Teaching Business Law to Non Law Students
Benga, Florentina

Published: 01/07/2011

Document Version: Publisher's PDF, also known as Version of record

Link to publication in Bond University research repository.

Recommended citation (APA):
Teaching Business Law to Non Law Students

Florentina Benga
The University of the Sunshine Coast, Australia
Email: FBenga@usc.edu.au

Abstract

It is expected that students of Business programs will enter into the business world with knowledge of different areas of law and the legal system. Knowing the legislative requirements and where to research information are critical skills for any business decision maker. Yet, research and practice suggest that business law subjects are perceived as particularly challenging by business students or non law students. This article provides an insight into the likely reasons for business law subjects being so challenging for non law students and the implications for the teaching strategies and approaches. In particular, it looks at the way the business law curriculum is designed, the assessment requirements and their alignment with the students’ needs, learning styles and prior knowledge. The article explores the current approaches to teaching business law and provides suggestions for continuous improvement. It adopts a managerial approach to a business law course that is realistic and practical for future business practitioners. The article looks at the business law subject as a discipline per se but also an area across disciplines as students are to be equipped with both business and law skills. The author acknowledges that some suggestions for improvement might already be in place in some educational environments, but it is anticipated that sharing the experience and practice while tutoring Business Law at the University of the Sunshine Coast, could improve the approaches to teaching Business Law elsewhere.

Introduction

Increasingly, law has started to be taught to students going into other professions rather than the legal ones. A Business program often involves the completion of a Business Law subject. However, despite the subject popularity, there is qualitative and quantitative research to suggest that business law subjects are perceived as challenging by the students studying non-legal disciplines (Allen, 2007; Allison, 1991; Bradney, 1998; Collins, 1999; Lampe, 2006; Vick, 2004). Some of the issues are attributed to the way the curriculum is designed and the way business law is taught. Indeed, most of the Business Law textbooks are centrally focused on legal aspects rather than business practices. In addition, most of the academics that teach Business Law subjects are lawyers and consequently the focus appears to be on teaching law for future lawyers rather than business persons.
This paper will discuss aspects related to teaching business law to ‘non-law students’ defined as students that do not study law in order to become lawyers. In particular it will look at the way that curriculum and learning are designed including strategies to study Business Law. The paper will start with an analysis of the likely reasons that make business law subjects increasingly challenging amongst non-law students and then will continue with looking at the current approaches to teaching business law. Suggestions for improvement and further recommendations and conclusions will also be provided.

Why are business law subjects perceived as increasingly challenging amongst non-law students?

Perhaps the best way to start answering this question is to look at the curriculum, assessment requirements and how they address the students’ needs. It is also important to look at the justification of making a Business Law subject compulsory. The current teaching approaches and strategies together with the students’ prior knowledge and experience seem also to contribute to the underlying issues.

Business law subjects can be considered quasi subjects in the sense that they cover many areas of law such as tort law, contracts law, consumer law, agency law, the law of bankruptcy. Business law curriculum appears to be overloaded in this regard as each of these areas of law would be taught over at least one semester in a Law School. It appears therefore that business law curriculum follows the traditional way that curriculum was designed in order to cover discipline specific knowledge, what the literature defines as ‘declarative knowledge’. More recently, the idea of an ‘emergent’ curriculum was introduced in the literature to comprise problems that emerge in real life and that usually work in a business sense (Jackson, Oliver, Shaw, & Wisdom, 2006 cited in Biggs & Tang, 2007). This curriculum is designed to foster the ‘functioning knowledge’ which is related to the exposure of students to the real life experience. However, if the law students are more likely to be exposed to work experience or casual legal jobs to get that real life experience, the functioning knowledge, business law students have very limited opportunities. Furthermore, the majority of students studying Business law are first year and therefore very few business law students would be familiar with the legal terms and legal writing.

Assessment criteria appear to be another issue for business law students as they focus on the relevance of the legal aspects rather than the business aspects. In practice however it might be that a commercial decision (i.e. renegotiating a price or offering a discount) is better than strictly following some legal aspects (i.e. postal acceptance rule and the formation of the contract). Research suggests that as opposed to law students, non-law students should study law in a way that better enhances their abilities as business decision makers rather than lawyers (Collins, 1999). It is therefore important to design activities that engage students and consequently contribute to developing lifelong learning skills specifically critical and analytical thinking. Basic understanding of the key legal issues and
how to deal with legal problems will help students not only to perform better in their studies, but will also encourage them to study at a deeper, more meaningful and more personally fulfilling level (Crosling & Murphy, 2000).

It should also be noted that business law subjects are for most of the business programmes compulsory as it is considered necessary that a student would enter into the business world with knowledge of law and the legal system (Lampe, 2006). It is also considered important for students to appreciate the different areas of law that apply to business and also to recognise the impact that changing legislation may have on a given industry (Allen, 2007). Therefore, strategies on improving the study of law by non-law students appear to be critical in resolving this issue. The following section will present current approaches to teaching business law and suggestions for improvement. Other recommendations and conclusions will also be presented at the end of this paper.

Current approaches to teaching business law and suggestions for improvement

The style of teaching and studying for subjects dealing with legal aspects is generally based on a problem-solving structure known as ‘IRAC’ (Krever, 1995) or ‘ISAAC’. This stands for Issue, Rule/State the Authority, Application and Conclusion. In other words if students are mastering this technique comprising of identifying the issues from a given case scenario, knowing the legal rules, applying the rules to the facts and stating the conclusion, they have great chances to get across the subject. However, this is not easy as Business Law is generally taught in the first year of study and therefore most of the students would not be familiar with the legal writing requirements, including citations, or interpreting law cases.

Problem-based learning (PBL) appears to address these issues as it reflects the way people learn in real life with the resources that they have (Savin-Baden, 2000). As opposed to PBL, problem-solving learning reflects only the way students are encouraged to resolve problems after they had been given a framework or structure to follow (i.e. IRAC). Five goals of PBL are stated by Biggs & Tang (2007, pp. p.153-154): structuring knowledge for use in working contexts, developing effective reasoning processes, developing self-directed learning skills, increased motivation for learning and developing group skills, working with colleagues. Experience with PBL is mostly registered in the fields of medicine, engineering and biology. There is also a strong body of research to suggest that PBL can be used for other professions such as the business and legal one (Biggs & Tang, 2007; Moens, 2007). Therefore, maybe the solution is in implementing a ‘fully blown PBL programme’ (Biggs & Tang, 2007) where selected problems are given to students so by the end of the programme they will be ready to move directly into the workforce. Barrows (1986, pp. 154 cited in Biggs & Tang, 2007) argues that PBL varies according to two major variables: the degree of which the problem is structured and also the extent of teacher direction. It is therefore important to give or place students in real life situations and also raise their awareness of conceptions of both ‘learning’ and ‘knowledge’, and the expectations placed on them that are different from
their previous educational experiences (Wingate, 2007). This would help students to look at business law subjects in a more meaningful way. Secondly, it is important to encourage behaviours that support the key aspects of effective teaching such as using students’ ideas, structuring, questioning, probing and enthusiasm (Killen, 2009) would definitely contribute to keeping students engaged within the subject. Hence, the business law courses are to give students a ‘working knowledge’ of the structure of both the law generally and the particular legal area under consideration (Allison, 1991).

The need to develop the ‘learning to learn’ or ‘metacognitive’ skills of students has also been well established. Atkins & Brown (1998) for instance emphasised three things for helping students learn: the need to diagnose students’ existing knowledge and understanding, different orientations and strategies of learning and the need to develop the ‘learning to learn’ or ‘metacognitive’ skills.

Paying attention to and understanding students’ needs, addressing them and providing further improvement is necessary in order to develop a framework that supports non-law students undertaking legal studies. Also, stressing on business law aspects would be more appropriate than going with the traditional way of teaching law.

Evidence suggests that teachers’ approaches to teaching are related to the quality of students’ learning (Trigwell, Prosser, & Waterhouse cited in Lindblom-Ylännea, Nevgia, & Ashwinc, 2006, p. 295) and therefore to shift on students’ centred approach learning to learn may be emphasised first.

Further Recommendations and Conclusions

Replacing the traditional law school pedagogy in terms of revising the curriculum and the style of teaching to a more student-centred approach is imperative in order to address the needs of non-law students. The business law course should offer a managerial approach that is realistic and practical for future business practitioners. Also, in order to enhance students learning, the areas of law covered in a Business Law course over one semester needs to be simplified and shortened (Lampe, 2006). It might be therefore sensitive to take out topics such as the law of bankruptcy and shorten topics such as contracts to the extent of an understanding from a business law perspective, rather than only a legal perspective. In terms of fostering the ‘functioning knowledge’, a solution might also be to introduce the study of ‘negotiation’ into the curriculum. The topic of negotiation will provide an opportunity to teach students a crucial business and life skill that is typically neglected in the required undergraduate curriculum. Negotiation has concrete application to bargaining, contract negotiation, dispute resolution (Lampe, 2006). Extra-curriculum support might also be appropriate. Guidance is needed in particular on the epistemological aspects of learning in higher education (Gamache, 2002 cited in Wingate, 2007, pp.394).
Another solution to improving students’ learning would be developing induction programmes to help students with the way they understand legal cases and write legal assignments. However, as Edward (2003) argues induction programs must be done in a systematic and organised way, they must equip the students with a better understanding of the course in terms of requirements and learning experiences. Developing a sense of belonging is therefore very important. Supporting ‘learning to learn’ in business law subjects deals with aspects of diversity in terms of addressing the needs of all students which vary between students preparing to become lawyers and students preparing to become business practitioners. It is up to each faculty therefore to make business law subjects inclusive based on the achievement of long life skills and not exclusive.

Achieving both a new curriculum and new ways of teaching to support students with studying business law subjects will take commitment, perseverance, and creativity on the part of textbook authors and faculties (Lampe, 2006).

References


