

# Enhancing the Participation of Law Students in Academic Tutorials

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## Abstract

The pedagogic approach adopted by the Law Department of the University of Hong Kong for delivery of their courses is the traditional one of lectures and tutorials, supplemented by extensive reading assignments. As students take their first year law courses, they are also required to undergo a year of language training. This paper reports on the planning, design and implementation of that component of the language course that was intended to enhance the participation of students in tutorials.

As planners and designers of a new language course, however, we knew relatively little about what happened in tutorials apart from law tutor reports of low levels of student participation. We also needed to find out to what extent, if at all, student competence in the kinds of tasks they were called upon to perform in tutorials changed over the year and whether such changes were in any way attributable to the language enhancement programme.

Several approaches were adopted in the investigation. These included pre- and post- course assessments of students' proficiency in the performance of tutorial-like tasks, questionnaire reports of student levels of confidence and participation in tutorials and the analysis of tutorial transcriptions. The data collected so far has enabled us to better predict and teach towards the kind of discourse that law students are called upon to perform in tutorials. However, it also suggests that it would be optimistic to suppose that there is any direct correlation between the competencies acquired and displayed in the language classroom and those displayed in actual law tutorials. This would appear to be because teaching style varies widely between law tutors, most tutorials are conducted in such a way so that students actually have little opportunity or incentive to participate.

## Introduction

The project which this paper describes is concerned with what seems to be a perennial problem in many tertiary institutions in Hong Kong: low levels of participation by students in tutorials conducted through the medium of English. In this project we focused on tutorials for First Year LLB students conducted by the Faculty of Law at the University of Hong Kong. The data collected was used in the development of a special language training programme for these students, the English Enhancement for Law (EEL) course, which has now run for two yearly cycles and is shortly to begin a third. Most of what follows represents our attempt to make sense of what we learnt and to apply it in the development of our curriculum, a process of learning and evolution that is still going on. We would not claim in any sense to have 'solved' the problem. We simply understand it better than we did before our investigations began. However, what we now understand is perhaps what we suspected all along: problems like this can never be ameliorated solely by the action of language teachers; they require fully integrated measures to be taken by both language and subject teachers.

## Contextualizing the Problem

Tertiary teachers tend to lay the blame for student reticence at the door of the secondary school system, seeing themselves as inheritors of a problem that should have been addressed earlier. To some extent their appraisal of the situation is justified by the abundance of studies (e.g., Fu, 1987) which describe a school system that simply has not been able to come up with the resources to match the demand for 'English medium' instruction. In fact, the efficacy of English medium instruction in Hong Kong schools has been exposed as a myth; teachers are ill equipped to cope linguistically with teaching their subject content in English and students are even less able to comprehend it. What happens, therefore, is that while textual input is in English, the language of classroom transactions is Cantonese or a mixed code of Cantonese and English. Add to this the poor working conditions in the secondary schools, with teachers handling up to 30 hours per week with classes of 45 students, it is not surprising that there has been so much dissatisfaction.

It is also not surprising to find that by the time students reach the end of their secondary education, and probably well before that point, they have internalised a set of unstated survival strategies for choosing which language to use or, indeed, whether to communicate at all in a given situation. Some of these have been formulated as rules by Wong (1984):

### Rule 2

If you want to talk to another student in a friendly way and without seeming superior, you must not use English

### Rule 5

Do not show off your language proficiency in front of your peers

### Rule 6

You should deny such proficiency if anyone praises you

### Rule 7

You must hesitate and show difficulty in arriving at an answer when called upon by the teacher

### Rule 8

You must not answer immediately

### Rule 9

You must not answer the teacher voluntarily or enthusiastically in English

### Rule 10

You must not speak in fluent English.

There has also been extensive research over the past decade and a half into the possibility that the lack of willingness to communicate is founded on negative attitudes to English. Most of these studies have focused on the secondary school population as it is the issue of English medium secondary education that has stirred the most debate in educational circles. It is worth looking at two of these studies in some detail as their findings have a direct bearing on the problem of student reticence in the tertiary context. They are also interesting in that they show how language attitudes, far from being fixed for a given population, can change over a relatively short period of time and in response to socio-political events in the wider community.

Pierson, Fu and Lee (1980) conducted one of the first studies in which they devised a questionnaire survey of 250 secondary school students. They asked respondents to rate a number of statements on a scale from 1 (Absolutely Agree) to 5 (Absolutely disagree). The statements with which the subjects most agreed were three expressing a fear of loss of cultural identity associated with speaking English, i.e., 'If I use English it means that I am not patriotic', 'At times I fear that by using English I will become like a foreigner' and 'When using English, I do not feel that I am Chinese any more'. Students also disliked being forced to use English as a medium of instruction as well as its status as the official language of Hong Kong. Nevertheless, they accepted the practical value of knowing English as a window to other cultures and agreed that they would be motivated to learn English of their own free will.

Twelve years later (and after the Joint Declaration of 1984, under which Britain and China agreed on the conditions of Hong Kong's return to China on July 1, 1997) the same survey instrument was used on a similar population of secondary school students (Pennington, 1993) with some similar but also some strikingly different findings:

Like the earlier study, ...we found a strong motivation to learn English. Unlike the earlier study, however, the present research indicates that Hong Kong secondary school students do not associate use of English with threats to their ethnolinguistic identity, nor are they in favour of using the Chinese language as the medium of instruction.

Pennington attributes this change to a new perception of English 'as less a local high status language and more an auxiliary medium of international communication based on a foreign or external standard'.

It seems that these attitudes continue to pertain to law students. An attitude survey based on a questionnaire derived in part from the Pierson and Fu instrument was administered to two classes (30 students) of First Year LLB students with strikingly similar results to those obtained by Pennington.

## **The Legal Teaching/Learning Paradigm and Tutorial Participation**

Problem-based learning (at least in the narrowly legal sense of the phrase explained below) constitutes the central pillar of the pedagogic approach to the academic study of law (Keyzer, 1994). Law teachers maintain that this approach is justified in that the legal practice is in essence a problem solving activity even though it may involve other skilled behaviours, such as the use of tactics, as well as a knowledge of the law. Problems, therefore, encourage the novice learner to start 'thinking like a lawyer', albeit in an academic setting.

It is only possible here to present a brief overview of the traditional teaching/learning paradigm at the undergraduate level in law and many law teachers would no doubt contest the accuracy of this lay impression. Typically, the process begins by students reading a number of case extracts and commentaries prepared by the lecturer on a given topic, supposedly before a lecture. In the course of the lecture, the topic may be exemplified with further cases and those problematic areas that are addressed. Shortly after the lecture, students meet with a tutor, not necessarily the lecturer, who conducts a discussion based on a handout given to students some days before. The handouts vary in format but most are based around some kind of hypothetical problem which is carefully contrived to raise issues that have been dealt with in the lecture. The following problem is typical of the genre:

The Kowloon Hotel was a luxury hotel popular with tourists. Across the road from the hotel was a building under construction, on top of which stood a large crane. The building under construction was owned by Kevin and the crane operated by a contractor, Lana.

One day, owing to the negligence of Lana, the crane swung around and crashed into the Kowloon Hotel, damaging the top two floors.

Part of the jib of the crane fell to the street, severely injuring a pedestrian, Michael, but narrowly missing Michael's girlfriend, Nancy. Nancy suffered nervous shock as a result of having witnessed the accident.

The damage to the hotel was so severe that those guests staying on the top two floors moved out without paying their bills. The rooms in the top two floors were fully booked for the rest of the season but could not be occupied until the repairs were completed two months later.

The crane also crashed into the electricity sub-station next to the hotel, cutting off the electricity supply to the whole area. The Dim Sum Restaurant nearby was forced to close for three weeks until the power supply could be resumed.

Advise the Kowloon Hotel, Michael, Nancy and the Dim Sum Restaurant as to any tort actions they may have and against whom such actions should be brought.

Put briefly, such a problem raises a number of legal issues. By different processes of reasoning, but usually by analogy, students apply the legal principles established by previously decided cases to reach a conclusion on these issues. The tutorial handouts may cite a specific case related to the problem and advise the students that they will be expected to discuss it in depth. They may also be expected to criticize the present state of the law or a particular judgment. This entire process is cognitively demanding, often requiring the synthesis of large amounts of information as well as its application in the search for a creative outcome. There is often no right or wrong answer in an absolute sense, although by their modes of questioning law tutors would often seem to be helping students to reason towards what is clearly the tutor's own preferred conclusion.

It is here that the problem we are concerned with lies. Tutors report that students seem to be unwilling participants in this kind of dialectic process, rarely volunteering much more than minimal responses to tutor prompts. Hardly ever does a student initiate a string of reasoned propositions that could amount to anything resembling an argument or take issue with another student or with the tutor. This failure to participate, for whatever reason, defeats the purpose of the tutorial exercise.

## The Law Teachers' Perspective

The law teachers' perspective on this problem was obtained by interviewing 12 law teachers, all of whom had substantial experience in conducting tutorials with first-year students. These teachers were interviewed separately for about an hour by individual English Centre staff before the first cycle of the programme. Their views were sought especially on topics that we felt would have a bearing on the subsequent development of our language curriculum. They included questions such as:

- how homogeneous was the student population in terms of English language competence?
- how well did students cope with lectures/tutorials and the related readings?
- what were the typical tasks that students had to perform in tutorials and how well did they succeed?
- how could an English course fit into the law curriculum? (e.g. should certain students be exempted; how many contact hours in a week would be desirable and feasible; would a pairing be possible between a law course and the English course in order to promote appropriate text based activities and mutual reinforcement of course goals?)

In the course of these interviews, which were free-ranging and remarkably frank, nearly all of the teachers mentioned student reticence in law tutorials as a serious concern. The following remarks were typical:

Oral English varies. Some students are articulate and confident, others act like nervous wrecks. Faced with a question they open and close their mouths repeatedly but no sound emerges.

Some extreme cases lack confidence. Outside tutorial, some will talk about it; (I went to Taipo Technical College and these others went to St Stephen's.) — i.e others are far more fluent and the student doesn't have a chance by comparison.

Bad days are depressing. One tutorial group was so unresponsive I cancelled it. If you want to come, join another group. If not, good luck in the exam.

Tutorials are a problem. Most students just sit and jot notes. I think they're afraid of losing face when they speak out.

The wide range of language proficiency in tutorial groups means students tend to compare themselves with each other and prefer to remain silent rather than expose their deficiencies.

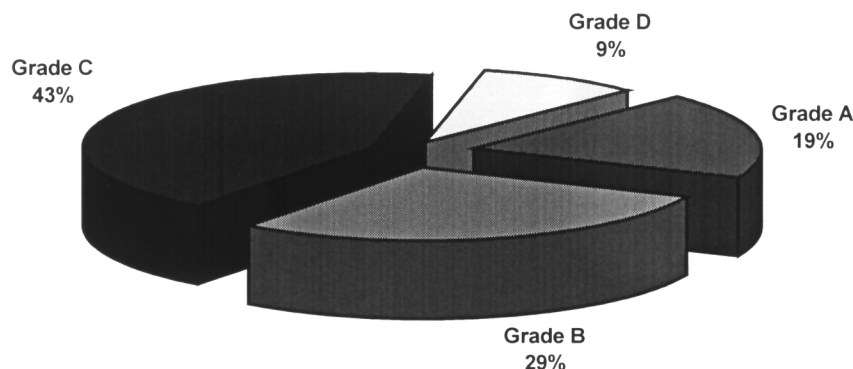
In general, these comments indicated three broad categories of possible cause for reticence: insufficient proficiency in English to cope with the conceptual complexity of the oral tasks that students were called upon to perform; severe anxiety provoked by lack of confidence and fear of losing face; and insufficient preparation before the tutorial. It must, however, be said that most law tutors appeared to be remarkably sensitive to the subtleties of the problem but felt powerless to deal with it after repeated, and often highly innovative, attempts to address it ended in failure.

## **The Students' Perspective**

In this section we will begin by describing the English language proficiency of the students who were the subjects of this study and then give an account of our findings from interview and questionnaire data concerning their view of the tutorials. The information was collected prior to and in the course of the first two programme cycles.

All first year students enrolled in the LLB are required to take the EEL course, regardless of their prior language and educational experience. Thus, over the past two years we have included in our classes several students who have received most of their secondary education in anglophone countries, particularly Australia, Canada and the UK, and who appear to have attained a high degree of fluency and accuracy in general spoken communication. In the context of legal communication, however, we have found that the performance of even these students stands in need of enhancement, occasionally more so than that of students schooled entirely in Hong Kong.

Figure 1 below shows the percentages of entrants in the first cycle of the programme who passed the Use of English examination at each of the four grade levels.



The proportions have changed little over the past three years. What is immediately apparent is that the LLB course attracts students with a relatively high level of English language proficiency. However, in the view of the language teachers on the EEL course, nearly all students, including those with U/E A and B grades, are ill equipped at entry to meet the linguistic demands of the LLB course, particularly when it comes to processing very large amounts of closely reasoned text with a view to eventually contributing spontaneously and with confidence to tutorial discussions. They can do these things, but for the most part not with any degree of sophistication or subtlety. The entry level language proficiency of the lower half of the student intake (U/E grades C and D, and some lower B's) is initially insufficient to meet the demands of the first year curriculum.

At the same time as we interviewed law staff, that is prior to the first cycle of the EEL programme, we also talked to students who had completed their first year of study. Students were interviewed in groups of not more than five for about an hour. Altogether 60 students were interviewed in 14 sessions. Interviews centred on the nature of the tasks in which the students had the greatest difficulty, the law course(s) they found most problematic and what they would have liked an English course tailored for them to focus on. As had the teachers, many students mentioned problems with tutorials. The following quotes are illustrative of their views:

Taking notes in tutorials. I can't find the exact way... what the important notes you should take. The teacher says something but I can't note it down. I don't know whether it's important. After the tutorial I read my notes but I still can't find what the tutor said. But if you know before the tutorial I think it is better for me to know what notes are important to jot down.

It's important to prepare for tutorials because you have to tell something to the tutor ...what you know and what you learned in the lecture so if you say something incorrect the tutor will correct immediately what's wrong in your legal argument ... or be silent.

I think my tutorial group members are very passive. Every time the tutor picks up the name, you answer the question, so the chance for speaking English is quite low.

Students don't want to speak partly because they don't know the answer or partly because their English speaking ability. They are embarrassed to speak. Perhaps if using the Chinese is the medium it would be better.

Although learners were generally quite (and sometimes very) articulate in their interviews with the English Centre teachers, many would have liked more opportunities to use English orally so that they could improve their participation in tutorials. Some were particularly hopeful about the

possibility of a moot court and suggested practice in advocacy skills as one element in the English course.

In order to gauge the extent of the tutorial problem against other areas of difficulty for students, we also conducted a questionnaire survey of students. This was administered in a law lecture prior to the first cycle of the EEL programme and 87 students responded, i.e., 58% of the 150 first-year intake. Students were asked which of the six activities they had found most problematic (1) at the beginning of the year and (2) at the end. Responses to the two items are shown in Figures 2 and 3 below.

Figure 2: Responses to completion item: 'On first coming to HKU, I found it difficult to ...'

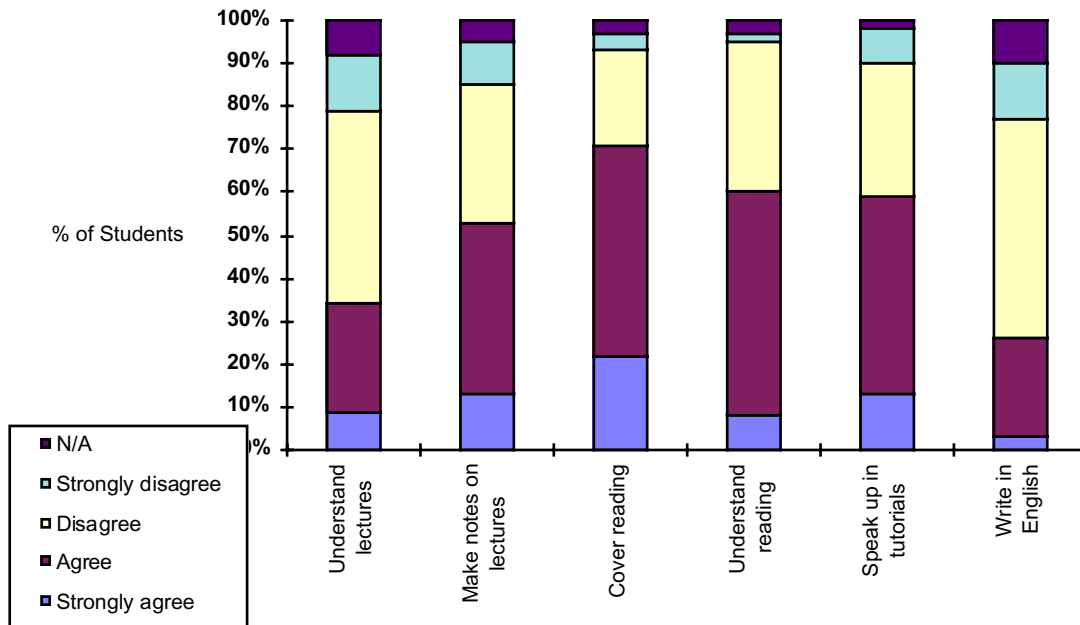
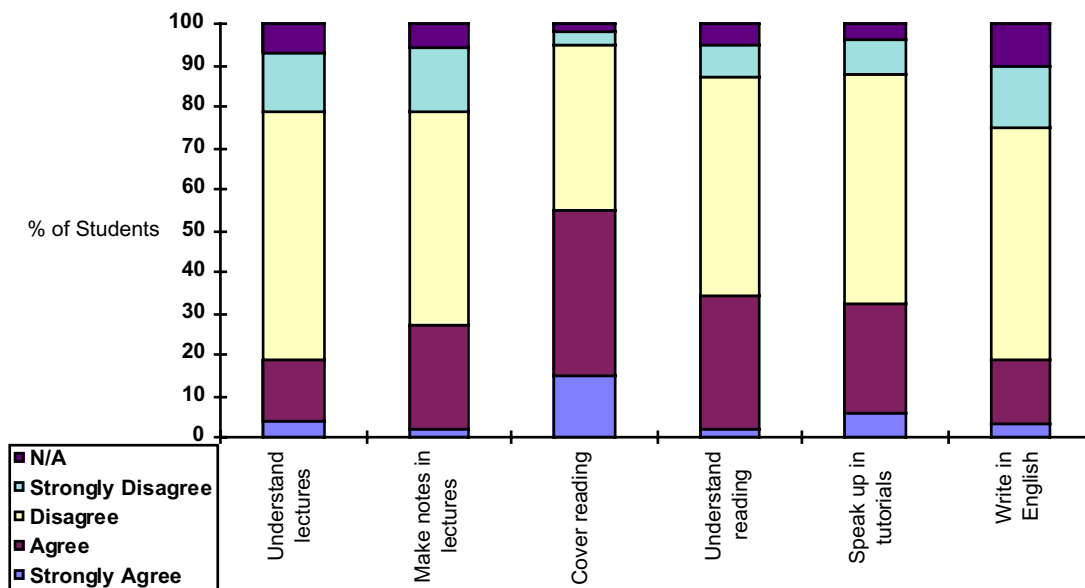


Figure 3: Responses to completion item: 'At the present time, I find it difficult to ...'



What is interesting here is that speaking up in tutorials was not perceived as seriously problematic for students vis a vis their other difficulties. This holds true both at the beginning and end of the year. The apparent inconsistency of this response with the interview data from both teachers and students might be explainable in terms of the students' understanding as to the practical consequences of insufficiencies in any of these areas. In other words, students report tutorials as presenting little difficulty because, in terms of assessment, not much is at stake for them. This is because, although examination questions (which amount to 80% of their grade for the course) require the analysis of a problem, it would be quite impossible, nor would it be expected, for students to treat the problem with the same depth of analysis in an examination as is required of them in a tutorial. From the students' perspective, therefore, little is to be gained and everything is to be lost (particularly appearing inept or ignorant in front of one's peers) from contributing to a tutorial discussion. In theory, students could not attend a single tutorial and, provided they could adequately understand the text materials and could write effectively, they could pass the examination. It is the students' realisation of the need to be able to read and write effectively that may explain their reporting text materials as being significantly more difficult than tutorials.

## Observing the Problem

What students and law teachers had told us about what happened in tutorials was largely shown in our own observations and transcriptions of teacher-student interactions. That we were able to observe and make video and audio recordings of tutorials testifies to the commitment of law teachers in trying to understand the problem of low levels of student participation. It also took a considerable degree of trust and confidence on the part of tutors to allow 'outsiders', as we were, to observe the fine detail of the dynamics of their classrooms. This was especially so given the then changing climate concerning personal accountability for teaching quality.

We had actually been working with Law Faculty staff for some time prior to our observation of law tutorials. Planning meetings had been attended by the Head of the Law Department as well as by the law lecturer to whose course we hoped to link our own. For our part, details of the EEL course, as well as our various assessments of students' language proficiency, were sent to all first-year law tutors. Subsequently, throughout the year, we had frequent contact with this lecturer, who provided us with invaluable assistance in a number of ways, not least of which was helping us to understand what the law was on a number of key issues. In the absence of such a close working relationship with our colleagues in the Law Department, our observation of law tutorials would not have been possible.

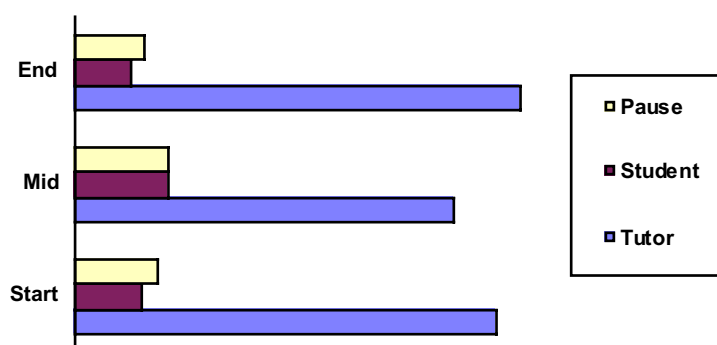
Four 50-minute tutorials, each given by a different tutor, were observed and recorded, two on video tape and two on audio tape. Approximately half of this data was then transcribed and analysed. There is insufficient space here to deal at length with the results of the analysis but it was quite clear that students had little opportunity for extended self-initiated talk. This was, we believe, largely due to the way in which discussions were managed. What the law teachers seemed to be doing was leading the students, by means of short 'Socratic' exchanges towards the teacher's understanding of what she believed was an appropriate 'answer' to the problem question, or to a part of it. This process might be characterised, to parody Clausewitz, as the continuation of lectures by other means.

In order to confirm our initial impressions of the extent to which tutors led the discussion, an analysis was carried out from the ratio of student to teacher talking time using a procedure developed by Flanders (1960). Every three seconds the identity of the speaker, tutor or student was recorded or, if neither, a pause was entered on the tally sheet. This was done for three 10-minute segments of the tutorial, one at the beginning, one in the middle and one at the end. The proportion of student and tutor talking time for one of the tutorials that we recorded is shown in



Figure 4 below and is typical of all the recorded data. It shows quite clearly that the predominant teaching style was one of substantial tutor intervention.

Figure 4: *Proportion of tutor/student talking time in a law tutorial*



Other salient features of the discourse included:

- short student turns responding to longer teacher turns;
- teacher turns consisting largely of explanation and ending with polar (yes/no) questions signalled mostly phonologically rather than syntactically;
- almost exclusively alternating sequences of teacher question–student response;
- high frequency of teacher nomination moves;
- short lapse of time between failure to respond to nomination and further elicitation move;
- almost total absence of student questions;
- absence of student initiation of new topic;
- high frequency of student avoidance strategies (usually silence, gaze avoidance or apparent note-taking activity).

Although groups consisted of no more than 10 students, the seating arrangements in most of the classrooms we observed created distance between the tutor and students. In nearly all cases, there was some kind of physical barrier, usually a table or a row of chairs, between the tutor and the students. In one large room that we observed the tutor sat behind a desk while the students sat in rows, with several rows of empty chairs between the tutor and the first row of students. It was quite impossible for the students in the back rows to hear what the students in front of them were saying. In only one of the classes we observed was there an attempt to stimulate student-student interaction.

The following teacher elicitation moves were identified and are presented in approximate order of frequency of occurrence.

The tutor asks for:

- legal issue or conclusion from problem facts;
- argument and counter argument;
- case name from given fact(s);
- material facts of a case;
- rule established by a case;

- legal significance of a material fact;
- summary of prior tutorial discussion;
- specific area of law covered in prior discussion.

We attempted to identify and categorise these moves as we felt that eventually we might want to draw students' attention to them on our language course with the ultimate objective of enabling students to recognise some of the more common patterns of tutor discourse. In other words, we felt that if students could be made aware of what the tutor was 'getting at', even if they could not grasp the details or understand the specific language used, this might promote a greater degree of confidence.

One further interesting finding from our observations of tutorials is worth mentioning. Several tutors had suggested that a contributory cause of student reticence was the failure on the part of students to prepare for the tutorials by completing the assigned readings. Moreover, students themselves often admitted to having failed to prepare adequately. However, in two of the tutorials that we observed, students clearly had read, highlighted and annotated substantial stretches of relevant text. However, these texts and the substantial amount of work they had done were not visible to the tutor due to the seating arrangements, which probably accounts for the tutors' impression of a lack of preparation.

## **Addressing the Problem : The English Enhancement for Law Course**

Much of the data described above was collected with a view towards its being used as input to the design of an English Enhancement course for first year LLB students, and in the academic year 1994-1995 the English Centre ran the first cycle of such a course. (Prior to this, the Law Department had itself assumed responsibility for first year language training, recruiting its own English language teachers who designed and taught to their own curriculum.) The course ran a second cycle in the 1995-1996 academic year with substantial modifications made on the basis of evaluation and other data collected from the first course. The third cycle of the course is about to begin.

The first cycle EEL course (40 contact hours over two semesters) was designed according to what Snow and Brinton (1988) have termed an 'adjunct' model, i.e., a course that derives its topical content and teaching/learning approach from all or part of the main academic course. In adopting this model we were aware that we would probably be accused of occasionally usurping the function of law teachers and acting beyond our competence. This is a somewhat problematic area in EAP (English for Academic Purposes) curriculum design. Nevertheless, as will be readily appreciated, any kind of communication has to be about something and it is very difficult to separate that something from the communication of it, particularly in a discipline like law. In the end, we felt we could vary the degree of emphasis we gave to language and content according to our growing experience and sensitivity to the needs of our particular groups of learners and eventually get the balance right.

The law course to which we decided to attach the EEL course was the law of tort. We chose this course for a number of reasons, which we have examined elsewhere (Allison et al., 1994) and therefore will not be addressed here. Perhaps what is more important than the choice of legal subject is that we opted to focus on one area of law rather than many. In our opinion, this had to do with the need for language curricula to provide an authentic context within which skills and strategies could be practised. Given that language is used in the law for the communication of what are often fairly complex meanings in specific contexts, we took the view that we could only help students to communicate (by suggesting appropriate strategies, providing skills practice and

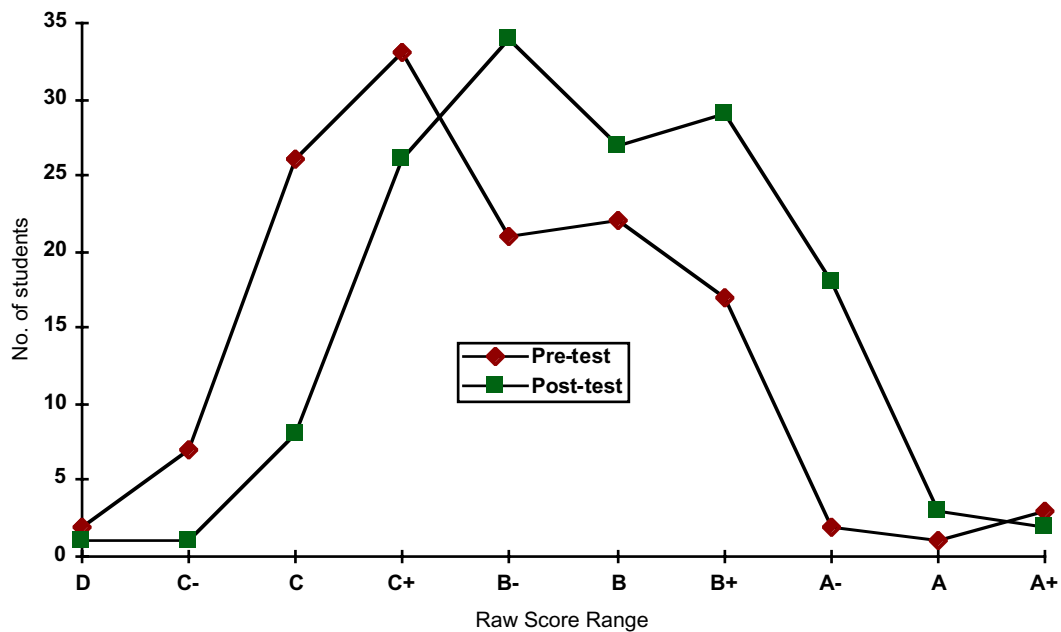
feedback, etc.) if we, as teachers, had at least the same degree of understanding of those contexts as that expected of the students. However, since we are not law teachers and have many other teaching and research responsibilities, it was unfortunately impracticable for us to try to acquire a sufficiently deep understanding of more than one, or possibly two, areas of law.

Turning to the question of the sequencing of course content, we initially organised the EEL course around units that we termed 'projects'. Each of these corresponded in both topic and duration with the problem assigned for a particular law tutorial and was therefore based on more or less the same legal texts that were being dealt with in preparation for that tutorial.

The essential point regarding the theme of this paper is that in our language classrooms the students had many opportunities to engage in discussion of the kinds of challenging legal issues that they were called upon to address in their law tutorials. In most of our classrooms the most frequently adopted formation was a group of three or four students, monitored by the teacher. The teacher would go from group to group, offering feedback on points of language and, occasionally, on points of substantive law. Students were also asked to present cases or topics to the class as a whole. On some occasions feedback was offered in the form of a critique of a discussion that had been videotaped. Students took part in these discussions in a relaxed manner and largely without inhibition. Of course, they frequently got the law wrong and failed to get their ideas across to their classmates. However, their confidence and fluency gradually developed substantially and they were able, by the end of the year, to handle subtle points of law with considerable linguistic precision. However, the environment in which they exercised these skills could hardly have been further removed from the environment of a typical law tutorial because, in effect, there was no tutor.

The first cycle EEL course underwent an evaluation which included pre- and post-course tests of students' discussion skills. For these tests students were formed into groups of five and asked to discuss a legal problem for twenty minutes. During the discussion, each student was rated by two assessors on a rating scale with nine band descriptors. As can be seen from Figure 5, there was an upward shift of approximately one and a half bands across virtually the entire range of oral proficiency. These gains in the fluency, accuracy and appropriacy of the students' spoken language were remarkable, although the extent to which they were attributable to the English enhancement programme remains, of course, unclear.

Figure 5: EEL Pre- and Post-Oral Test Band Distribution



Student reaction to the first cycle EEL course was assessed by two comprehensive questionnaire surveys, one administered half way through the year and another at the end. These indicated that a significant majority of the students felt that the course had been useful and that its aims were appropriate. On the other hand, many felt that the course had overplayed the substantive law — a problem more of attitudes and expectations than of any impediment to language enhancement. A similar set of questionnaires was given to students on the second cycle EEL course. This elicited similar results as far as utility and appropriacy of aims was concerned but a far milder reaction to our treatment of legal content. This was because, in the second cycle, we had substantially reduced the range of our exposure to the tort curriculum, focusing on fewer areas in somewhat greater depth.

On both courses, students were asked an open-ended question about what they had most liked about the course. Around one third of them mentioned that they valued the opportunity to discuss legal issues in a relaxed environment and with a teacher who gave feedback in a positive and encouraging manner. This was a relatively high proportion of students, exceeded only by the proportion of students, about 40%, who said that what they had most liked was the opportunity to practice their writing. However, when asked which of the four macro-skills shown in the table in Figure 6 should receive the most emphasis on the course, 'speaking in tutorials' was ranked last, both at the beginning of the course and, by a much larger margin, at the mid-point. The reason for this may be that by the time the second questionnaire was administered, the more instrumentally motivated students (probably most of them) must have realised that their success or otherwise on the tort law course had very little to do with the extent to which they participated in tutorials. Of the greatest perceived importance was writing which, on the basis of the computed weightings from the mid-year survey, merited twice the emphasis of speaking in tutorials.

Figure 6: 'Which course aims should receive most emphasis.....?'

	Asked at beginning of course		Asked at mid-course	
	Computed weighting	Ranking	Computed weighting	Ranking
Understand texts	257	1	205	3
Summarize texts	229	2	230	2
Speak in tutorials	188	4	144	4
Write	194	3	280	1

Responses to closed questions included in the two surveys from the first cycle course seem broadly consistent with the data examined above. In other words, as Figure 7 below indicates, less than half the students felt that the oral practice they were undertaking on the EEL course was helping them to participate more confidently in tutorials. They clearly valued the way in which discussions were organised in the EEL classes but did not feel an increased willingness to participate in discussions in another environment, namely the tort tutorial.

Figure 7: Cycle 1 responses to questions about oral work in EEL classes

		Mid-course	End of course
		'Agree' or 'Strongly Agree' %	'Agree' or 'Strongly Agree' %
1.	Work in pairs or small groups in class is useful.	88	82
2.	Some of the work we do in the EEL class should help us prepare for the next tort tutorial.	37	30
3.	This course is helping me to participate more confidently in tort tutorials.	48	41
4.	We are encouraged to express our opinions in this class.	91	87

## Law Teachers and Language Teachers — Ships Passing in the Night?

To most people this metaphor might suggest two parties with styles or purposes completely at variance with each other, with each unaware of the other's existence. They are literally going in opposite directions. However, this is clearly not the case with the tort and EEL courses. The law teachers are sadly aware of the reluctance of students to participate in tutorials. We, as language teachers, are equally aware of this reluctance and have taken steps to address the problem. In terms of both parties' awareness of the problem and of our commitment to taking steps to address it, we are at least, to continue the metaphor, 'sailing in the same direction'. Our failure to attain common goals lies in the different conditions under which we have set about trying to attain it. On the one hand, as language teachers, we generally succeed in promoting a learning environment in which there is a powerful motivation to communicate. The strength of the motivation derives

largely from the fact that the other parties in the exchange are fellow learners in a classroom where the atmosphere is comparatively non-threatening. Students are therefore uninhibited by fear of being 'wrong' and thereby losing face. Law teachers, on the other hand, have perhaps unintentionally or because they feel a need to 'cover the curriculum', created an atmosphere that often induces anxiety and a concomitant reluctance to participate.

Given that law teachers and language teachers agree on the ends of tutorial sessions — i.e., the full participation of every student in the discussion of challenging legal issues — what remains is the need for a greater congruence of means. As language teachers who are aware of the negative impact of anxiety on language learning, it would be absurd for us to advocate a shift in our teaching style towards an approximation of what happens in law tutorials in the expectation that rehearsal under such conditions in our classrooms (even if we could replicate tutorial conditions) would transfer positively to the environment of law tutorials. The shift, rather, should be in the opposite direction. If law tutors want greater student participation in their tutorials they should, we suggest, create the conditions in which it will occur. Until they do, the English Enhancement course will need to find its *raison d'être* in aims other than attempting to improve student participation in tutorials.