Kong university students of which this author has personal knowledge: ***Const. L.J. 117**

At one leading Hong Kong university, a student was reprimanded for using the staff restroom as staff often leave their papers, notes and so on—some of which might be confidential—on the counter while using the facilities. The reply was to the effect, "It's OK, I am in the [student] law society."

In a conference with this author, a student was encouraged to contemplate the solution to a problem scenario for himself. The student immediately replied, "It is too difficult; it gives me a headache. Just tell me the answer."

A Professional Legal Education (PCLL) student, with a joint degree from a New Zealand university, an LLM from a reputable American university and several assorted diplomas, engaged in a practice job interview session with this author:

"Q: Why should we hire you? A: *Because I have friends.*

Q [Shrugs shoulders, folds arms across his chest]: We have friends too. Why should we hire you? A: *Because I have friends.*

... Q: I see you have an LLM from [XYZ University]. Tell me about the school. A: *It's a third-rate law school in the US.*

Q: Oh, so you're a third-rate solicitor."

An LLB student, as he was then and now a barrister in government service, commented to this Principal Investigator: "I am a parrot. I just repeat what is said in lectures and I obtain good marks."

Frequently, after class sessions end, students would approach this Principal Investigator asking, "What is the answer to the scenario?" The implied purpose of this inquiry is "What is the answer so that I can memorise it for the examination?" These students are failing to understand that it is the analytical process as much as the answer that they are to learn. The scenarios about which these students are inquiring are intended to be equally balanced such that arguments can be reasonably made for either side and thus force students to demonstrate their comprehension of the legal principles by manipulating the same.⁵

Despite notifying the students both in writing (in their course manual and on PowerPoint slides presented during the first lecture and first tutorial session) and verbally that no notes will be provided, several students nonetheless requested notes. Such behaviour raises several queries: Have they not read the printed matter? Did they not pay attention when the subject of notes was discussed? Are the students so incapable, or lazy that they cannot generate their own notes? Why are they so dependent upon the lecturer's notes?

Likewise, in relation to the tutorial questions to be prepared for the second week of classes, a student sent the following inquiry: ***Const. L.J. 118**

"I read the file 'week 2 tutorial.doc' from (the module's web site). It states that we need to prepare Q.1–Q.15. However, I can't find any of them. where [sic] can I find the Qs?"

If the student had bothered to read the course manual, the student would have found the tutorial questions at its end.

A third and final year student is undertaking the required dissertation before graduation. This author is the student's dissertation supervisor. This student is the author's weakest, a fact of which the student is aware. With a mandatory progress report due from the student on a Friday, the student requested an appointment on Thursday afternoon. After making the appointment, the student then requests:

"i [sic] was just notified today that there will be a BRE football competition on Thursday from 2:30–3:30pm. I have to attend the match since there is not enough people to play. Therefore, will it be convenient for you to have the meeting at 1:50pm so that i can leave at about 2:20pm?"

This e-mail calls into question the student's diligence and dedication as it implies that this soccer match is more important than successfully completing a required module for graduation this summer. It is conceded that the student should receive an "A+" for honesty, but the student should receive also an "A+" for stupidity. What should any passionate and principled instructor do when confronted with such a request? To complete this vignette: this student writes on his internet blog that he will seek revenge on this author for denying his request to play soccer! Definitely, an "A+" for stupidity.

Further, following a reprimand from the author concerning the student's dedication and devotion to his studies and impending graduation, this author received another e-mail from a second student the next day:

"To be honest,[sic] the Bsc(hons) [sic] property [sic] management [sic] 2005–06 intake is not really coherent,we rarely committed [sic] to one thing as a group, [sic] as I witnessed in the past years. But I was aware that in the last semester all of us treasured the time we had together and hoped to participate and commit as a team as much as we can. [Your dissertation student] is the captain of our team ... and we may not play well without him. Academics is very important; but the preicous [sic] moments we had with the red bricks² are equally valueable. I really hope you could let [your dissertation student] arrange another time slot for dissertation supervision and let us finish our trophy and leave the school without regret. *Const. L.J. 119 "

In SMS language between friends, this interloper's e-mail may warrant a "WTF? Who is he? Why is he meddling in another student's affairs?" There was no statement by this interloper that he was acting in the capacity of class representative, agent for the first student, or a similar capacity of one who is authorised to discuss this matter. Indeed, in a subsequent e-mail, this interloper acknowledged his total lack of authority. Moreover, like the "Secretary" in the *Mission Impossible* TV shows/movies, the dissertation student disavowed any knowledge of the interloper's intervention.

At a departmental liaison group meeting with student representatives, a second-year student pointed out that the curriculum is tight with a heavy load. It would be helpful if the teaching staff could provide marking schemes so that students could concentrate on specific topics to pass the examinations.

If these events did not happen to this author, these examples might be comical.

2. The bad

PolyU's Faculty of Business has issued a paper which states:

"It is widely perceived that the classroom demeanour of Hong Kong university students is problematical in significant respects. Students who are in other respects intelligent, considerate, well-mannered, hard-working and committed to their studies display a range of apparently dysfunctional behaviours in the classroom. These include excessive passivity and shyness when called upon to contribute to classroom discussion, coupled with significant discourtesy in the large group lecture settings. Such discourtesy was

singled out for comment by the BUSS Departmental Academic Advisor, Prof. Chuck Kwok from the University of South Carolina, and was the object of city-wide interest in 2000 when President Edward Chen of Lingnan University drew attention to it (and apparently addressed it successfully). It is not uncommon for outside speakers to express dismay at student behaviour. (Prof. Gregory Chow threatened to end a visiting lecture at HKUST if the audience did not keep quiet!)

The range of problematical behaviours appears to be most apparent in (though not restricted to) the large lecture situation and includes:

"Persistent late arrival in the lecture theatre

Sleeping in lectures

Talking loudly when the lecturer is addressing the audience

Making, or taking mobile phone calls

Leaving and re-entering the lecture while lectures are in progress

Leaving lectures before they are completed

Leaving classes when fellow students give presentations

Crowding away from the front of lecture theatres.

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The paper also reports the finding of focus group work:

"Four focus sessions were carried out in total. Three of them were carried out with students who had been on overseas exchange, and who could **Const. L.J. 120* therefore contrast the Hong Kong situation with that overseas, while the fourth involve a group of students who had not been on exchange.

All groups were asked to consider why inappropriate behaviours happen and what might be done about it. Those groups with overseas experience were asked to consider what the differences might be between the different locations.

When asked why inappropriate behaviours take place, the students with overseas experience were able to point to a number of different types of issue. First, they confirmed the general impression that ... Hong Kong students are passive, exam-oriented and grade conscious. They attributed that to a variety of causes. One of these was the need for our students to translate their thoughts into English, which delayed responses. Others included:

...

"HK assessment systems which 'are not really continuous—you can miss a few lessons and still catch up'; students here have less choice than overseas when picking their topics—so they are less interested;

...

overseas, the (Microsoft PowerPoint presentations) have just a few slides, *in HK there are many and the lecturer just reads them* —

overseas you don't get all the information unless you go to the lecture, *in HK you can get the (Microsoft PowerPoint slides) with everything on them;*

in HK more presentations, less discussion, overseas less presentation, more discussion;

teachers overseas make eye contact, and jokes, they are close to students. *In HK no eye contact, no feedback on classroom presentations, no real life issues, poor English and students always told to refer to the textbook when asking questions.*⁹ (emphasis added.)

C. The instructor

The lecturer for the subject course is a qualified attorney in the United States. Originally from Hong Kong, this author was raised and educated primarily in America. His work experience in the United States also included serving as an adjunct professor for a local college and as an instructor for a private tutorial institution. Completing his LLM, the author commenced full-time teaching at another Hong Kong tertiary institution. Upon completing his contract with this institution, he engaged in practice in the dispute resolution field, while continuing to teach part-time for tertiary institutions and/or delivering lectures on behalf of professional institutions (such as the Chartered Institute of Arbitrators). ***Const. L.J. 121**

The author's teaching philosophy is that students must possess an interest in learning, rather than simply an interest in passing the course. Students will not be reprimanded where an attempt is made, but resulted in failure. Reprimands would be made where a student made no effort. This philosophy is intended to endow students with a "deep approach" to learning, such that skills learnt in the module will serve the students in future classes and future employment. Simple memorisation and regurgitation of supposedly "learned" information is insufficient. Students should comprehend the information to the extent that the students can use the information to solve problems.¹⁰

Students are in university to learn; lecturers are in university to teach. Students in university are individuals of legal age who should bear some responsibility for their education. Students are to assume the role of a disciplined, responsible adult who actively engages in self-learning through studying. Lecturers should not serve at the beck and call of students. To do so would, in effect, render a lecturer to be a slave to students. To subscribe to the notion that students are the consumers to whom lecturers must make the deliverables is not for this author, for to acquiesce to this prescription is to allow the "inmates to run the asylum".¹¹

In August of 2007, this author began his indentured servitude to the students at the Hong Kong Polytechnic University.

D. The teaching methodology

The semester at PolyU consists of 14 weeks, during which time there was a 1.5 hour mass lecture for between 180 to 300 students conducted by this author.¹² The students were also divided into tutorial groups, ranging in size from approximately 20 to 30 students. Each tutorial group met once a week for 1.5 hours. This author generally conducted two to three tutorial groups and the remaining tutorial groups were handled by legally trained colleagues.

This author used scenarios integrated with the Socratic method both in lecture and in tutorial sessions. Scenarios are designed to test the students' ability to think and to apply the learned material, i.e. to analyse the facts in the given scenario and ***Const. L.J. 122** to reason to a logical conclusion. Somewhat akin to *case studies*, or *problem-based learning*, the scenarios are intended to introduce students to problem-solving skills. These skills involve such abilities as identification of relevant facts, the issue(s) involved, and the relevant rule/regulation/law; the application of that relevant rule/regulation/law to the facts; and, finally, come to a conclusion.

Students were required to examine these facts, determine the legal issues involved and analyse the possible legal arguments for and against a particular character in the scenario. At this particular level of students, scenarios were unlike case studies in that the scenarios were not a complete case to be analysed and studied. Unlike cases studies, the scenarios did not involve a problem and a solution for students to

examine. Similarly, the scenarios used for this particular set of students are dissimilar to problem-based learning in that there is little or no independent learning, or independent study. Information continued to be conveyed through the lecture; the scenarios at the end of lecture and in tutorial sessions were intended to explain, amplify and apply the information provided in the lecture.¹³

The Socratic method was the method used by the Greek philosopher Socrates, who taught his students by asking questions which prompted, or led students to an answer, rather than providing an answer.¹⁴ This teaching method is widely used in American law schools and epitomised in the 1973 movie, "Paper Chase", which had a first-year law class at Harvard University as its backdrop.¹⁵ Although not explained to this author's students, they were advised in their course manual, in lecture and in tutorial that sessions were to be interactive and student participation is mandatory.¹⁶ The students' progress can be marked by their ability to answer these questions:

What does it mean? (This question is intended to test a student's comprehension of the taught material.)

***Const. L.J. 123**

What would you do in this situation? (This question is intended to test a student's ability to communicate, or express a logical analysis of a factual scenario.)

Why? (This question is to test a student's ability to integrate the foregoing Items 1 and 2 into a reasoned analysis and conclusion.)

This pedagogic technique is intended to lead to active learning where students learn more and retain more of that learning when self-actualised, rather than being "spoon-fed". Selection of this pedagogic technique arises from the desire to "cover all the bases". The first and the primary base is the generally accepted perception that local students are primed only for rote learning in order to obtain successful examination results.¹⁷ The secondary base is the contention that local students learn not from rote memory, but by repetition.¹⁸ By repeating the delivery of information in several forms, it is hoped that the repetition and the variety of delivery would assist the students in understanding and comprehending the material.

In summation, both active learning as well as reflective learning are intended to be available to the students to use in this module. By resorting to the utilisation of both these learning styles, it is hoped to maximise the students' learning potential. "Knowledge is not enough. Students need practice in solving problems and apply principles."¹⁹ Recognising that traditional lectures generally do not allow much student thought, or rehearsal of materials, this author's lectures were intended to deliver the information, or content knowledge and then to explain in detail the application through a scenario as a transition to the upcoming tutorial on the ***Const. L.J. 124** subject.²⁰ In the tutorial, further elaboration on the subject is delivered through use of a scenario and the Socratic method.

E. Assessments

There were two assessments in the subject course: coursework assessment, which accounted for 30 per cent of the grade and a final examination which accounted for the remaining 70 per cent of the grade. A student must pass both assessments. These assessment methods are discussed below.

The coursework assessment consisted of a 30-minute team presentation. Each team consisted of four to six students. The students were to apply their recently acquired knowledge and learned analytical skills in explaining a case and its outcome. Finally, the presentations were scheduled during the last two weeks of the semester. The purpose of such an unsupervised/undirected project was to test the students' abilities to:

- organise himself/herself with minimum instruction;
- organise the other members of the team without direction from the tutors;
- work in a team environment;

utilise one's own initiative and ingenuity, i.e. creativity and cleverness, to obtain a stated goal without constant supervision or guidance from a superior (to replicate as much as possible of a real-life work environment);

serve as a revision of sorts for the students.

The other assessment consisted of an 80-question, multiple-choice final examination which the students had two hours to complete. The multiple-choice examination comprised both scenario-based questions and short-form questions. This author chose this particular format for the following reasons:

to relieve student anxiety over the English-language ability issue;

to help the students direct their focus on the possible answer (which must be one of five possible choices);

to eliminate or minimise any possible subjectivity in marking essay-type examination answers; ***Const. L.J. 125**

to eliminate, or minimise any possible claims of prejudice, or favouritism on the part of the author.

Finally, it should be noted that the examination paper received extensive review by: the Department's external Academic Advisor; Examination Officer (QA); Law Discipline Leader; PolyU's Education Development Center's expert on multiple-choice examinations, and up to four external examiners.

Further discussion and analysis of the final examination results will be provided below.

Section II: Methodology

In order to obtain quantitative and qualitative data, several data collection techniques were attempted.

One data collection technique involved the data obtained from the multiple-choice examination. As previously stated, nearly all first-year students in the Department of Building and Real Estate are required to enrol in BRE 206 Legal Context for Construction and Real Estate in their first semester. At the end of the semester, a multiple-choice examination is administered. The examination consisted of an 80-question, multiple-choice assessment which the students had two hours to complete. The multiple-choice examination consistently comprised approximately 60 per cent scenario-based questions and 40 per cent short-form questions.

The qualitative data is obtained from focus groups conducted either near the end of each semester or at the beginning of the following semester. Originally, four focus groups were planned: two groups for each level (Higher Diploma and BSc degree), further divided into a group of *active* and a group of *passive* students. Within each group, there was an attempt to have an equal representation of male and female; engineering and surveying streams (for the higher diploma students); and, property management and surveying streams (for the degree students). As a result of student lack of interest or apathy and the resulting lack of cooperation, the intended representative nature of the focus groups was not totally achieved. In some cases, a convenience sampling of students comprised a focus group. In any event, all the students selected for focus group sessions were from tutorial classes conducted by this author.

A. The quantitative data

A former colleague posited that problem-based learning in law can be successful and advocated an expanding role for problem-based learning in law.²¹ Whether those findings can be replicated in this article remains to be determined for several reasons. One reason is that the students involved in the colleague's study were first-semester, final-year students rather than first-semester, first-year students in the instant case. Secondly, the prior study involved undergraduate degree students in the Translation and Chinese programme, meaning that the students' comprehension and use of English should be better than some of those students ***Const. L.J. 126** in the present study. Finally, the prior study involved a total of 45 students compared to in the present study's mass lecture.

For academic year 2007/2008, as per the students' overwhelming preference,²² the final examination consisted of 80 multiple-choice questions administered over a two-and-one-half hour examination period (originally two-hours, but extended by this author during his first year of teaching to afford the students a longer reading period). The failure rates for the students in the four programmes ranged from 22.5 per cent to 40 per cent. Students should be cautious what they wish for.

B. The qualitative data

At, or near the conclusion of BRE 206 each semester, focus group sessions were conducted by the same EDC colleague for the past six academic years (except for one session, which was conducted by another EDC colleague). Three to nine focus groups consisting of three to seven students were asked to comment freely on the identical points over the past six years. The consensus of the groups were that the scenario-based teaching method was successful in that this pedagogical methodology assisted student learning. Specifically mentioned learning aspects included: improved student analytical abilities, broadening of the student's perspective and "mind-mapping".

One student commented on her inability to follow and understand the thought process involved in analysing a scenario. This student found the process to be confusing and unclear; nonetheless, this student acknowledged that the pedagogy taught her to appreciate different viewpoints. Most likely as a result, this student's performance in the module fared the worst amongst all those participating in the focus groups.

In summary, the students participating in the focus groups consistently, with nearly unanimous agreement, found the scenario-based method to be effective as the scenarios allowed the students to establish a practical link between the theoretical and the practical application of theory.

Whenever possible, either in tutorial sessions, or in lecture, attempts were made to make the presentation interesting and simultaneously relevant to the immediate topic. The lecture was used to present the necessary information and then a "practical" session was used to demonstrate the lesson. This procedure was intended also to impart and strengthen the students' comprehension and analytical skills of the students.

In this article, the admission statistics of students enrolled in BRE 206 are analysed for the purpose of determining some factors which might affect student performance in the multiple-choice examination. ***Const. L.J. 127**

Section III: Analysis

A. Background

Again, the purpose of this article is to determine if there is any observable trend in students' performance over six academic years, starting from 2007/2008 to 2012/2013 and, if so, to discover the reasons for such trends based on admission statistics of the students.

B. Data analysis

As noted above and for the purposes of this article, the examination questions have been classified into two categories. The first category is "short" questions, which are simple questions intended to assess a student's ability to memorise, e.g. a definition. The second category is "scenario" based questions, which involve a particular fact pattern, followed by a series of questions pertaining to that fact pattern. Scenario questions are intended to assess a student's ability to analyse, think and solve problems. In short, scenario questions require students to *apply* what they have learned. Figure 1 is a graphic representation of this data.

Table 1 shows the ratio of scenario-based questions and short-form questions.

As the numbers of questions for scenario and short questions varied over the past six years, our observation and analysis are based on the percentage of their correct answers in the corresponding area.

Table 1—Ratio of scenario and short questions in the examination		
	Number of questions a	
Academic year	Scenario	Short
2007–2008	46 (57.5%)	34 (42.5%)
2008–2009	50 (62.5%)	30 (37.5%)
2009–2010	50 (62.5%)	30 (37.5%)
2010–2011	48 (60%)	32 (40%)
2011–2012	48 (60%)	32 (40%)
2012–2013	51 (63.7%)	29 (36%)
a. Total number of questions for each examination is 80* <i>Const. L.J. 128</i>		

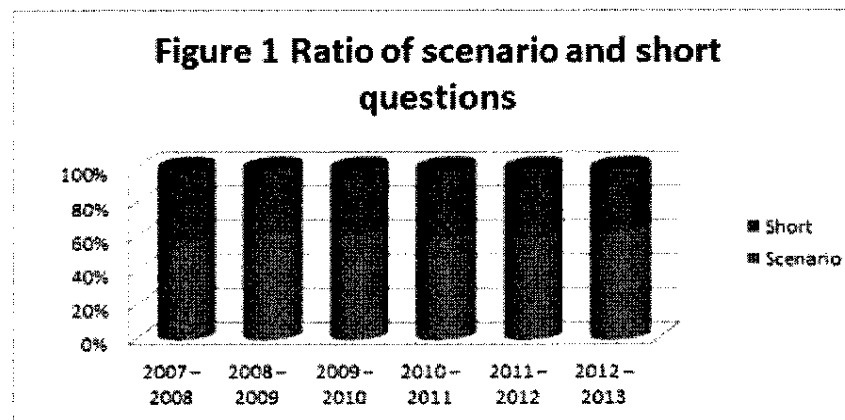


Table 2 shows the mean scores of the students in the corresponding year. Overall performances of the students in these years were quite poor, with approximately 50 per cent of the total number of questions correctly answered. The results in academic year (AY) 2008/09 and AY 2009/10 are especially poor, with both mean total scores less than 50 per cent. By separating the examination questions into scenario questions and short questions, student performances in short questions were better than in scenario questions. This difference can be observed from Figure 2, where the line representing the mean score for short questions is above the line representing scenario questions successfully answered and the line representing overall scores on the examination. Figure 2 shows that the students' poor examination results appear to be related to the inability to answer correctly the scenario questions, i.e. the students' ability to apply their learned knowledge.

Table 2—Mean score of students in the examination				
Academic year	Number of students a	Mean score of students (in percentage b)		
		Overall	Scenario	Short

2007-2008	174	53.56%	51.16%	56.81%
2008-2009	195	47.08%	45.75%	49.30%
2009-2010	221	45.38%	44.37%	47.06%
2010-2011	263	53.68%	51.01%	57.69%
2011-2012	322	58.94%	55.65%	63.86%
2012-2013	141	56.42%	52.32%	63.63%

a. The number includes all the students taking the BRE 206 examination, including non-local students.

b. Due to the difference in numbers of scenario and short questions in each academic year, the percentage of each annual cohort's correct answer is used for calculating this comparison. ***Const. L.J. 129**

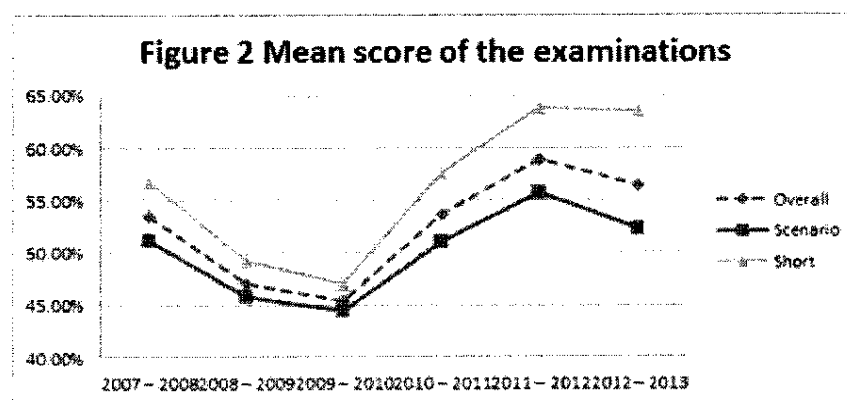
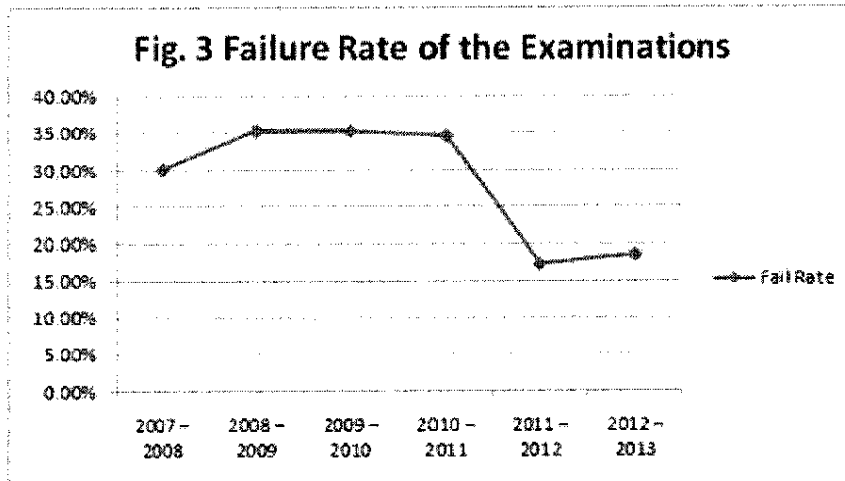


Figure 2 shows a sharp decline in students' performance, both in scenario questions and short questions in AY 2008/09 and AY 2009/2010. The performance improved significantly in AY 2010/11 and AY 2011/12, and declined slightly in AY 2012/2013.

Table 3 and Figure 3 show the failure rate of the students in the examination each year. There was an upward trend in AY 2008/09 which then held steady until AY2011/12 when there was a drop in the failure rate. In AY 2012/13, there was an uptick.

Table 3—Failure Rate of the Examinations			
Academic year	Number of students a	Number of students failing the exam b	Failure rate
2007-2008	169	51	30.18%
2008-2009	192	68	35.42%
2009-2010	212	75	35.38%
2010-2011	256	89	34.77%
2011-2012	306	53	17.32%

2012–2013	113	21	18.58%
a. For the sake of comparison with admission statistics, this number includes only local students. Non-local students such as students from Mainland China are not included.			
b. The passing mark for the exam was 40/80, except in 2008–2009 and 2009–2010, where the passing mark was lowered to 36/80 and 34/80 respectively. *Const. L.J. 130			



The trend of the failure rate is consistent with the trend of the mean score. The failure rate increased in AY 2008/09 and remained high in AY 2009/10. The small extent of the increase in AY 2008/09 and AY 2009/10 was a result of the adjustment of the passing mark from 40/80 to 36/80 and 34/80 respectively. The failure rate dropped in AY 2010/11 and AY 2011/12. There was a small increase in the failure rate in AY 2012/2013.

To this point in time, the only correlation is that in AY 2008/09 and AY 2009/10, the ratio of scenario questions to short questions increased to 50 out of 80, i.e. scenario questions comprised 62.5 per cent of the examination questions for those years. To discover other possible reasons for such a trend, the admission statistics of students will now be analysed to ascertain whether there is/are any correlation(s) between performance in the examination and admission quality.

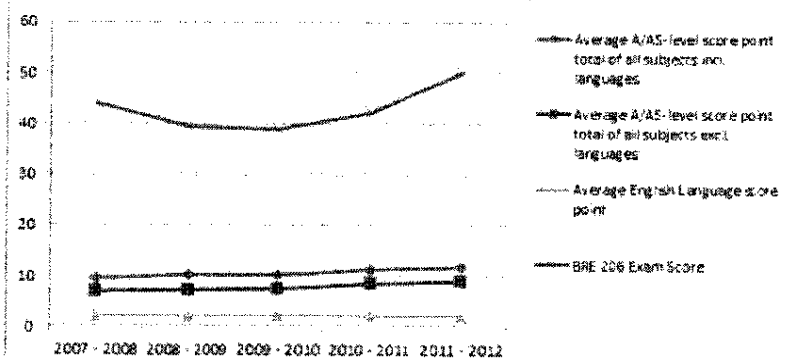
C. Admission statistics

The admission A/AS-level score points and the BRE 206 examination scores for the four programmes of students from AY 2007/08 to AY 2011/12 are analysed below. There has been a change in the university curriculum in AY 2012/13 as a result of a change in the Hong Kong education system. Therefore, the admission statistics for students entering university in the AY 2012/13 are not used for the analysis. Tables 4 to 7 and Figures 4 to 7 set out this data for each of the four programmes.

Table 4—Admission statistics and exam score for BSc (Hons) Surveying (local students only)				
Year	Average A/AS-level score point total of all subjects incl. languages	Average A/AS-level score point total of all subjects excl. languages	Average English Language score point	BRE 206 exam mean score
2007–2008	9.5	6.9	2	44.0

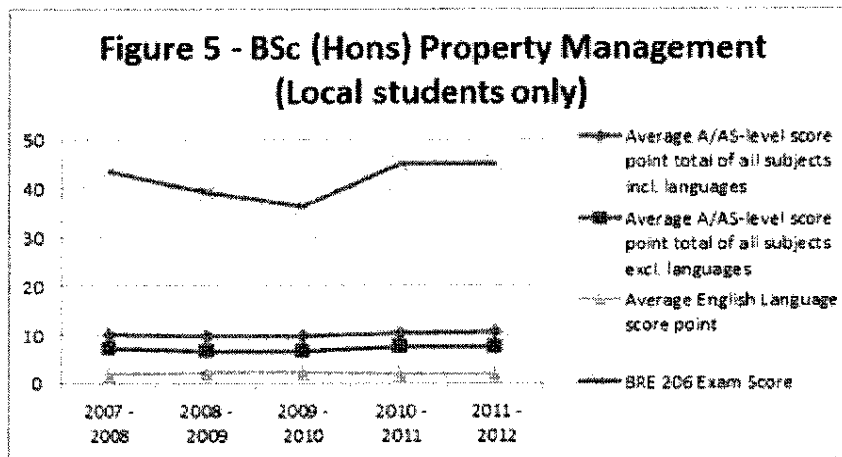
2008–2009	10.1	7.2	2.1	39.5
2009–2010	10.3	7.5	2.2	38.9
2010–2011	11.1	8.3	2	42.3
2011–2012	11.7	8.9	2.1	50.1* <i>Const. L.J.</i> 131

**Figure 4 - BSc (Hons) Surveying
(Local students only)**



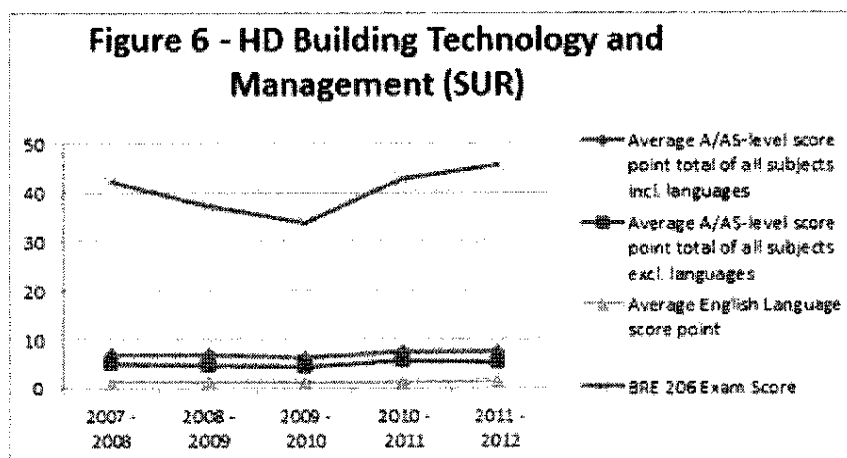
**Table 5—Admission statistics and exam score for
BSc (Hons) Property Management (local students
only)**

Year	Average A/AS-level score point total of all subjects incl. languages	Average A/AS-level score point total of all subjects excl. languages	Average English Language score point	BRE 206 exam mean score
2007–2008	10	7.2	1.9	43.3
2008–2009	9.6	6.5	2.2	39.1
2009–2010	9.6	6.5	2.1	36.1
2010–2011	10.3	7.4	1.8	45.1
2011–2012	10.5	7.6	1.9	45.0



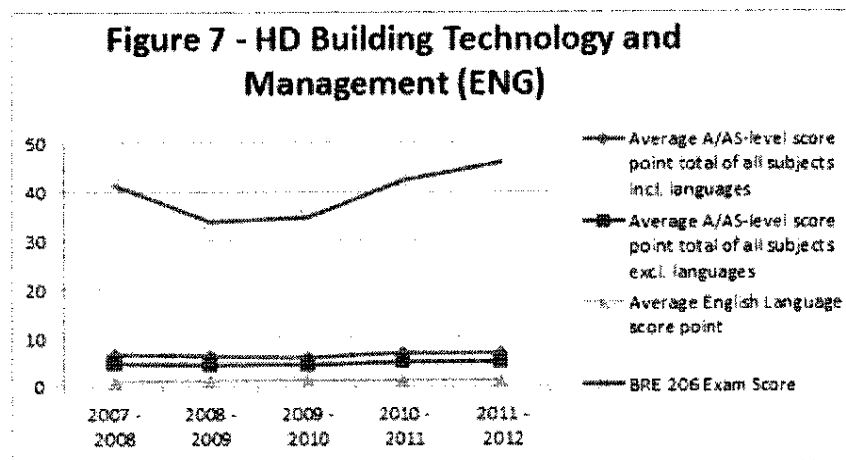
**Table 6—Admission statistics and exam score for
HD Building Technology and Management
(Surveying)**

Year	Average A/AS-level score point total of all subjects incl. languages	Average A/AS-level score point total of all subjects excl. languages	Average English Language score point	BRE 206 exam mean score
2007-2008	6.9	5.1	1.3	42.3
2008-2009	6.8	4.7	1.3	37.1
2009-2010	6.1	4.4	1.1	33.6*Const. L.J. 132
2010-2011	7.3	5.5	1.3	42.9
2011-2012	7.6	5.4	1.5	45.5



**Table 7—Admission statistics and exam score for
HD Building Technology and Management
(Engineering)**

Year	Average A/AS-level score point total of all subjects incl. languages	Average A/AS-level score point total of all subjects excl. languages	Average English Language score point	BRE 206 exam mean score
2007–2008	6.4	4.7	0.9	41.1
2008–2009	6.1	4.4	1.2	33.7
2009–2010	6	4.2	1.1	34.8
2010–2011	6.7	5	1.1	42.2
2011–2012	6.7	4.9	1.1	45.8* <i>Const. L.J. 133</i>



D. Pearson product-moment correlation coefficient

The Pearson product-moment correlation coefficient can be used to measure the linear association of two variables. In this test, a line of best fit is drawn through the data of two variables, and the coefficient shows how well the data points fit this line.

The value of the correlation coefficient ranges between +1 and -1. A positive value of the coefficient indicates a positive correlation, and a negative value indicates a negative coefficient. The stronger the association of the variables, the closer the value of the coefficient will be to +1 or -1.

Table 8 is a table of correlation coefficients is constructed for the four variables, including the admission statistics and the BRE 206 exam score.

Table 8—Correlation coefficients a				
	Average A/AS-level score point total of all subjects incl. languages	Average A/AS-level score point total of all subjects excl. languages	Average English Language score point	BRE 206 exam score

Average A/AS-level score point total of all subjects incl. languages	1			
Average A/AS-level score point total of all subjects excl. languages	0.989453577	1		
Average English Language score point	0.930131939	0.882781604	1	
BRE 206 Exam Score	0.4775867	0.544303928	0.253347746	1
a. The Pearson product-moment correlation coefficient is the ratio between the covariance of the two variables and the product of their standard deviations. It indicates the strength of the linear relationship between the two variables. A coefficient value closer to +1 shows a stronger positive correlation between the variables. *Const. L.J. 134				

From the row of the BRE 206 exam score in the above table, we can determine the extent of the exam score's relationship to the admission score points.

The average A/AS-level score point total of all subjects excluding languages shows the strongest association with the BRE 206 exam score. The value of 0.5443 is often considered as reflecting a medium to large strength of association.

On the other hand, the average English Language score point demonstrates the weakest association with the value of 0.2533, which is considered as a low value in terms of strength.

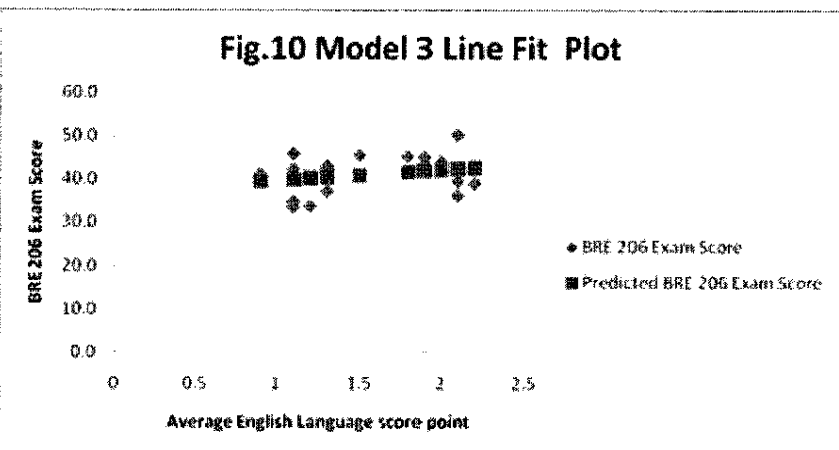
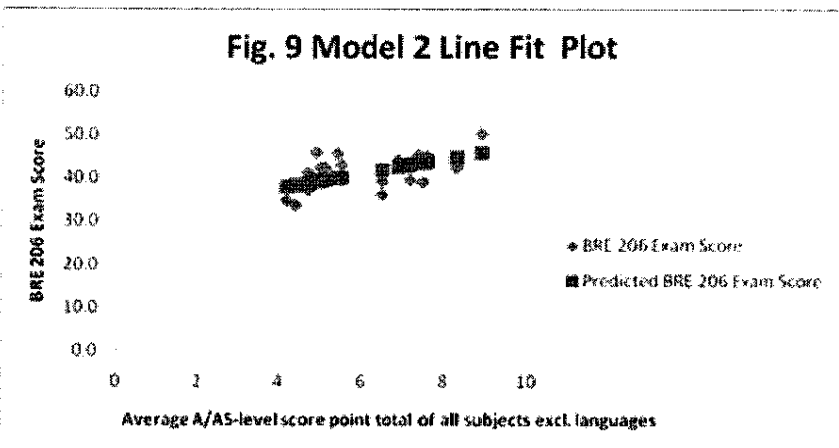
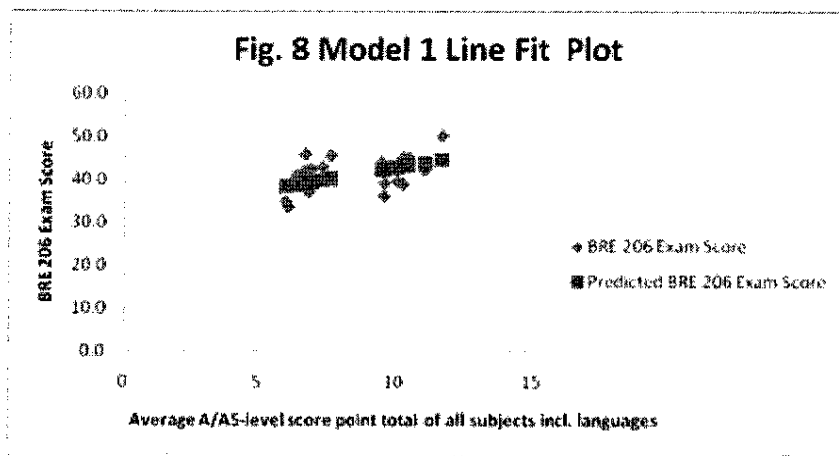
From the correlation table, we can see that average A/AS-level score point total of all subjects excluding languages has a higher correlation to the BRE 206 exam score than the other variables of admission statistics.

E. Regression analysis

To further determine the relationship between the admission statistics and the BRE 206 examination scores from those five years, three linear regression models with different independent variables were tested. Table 9 sets out three regression models. Figures 8 to 10 shows the Line Fit Plot of each of these models respectively

Table 9—Regression models a						
	Dependent variable	Independent variable	Coefficients	R Squared b	Adjusted R Squared c	P-value d
Model 1	BRE 206 Exam Score	Intercept	31.86795844	0.228089056	0.185205114	3.83171E-07

		Average A/AS -level score point total of all subjects incl. languages	1.092975967			0.033205796
Model 2	BRE 206 Exam Score	Intercept	30.86710465	0.296266766	0.257170475	2.14302E-07
		Average A/AS -level score point total of all subjects excl. languages	1.676679534			0.013094046
Model 3	BRE 206 Exam Score	Intercept	37.12729812	0.064185081	0.012195363	9.48973E-09
		Average English Language score point	2.479939055			0.281141564
<p>a. A linear regression model attempts to find out the relationship between variables by fitting a linear equation to the data in the form $Y = a + bX$, where Y is the dependent variable and X is the independent variable. The intercept and slope of the line are a and b respectively.</p>						
<p>b. R Squared, also known as the coefficient of determination, is a value between 0 and 1, which indicates the percentage of the total variation in Y that can be explained by its relationship to X. *Const. L.J. 135</p>						
<p>c. Adjusted R Squared is a modified version of R Squared adjusted for the number of terms in the model.</p>						
<p>d. P-value is a number between 0 and 1, which indicates the strength of evidence against the null hypothesis (i.e. there is no relationship between the two variables). A small P-value indicates strong evidence against the null hypothesis. Typically the null hypothesis is rejected when $p < 0.05$.</p>						



The values of the R Squared of the three models are all less than 0.3. This might be a result of the limited number of data sets available for the regression test, since data sets for individual students are not available. Nevertheless, the results for the ***Const. L.J. 136** regression analysis are still useful for the purpose of making comparisons between variables.

Model 2 has the highest value of R Squared, 0.296, and a lowest p-value for the Independent variable, 0.013, which is lower than the usual significance level of 0.05. These indicate that BRE 206 results have a higher correlation with average A/AS-level score point total of all subjects excluding languages.

On the other hand, Model 3 has the lowest value of R Squared, 0.064, and a highest p-value for the independent variable, 0.281. This indicates that BRE 206 results have little correlation with the average English Language score point.

The result of the regression analysis again shows that the BRE 206 exam score is comparatively more correlated with the average A/AS-level score point total of all subjects excluding languages.

Section IV: Conclusion and recommendations

From the data obtained from the mean score and the failure rate of BRE 206 examinations over the past six years, a significant drop is seen between AY 2007–2008 to AY 2009–2010, followed by an upward trend in the subsequent three years. The admission statistics of the students were collected and analysed against the BRE examination score for the purpose of determining the correlation, if any, between the variables.

According to the results of the analysis, it can be concluded that students' A/AS-level results for subjects other than languages correlate well on the performance of these students in the BRE 206 multiple-choice examination and that their English ability has little impact on the BRE 206 results. This finding is unexpected, the assumption having been that limited English language ability might have hindered student learning in this module, thus giving rise to the disconnect between the students' perception and examination performance

Consequently, additional and more detailed research would appear to be warranted to investigate the most appropriate teaching and learning pedagogies to be used in teaching law to university undergraduate students in Hong Kong.

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1. <http://www.polyu.edu.hk/hro/job.htm> [Accessed September 15, 2013].
 2. https://www2.polyu.edu.hk/Staff/staff_handbook/hb2010/links/polyu/overview_new_inside.htm [Accessed September 15, 2013].
 3. *Code of Ethics for Teaching* found at <https://www2.polyu.edu.hk/ethics/Staff/e-teach.htm> [Accessed September 15, 2013].
 4. https://www2.polyu.edu.hk/Staff/staff_handbook/hb2010/links/polyu/motto_new_inside.htm [Accessed September 15, 2013].
 5. http://www.bre.polyu.edu.hk/frameset/frameset_dept.html [Accessed September 15, 2013].
 6. See fn.10 below concerning students' learning approaches.
 7. This is reference to the red brick architectural design theme of the PolyU campus and to the slogan "A few red bricks, a lifetime of memories". The cynics amongst us would say, "A red brick, as dense and thick as some students."
 8. *Howard Davies and Lee Yee Fong, Student Demeanor In the Classroom, Final Report (May 2005), 1*. A copy of this documentation is on file with the author.
 9. *Davies and Fong, Student Demeanor in the Classroom, Final Report, pp.5–6*. One notes that not all blame should be placed upon the students. A search of YouTube for "boring lectures", or "boring teachers" will produce a plethora of results, e.g. <http://www.youtube.com/watch?v=jsrw71J3DV4> [Accessed March 3, 2014]. However, as university lecturers, students are seen as convenient scapegoats, particularly where emphasis is placed upon research and publication.
 10. This is referred to as the "surface approaches" and "deep approaches" to learning:

"In 'surface' approaches, students' intentions are to store information—in other words, to memorize facts and principles without much thought. They conceive of the learning process as increasing their knowledge and knowing facts, principles, and procedure to be used. They think of the teacher's role as presenting information and the students' role as reproducing it in examinations to demonstrate that they know it.

In contrast, 'deep' approaches emphasize thought rather than memory. They integrate new ideas to those already possessed. New knowledge is organized and rearranged in the context of the students' previous knowledge, not the lecturer's. Thus its meaning is different and personal to each individual. Students using a deep approach look for fundamentals. They exercise imagination. They distinguish principles from examples. They look for the overall structure of ideas and relate new ideas widely and to their personal experience.

We may infer ... that a deep approach is not normally achieved in lectures. But the situation is more serious than that. There is reason to believe ... that the lecture system positively encourages a surface approach and discourages the very intellectual skills that higher education claims to foster. The supposition is that students will think about the lectures afterwards.... Methods of assessment using factual objective tests or encouraging regurgitation in examinations make matters worse."

D.A. Bligh, What's the Use of Lectures? (John Wiley & Sons, 2000), p.61 (citations omitted).
 11. See *J.A. Johnson, "Instruction: From the Consumer's Point of View" in C.B.T. Lee, Improving College Teaching (Washington, DC: American Council on Education, 1967)* and contra *Bligh, What's the Use of Lectures? (2000), p.194* onwards.

12. As Bligh, *What's the Use of Lectures?* (2000), p.54 notes:

"most people are more alert on Monday and Tuesday than on Friday. Yet these facts are commonly ignored by both teachers and those who organize their timetables. Since attention to lectures is more difficult in the afternoon and evening, lectures should be shorter, more varied, and more stimulating, or give way completely to small-group teaching or other active methods of learning, at that time."

13. In sum, the term "scenario" as used in this article refers to a set of facts provided to the students. It is from this set of facts that each individual student must determine the pertinent details, decide the relevant law, analyse possible application(s) or interpretation(s) of the law, and, come to a reasonable, logical conclusion. This process, where and when necessary, would be prompted by questions from the lecturer, or tutor. As such, *scenario-based* teaching is somewhat similar, but not identical, to the terms *case studies*, or *problem-based* teaching. See, e.g. Sarah Hale, *Case Based Learning: Review of Good Practice*, University of Huddersfield (2005) [ftp://148.228.156.172/pub/taller%20CASOS-TIC%20Pue%2011%20FDBA/materiales%20lectura/case_based_learning_review_of_good_practice.pdf](http://148.228.156.172/pub/taller%20CASOS-TIC%20Pue%2011%20FDBA/materiales%20lectura/case_based_learning_review_of_good_practice.pdf) [Accessed September 15, 2013]; J.C.C. Chung and S.M.K. Chow, "Promoting Student Learning through a Student-centred Problem-based Learning Subject Curriculum," (2004) 41(2) *Innovations in Education and Teaching International*; P. Schwartz, S. Mennin and G. Webb (eds), *Problem-Based Learning: Case Studies, Experience and Practice* (Kogan Page, 2001).

14. See tongue-in-cheek comments at <http://www.youtube.com/watch?v=z2sMJwxLd-M&feature=related> "Socratic Method" from the *All About Law School* DVD [Accessed September 15, 2013].

15. For a sampling, see <http://www.youtube.com/watch?v=qx22TyCge7w> [Accessed September 15, 2013].

16. Bligh, *What's the Use of Lectures?* (2000), pp.10-11 notes:

"... if students are to learn to think, they must be placed in situations where they have to do so. The situation in which they are obliged to think are those in which they have to answer questions, because questions demand an active response. Although it could be modified to do so, the traditional expository lecture does not demand this ... The best way to learn to solve problems is to be given problems to be solved. ... The best way to develop powers of analysis is to keep analyzing situations and data. ... learning to think is not an absorption process."

The commonsense view finds support from psychologists. Harlow (1940) described "learning to think" as the acquisition of learning sets. Monkeys and children were rewarded for selecting the odd item among three objects. They were trained to make progressively finer and more abstract discriminations and, more important, were able to apply the "odd man out" principle to problems they had never seen before. Similarly, as problems became more complex, they seemed able to apply principles from previously experienced problem situations. Practice with basic simple problems improved, and made possible, the solutions to more complex ones. Gagne (1965) points out that when students are given a problem to solve, they may not only apply principles but also combine them to form new higher-order principles. This ability is essential to the development of a student's powers of thought. ..."

17. As noted by J.C.C. Chung and S.M.K. Chow, "Imbedded PBL in an Asian Context: Opportunities and Challenges in Implementing Problem-Based Learning" in *Proceedings of the First Asia Pacific Conference on Problem Based Learning* (Hong Kong: 1999):

"... Asian students are often seen as 'rote learners' (Biggs, cited in Watkins, Reghi, and Stilla, 1991). Chan (1999) pointed out cultural values and Confucian beliefs contributed to the shaping of Chinese thinking and classroom behaviours of rote learning. As Chinese students are socialized to respect rather than challenge knowledge and teachers, so they are generally less creative and active in learning. In addition, Chinese are concerned about 'maintaining face'. ... Additionally, the expository teaching-learning methods adopted in most primary and secondary education shape students into achievers (Biggs, 1991). Kember and Gow (1991) also commented that Asian students' rote learning style was more related to learning environments rather than student's inherent characteristics...." (p.35)

"... Students of this study mostly learned through an expository teaching-learning method in primary and secondary education. Morris (1985) contended that this teaching-learning mode was most efficient to meet requirements of examination syllabus. Learning behaviours as a result of the expository teaching-learning mode are passive listening, note-taking and getting teacher's tips of examination content (Biggs, 1991). These learning behaviours are so well established that students internalise them as the golden rule of learning...." (pp.43-44)

"Students' insecure feeling about the scope and accuracy of what they have learned is probably due to their inclination towards a 'spoon-feeding' learning pattern, in which teachers provide students with every piece of information. Being brought up in such a learning environment, students feel uneasy when they are asked to search for the answers and solutions themselves. ... Additionally, when PBL [problem-based learning] is only introduced to one or a few subjects of the whole curriculum in an imbedded PBL course, students inevitably compare the PBL mode with the didactic mode, especially in terms of workload and teaching-learning methods. The real benefits of PBL will be easily masked by the perceived comparative ease of traditional teaching-learning mode, particularly when the learning environment does not favour an independent mode of learning." (p.44)

"Independent and self-directed learning are new learning experiences for many Asian students. ..." (p.44)

"Another constraint imposed by the learning task was the language of instruction. As a university policy, students were required to conduct in-class discussions and presentations in a second language. Some students felt their learning was negatively affected in terms of both taking on a more active role and understanding the concepts. Both of these processes are important for students to develop a more independent and critical learning approach. This is a finding very similar to that of Watkins, Biggs and Regmi (1991) on a group of Hong Kong students of psychology and education." (p.44)

18. See, e.g. D.A. Watkins and J.B. Biggs (Eds) *The Chinese Learner: Cultural, Psychological, and Contextual Influences* (Hong Kong: University of Hong Kong, 1996); D.A. Watkins and J.B. Biggs, "The Paradox of the Chinese Learner and Beyond" in Watkins, D.A. and Biggs, J.B. (Eds) *Teaching the Chinese Learner: Psychological and Pedagogical Perspectives* (Hong Kong: University of Hong Kong, 2001).
19. Bligh, *What's the Use of Lectures?* (2000), p.8.
20. Mainly, a surface approach in the first section of the lectures, followed by rehearsal of the materials in the latter portion of the lectures, transitioning into deep approach in the tutorials.

Some students crave certainty: they want facts, clear objectives, a full set of notes, and attainable standards. Others tolerate uncertainties, controversies, and ambiguities; they welcome a framework but want to explore ideas and do their own thinking.

... Marton and his disciples (1984) have described as having a "surface level approach" students who want lectures to cover the ground, who concentrate on memorizing detail, and who expect to find the "right answer" to questions. These contrast with students adopting a deep approach, who are concerned with the lecture's central point, what lies behind the argument, what it boils down to, the logic of the argument, getting the whole picture, and challenging the conclusions. Parlett (1970) described "syllabus bound" students, who only what they are required to study, want the lecturer to give clear instructions, do not often question things they hear from professors in lectures, and are more focused on exams than interested in their discipline. "Syllabus free" students, by contrast, explore ideas not mentioned lectures, try to think of a better way of doing something than what is described in a lecture, and generally display independence of mind. ...

... in most disciplines it is the duty of faculty to try to wean students away from craving dogma and toward rational independence of thought.

Bligh, What's the Use of Lectures? (2000), p.200.
21. M. Liddle, "Problem-Based Learning in Law: Student Attitudes" in *Proceedings of the First Asia Pacific Conference on Problem Based Learning* (Hong Kong: 1999).
22. The students completed a poll on whether the examination format would be a multiple-choice, or an essay. Three students opted for an essay-type format, two had indicated no preference and the remaining hundred or so indicated a preference for a multiple-choice examination.

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