

**Communities of inquiry pedagogy and consequential transitions in professional education:
An action research project in an undergraduate law course**

Michael Lewis Paul Lower, LL.B., M.Phil., FHEA, Solicitor of the Senior Courts of England and
Wales (non-practising)

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Department of Educational Research,
Lancaster University, UK.

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An action research project in an undergraduate law course**

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Wales (non-practising)

This thesis results entirely from my own work and has not been offered previously for any other
degree or diploma.

The word length conforms to the permitted maximum.

Signature: Michael Lower

ABSTRACT

Research about practitioners' application of the Communities of Inquiry pedagogy ('CoI') in professional disciplines is often unclear about:

- (a) how CoI contributed to the development or better understanding of practice;
- (b) how reflection on practice contributed to the development of the literature on how CoI is enacted in practice; and
- (c) the theory of professional learning adopted.

This thesis reports on a three-cycle action research project in which I enacted CoI across several iterations of my undergraduate teaching practice in legal education. My analysis draws on Beach's concept of learning as a consequential transition to examine how CoI can facilitate students' struggle to establish themselves as lawyers.

Within each research cycle I generated evidence concerning student perceptions of how I supported progress through the inquiry process and the forging of their emerging identity as lawyers. Data were generated from interviews, student survey responses and a teaching journal. Interim analysis of this material at the end of each cycle informed the design in later cycles.

The core findings are that the teacher, research postgraduate students trained to act as facilitators and students need to collaborate to provide the teaching presence needed for the successful enactment of CoI. This collaboration, and the virtues it requires, are inadequately depicted in Garrison's CoI model (Garrison, 2016). Furthermore, I argue that authentic assessments and appropriate 'framing' of student work as a contribution to knowledge play a key role in facilitating students' consequential transitions.

This research contributes to the CoI literature by highlighting the need for teachers to skillfully create a system of inter-locking levels of support for student inquiry as an important element of

teaching presence. It contributes to the consequential transitions literature by emphasising the importance of a rich ecology of relevant social relations and of engaging students in authentic assessments and knowledge production.

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I would like to thank two former colleagues who helped the project during their time as teaching assistants in the Faculty of Law in the Chinese University of Hong Kong. Dr. Esther Erlings carried out the interviews and administered the student surveys in the first cycle of this project. Vivian Chen administered the surveys in the second and third cycles. Vivian also provided a large amount of other logistical support for this project. For example, she recruited the facilitators for the Issues in Property Law elective in the third cycle, acted as a facilitator herself and conducted the interviews with her co-facilitators. She helped set up the *Learning Matters* and *Issues in Property Law* blogs mentioned in this thesis.

I would like to thank my colleagues (past and present), students and former students mentioned in chapter five who agreed to read the initial plans for the first and second cycles and offer comment. I benefitted from Professor Paul Maharg's seminars in the Faculty of Law at the Chinese University of Hong Kong. Professor Maharg led one of the induction sessions for the facilitators on that course.

I gratefully acknowledge the indispensable guidance of my supervisor Dr. Brett Bligh. From beginning to end, he offered comment that was encouraging, appropriate to the stage of development of the project, insightful and demanding.

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Abbreviations

CDG	Courseware Development Grant
CLEAR	Centre for Learning Enhancement and Research
CTE	Course teacher evaluation
CUHK	The Chinese University of Hong Kong
HEREE	Higher Education: Research Evaluation and Enhancement Ph.D. programme at the University of Lancaster
JD	Taught postgraduate law degree
LLB	Undergraduate law degree
LMS	Learning Management System
PBL	Problem-based learning
PCLL	Postgraduate Certificate in Laws
RQ	Research question
SBREC	Survey and Behavioural Research Ethics Committee of CUHK
TDLEG	Teaching Development and Language Enhancement Development grant
UREC	University of Lancaster Research Ethics Committee

Publications derived from work on the doctoral programme

Article

Lower, M. (2019). From student as consumer to student as producer', *HERDSA Connect* 41 (3), p, 27.

Blog posts

Lower, M. (2018). 'Communities of inquiry in undergraduate education: Part 1', *Learning Matters*, 19 July. Available at <https://www.learning.law.cuhk.edu.hk/post/2018/07/19/coi-undergraduate-edu-part-1>. (Accessed: 30 September 2020).

Lower, M. (2018). 'Communities of inquiry in undergraduate education: Part 2', *Learning Matters*, 19 July. Available at <https://www.learning.law.cuhk.edu.hk/post/2018/07/19/coi-undergraduate-edu-part-2>. (Accessed: 30 September 2020).

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Presentations

'Using Blackboard to create a Community of Inquiry', *The Chinese University of Hong Kong, Teaching and Learning Expo*, The Chinese University of Hong Kong, 16 December 2015.

'Blended learning: Using Blackboard to create a Community of Inquiry', *Directions in Legal Education*, The Chinese University of Hong Kong, 3 - 4 June 2016.

'Blended learning: Using Blackboard to create a Community of Inquiry', School of Public Health and Primary Care, The Chinese University of Hong Kong, 13 June 2016.

'Learning in collaborative groups', *Teaching and Learning seminar*, Faculty of Law, the Chinese University of Hong Kong, 28 October 2016

'Student control of the means of knowledge production', *Teaching and Learning Expo*, The Chinese University of Hong Kong, 16 December 2016.

'Forming a community of inquiry in an undergraduate course', *The Association of Law Teachers Conference*, Keele University 17 – 18 March 2018.

'Developing the professional identity of the legal educator', *Directions in Legal Education. Conference*, the Chinese University of Hong Kong, 1 - 2 June 2018.

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Videos

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Lower, M. (2018) *Communities of inquiry (Part 3)*. [Video file] Available at <https://www.learning.law.cuhk.edu.hk/resourcespage> (Accessed 30 September 2020).

Lower, M. (2018) *Introduction to Issues in Property Law*. [Video file] Available at <https://www.learning.law.cuhk.edu.hk/resourcespage> (Accessed 30 September 2020).

Lower, M. and Chen, V. (2020) *Students as producers: Student-led, collaborative, inquiry-based learning*. [Video file] Available at <https://youtu.be/ZoduqzuqOEM> (Accessed 30 September 2020).

1. Introduction

1.1 Introduction

1.1.1 This project

In this thesis, I present a three-cycle action research project in which I sought to enact the communities of inquiry pedagogy in my teaching in the Faculty of Law in the Chinese University of Hong Kong ('CUHK'). Cycle three, the introduction of an elective course (Issues in Property Law), represents a scaling up of the changes made in the first two cycles. The actions taken are described briefly in 1.5.2 and more fully in chapter five. I hoped to align my teaching practice more closely with the educational values introduced in 1.2 and explained more fully in chapter three.

The findings from this thesis are intended to improve knowledge about how to enact the communities of inquiry pedagogy (2.3) in legal education and in higher education generally. They will be of interest to practitioners and practitioner-researchers (a term explained in 1.5 and 4.2.7 below) including, but not limited to, those working in the field of legal education. I believe that educators in other professional disciplines (Education, Medicine or Nursing for example) might find this work of interest. This study seeks to be an example of the theoretically informed, practice-oriented literature that could be developed by practitioner-researchers working in practitioner communities of inquiry. Engaging with, perhaps even contributing to, such research to inform and improve practice is a form of teacher professionalism worth cultivating.

1.1.2 Background

The Faculty of Law in the Chinese University of Hong Kong ('CUHK') is the most recently established of the three Law Schools in Hong Kong. It began life as the School of Law in 2004 and offered its first programmes (the undergraduate LLB and postgraduate JD degrees) in 2006 – 07.

The School of Law became the Faculty of Law in 2008. The LLB and JD degrees are academic programmes and the first stage in the process of qualification as a solicitor or barrister. The second stage, in Hong Kong, is the Postgraduate Certificate in Laws ('PCLL'); the Faculty offered the PCLL for the first time in 2008 – 09. The third stage is pupillage (for intending barristers) or a training contract (for intending solicitors).

After several years in private practice as a solicitor specializing in Property Law, I became a Senior Lecturer in the School of Law, Social Work and Social Policy at Liverpool John Moores University. I taught on the English equivalent of the PCLL, the Legal Practice Course ('LPC'), there, as well as on the LLB programme. I was, for part of the time, a member of the School's Management Team with responsibility for Teaching and Learning. In 2001 I became a lecturer in the School of Law at the University of Manchester teaching on undergraduate and postgraduate Law programmes. I stayed there until my move to Hong Kong in 2007. I joined the then School of Law as an Associate Professor in July 2007. In the Faculty, I teach Land Law on the LLB and JD programmes as well as the Issues in Property Law elective introduced in the third cycle of this project. I have held a range of administrative positions within the Faculty. Most recently, from August 2107 to August 2019, I was Associate Dean (Teaching and Learning).

1.1.3 The practice problem

Legal Education and Training in Hong Kong: Preliminary Review) ('the Redmond Roper report') (Redmond and Roper, 2001) is a report prepared for the Steering Committee on the Review of Legal Education and Training in Hong Kong. The authors explain that legal education in Hong Kong places heavy emphasis on the idea of teaching as the conveyance of information by a knowledgeable teacher to uninformed students. It is 'primarily a one-way process of conveying a maximum of information and ideas in a minimum of time' (Redmond and Roper, 2001: 159). The Redmond Roper report recommended that 'the role of teachers in their class groups be not so much as providers of information but as stimulators, facilitators and modellers of analytical, critical, creative and deep thinking' (Redmond and Roper, 2001: 167). The problem is how legal educators are to make the change called for by the Redmond Roper report.

Before I began working on this thesis, my teaching practice mainly emphasized my role in packaging knowledge about Land Law, transmitting it to students in lectures (in groups of around 60 to 70 students) and checking that they had adequately received the information transmitted through discussion of hypothetical problem questions in tutorials (20 or so students) and written responses to similar questions in the final examination. The ideas and readings I encountered in the early stages of the University of Lancaster's Higher Education: Research Evaluation and Enhancement ('HEREE') PhD programme led me to see things differently. I became familiar with the communities of inquiry pedagogy (2.3). This led me to reflect on and develop my own educational values (1.2 and chapter 2) and to think about ways of enacting them.

1.1.4 The structure of this chapter

- 1.2 introduces the educational values with which I seek to align my practice;
- 1.3 outlines the policy setting
- 1.4 is a brief account of the practice context;
- 1.5 introduces the action research methodology.
- 1.6 lists the research questions; and
- 1.7 describes the structure of this thesis.

1.2 My educational values

1.2.1 The structure of the account of my educational values

The account of my educational values is structured thus:

1. At the most abstract, philosophical, level, is a set of understandings of the nature of the university, the disciplines (and I refer to disciplines such as Law as ‘disciplinary communities of inquiry’), higher education and of knowledge (1.2.3 and 2.2);
2. Then comes a set of educational approaches or perspectives which I believe are useful as ways of designing teaching practices that are aligned with the philosophical understandings just mentioned:
 - a. The communities of inquiry pedagogy: higher education inducts students into disciplinary communities of inquiry and so it makes sense for students to learn in a classroom community of inquiry that simulates the ways of working of members of the disciplinary community (1.2.4 and 2.3);
 - b. Beach’s concept of the consequential transition (Beach, 1999 and 2003): it follows from a. that one of the goals of higher education is to facilitate the efforts of

students to make the consequential transition involved in becoming members of the disciplinary community of inquiry (1.2.5 and 2.4); and

- c. Perspectives on assessment and feedforward and feedback processes that promote the goals of the classroom community of inquiry and so facilitate the students' consequential transitions (1.2.6 and 2.5).

I do not claim that these values exhaust the possibilities open to universities nor to higher education in general or legal education. I claim, however, that they are rationally defensible. They reflect a large part of what many people believe to be central goals of universities and higher education, the intellectual and professional development of students taking place through induction into a discipline.

1.2.2 How I came to engage with the theoretical literature underpinning this project and how that literature shaped the project

Some argue that the action researcher's engagement with the literature should only take place after initial data collection and analysis have cast light on the aspect of practice to be improved (McAteer, 2013: 89). In my project, however, engaging with theory came earlier. It refined my understanding of a set of educational values and associated practices that could be used to evaluate my practice and improve it.

I joined the HEREE programme in the Department of Educational Research at the University of Lancaster in October 2013. This is an entirely online PhD programme for higher education professionals. The goal of the HEREE programme is to equip students to enhance practices within their institutions. The programme has a two-year taught component ('Part One') undertaken before the student starts work on their thesis.

The pieces that I submitted for assignments in Part One clearly mark the beginning of my engagement with the theoretical literature deployed in this thesis:

- ‘Higher education and blended learning’ reflected on blended learning from the perspective of the fundamental aims of higher education as they are expressed in Barnett’s *Idea of Higher Education* (1990). It is in this piece that I developed a concern with the characteristics of learning environments favourable to the developmental processes identified by Barnett as characteristic of higher education. I reviewed the communities of inquiry literature that I found for the period 2011 - 2015, sixteen peer reviewed articles in all. These ideas are clearly at the heart of this project.
- ‘Researching blended learning’, looked at whether the learning environment in my Land Law course could be re-designed to bring it into line with social constructivist approaches to teaching and learning. I asked whether requiring students to contribute to a discussion forum, allied with the communities of inquiry pedagogy, could help achieve this goal. I thought that the discussion forum in Blackboard (the Learning Management System used in the Faculty) might enable collaborative, critical discourse.

1.2.3 The ideas of the university and of higher education

The university is a space for careful, structured and collaborative inquiry (Barnett, 2013; Collini 2012 and 2017). Higher education is an induction into the scholarly and knowledge-producing processes of the university and, more particularly, the discipline (Barnett, 1991 and Collini, 2017). Knowledge is the consensus of experts in the disciplinary community of inquiry (Kuhn, 2012 and Polanyi, 1964). The discipline, Law in my case, is a community of inquiry and higher education is an induction into that community.

In this thesis, I will talk of a ‘disciplinary community of inquiry’ which I take to mean the same thing as a discipline. I will also talk of a ‘classroom community of inquiry’ by which I mean a teaching and learning environment that enacts the communities of inquiry pedagogy. The communities of inquiry pedagogy is introduced in 1.2.4 and explained more fully in chapter two.

1.2.4 The communities of inquiry pedagogy

The communities of inquiry pedagogy (2.3) is a pedagogical approach which consciously seeks to engage students in the type of inquiry undertaken in the disciplinary community of inquiry, using the sources and methods that are used in the discipline. It aligns the student’s learning experience with the work of careful, collaborative, structured inquiry that takes place in the discipline. This thesis looks at several attempts, presented as three action research cycles, to organize teaching and learning in accordance with this pedagogy.

1.2.5 Consequential transitions

Students learn how to reason in higher education by being inducted into a discipline. A desire to be inducted into a discipline, to become a lawyer for example, is central to higher education and is often what motivates students. I draw on Beach’s socio-cultural view of learning as involving a consequential transition, a developmental change in the relationship between the individual and one or more social activities (Beach, 1999 and 2003). The discipline constitutes the relevant social activity in my account. The communities of inquiry pedagogy can develop the student’s capacity for collaborative, critical reflection and so the identity of the student as a member of the disciplinary community of inquiry. In this research I considered whether the students thought that participation in the learning environments described in this thesis had any impact on their identity in the sense that they became more likely to see themselves as lawyers (either legal researchers or emerging legal

practitioners). Coming to see oneself as a member of a disciplinary community of inquiry matters because it entails a commitment to the norms, values, concerns, methods and resources of that community. It also suggests some level of belief that one has what it takes to think and act as a member of the disciplinary community of inquiry thinks and acts.

1.2.6 Assessment, feed-forward and feed-back

Assessment is central to the design of the classroom community of inquiry (Garrison, 2011:100) and to learning environments that facilitate ‘identity craftwork as part of knowledge construction’ (Beach, 2010: 43). Assessment and feedback are a way of mentoring newcomers to the discipline (Gee, 2010). Assessment, feed-forward and feedback engage students in the knowledge production work of the university. They socialize students into disciplinary norms, epistemic resources and practices and cultivate students’ ability to make critical, creative use of them. The aim is to have students learn the norms of disciplinary inquiry by engaging in it. One of the essential roles of the teacher is to provide feed-forward and feed-back that will help students to come to an understanding of the qualities of what is regarded in the discipline as good work. This means that the teacher needs to find ways of communicating explicit and tacit community knowledge about the criteria used to identify good work (O’Donovan et al, 2004).

1.2.7 Pulling the strands together

Universities are spaces for careful, structured and collaborative inquiry, whatever other purposes they may have. Higher education is a process that develops the capacity of the student for critical and creative thought through a process of induction into a discipline (conceived of as a disciplinary community of inquiry). Disciplines are communities of inquiry with their own characteristic concerns, norms, values, methods and epistemic resources. Students are drawn into the disciplinary

community of inquiry through participation in a classroom community of inquiry; this is a teaching and learning environment which inducts students into those same concerns, norms, values, methods and epistemic resources. This induction can be described as a consequential transition. Assessment, feed-forward and feedback practices have a vital role to play in making sure that working in the classroom community of inquiry facilitates this consequential transition.

1.3 The policy setting

This section considers the teaching and learning policies, and associated institutional features, of CUHK. It then locates the project within the policy context of legal education, in particular legal education in Hong Kong.

1.3.1 University context

CUHK is a research-intensive university in Hong Kong established in 1963. The main campus is near Shatin in Hong Kong's New Territories. The CUHK Strategic Plan 2016 – 20 (the Chinese University of Hong Kong, 2016) explains that one of the university's strategies is to '[e]nhance critical thinking and self-learning skills, using eLearning and innovative pedagogies, to nurture students as lifelong learners and global leaders.'

CUHK's Centre for Learning Enhancement and Research ('CLEAR') is responsible for academic development in CUHK. CLEAR organizes a Teaching and Learning Expo each December to disseminate teaching and learning innovations. CLEAR also administers CUHK's system of Teaching and Language Enhancement Development grants ('TDLEG') and Courseware Development Grants ('CDG'). The TDLEG and CDG, together with the annual Teaching and

Learning Expo, are at the heart of CUHK's strategy to foster teaching and learning innovation and the dissemination of innovative practices. I was able to secure funds for aspects of this project under both the TDLEG and CDG schemes and to present aspects of this project each year at the Teaching and Learning Expo. I was able to contribute to reflection on practice across the University as a whole.

1.3.2 Legal education and the legal professions

The Redmond Roper report is a highly significant document in that its proposals led to reforms which shaped the current structure of legal education in Hong Kong. It ushered in the transition from Law as a three-year programme to a four-year undergraduate degree. The Redmond Roper report explains the three stages of education and training leading to qualification as a solicitor or barrister in Hong Kong:

1. a first law degree (in 2001 this was an undergraduate degree but equivalent postgraduate degrees are now offered in Hong Kong's Law Schools);
2. the PCLL which is the professional stage of education; and
3. a two-year training contract (for solicitors) or a one-year pupillage (for barristers).

Law is a vocational or professional subject and an academic discipline or liberal art (Hepple, 1996; Pue, 2008: 275; Cownie, 2008: 303). The authors of the Redmond Roper report did not perceive any necessary conflict between the academic and professional goals of legal education (the Redmond Roper report: [7.3.1]). As we saw in 1.1.3, the Redmond Roper report called for a change in the culture and practice of legal education; it sought a move towards student-centred approaches fostering 'analytical, critical, creative and deep thinking' (Redmond and Roper, 2001: 167).

1.4 The practice context

This thesis reports on my own experience of teaching an undergraduate law course, Land Law I, in the academic years 2015 -16 to 2018 – 19 and a newly-created Issues in Property Law elective in term two of 2018 – 19. Issues in Property Law represents cycle three of this project and is introduced in the next section. Land Law I is studied in the third year of the LLB in the Faculty. Most of the students who begin the LLB do so with the intention of proceeding on to the PCLL either at CUHK or (in a small minority of cases) at one of the other two Hong Kong law schools. Students need to complete the PCLL and either a pupillage (for barristers) or a training contract (for solicitors) before they become members of either of the two branches of the legal profession. Qualifying is the goal for nearly all law students but not all will achieve this goal since there are not enough PCLL places for all of Hong Kong's law graduates when combined with those who have studied law overseas (in the UK for example) and return to Hong Kong. So there is a highly competitive culture among law students and a strong focus on achieving the Grade Point Average needed to gain a PCLL place. Until 2017 – 18, exam performances were, norm referenced and a strict grade curve applied. Criterion referencing was introduced in 2017 – 18. The emphasis on individual competition, created or strengthened by norm referencing and the struggle to get a PCLL place, have an undoubted impact on students' willingness to collaborate with each other. Land Law I students are taught over thirteen weeks from the beginning of September to the end of November. Each week includes a lecture of one hour forty-five minutes and a forty-five-minute tutorial. The tutorials groups are of between eighteen and twenty-four students. The tutorial is one week later than the lecture corresponding to it and requires the students to prepare answers to a set of problem questions. The intention is that they should be ready to participate in a class discussion of the problems and that the tutorials should be interactive and student-led.

In the period covered by this project, an unseen written examination counted for 70% of the marks for Land Law I. The work to be done for the other 30% of the marks is described below since the changes studied in this thesis relate to this work. The course is supported by the Blackboard learning management system ('LMS'). The use to which Blackboard is put is left to the discretion of the course leader. I created a separate section of the Blackboard site for the subject to be tackled each week. These sections served as repositories for an ebook, powerpoint slides, podcasts and tutorial sheets.

I explained in 1.1 that I wanted to move my teaching and learning practice away from an information transmission approach and towards one that would engage students as active learners in a classroom community of inquiry that would induct students into Law as a disciplinary community of inquiry. I wanted to align my teaching and learning practices with the processes of higher education outlined in 1.2.3 and the next chapter. This was a significant change in the practice context of the Land Law I course as I had designed and implemented it in previous years.

1.5 Action research methodology

This is an action research project aiming to improve my *praxis* through a search for specific learning designs and practices that align my practice with the educational values. Chapter four provides an account of the action research methodology, the research design and the methods used to gather evidence. This project belongs to the tradition of classroom action research (4.7) and in this thesis I will take 'practitioner research' to be synonymous with classroom action research; the distinguishing feature of this type of action research is that the researcher is an insider in relation to the research context, researching their own educational practice. 'Educational research', I take to be all research

(including practitioner research) seeking to improve educational policy or practice (Foreman-Peck and Winch, 2010: 8).

1.5.1 Action research

Lewin (1946) is often identified as the source of the idea of action research in which each cycle of planning, execution and evaluation informs the next (Adelman, 1993). I drew on the ideas of a wide range of educational action researchers in this line including: Baumfield, (2016); Baumfield et al (2013); Carr (2006 and 2007); Carr and Kemmis (1986); Elliott (1987; 1991; 1994; 2009; 2015); Foreman-Peck and Winch (2010); Kemmis (1985, 2006 and 2009); Kemmis, McTaggart and Nixon (2014); McAteer (2013); Noffke (1994 and 2009); Stenhouse (1975); and Whitehead and McNiff (2006).

This action research project seeks to improve my own teaching *praxis* and I explain the lessons that I have learned from this project and their implications for my own *praxis*. Projects such as this, however, do contribute to the development of knowledge at the broader levels of the Faculty, the University, and beyond. In 1.1.1, I set out my belief that classroom action research can contribute to the development of theoretically informed, practice-oriented research within practitioner-researcher communities of inquiry. I comment further on this in chapters four, six and seven.

Presenting action research findings to other members of the communities of inquiry to which one belongs are an important way of receiving constructive criticism but also of contributing to the development of a professional knowledge base and thus to the formation of the professional, academic identity of the practitioner-researcher.

1.5.2 A brief outline of this action research project

This thesis describes and reflects on a three-cycle action research project that took place between the academic years 2015 – 16 to 2018 – 19 (inclusive). The project aimed to create a learning environment that would induct students into a disciplinary community of inquiry (Law) by asking the students to carry out individual and collaborative research projects. I gathered data in relation to each course to understand student perceptions of the experience of the learning design.

This project had three cycles as shown in table 1.1.

Table 1.1 Action research cycles

Cycles of this project (practices introduced)
<p>CYCLE ONE (2015 – 16)</p> <p>Land Law I students produced:</p> <ul style="list-style-type: none">• A discussion forum contribution of at least 250 words (5% of the mark for the course and graded on a pass / fail basis); and• An essay or case note (1250 words or less) (25% of the mark for the course).
<p>CYCLE TWO (2016 – 17 to 2018 – 19 inclusive)</p> <p>Land Law I students produced:</p> <ul style="list-style-type: none">• (a) a written piece of 500 – 550 words; or (b) a 3 – 5 minute podcast or video; or (c) a short (3 – 5 minute) recording of an interview with an academic or legal practitioner (‘the class participation project’) (10% of the mark for the course and graded on a pass / fail basis); and• An essay or case note (1250 - 1500 words) (30% of the mark for the course).

CYCLE THREE (Term 2, 2018 – 19)

The Issues in Property Law elective.

Students produced:

- a conference presentation (delivered at a conference in week 8 for all participants in the course) (15% of the mark for the course);
- a 1250 word blog post (25% of the mark for the course); and
- an individual research coursework (60% of the mark for the course).

Students worked in groups of 3 – 5 on the conference presentation and blog post (which were about the same project). Each group was supported by a research postgraduate student who acted as a facilitator. The students worked individually on the research coursework which could draw on work that they had done for the presentation and blog post.

The students were required to frame their own research questions. The only requirement was that it should fall within the general field of property law (conceived very broadly).

1.6 Research questions

The fundamental question is whether the actions taken were effective in aligning my practice with my educational values (explained in chapter two). The more specific research questions listed below help to answer this more fundamental question. I will use the abbreviation ('RQ') to refer to any of these questions or sub-questions.

The research questions are:

RQ1 How did students perceive that teaching presence was manifested in the learning activities described in table 1.1?

RQ2 To what extent did the students experience participation in the learning activities described in table 1.1 as a form of consequential transition?

RQ2.1 To what extent did participation in the learning activities lead students to identify themselves as participants in the disciplinary community of inquiry (ie as researchers)?

RQ2.2 To what extent did participation in the learning activities lead students to identify themselves as emerging legal practitioners?

RQ1 refers to 'teaching presence'. This is a construct used in the communities of inquiry pedagogy explained in 2.3 below. The practical inquiry model is a model of the stages of collaborative, critical discourse used in the communities of inquiry pedagogy (2.3.3). There are four stages:

1. 'Triggering event';
2. 'Exploration';
3. 'Integration'; and
4. 'Resolution'.

I used the first three stages of the practical inquiry model to inform the design of the interview and survey questions. The fourth, resolution, phase involves student submission of their work. I explain the process of submission in each cycle of this project in 5.2.3, 5.3.3 and 5.4.3. I did not gather data about student perceptions of the process of submission since this is largely a mechanical process. I did, however, gather data about student perceptions as to the usefulness for learning of the feedback that they received after submission. The first three stages of the practical inquiry model also

provided the categories used for the interpretation, presentation and analysis of the data gathered. I draw on an analysis of this data to construct an answer to RQ1. I also draw on an analysis of data gathered about student perceptions of the effectiveness of feedback to help me answer RQ1.

Theoretical perspectives on assessment and feedback are presented in 2.5.

The ‘exploration’ stage is where the students search for ideas and relevant epistemic resources to help them to carry out their inquiry and answer the problem that they have set for themselves. I envisage this stage as having three components: searching for information and ideas; students volunteering their own ideas; and students pursuing their own ideas. This understanding of the exploration stage is reflected in the way that I set about the tasks of data gathering, presentation and analysis. Accordingly, when I present the data gathered concerning RQ1 in 5.2.5 and 5.3.5, I will do so under the following headings:

- The triggering event:
- Exploration 1 (searching for information and ideas);
- Exploration 2 (students volunteering their own ideas);
- Exploration 3 (students pursuing their own ideas);
- Integration;
- Feedback.

These headings are deployed again in 5.5 when I analyse the data relevant to RQ1. This leads to my proposed answer to RQ1 in 5.6.

RQ2 and its sub-questions draw on the idea of learning as a consequential transition (2.4 below).

Did students perceive that participation in the learning activities in table 1.1 facilitated a consequential transition (an enhanced sense of themselves as emerging legal researchers or practitioners)? Again, I sought evidence of student perceptions as to whether the learning activities

described in table 1.1 facilitated either of the consequential transitions specified in RQ2.1 and RQ2.2. The data concerning RQ2 and its sub-questions are analysed in 5.7 and I answer RQ2 in 5.8.

1.7 The structure of this thesis

Chapter two is an account of the theoretical perspectives that underpin this project and from which I derive the educational values that I aim to enact in my teaching practice. These are rooted in ideas of the university and of higher education. I explain:

- the essential features of the communities of inquiry pedagogy and the theoretical principles that underlie it;
- Beach's socio-cultural theory that sees learning in terms of consequential transitions; and
- a view of assessment and feedback processes congruent with the communities of inquiry pedagogy and the idea that learning is about consequential transitions.

Chapter three is the literature review. This provides a bridge between the account of my educational values in chapter two and the specifics of teaching and learning practice. I review practice-oriented literature that is informed either: (a) by the communities of inquiry pedagogy, the consequential transitions approach and the perspectives on assessment and feedback in chapter two; or (b) by similar theoretical perspectives. I explain how this literature informed specific practices introduced during this project. In chapter seven, I will reflect on how the findings of this project contribute to the literatures reviewed in chapter three.

Chapter four explains and discusses the action research methodology, the research design and the data-gathering methods used in this thesis. I consider the issues, including the ethical issues, that arise from the fact that I am an insider, an active participant in the research setting. I explore the

nature of the knowledge that is generated by this action research project and the idea of the validation of this knowledge through the critical discourse of practitioner-researcher communities of inquiry. Action research contributes to the personal knowledge of the researcher and the collective knowledge of the communities of inquiry to which the researcher belongs. Action research has an important part to play in the development of the professional identity of the teacher and is the basis of satisfying forms of academic development. I return to the linkage between action research validated in practitioner-researcher communities of inquiry and the professional development and identity of the teacher when I reflect on the policy implications of this project in chapter eight.

Chapter five is the data presentation and analysis chapter. It begins with a history of the three cycles of the action research project and includes a presentation of the data gathered in the reconnaissance and monitoring phases of each action research cycle. I then interpret and analyse the data gathered and present the findings. I answer RQ1 in 5.6 and RQ2 in 5.8.

Chapter six is the discussion chapter. Here I reflect on how this project and its findings are a contribution to the literatures reviewed in chapter three. I also reflect on the conditions to be satisfied for a theoretically informed practice-oriented communities of inquiry literature to emerge as a theme in the broader legal education literature.

Chapter seven is the conclusion. I reflect on my findings in chapter five and set out my claims to have contributed to the theoretically informed and practice-oriented literature in chapter three. I reflect on the quality of this research with particular emphasis on its validity, on its limitations and the strengths and challenges (including ethical issues) arising from the fact that it is insider research. I close with some comments about the practice and policy implications of this research that look ahead to how the ideas and practices discussed in this thesis might be further developed. I point to specific ways in which I have already tried to give practical effect to some of these implications.

2. Theory and educational values

2.1 Introduction

2.1.1 The theoretical framework (account of my educational values) and its place in this action research project

I have chosen, unusually, to place this theoretical chapter before the literature review. This accords better with the structure of an action research project in which the researcher seeks clarity about the educational values underpinning *praxis* before beginning the search for ways of putting those values into practice. I begin this chapter by setting out my understanding as to the nature of the university, disciplines (such as Law), higher education and of knowledge, accepting that there is undoubtedly a range of ideas of the university.

I then outline the theories about how teaching and learning can, in my view, best be conceptualized given the high-level theoretical understandings just referred to:

- the communities of inquiry pedagogy.

Reflection on higher education as a goal suggests that it would be valuable to embrace the communities of inquiry pedagogy. The pedagogy emphasises collaborative, critical, structured inquiry and the development of the individual's capacity to engage in it.

Disciplines can be conceived of as communities of inquiry.

- Beach's concept of learning as a 'consequential transition'.

This brings out the idea that learning is about the developmental coupling between the learner and a new socio-cultural setting, it means learning how to 'get on' in that setting. I argue that learning in higher education is about how the student forges a new relationship with the discipline (Law in my study), coming to make its resources, values and ways of

speaking, thinking and working his or her own. This socio-cultural dimension is arguably implicit in the use of the communities of inquiry pedagogy in higher education. It is useful to bring it to the surface. Higher education is, at least at first, an induction to reasoning as it takes place in a specific discipline.

- Assessment, feed-forward and feed-back

These related practices are, as a practical matter, at the heart of student learning and there is literature about them within each of the communities of inquiry and consequential transition frameworks. It is sensible to draw attention to the role of these processes in the theories just described.

Throughout this thesis, I refer to my *educational values*. By this term, I mean the understandings of the nature of the university, higher education, the discipline and of knowledge and the theories of learning that I believe to be aligned with them (the communities of inquiry pedagogy, learning as a consequential transition and associated assessment, feed-forward and feedback practices).

I engaged with the literature concerning theoretical frameworks discussed in this chapter throughout this project, from its earliest stages. By the time the final versions of this account were written, I had the benefit of having completed the three cycles of the action research project. Thus, the initial engagement with the literatures preceded any of the changes to my teaching and learning practice discussed here and inspired the design of these changes. At the time of writing, however, I was able to speak retrospectively in this chapter of how this theoretical framework inspired the designs in the three cycles of this project. I explain this now so that the reader will not be surprised when, in 2.3 for example, the account of the theoretical framework is able to hint at the later actions to which it gave rise.

2.1.2 Roadmap for this chapter

2.2 considers theoretical literature about ideas of the university, higher education and knowledge as it emerges from disciplinary communities of inquiry. 2.3 gives a critical account of the central features of the communities of inquiry pedagogy. 2.4 explains the concept of the consequential transition and why I think it complements the communities of inquiry pedagogy. 2.5 looks at theoretical approaches to assessment and feedback consistent with the conceptions of learning in 2.3 and 2.4.

2.2 Ideas of the university, higher education and knowledge

2.2.1 Ideas of the university

Barnett (2016) points out that there is now no single idea of a university but rather a range of candidates for the idea of a university (the scientific university, the entrepreneurial university, the bureaucratic university). Any given university has traits of each (including those of the older metaphysical university) (Barnett, 2011). The dominant idea of the university is now entrepreneurial and administrative wedded to a scientific model of rationality (Barnett, 2013).

Nevertheless, the contention that the university is home to disciplinary communities of inquiry characterized by systematic efforts to promote structured, critical thought and the pursuit of new knowledge is, surely, uncontroversial. Collini (2012 and 2017) portrays the university as a space in which careful, structured and collaborative inquiry take place and that equips students to participate in that inquiry. Boyer (2015) sees commitment to inquiry as the characteristic feature of the university. Barnett identifies values that have historically been central to the idea of the university and that are likely to remain so: ‘reason, respect for diligent inquiry, truthfulness, impartiality, structured conversation and criticality’ (Barnett, 2013: 66). The contemporary university has

departed from these values; the principle of economic impact has supplanted the principle of reason as its constitutive force (Barnett, 2013; 83). The communities of inquiry pedagogy, explained in 2.3 below, takes seriously the idea that the university is above all a space for collaborative, critical inquiry and discourse that, at least to begin with, is located within a discipline.

Barnett describes the ‘deep structures’ of the university:

‘The market, state regulation, the ever-complexity of bureaucratic structures, the onward march of parochialism, a more dirigiste managerialism, a climate both of “performativity” and surveillance leading to an undue busy-ness, and the excessive rigidity of structures: all these forces are so powerful that utopian visions have a kind of Canute quality.’ (Barnett, 2013: 116).

These structures exercise a ‘powerful and malign influence’ (Barnett, 2013: 116); they are potentially a barrier in the way of aligning practice with the educational values described in this chapter. In 5.2.2, I identify ‘critical factors’ such as the physical conditions in which teaching and learning take place, rigid administrative practices and a student focus on individual achievement. Barnett points out the space for individual agency; academics ‘play out their academic lives as a continuing set of negotiations with their values and their own ideas of the university’ (Barnett, 2016: 120). Educational action research projects like this can be a contribution to a fruitful re-imagining of the university.

2.2.2 Higher education

Talk of ‘higher education’ ‘indicates that special processes are taking place, bringing about in the individual student a special level of personal development’ (Barnett, 1990: 6). ‘Higher education’ refers to a process that involves both the intellectual development of the student (learning how to work with the tools of a discipline and cultivating a capacity for collaborative, critical discourse) and

the assumption of a new identity as the member of a discipline (a community of inquiry such as Law). This understanding as to the purpose of higher education has pedagogical implications. The communities of inquiry pedagogy allied with the idea of learning as a consequential transition offer approaches to teaching and learning that are well-aligned with this understanding of higher education.

Barnett indicates the inner transformation that higher education is directed towards:

‘Higher educational processes promote:

1. A deep understanding, by the student, of some knowledge claims;
2. A radical critique her by the same student, of those knowledge claims;
3. A developing competence to conduct that critique in the company of others;
4. The student’s involvement in determining the shape and direction of that critique (ie some form of independent inquiry);
5. The student’s self reflection, with the student developing the capacity critically to evaluate his or her own achievements, knowledge claims and performance;
6. The opportunity for the student to engage in that inquiry in a process of open dialogue and cooperation (freed from unnecessary direction)’ (Barnett, 1990: 203).

Higher education establishes a new, lasting and dynamic relationship between the student and the way in which the student thinks of knowledge and their own capacity to draw on and contribute to a body of knowledge.

Collini argues that undergraduate education ‘involves exposing students for a while to the experience of enquiry into something in particular, but enquiry which, in itself, has no external goal other than improving the understanding of that subject matter’ (Collini, 2017: 234). MacIntyre argues that education has two aims. First, students learn ‘how to play their intended part in different kinds of complex activity by developing their skills’ (MacIntyre and Dunne, 2002: 2). Second, education

prepares students for professional life. It also, however, promotes critical reflection: ‘Where can I find work to do that is both for my good and for the common good?’ (MacIntyre and Dunne, 2002: 2). Professionally-oriented higher education has intellectual and vocational elements (Colby and Sullivan, 2008: 409). There is no reason why legal education should not simultaneously prepare students for their future careers whilst also developing the student’s ability to engage in critical and collaborative discourse. A failure to achieve this synthesis could easily lead to a debased ‘trade school’ approach to legal education.

2.2.3 Knowledge and disciplinary communities of inquiry

Knowledge is created and validated by people working in disciplinary communities of inquiry (or disciplines). Kuhn (2012) and Polanyi (1964: 6, 2013: 60) stress that scientific knowledge is the consensus from time to time of the scientific community. Scardamalia and Bereiter claim that ‘[c]reative knowledge work may be defined as work that advances the state of knowledge within some community of practice’ (Scardamalia and Bereiter, 2006: 98). Students are inducted into disciplinary communities of inquiry through pedagogical practices that create classroom communities of inquiry. Students, ‘are not simply initiated into forms of thought, but are encouraged actively to engage with them’ (Barnett, 1990: 110).

2.2.4 Summary of this section

Higher education aim equips students to understand and engage in the collaborative, critical discourse of the disciplinary community of inquiry; they come to see themselves as members of that community and to look at the world through the lens provided by their discipline. Students come to appreciate that ‘knowledge’ is not a set of cut-and-dried facts to be learned but is the consensus of the disciplinary community of inquiry from time to time. The communities of inquiry pedagogy combined with aligned

approaches to assessment, feed-forward and feed-back facilitate the student's consequential transition to membership of the disciplinary community of inquiry. The processes of higher education identified by Barnett (1991) are unleashed.

2.3 The communities of inquiry pedagogy

2.3.1 The communities of inquiry pedagogy: from information transmission to self-directed inquiry.

Lipman argues for a reflective paradigm of practice in which 'students are considered to be thinking if they participate in a Community of Inquiry' (Lipman, 2003: 19). He traces this paradigm back to the work of Dewey (Lipman, 2003: 32 – 49). There is an 'inquiry paradigm' for educational practice in which:

'students are asked to accept in a tentative, provisional way the methodology of inquiry. This is the procedure that has been adopted by the inquiry community of which they are members' (Lipman, 2003: 46)

I will draw on the account of the communities of inquiry pedagogy as it is described in the work of Garrison et al (2000) and the theoretical literature that has emerged from it. Garrison's account has emerged as one of the dominant approaches for discussing the communities of inquiry pedagogy. In this section, references to a 'community of inquiry' are to the classroom community of inquiry, the teaching and learning environment designed and implemented with the communities of inquiry pedagogy in mind. In this thesis I will refer to this classroom community of inquiry and to the disciplinary community of inquiry (or discipline).

2.3.2 What is a community of inquiry?

A community of inquiry has been described as, ‘any group that makes it its collective task to construct new meaning in a field of knowledge through collaborative, dialogical deliberation’ (Kennedy and Kennedy, 2013: 13). It is ‘a group of individuals who collectively engage in purposeful critical discourse and reflection to construct personal meaning and confirm mutual understanding’ (Garrison, 2011: 2). Garrison explains that an educational experience must be devoted to purposeful learning that develops personal meaning while confirming shared understanding and public knowledge (Garrison, 2013: 1 and Garrison, 2011: 2).

The community of inquiry pedagogy is consistent with a Vygotskian constructivist approach: students are inducted into a domain but then begin to construct their own knowledge. Students become responsive ‘to a new inferential structure by modifying their use of concepts’ (Derry, 2013: 143). They begin to ‘inhabit the space in which reasons and concepts operate’ (Derry, 2013: 144). Peers and the teacher facilitate individual and group meaning-making (Palincsar, 1998). The participants in a community of inquiry build on each other’s ideas so that the work of the community becomes a form of distributed thinking (Kennedy and Kennedy, 2013: 14).

Garrison et al’s account of the communities of inquiry has the following central components:

- the practical inquiry model:
- cognitive presence;
- metacognition;
- teaching presence; and
- social presence.

Each is explained in the following sub-sections.

2.3.3 The practical inquiry model

Participation in a community of inquiry involves a common commitment to ‘the collection of rational procedures through which individuals can identify where they have gone wrong in their thinking’ (Lipman, 2003: 163) and to reasonableness, ‘rationality tempered by judgment’ (Lipman, 2003: 111). Garrison et al (2000) and Garrison (2011) developed a four stage ‘practical inquiry model’ of the process of critical inquiry in a community of inquiry:

1. A ‘triggering event’ (students choose, or are presented with, a research question that evokes a sense of puzzlement, that there is something troubling but interesting, that requires and merits investigation);
2. ‘Exploration’ (a divergent phase in which students decide on the issues raised by the triggering event, identify relevant resources such as legal judgments and journal articles; if students are working in groups this phase involves the students in discussion and information sharing);
3. ‘Integration’ (a convergent phase where students synthesise the ideas that they have discovered or generated and propose solutions); and
4. ‘Resolution’ (students submit their work to the teacher for evaluation, make it available to peers through blog or discussion forum postings or conference presentations and, perhaps, to a wider audience through public blog postings or publication in journals; this is real-world testing and defence of the solutions proposed).

The teacher, as designer and facilitator of the community of inquiry, is responsible for meeting the twin challenges of moving community discourse through these phases and making the process transparent to the participants (Garrison, 2011: 53). My answer to RQ1 (5.6) draws on my analysis of

data gathered concerning student perceptions as to how the teaching in the three cycles of this project helped students to progress through the stages of the practical inquiry model.

2.3.4 Critical thinking: cognitive presence

Garrison et al make use of the concept of ‘cognitive presence’ which is, ‘the extent to which the participants in any particular configuration of a community of inquiry are able to construct meaning through sustained communication’ (Garrison et al, 2000: 89). Cognitive presence can be identified with concepts such as ‘critical thinking’ or ‘deep learning’. It is the facilitation of, ‘the analysis, construction and confirmation of understanding within a community of learners through sustained discourse and reflection’ (Garrison, 2011: 42). It is associated with high levels of perceived learning (Akyol and Garrison, 2011: 245). Cognitive presence is concerned with the learning of the individual and of the group. It is understood and operationalized through the practical inquiry model.

2.3.5 Metacognition

Metacognition is, ‘the surveillance of cognition’ (Akyol, 2013: 31) as students become ‘agents of their own thinking’ (Akyol: 2013: 32). Barnett argues that higher education equips and disposes students to critically evaluate their own achievement, knowledge claims and performance (Barnett, 1990: 203). The development of metacognitive awareness and skills is one of the central purposes of the community of inquiry framework. Participants in the community of inquiry are invited ‘to assume responsibility for their own thinking and, in a sense, for their own education’ (Lipman, 2003: 214). Better procedures for collective deliberation can have an impact on the individual participant who internalizes them and applies to them to the appraisal of his or her own thinking (Lipman, 2003: 219). It is, ‘insofar as each participant is able to internalize the methodology of the community

as a whole' that 'each is able to become self-correcting in his or her own thinking' (Lipman, 2003: 219).

Akyol and Garrison comment that, '[a]s soon as the learner engages in a community of inquiry, it is collaborative metacognition (ie co-regulation) that emerges and evolves as core to the learning process' (Akyol and Garrison, 2012: 38). Kennedy and Kennedy argue that pedagogically, the community of inquiry 'operates in the collective zone of proximal development' and 'acts to scaffold concepts, skills and dispositions for each individual through processes 'such as clarification, reformulation, summarization, and explanation, as well as through challenge and disagreement (Kennedy and Kennedy, 2013: 14). So, '[t]he overarching educational goal of [the community of inquiry] may be described as constructing another level of awareness—the metacognitive' (Kennedy and Kennedy, 2013: 18). A 'shared metacognition' construct emerges (Garrison and Akyol, 2015). Shared metacognition, 'integrates individual and social regulatory processes in collaborative learning contexts' (Garrison, 2016: 82).

It was especially in the Issues in Property Law elective that I made explicit attempts to develop metacognitive presence. I made videos and wrote blog posts about the communities of inquiry pedagogy. I explained the communities of inquiry pedagogy and the practical inquiry model to the students in the introductory lectures and suggested that the students refer to the model during the four weeks in which they worked in their groups. I also explained the communities of inquiry pedagogy and the practical inquiry model to the facilitators who supported the student groups.

2.3.6 Teaching presence and the teacher

In Garrison et al's communities of inquiry framework, 'teaching presence' refers to 'the design, facilitation and direction of cognitive and social processes for the purpose of realizing personally meaningful and educationally worthwhile learning outcomes' (Anderson et al, 2001: 5). Teaching

presence ‘performs an essential service in identifying relevant societal knowledge, designing experiences that will facilitate reflection and discourse, and diagnosing and assessing learning outcomes’ (Garrison, 2011: 54 - 55).

Each participant in the classroom community of inquiry can contribute to teaching presence (Garrison, 2011: 62). The goal ‘is always to have students assume more teaching presence and become increasingly self-directed’ (Garrison, 2011: 26). It will be seen later that this is often what did happen in the small collaborative groups that were formed in cycles two and three of this project. The teacher still has an important role to play, however, for ‘[w]hile there must be full and open participation, for a purposeful educational experience there is an inherent need for an architect and leader to design facilitate and inform the transaction’ (Garrison, 2011: 24). Teaching presence, ‘is not possible without the expertise of an experienced and responsible teacher who can identify the ideas and concepts worthy of study, provide the conceptual order, organise learning activities, guide the discourse, offer additional sources of information, diagnose misconception, and interject when required’ (Garrison, 2011: 60).

Seixas (1993) argues that one of the roles of the teacher is to act as a bridge between the disciplinary community of inquiry of scholars and the classroom community of inquiry. Seixas argues that the teacher must be engaged in the disciplinary community of inquiry. It will usually be the case that the higher education academic does publish in peer reviewed journals. This is not, however, the only way for the teacher to play this bridging role. Attending conferences, keeping up to date and engaging with the literature are other ways in which this can be done. I do publish in peer reviewed journals on Land Law topics. I have also established a Hong Kong Land Law blog (<https://hklandlaw.wordpress.com>) with accounts of many of the cases discussed in my teaching.

MacIntyre specifies the role of the teacher in a community of inquiry (in a ‘practice’ to use MacIntyre’s term):

‘Characteristically each teacher is engaged in initiating her or his students into some practice ... At more advanced levels teachers enable their students to deploy their skills in order to achieve the goods of some particular practice of mathematical or scientific enquiry, of reading imaginative literature and responding to it as part of a community of readers, of historical enquiry’ (MacIntyre and Dunne, 2002: 5).

MacIntyre continues:

The teacher should think of her or himself as a mathematician, a reader of poetry, an historian or whatever, engaged in communicating craft and knowledge to apprentices’ (MacIntyre and Dunne, 2002: 5)

The teacher is a member of the community of inquiry charged with finding effective ways of helping new members to participate in it. The teacher helps students to cross the threshold of membership of the discipline.

Garrison also points to the pivotal role of a moderator or facilitator in the community of inquiry: the moderator must be able to, ‘assess qualitatively the nature of the discourse and then proactively shape it by following the critical thinking cycle’ (Garrison, 2011: 53). The course teacher might play the role of moderator. In the Issues in Property Law elective (cycle three), however, I recruited research postgraduate students to act as facilitators of the student groups. Their task was to listen, help the students reflect on the progress of their inquiry and provide feedback on the student blog posts and presentations if requested to do so by the students in their group. The facilitators took on responsibility for teaching presence in the sense of providing light-touch organization of student discourse and feedback on the quality of student discourse.

2.3.7 Social presence

Social presence refers to ‘the ability of participants in the Community of Inquiry to project their personal characteristics into the community’ (Garrison et al, 2000: 89). It is, ‘the ability of participants to identify with a group, communicate purposefully in a trusting environment, and develop personal and affective relationships progressively by way of projecting their individual personalities’ (Garrison, 2011: 23). Students need to have a level of trust in the learning environment and in the other participants before they feel that contributing ideas to a discussion is reasonably safe and worthwhile. Social presence is not a central theme of this research but there is no getting away from its importance.

In 5.2.2, I identify ‘*critical factors*’ (contextual features that make it more difficult to align practice with the educational values in this chapter). Some of these, the competition between students for PCLL places, are about social presence. In 5.3.5 we will see that the second cycle students found the experience of working in collaborative groups to be valuable from a variety of perspectives. Students found that they benefitted from sharing ideas and getting feedback from their peers. This process depends on student willingness to share ideas in the first place. If, into the bargain, students find collaborative learning to be an enjoyable social experience (as some did) then that is even better.

2.3.8 Elearning and the community of inquiry

Garrison et al (2000) argue that computer mediated conferencing has the potential to facilitate careful, critical discourse at the heart of higher education and the idea of the university and to provide a new medium for knowledge production. The community of inquiry makes intelligent use of the affordances of the new digital technologies to facilitate discourse; control of the means of knowledge production is distributed among the members of the community. Garrison et al were quick to point out the ways in which digital technologies could support collaborative discourse in a

community of inquiry: ‘computer conferencing appears to have considerable potential for creating an educational community of inquiry and mediating critical reflection and discourse (ie critical inquiry)’ since text-based communication is ‘reflective, explicit and precise’ (Garrison et al, 2000: 103). Digital technologies improve access and reflection so that there is a natural link between elearning and collaborative, constructivist learning (Garrison, 2011). Garrison also points out that e-learning involves a ‘space-time shift’ (Garrison, 2011: 132) and that, ‘[e]learning has the ability to eliminate boundaries and bring educational participants together in communities of inquiry’ (Garrison, 2011: 132).

In cycle one students were required to contribute to an online discussion forum. The cycle one students who were interviewed seem not to have seen much value in the requirement to post to the discussion forum and there is little evidence in the discussion forum of lively discussion. As we will see, however, there was at least one example of a thread within the discussion forum in which three students seemed to respond to each other’s ideas and build upon them. The vision of Garrison et al of digitally mediated sustained critical discourse is not unrealistic but there are severe barriers to be overcome as we see in 5.2.5.

2.3.9 Collaboration in the community of inquiry

‘Collaboration’ is not identified as one of the central features of the communities of inquiry pedagogy of Garrison et al. This seems strange since collaboration seems to be central to the pedagogy. Garrison (2016) reflects on the role of collaboration in the communities of inquiry pedagogy. He suggests that collaboration can be given a place in his framework as ‘shared metacognition’ which ‘extends individual approaches to learning by integrating self and co-regulation dimensions.’ (Garrison, 2016: 82). In 5.5.5, I suggest that this attempt to find a place for collaboration in the framework is important but that Garrison’s account is incomplete. The teacher

seeking to enact the communities of inquiry pedagogy is forced to look outside Garrison to understand the elements of successful collaboration.

2.3.10 The essential features of the communities of inquiry pedagogy

The communities of inquiry pedagogy suggests that:

1. Student inquiry in accordance with the norms that govern inquiry in the discipline is at the heart of teaching and learning;
2. At least some student inquiry should be carried out in small collaborative groups;
3. Students should be encouraged to share their work with others in the classroom community, perhaps using online tools such as asynchronous discussion forums and to offer constructive criticism of each other's ideas;
4. Students should be taught the structure and processes of collaborative, critical inquiry and then given the opportunity to apply them;
5. Students should be encouraged to reflect on their attempts to engage in collaborative, critical inquiry so that they internalize these processes and become more expert in applying them;
6. The teacher has several roles in the classroom community of inquiry which include designing student assessment tasks, setting up the small groups, introducing students to the relevant epistemic resources, giving feedback that helps students to become better able to carry out inquiry within the discipline and helping to anchor the classroom community of inquiry within the disciplinary community of inquiry.

These propositions influenced the design of the teaching and learning activities and the assessment and feedback practices across the three cycles of this project.

2.4 Consequential transitions

Beach argues that learning consists in a consequential transition in the relationship between an the individual and some social activity. Learners and social organisations are ‘in a mutually constitutive relation to one another’ (Beach, 1999: 106). Experiences of change and transformation: ‘can involve transformation, the construction of new knowledge, identities, ways of knowing, and new positionings of oneself in the world’ (Beach, 1999: 113). Learning involves acceptance of the goals, norms and values of the discipline. ‘Learning’ is learning how to ‘get on’ in a domain and to ‘dance with’ its technology (Gee, 2010). Suspitsyna argues that students should think of themselves as already being members of their academic disciplinary community working to advance the state of knowledge. This is important since it affects the student’s ‘mental script of reality’ (Suspitsyna, 2013: 1352). Coming to see oneself as a member of a disciplinary community of inquiry matters because it entails a commitment to the norms, values, concerns, methods and resources of that community. It also suggests some level of belief that one has what it takes to think and act as a member of the disciplinary community of inquiry thinks and acts.

Consequential transition ‘is the conscious reflective struggle to propagate knowledge linked with identity in ways that are consequential to the individual becoming someone or something new, and in ways that contribute to sociogenesis; the creation and metamorphosis of social activity and ultimately society. Producing culture in addition to reproducing it’ (Beach, 2003: 57). Beach suggests that education should be concerned not only with helping students to prepare to participate in society but also to participate in the transformation of society (Beach, 1999: 130). Knowledge propagation and systems of artifacts ‘weave together changing individuals and social organizations in such a way that the person experiences becoming someone or something new’ (Beach, 2003: 41). Beach poses a set of challenges for education. How can ‘identity craftwork’ come to be an institutionally sanctioned aspect of the acquisition of knowledge and skills in the classroom (Beach,

1999: 132)? How can we ‘support students in learning how to produce culture as well as reproduce it’ (Beach, 1999: 132)?

Undergraduate law students engage in the new, to them, social activity carried on in the disciplinary community of inquiry of the Law. This project investigates whether the learning designs in each cycle of this project led students to perceive that they had made a consequential transition in terms either of seeing themselves as having become legal researchers or emerging legal practitioners. In each cycle of this project students had to produce some artefact (a research coursework or blog post for example) and were given opportunities to make their work public either on a blog in the course Blackboard site or a public blog. Some students agreed to do so. This was an attempt to point students along the way towards transforming society by helping them to see that their work can be a contribution to public knowledge.

2.5 Assessment, feed-forward and feedback

Assessment and feedback practices support student learning by helping students to understand disciplinary criteria and to enact them in their own work which will be concerned with good work, ‘inquiry and creative production on the part of the student’ (Crook et al, 2006: 111). Authentic assessments ‘should always be clearly related to a developmental trajectory through a domain’ (Gee, 2010: 34). Asking students to frame and carry out research projects satisfies these requirements; student work resembles the work carried out by established researchers in the discipline. It can help support students as they seek to make a consequential transition and engage in ‘identity craftwork’ (Beach, 2010).

The teacher must socialize students into an understanding of ‘good work’ within the disciplinary community. Direct instruction will only take this process so far and the teacher needs to find ways

of helping students to absorb ‘tacit knowledge’ about the qualities of good work (Rust et al, 2003). ‘Tacit knowledge is that which ‘is learnt experientially’ (O’Donovan et al, 2004: 328). The direct instruction about the qualities of good work that I gave to the students and the feedback that I gave afterwards were my attempt to help students to internalize the qualities of a good research coursework.

Effective assessment and feedback practices should confer meta-cognitive benefits on the student. Epstein and Hundert comment that ‘the outcomes of assessment should foster learning, inspire confidence in the learner, enhance the learner’s ability to self-monitor, and drive institutional self-assessment and curricular change’ (Epstein and Hundert, 2002: 231). The aim of feedback is to help students to self-monitor (Stenhouse, 1975: 95). Fletcher et al specify the conditions to be satisfied if this is to occur:

‘Learners must develop the necessary understandings and strategies to evaluate their own performance if they are to become lifelong learners ... They will not be able to do this if the assessment approaches and feedback provided by tertiary teachers are not constructed to provide information to improve learning, not delivered in a timely way, do not clarify expected standards of performance, and are seen as embedded within decision-making that is regarded as unfair and inconsistent’ (Fletcher et al, 2012: 131).

Ideally, feedback would not be a one-off event but the product of ongoing interactions between students and staff (Boud and Molloy, 2013) or be co-constructed by student groups (Nicol, 2010). The feedback that I gave to students about their research courseworks in all three cycles. and the blog posts and presentations in the Issues in Property Law course, were attempts to help students to internalize the qualities of good work. I made myself available before submission to discuss student ideas. I asked students to comment on the effectiveness of the feedback that they received and the responses will be explained in the data presentation chapter and analysed in the subsequent chapter.

2.6 Conclusion

The account of my educational values is, then, structured thus:

1. At the most abstract philosophical level, is a set of understandings of the nature of the university, the disciplines, higher education and of knowledge (2.2);
2. Then, in 2.3, there is a set of pedagogical perspectives which I argue to be consistent with the understandings in 2.2. They are ways of working towards the goods inherent in the meaning of higher education and a plausible and attractive idea of the university as a space devoted to the pursuit of collaborative, critical inquiry.

In this project, I examined my existing practice and attempts to improve it against these educational values. In the next chapter, I review literature that suggests ways of implementing the educational values in practice. The literature reviewed in chapter three helps to bridge the gap between the rather abstract educational values and the realities of practice. I refer to literature of this sort as ‘theoretically informed and practice oriented’ literature.

3 Literature Review

3.1 Introduction

This chapter is a critical account of the theoretically informed literature, drawing on one or more aspects of the educational values explained in chapter two. The emphasis in this literature is on how theory is enacted in practice; it is practice-oriented. In this chapter, I explain how this literature informed the practices that are at the heart of the three cycles of this action research project. In chapter seven, I consider how my project and its findings might contribute to the theoretically informed and practice-oriented literature reviewed in this chapter.

3.2 considers the role of the literature review in an action research project. In 3.3 I explain that reviewing the literature was an ongoing, iterative process. It partly preceded the design and implementation of the practices studied in this thesis. The review continued, however, as the project developed and during the subsequent writing up of the thesis when I was engaged in the process of interpreting and making sense of the project and the findings that emerged. 3.4 is a review of the communities of inquiry literature that contributed to my thinking in relation to one or more cycles of this project. 3.5 turns to the literature on consequential transitions, Beach's concept that learning is about the making of consequential transitions. 3.6 reviews literature on assessment, feed-forward and feed-back processes. I draw on Beach (2010) and Gee (2010) for socio-cultural perspectives on assessment as well as on constructivist approaches to thinking about assessment, feed-forward and feed-back. 3.7 is a short concluding section.

3.2 The role of the literature review

The literature review in this project has two purposes. First, it explains how engagement with relevant literatures provided ideas for the development of my practice. Second, it locates this project and its findings within certain bodies of literature and lays the foundation for my claims in chapters six and seven to have contributed to them. McNiff refers to the first level when she says that the action researcher's critical engagement with the literature requires the researcher to develop their own 'imaginative interpretation' of it (McNiff, 2017: 129). Green sees 'personal relevance' as the key to deciding on whether a text belongs to the literature review for an action research project; which literature has proven to be relevant can only be decided once the project has been completed (Green, 1999: 111). In this chapter I give an account of my interpretation of the literature that I engaged with and how I built on that interpretation to generate the learning designs deployed in this project. I also place the literature selected in its broader context to prepare the way for the discussion in chapter seven.

How did I decide which literature to include in this review? I searched for practice-oriented literature that draws on the pedagogical approaches in 2.3 or similar perspectives. By 'practice-oriented' I mean literature that considers how those approaches might be enacted in teaching practice. The literature review was conducted iteratively and continuously as the project unfolded. This chapter sets out my critical reflection on this literature. My engagement with the literature has developed as the project advanced. At the beginning of the project, the focus was on finding ideas that would enhance *praxis*. Towards the end of the project, my attention has expanded to reflection on how my project might contribute to the literatures that I discuss in this chapter.

3.3 When and how I conducted the review

Several of the projects I undertook in the taught phases of the University of Lancaster ‘Higher Education: Research, Evaluation and Enhancement’ (‘HEREE’) PhD programme were concerned with the theme of ‘blended learning’ and the possibility that it could help to overcome my practice problem (a teacher-centred, information transmission approach to teaching and learning). I drew heavily on Barnett (1990) to root my discussion in a consideration of the idea of higher education. I referred to blended learning literature reviews by Halverson et al (2012 and 2014) which identified the communities of inquiry framework articulated in Garrison et al (2000) as providing the theoretical backbone for much blended learning research. I carried out a Web of Science search combining the terms ‘community of inquiry’ and ‘blended’ for the years 2011 – 15 and this yielded 26 entries which I reviewed. I also referred to the work of Boud and Molloy (2013) on feedback. I came across this article during the module on Enhancing Learning, Teaching and Assessment at University in the HEREE programme at the University of Lancaster and this is the starting point for the concern with assessment, feed-back and feed-forward in this project.

My supervisor pointed me in the direction of Beach’s concept of ‘consequential transitions’ and this led me to engage in close readings of Beach (1999 and 2003). I decided to include research questions seeking student perceptions as to whether the action steps taken in this project had resulted in a greater sense of being a legal researcher or an emerging legal practitioner. Much later in the project I carried out a Google Scholar search for ‘consequential transitions’. From the entries generated I selected the literature that seemed most relevant to my context of designing a learning environment and assessment regime to facilitate a consequential transition into a disciplinary community of inquiry. This is the literature reviewed in 3.5. Some of the literature reviewed in this chapter (eg Seixas, 1993; Jones, 2011 and some of the literature on assessment, feed-forward and feedback in 3.6) came to my attention gradually as the project unfolded. I heard about Chang (2005), for

example, in a presentation given in a legal education conference. Having found, or been alerted to, this literature I recognized it as being important for my project, reviewed it and reflected on its implications for my practice.

A Scopus search for ‘community of inquiry’ or ‘communities of inquiry’ and ‘legal education’ yields no results. Where ‘law’ replaces ‘legal education’ then there are five results, two of which are plainly irrelevant to legal education. This literature is reviewed in 3.4.5. I explain in 3.4.6 that Problem-based learning (PBL) has much in common with the communities of inquiry pedagogy and is much more prominent in the legal education literature. I did a Westlaw search for “Problem-based learning” and found 17 articles going back to 2013. This literature is identified, and its relevance to this project considered, in 3.4.6.

Overall, I began with initial reviews of the communities of inquiry and feedback literatures and the seminal ‘consequential transitions’ works of Beach. I read more widely as the project and my thinking about the educational values outlined in chapter two developed. This involved ongoing reading of the theoretical literature and the practice-oriented literature. I carried out further reviews towards the end of the project to gain a new perspective on how the literature that I had drawn upon fitted into broader bodies of theoretically informed and practice-oriented literature. This was a further stage in the process of establishing the bodies of knowledge to which this project could contribute.

3.4 The communities of inquiry literature

3.4.1 Seixas: The community of inquiry as a basis for knowledge and learning: the case of history

Seixas argues that there is a congruence between the ‘Kuhnian revision in the epistemology of the subject disciplines’ and ‘developments in learning theory and psychology’ (Seixas, 1993: 306). The

former points to the idea that scientific knowledge is contingent and is developed by disciplinary communities of inquiry; the latter suggests that ‘students learn not only by actively “making” knowledge of their own but also by doing so within a community that shares common culture’ (Seixas, 1993: 306).

Seixas (addressing the context of the secondary school history teacher) argues that it would be better for the teacher to direct students:

‘towards those components of historical understanding essential for them to make sense of their lives and their situation in the world in the context of historical time ... Such an appeal would focus on history as meaning-making and would constitute the classroom into a community of inquiry analogous to the community of inquiry of historians.’ (Seixas, 1993: 315).

This is constructivist, presenting history as meaning-making, and has the student work in conditions that are analogous to those of the disciplinary community of inquiry. I chose the law of the ownership of the family home as the theme for student work in the first and second cycles partly because it raised issues that students could easily appreciate as being relevant to them and their families. It is also an area of law that is the subject of much commentary and that has generated many controversies; as a result, student research could allow them to watch how debates were unfolding within the disciplinary community of inquiry.

Much depends on finding the right relationship between the classroom community of inquiry and the disciplinary community of inquiry; it is the teacher who is responsible for forging this relationship and it is the teacher who is the bridge between the two communities. The higher education teacher can model participation in the disciplinary community of inquiry for students, ‘through seminars, journal readings, and conferences’ (Seixas, 1993: 320). The higher education teacher can also model critical inquiry for student by contributing to the scholarly literature.

I organize property law seminars for students and anyone with an interest which, in practice, means students, legal practitioners and members of the general public. Some were held in the Faculty of Law's premises in the Central district of Hong Kong; some were held online using Zoom. As well as organizing these seminars, I often speak in them. The Faculty provides administrative and technical support for these seminars, arranges for them to be promoted and applies for Hong Kong Law Society accreditation for continuing professional development purposes. One of my colleagues in the Faculty has also worked to promote the seminar series. Some of my publications were based on these presentations (Lower, 2018 and 2019a for example).

I also established an Issues in Property Law blog (<https://www.iiplhk.law.cuhk.edu.hk/home>) for students and academics to publish posts about Property Law. The seminars and the blog are intended to forge a link between the classroom and disciplinary communities of inquiry. The aim is to help students to see that the work that they do in the classroom community of inquiry is about concerns that are relevant to legal practitioners and the public. Some of the seminars are given by legal practitioners and this also helps the students to see how the concerns of practitioners are reflected in the classroom. At the beginning of each new Land Law course I tell students about the blog and suggest that, in due course, they might consider contributing to it. Finally, I conceive of the seminar series and the blog as tools to create a 'hybrid' community of inquiry comprising students, academics and legal practitioners.

The main ideas that I took from Seixas were:

- inquiry has to be about issues that are 'relevant' to the students;
- the classroom community of inquiry seeks to engage students in inquiry making use of the 'common culture' shared with the disciplinary community of inquiry;
- one of the important roles of the teacher is to act as a bridge between the classroom community of inquiry and the disciplinary community of inquiry (Seixas was writing with

secondary school students in mind but the same point is still valid with regard to undergraduate law students);

- one of the ways in which the teacher provides this bridging role is by modelling inquiry for (or with) the students.

Seixas influenced the practices in this project in that I:

- engaged students in property law research projects that fell within the broad theme of the law of the ownership of the family home (relevance);
- encouraged them to make use of the relevant authoritative sources that professional researchers would use (common culture);
- required them to present their findings in short discussion forum or blog posts and in more formal research papers (common culture);
- encouraged them to share their blog posts both in a blog on the course Blackboard site and in the public *Issues in Property Law* blog (common culture and modelling);
- encouraged the students to work in small collaborative groups (requiring them to do so in the Issues in Property law elective in the third cycle) (common culture);
- encouraged students to reflect on the process of critical inquiry (common culture); and
- helped students to understand the qualities of a good piece of legal research through the assessment, feed-forward and feed-back practices that I will describe in chapter five (modelling).

I wrote blog posts and peer reviewed articles about the law of the ownership of the family home (common culture and modelling).

3.4.2 Jones: Creating undergraduate communities of inquiry

Jones argues that the key educational question is ‘how to build communities of inquiry learning history in an age of mass higher education’ with a ‘shared conversational culture of “collective argumentation”’ (Jones, 2011: 187). Students should be asked to engage in tasks that require the input of more than one person (Jones, 2011: 187). The community of inquiry is ‘explicitly academic’ with ‘exacting standards of referencing and evidence’ (Jones, 2011: 188). Students listen actively to the views of others, suspending judgment in the meantime. The group generates mechanisms for sharing knowledge and engages in ‘cycles of proposition, discussion and argument’ (Jones, 2011: 189). ‘Students become researchers. They collaborate, like researchers do. They even check each other’s drafts, like researchers do. Meanwhile, the university begins to fulfil its promise of promoting learning’ (Jones, 2011: 189). A ‘research-learning nexus’ emerges (Jones, 2011: 190). The community of inquiry prepares students for the work-place and life-long learning (Jones, 2011: 193).

Jones’ conception of the undergraduate community of inquiry influenced my own practice as described in this thesis. It prompted me to try to design and implement teaching and learning environments in which teaching:

- is not the transmission of ‘facts’ but a ‘let-learn’;
- is achieved through engagement in group projects in which students learn collaboratively and engage in peer-tutoring;
- requires students to apply the tools and standards of the professional community of inquiry;
- simulates the conditions in which the professional member of the disciplinary community of inquiry works; and
- helps students to ‘appropriate the mind-set’ of the professional member of the disciplinary community of inquiry.

Jones, like Seixas, attributes a central role to the teacher in setting the tone for the student community of inquiry (Jones, 2011: 189). I commented in 3.4.1 on the ways in which I tried to model academic practices and standards in the context of this project.

3.4.3 Chang: Turning an undergraduate class into a professional research community

Chang designed an undergraduate course around the model of students working in a ‘directed community’ to create and publish scientific knowledge. Chang had each student carry out an independent research project within a common theme (the history of the chemical element chlorine). Students took ownership of their research projects but were strongly directed by the teacher. Individual projects were handed down from one generation of students to the next for improvement. The intention was that after, several iterations, the projects would be collected and published as an edited academic text (see Chang and Jackson, 2007 and the review in Klein (2009)). Chang describes his approach as a ‘directed community’ model of research-teaching integration. The teacher guides students on research methods and the norms and customs of academia.

Chang’s students learn the practices of the disciplinary community of inquiry by engaging in them. ‘There is no reason why students, who are trainee scholars, should not learn their trade through a process of producing real knowledge. Learning can go beyond knowledge acquisition to take the form of knowledge production’ (Chang, 2005: 389). Each of the cycles of this research project are attempts to enact what Chang calls a ‘directed community’ model of research. In the Issues in Property Law elective in the third cycle, for example, the students were asked to use the norms of the disciplinary community of inquiry to engage in collaborative and individual research projects to produce blog posts and courseworks. I encouraged students to think about ways of publishing their

work. The Issues in Property Law blog offers students the opportunity to publish work produced in the classroom community of inquiry.

3.4.4 Asynchronous digital communication forums and the communities of inquiry pedagogy

Garrison et al (2000) emphasized the idea that conducting critical discussion through asynchronous digital forums, such as discussion boards, can make it easier for students to prepare carefully crafted and thoughtful contributions to the discussion. Kennedy and Kennedy argue that there are new communicative possibilities when the community of inquiry moves online:

‘In a “discussion” board or in email exchanges or blog and wiki exchanges, they engage in a dialogue whose asynchronicity makes it possible for the participants to craft their responses at their leisure, apart from the pressure to respond to face to face interlocution. The net effect is that one does not chat, text, post, or even blog for an abstract audience, for posterity, for “the record,” but always for a potentially very real and immediate other, from whom one can very well expect a response’ (Kennedy and Kennedy, 2012: 21).

In the first phase of the action research project, I required the students to contribute at least once to a discussion forum in the course Blackboard site. In the second and third cycles, students had to write blog posts or (in 2016 – 17) create podcasts or videos. They were encouraged, but not required, to post to a blog within the course Blackboard site. I saw this as an attempt to make use of the move online to allow for carefully constructed contributions to the thinking of the entire class.

In December 2017, I established a public Issues in Property Law blog with the intention of creating a publication venue for student blog posts.

3.4.5 The communities of inquiry pedagogy in the legal education literature

The backdrop to this project is an increasingly recognized need for legal education to move away from an information-transmission approach to legal education. As Wallace (2017) points out this approach misleads students as to the nature of legal reasoning which is a creative, intellectual process. Further, Law school needs to prepare students to work in ‘a new workplace culture where collaborative skills are highly valued’ (Bugden et al, 2018: 86). Despite this, the default mode for legal education is that of individual competition with all the baleful educational and psychological consequences that this entails (Zimmerman, 1999). Group work is still counter-cultural in the Law School (Keyes and Burns, 2008). The communities of inquiry literature prompts the teacher to foster inquiry-based learning which helps students to understand how Law, as a discipline, creates knowledge, and collaborative approaches to building knowledge and understanding.

The legal education literature scarcely mentions the community of inquiry pedagogy. A Scopus search for ‘community of inquiry’ or ‘communities of inquiry’ and ‘legal education’ yields no results. Where ‘law’ replaces ‘legal education’ there are five results, two of which are plainly irrelevant to legal education:

- Waldron (2012) makes the point that Law, like any discipline, is a community of inquiry. This has no obvious practical implications for my project.
- Grealy (2015) describes the use of Garrison’s framework in the design of blended learning continuing professional development courses for solicitors in the Republic of Ireland. The case study is set in the Diploma Centre, part of the Education Department of the Law Society of Ireland. The Centre’s courses are designed to meet the needs of practicing solicitors. The Diploma Centre offers seven-month diploma courses and four-month certificate courses. Weekly lectures are provided onsite and online via webcasts. Onsite workshops complement the lectures. There are tutorial groups in which participants work

together on problem-based, case-study type questions. The course design also included discussion forums and online chat sessions. The use of technology in the delivery of lectures has proven useful for solicitors in rural locations for whom the prospect of having to travel to Dublin was a barrier. The design enacts the community of inquiry pedagogy in that student learning is driven by inquiry (the case studies) and student learning takes place in tutorial groups.

- Nazara et al, (2019) is an account of a re-design of a Pharmacy Law course from a ‘traditional didactic’ to a blended / flipped design. The authors refer to Garrison's framework as ‘a comprehensive framework to inform both research on online learning and the practice of online instruction’. There is a single paragraph with a brief explanation of the three presences but otherwise no discussion of the community of inquiry.

None of this literature had any impact on the practices contained in this project. The authors purport to build on the communities of inquiry framework but the account of the communities of inquiry pedagogy is broad-brush. The authors could be clearer about how precisely the communities of inquiry pedagogy influenced their thought and practice. There is no sense of building on previous legal education literature applying the communities of inquiry pedagogy to contribute to a systematic discussion of how the communities of inquiry pedagogy can improve legal education.

3.4.6 Problem-based learning in the legal education literature

In the early summer of 2016, I attended a seminar at the CUHK Faculty of Law on Problem-based learning (‘PBL’) at CUHK given by Paul Maharg, a visiting professor and was struck by the similarities between the communities of inquiry pedagogy and PBL. The idea of having facilitators work with student groups in the Issues in Property Law elective was drawn directly from what I learned about PBL from Paul Maharg (who had experience of implementing PBL in Law Schools in Scotland,

Australia and Canada) and from what I had learned of the practice at York Law School described in Grimes (2014) and Gibbons, (2018a, 2018b and 2019).

3.4.7 The communities of inquiry pedagogy and the Scholarship of Teaching and Learning

There is an abundance of higher education literature purporting to draw in some way on the communities of inquiry framework. The communities of inquiry framework proposed by Garrison et al (2000) has provided the platform for reflection and research exploring the central elements of the framework. Much of this literature is about online or blended learning. It is possible to give some examples of the lines of development that have been pursued: the interrelationship of the three presences (Garrison et al, 2010); the importance of social presence (Armellini and De Stefani, 2016) and of teaching presence (Shea et al, 2006); the impact of course duration on the development of cognitive presence (Akyol et al, 2011); a comparison of the presences in online and blended courses (Akyol et al, 2009 and Akyol and Garrison, 2011) and in online and traditional courses (Bowers and Kumar, 2015); and understanding metacognition (Garrison and Akyol, 2015). Shea and Bidjerano (2010 and 2012) and Shea et al (2013) describe an additional 'learning presence'. Pardales and Girod (2006) outline the philosophical and historical development of the use of the 'community of inquiry' in educational discourse. Peacock (2015) provides a critique of the community of inquiry framework of Garrison et al. Garrison (2011) argues that the communities of inquiry framework can be of decisive importance in designing high quality e-learning environments. Garrison (2016) reflects on the place of collaboration in the communities of inquiry literature.

As well as this focused literature seeking to contribute to the development of the Garrison framework, there is an abundant literature in which practitioners relate their account of how they drew on the communities of inquiry pedagogy in their own practice. A search of the Scopus database using the terms 'communities of inquiry' and 'undergraduate' for the years 2006 to 2017,

for example, generated thirty-five returns. The same search for 2018 to 2020 (carried out in early February 2020) revealed a further eleven articles. The central concern of this literature is with the description of practice. While it often uses terms drawn from the Garrison framework, the authors do not spend much time on the theory that underlies the terms and the relationship between that theory and their practices. Terms such as ‘cognitive presence’, ‘teaching presence’ or ‘social presence’ are used but almost as short-hand terms intended to evoke general aims and aspirations. With rare exceptions, the authors give no account of their understanding of the theory or that they intended their practice as a systematic attempt to consider how the communities of inquiry framework as a could be enacted in their practice. Nazara et al (2019), discussed in 3.4.5. is an example of this type of literature.

Bailey and Jacobsen (2019) offer a useful example of a project that consciously and intelligently draws both on the communities of inquiry framework and on practice-oriented literature that tries to do the same thing in a specific professional disciplinary context. It begins with a clear, well-referenced explanation of the essentials of the communities of inquiry pedagogy and charts its rising use in thinking about library instruction courses.

The distinctive and helpful features of this article are that it:

- has the clear aim of using the communities of inquiry framework to inform course design;
- reviews the literature on the fundamental aims of teaching and learning within the discipline, showing why the communities of inquiry framework aligns with those aims;
- shows the authors’ intention to contribute to a developing communities of inquiry literature within their discipline;
- sets out the authors’ understanding of the communities of inquiry framework;
- shows how this understanding informs the design that they implemented;

- uses the community of inquiry presences to analyse the data that they gathered about student perceptions;
- articulates the authors' reflections on how their findings increase the collective understanding of how the *communities of inquiry pedagogy* can improve teaching and learning in the discipline.

Sustained use of this model by legal education researchers could create a theoretically informed and practice-oriented body of professional knowledge.

3.5 The consequential transitions literature

3.5.1 Consequential transitions and this project

A Scopus search for 'consequential transitions' in February 2020 revealed 11 articles. An earlier Google Scholar search using 'consequential transitions' revealed many articles. I selected for review those which seemed most relevant to the contexts of transition within undergraduate education and between undergraduate education and the workplace. I could not find any literature applying the concept of the consequential transition to law or legal education.

3.5.2 The importance of relationships, collaboration and mentoring for consequential transitions

Crafter and Maunder point out that sociocultural perspectives on transition share, 'a focus on relationships between people in the particular context or situation as a crucial aspect of transition' (Crafter and Maunder, 2012: 15). They urge practitioners to 'prioritise the development of relationships for learners undertaking educational transition by providing lots of opportunity for social networking; organising collaborative activities; and helping to nurture relationships between

new and existing members of the learning community (either through informal or more formal means such as mentoring or buddying)’ (Crafter and Maunder, 2012: 16).

In the second cycle of this project, students could choose to work in small collaborative groups for their class participation project. In the third cycle of this project, the Issues in Property Law elective, students had to work in collaborative groups of 3 – 5 for their conference presentation and blog post. I recruited research postgraduate students to act as facilitators of the student groups. The facilitators were encouraged to see themselves as being able to contribute their perspectives as more experienced researchers and their role was explained to the students in these terms. The Property Law seminars and the Issues in Property Law blog described in 3.4.1 create a relationship between the classroom and disciplinary communities of inquiry. They create a forum in which students and practitioners can meet to participate in discussion of issues of common academic or professional interest.

3.5.3 Framing

Engle (2006) is concerned with ‘framing’ as a condition that facilitates the transfer of learning from one context to another. Engle draws on Beach to suggest that transfer is facilitated when the teacher ‘frames’ student learning in such a way as to promote inter-contextuality. The teacher can frame learning activities so that students see them as being relevant to communities that transcend the classroom (Engle, 2006: 457) and that occurs in places outside the classroom (Engle, 2006: 491). I encouraged the students to think of themselves as contributing to the work of the classroom community of inquiry and the broader disciplinary community of inquiry. The Property Law seminar series and the Issues in Property Law blog are useful tools to support this framing.

3.5.4 Learning environments as ecological systems: consequential transition and the transformation of the system

Loi and Dillon (2006) propose that educational environments can be thought of as ecological systems characterised by stasis and change. A stimulus (a ‘disturbance’ or ‘intervention’) is needed to change a system. The intervention must be significant if it is to change a system. The authors propose that ‘designed interventions’, ‘have a central role in transforming adaptive educational environments into creative spaces’ (Loi and Dillon, 2006: 366) They argue that ‘mobile technologies’ allied with appropriate pedagogies might be a useful intervention in the system.

I describe in this thesis the designed interventions through which I attempted to move the learning environment away from the stasis of an information transmission approach towards a radically different environment in which students come to see themselves as emerging members of the disciplinary community of inquiry and as knowledge producers. Students were asked in each cycle to find research questions that interested them and contribute to a discussion forum or a blog. They were asked to frame their own research questions, carry out research and present their findings in a coursework. They were invited or required to work in collaborative groups. I looked for evidence as to the effectiveness of these interventions in challenging ‘[e]xisting continuities and regularities’ and forging new connections (Loi and Dillon, 2006: 376) between students and the disciplinary community of inquiry.

3.5.5 Consequential transitions and legal education

I found no legal education literature that draws on Beach’s theory. There is, however, a small amount of literature taking a socio-cultural approach to legal education. An online search of the archives of *The Law Teacher* (the journal of the Association of Law Teachers in the United Kingdom) using ‘sociocultural’ generates nine returns. If ‘socio-cultural’ is used fourteen articles are returned

(with overlaps between the two searches). I thought that it was worthwhile to conduct these searches as it seemed likely that the approaches in some of them would be like that taken in the consequential transitions literature and so it proved.

I selected two of the articles from these which took approaches which used Community of Practice theory; the idea of the community of practice in Lave and Wenger (1991) can be considered as a description of one type of consequential transition. The third article reviewed here draws on the concept of ‘peer assisted learning communities’ as a support for students making the transition from school to the first year of legal education. Again, there are clear similarities in terms of the problem identified and the way of thinking about it even if there is no explicitly socio-cultural theorizing:

- Baron and Corbin (2012) draw on the Community of Practice theory of Lave and Wenger (1991) as a way of helping students to assume the identity of legitimate peripheral participants in the Community of Practice of legal professionals; students are invited to internalize the norms and values of legal practitioners. They suggest some practical strategies such as: emphasising collaborative work; communicating expectations of high standards both with regard to work and to their dealings with teachers and peers; and encouraging greater openness to the local community, perhaps through volunteering programmes.
- Wallace (2017) suggests that the relevant community of practice for students is not the community of professional practitioners but the community of legal scholars. Teachers should model the discourse of legal scholars for students. Students should be given access to ‘the discourse activity of the community’; students can follow and participate in ongoing legal debates and this is made easier by social media. The community of practice should be one which takes students and their development seriously. This project develops Wallace’s suggestion by offering learning designs that seek to achieve these goals.

- Zacharapolou and Turner (2013) discuss the creation of peer assisted learning communities to help students make the transition from school to the first year of the Law degree. Like Beach, the authors address the problem of students' struggle to learn how to 'get on' in a new work context.

My work is a contribution to this stream of socio-cultural perspectives on legal education. This literature offers the practitioner ways of thinking about the meaning of legal education from the perspective of the emerging identity of the law student as an emerging student and legal practitioner. It provides a repertoire of activities for practitioners to consider as they consider how to support students in their struggle.

3.6 Feed-forward, feedback and assessment

3.6.1 Constructivist approaches to assessment

Where the aim is to create a collaborative, constructivist community of inquiry then there need to be forms of assessment to match (Rust et al, 2005). Collaborative engagement in the production of knowledge needs to be underpinned by appropriate assessment practices. Assessment needs to focus not only on process (management and accountability) but more especially on practice (the production of good work) (Crook et al, 2006). Social constructivist principles suggest that students should have some say in the design of assessment tasks; these can usefully involve problem-based learning or the collaborative critique of important texts (Garrison et al, 2011: 100 – 109).

Boud and Molloy argue for 'the design of learning environments, the seeding of generative tasks and the fostering of interactions with and between students and staff' (Boud and Molloy, 2013: 710).

Assessment in the community of inquiry should drive students to work collaboratively and should result in some collective judgment or product (Lipman, 2003: 83). Even when working on the task

to be assessed, there should be opportunities for students to give feedback to each other; feed-forward is an important aid to learning (Kress and Selander, 2012). In 3.6.3 I explain how these perspectives influenced my practice in this project.

3.6.2 Socio-cultural perspectives on assessment

Beach (2010) considers the implications of his theory of consequential transitions for assessment:

‘Educational assessment for the twenty-first century needs to accept the challenge of assessing relations between persons and domains through a focus on appreciative systems’ (Beach, 2010: 44).

The concept of an ‘appreciative system’ is derived from Gee (2010); it refers to the goals, customs and values of a social group such as a community of inquiry. Beach argues that ‘[t]he challenge is to create learning environments in which participants can ‘do identity craftwork as part of knowledge construction’ (Beach, 2010; 43). Assessment, then, should help students to make their own the goals, customs and values of the community of inquiry. This consideration fed into my choice of assessment tasks and the approach that I took to feed-forward and feedback.

Gee (2010) provides another sociocultural perspective on learning and assessment. Learning is about learning how to ‘get on’ in a social group and its domain, internalizing its appreciative system (its goals, customs and values) and learning how to ‘dance with’ its technology including other group members. Assessment is the group’s system for mentoring and policing its members, including newcomers. In an important passage, Gee says:

‘[T]he purpose of school, in my view, is understanding, and in particular, understanding of how knowledge is built and debated in practice.’ (Gee, 2010: 29)

Gee calls for ‘authentic assessments’ that focus on the learner’s appreciative system; authentic assessments ‘would tell us whether learners, faced with a complex problem, know how “to go on”, how to probe, reflect, assess, and reprobe on a trajectory of action to a goal’ (Gee, 2010: 34).

Gee points to the emergence of communities of ‘Pro-Ams’:

‘Pro-Ams are often adept at pooling their skills and knowledge with those of other Pro-Ams to bring off bigger tasks or to solve larger problems. These people don’t necessarily know what everyone else knows, but do know how to collaborate with other Pro-Ams to put knowledge to work to fulfill their intellectual and social passions.’ (Gee, 2010: 29)

Gee argues that student learning would benefit from engagement in these Pro-Am communities; they would learn how to collaborate and to develop their twenty-first century skills. The Property Law seminars and the Issues in Property Law blog are at the service of a type of Pro-Am community.

3.6.3 Impact of this literature on my practices

Assessment and associated processes of feed-forward and feed-back were at the heart of the innovations studied in this thesis:

- Assessment tasks required students to carry out scholarly work in the form of blog posts (group and individual) and individual research projects;
- In each cycle, there was direct instruction as to the elements of good scholarly projects. Feedback sheets were prepared and these also proved to be helpful tools around which to give collective and individual feedforward as well as feedback on student work;
- When the students worked in collaborative groups they could give feedback to each other;

- One of the main roles of the facilitators who worked with the student groups in the Issues in Property Law course was to help the students to understand in practice the appreciative system of the legal researcher.
- The Property Law seminars and the Issues in Property Law blog helpfully frame student learning, open up relationships with members of the disciplinary community of inquiry and create a form of the Pro-Am community suggested by Gee.

One of the research sub-questions asks how helpful feedback was to students. Understanding and internalizing the elements of a good blog post or article, and being able to act in consequence, are important requirements if students are to develop their identity as legitimate peripheral participants in the scholarly community of inquiry.

3.7 Conclusion

The literature reviewed in this chapter was selected for its alignment with the educational values and its practice-orientation. I identify and discuss practice-oriented literature that either influenced the practices adopted in this project or, at least, form part of the literatures to which I seek to contribute. I point out that the legal education literature does not draw on the communities of inquiry pedagogy to any great extent and does not use the concept of learning as a consequential transition at all.

In general, practitioner accounts that claim to be making use of the communities of inquiry pedagogy tend not to explain carefully what they understand the essential features of the pedagogy to be, nor how their account can be located within a body of communities of inquiry research. It would be helpful for educators in a discipline (such as legal educators) to reflect on what it means to

develop a body of communities of inquiry research in their discipline and how they could contribute to it. I seek to do so in this project.

4. Action Research Methodology

4.1 Introduction

This chapter deals with questions of methodology, research design and methods. 4.2 explains the action research methodology adopted in this project and why I thought it appropriate. By ‘methodology’ I mean the high-level strategy for knowledge production that seems best suited to my commitment to aligning my practice with the educational values explained in chapter two. 4.3 is about research design, the overall design of this research project. I outline the action research model proposed by Elliott (1991) and explain why I thought it was useful both for this project. I briefly indicate how I applied the model in this project. I aim to be very economical here; the sections on data presentation in the next chapter give the full picture. I comment on my status as an insider in the research setting, on its advantages and limitations and the ethical issues to which it gives rise. 4.4 explains the data gathering methods used in this project and on the approaches to evidence-gathering and analysis in classroom action research projects. 4.5 contains concluding remarks.

4.2 Action research methodology

4.2.1 What is action research?

Action research is, ‘all forms of research that start with practice-related questions and result in providing insights and potential solutions’ (Willemse et al, 2016: 88 – 9). The starting point for action research is some concern or need which may arise from a clash between the teacher-researcher’s practice and his or her values (Atkins and Wallace, 2012). Solutions evolve gradually, ‘by the continuous evaluative study of a particular line of development’ (Stenhouse, 1975: 220). Action research seeks to translate ‘ideas into classroom practicalities and thereby helps the teacher to

strengthen his practice by systematically and thoughtfully testing ideas' (Stenhouse, 1975: 24 - 5). It is 'research designed to improve action' (Baumfield et al, 2013: 3).

4.2.2 Praxis

Koshy argues that action research is 'an inquiry, undertaken with rigor and understanding to constantly refine *praxis*' (Koshy, 2005: 1 – 2). McNiff and Whitehead describe *praxis* as 'morally-committed practice' by which they mean that the teacher-researcher's systematic investigation leads them to be able to say what they are doing and why they are doing it (McNiff and Whitehead, 2011: 23). Dunne describes *praxis* as 'conduct in a public space with others in which a person ... acts in such a way as to realize excellences that he has come to appreciate in his community as constitutive of a worthwhile way of life' (Dunne, 1997: 9). There is an understanding that what is being pursued is some good which is 'internal to the practice itself' (Carr, 2004: 61 -2). Dunne goes on to say that *praxis* is regulated by *phronesis*. I explain the idea of *phronesis* in the next section. My approach is consistent with this. In this thesis I provide a critical and reflective account of my educational values and of the ways in which I have tried to give effect to those values in practice.

In action research, there is a constant interplay between principles (educational values) and actions (practice) (Noffke, 1994: 18). Thus, practitioner knowledge is always personal, 'bounded by his commitments to appreciative systems and overarching theory' (Schon, 1983: 166). The practitioner-researcher's appreciative system 'makes possible the initial framing of the problematic situation, and it is also what permits the inquirer to reappraise the situation in the light of its back-talk' (Schon, 1983: 272).

4.2.3 Phronesis

Phronesis is a form of knowledge appropriate to the development of *praxis*. Dunne explains that ‘*praxis* required for its regulation a kind of knowledge that was more personal and experiential, more supple and less formulable, than the knowledge conferred by *techné*’ (1997: 10). This knowledge is *phronesis* and the seasoned, reflective practitioners who possess it are the *phronimoi*. Carr says that ‘what the novice practitioner will also have to learn is a disposition to think and act on the basis of a sound practical reasoning about what, in a particular situation, would constitute an appropriate expression of the good’ (2004: 62).

Trowler talks of the need to develop a ‘practice sensibility’ which is ‘a way of seeing the world through the eyes of [concepts and theory]’ (Trowler, 2020: 119) and this calls for the exercise of *phronesis* which he defines as ‘unconscious, intuitive insight and gut feeling’ (Trowler, 2020: 119).

Phronesis may well coincide with Shulman’s concept of ‘strategic knowledge’ which is the new knowledge acquired when the practitioner confronts new situations ‘where principles collide, and no simple solution is possible’ (Shulman, 1986: 13).

Phronesis, in this sense, does not merely enable the practitioner to apply theory to practice. Theory, as Trowler implies, endows practitioners with lenses that they can use to examine and make sense of practice. It is knowledge that practitioners can draw on as they develop their own *praxis*. It is not a package of ‘best practices’ that the practitioner has to accept unreflectively and apply to practice. Action research engages the practitioner-researcher in reflection on the goods inherent in higher education and on how they might be achieved. Winch offers conceptions of the professional as ‘technician’ (an expert in applying theory to practice) and as ‘technologist’. The technologist develops ‘theory-based approaches to the solving of practical problems’ and part of the technologist’s brief is ‘to modify theory in the light of practice or of the changing requirements of

practice' (Winch, 2017: 66 – 71). Action research seeks to develop *phronimoi*. Ideally, they will be technicians, according to Winch's definition, and perhaps technologists.

4.2.4 The development of *praxis* and *phronesis* in practitioner communities of inquiry: validating action research findings

Carr says that: 'action research can only be made intelligible as a mode of inquiry that aspires to create and nurture the kind of dialogical communities within which *phronesis* can be embedded and which the development of *praxis* presupposes and requires' (Carr, 2006: 433). Kemmis makes a forceful call for practitioner researchers to pursue their inquiries in communities:

'Constructed as public spheres for public discourse, action research and practitioner research initiatives will involve loose affiliations of people who gather to address common themes related to contemporary problems or issues. They will engage themselves in communicative action to inform themselves about the perennial practical question "what is to be done?" And their answers will be in the form of transformed practitioners and transformed settings in which their practice occurs, at particular times and in particular places.' (Kemmis, 2006: 473 - 4)

On this view, practitioner research seeks not only to improve practice but also to reflect on the factors that shape practice and make improving it easier or more difficult. It calls on practitioner-researchers to create communities of inquiry, discursive spaces in which these problems can be worked out collaboratively. Carr and Kemmis (1986: 184), Hargreaves (2003: 49) and Willemse et al (2016: 92) make similar points. The findings of practitioner action research projects are validated in these practitioner communities of inquiry. It is through sharing ideas and experiences in these spaces that practitioners reflect on *praxis* and develop their capacity for *phronesis*.

Throughout this project I have worked to establish practitioner communities of inquiry or dialogical communities. I established a *Learning Matters* blog (<https://www.learning.law.cuhk.edu.hk/>) as a space for sharing ideas and practices. I help to organize Teaching and Learning seminars in the Faculty of Law as a forum for the exchange of ideas and practices. My leadership role was especially clear during my tenure as Associate Dean (Teaching and Learning) in the Faculty of Law from 2017 – 19. I was one of the small organizing team for three international legal education conferences in the Faculty of Law at the Chinese University of Hong Kong (*Directions in Legal Education* 2016, 2018 and 2020).

I spoke about this project at each of these conferences and in teaching and learning seminars. I have also relied on professional networks such as the Association of Law Teachers; I gave a presentation about this project at the Association's 2017 Annual Conference. I have also given presentations about this project at the Higher Education Research and Development Society of Australasia's annual conferences in 2018 and 2019 and at CUHK's annual teaching and learning 'Expo'. In chapter five, I explain the more informal types of dialogue that I have engaged in about this project with colleagues, former colleagues and former students and (through the mediation of year representatives) with students.

What are the criteria that participants in these spaces might use when assessing the validity of knowledge claims made by their peers? Anderson and Herr (1999: 15 – 16) propose possible criteria for validity and these are set out in table 4.1.

Table 4.1: Criteria for the validity of educational action research

Criteria	Meaning
Outcome validity	‘the extent to which actions occur which lead to a resolution of the problem that led to the study’
Process validity	‘to what extent problems are framed and solved in a manner that permits ongoing learning of the individual or system’
Democratic validity	‘the extent to which research is done in collaboration with all parties who have a stake in the problem under investigation’
Catalytic validity	‘the degree to which the research process reorients, focuses and energizes participants toward knowing reality in order to transform it’
Dialogic validity	Reliance on a process of peer review by fellow action researchers.

They propose these criteria as non-exhaustive, potentially complementary approaches that should themselves be problematized. This research claims to be valid in several of these senses. There is:

- outcome validity to the extent that the steps taken helped to align my teaching and learning practice with my educational values;
- process validity to the extent, for example, that I learned more about how I could draw on the pedagogical theories to inform the process of designing and implementing those steps in

my local context and also how I and my colleagues could form a community of inquiry that could make use of, and contribute to, the findings of projects such as mine;

- dialogic validity: to the extent that I invite other practitioners to reflect on whether the practices described in this thesis improve *praxis* (and perhaps draw on these findings to inform their own practice). Dialogic validity emphasizes the idea of knowledge construction by an appropriate community. The community must, of course deploy some agreed criterion or criteria. It seems then that dialogic validity draws on other criteria such as outcome validity; has the practice being studied improved *praxis*?

Heikkinen et al (2016: 12 - 15) suggest a principle of 'evocativeness' where 'research stimulates and provokes a person to think about things in a new and different way'. This research was evocative, in this sense, both for me personally and for at least some of those to whom I presented the findings of this research. Other proposals for validity or evaluative criteria (Dickerson et al, 2014; Kemmis, 2006; Koshy, 2005; and Noffke, 1994) are variations on the same themes or some combination of them). Baumfield et al (2013: 26) suggest that the criterion is whether the conclusions 'ring true'. They also propose the concept of 'ecological validity' which requires findings to 'have relevance to teachers and to be true to the world that they recognise if they are to influence teaching and learning' (Baumfield et al, 2013: 26). This is consistent with the other criteria just discussed but perhaps comes closest to that of 'dialogic validity'. I reflect on the validity of my findings in 7.4.1. 'Dialogic validity' appears to be an especially appropriate criterion by which to judge the quality of this project. Practitioner researcher communities of inquiry would consider whether the practices studied in this thesis amount to an improvement of *praxis*; have they helped to better align practice with educational values? It aligns with my educational values and the approach to the idea of knowledge outlined in chapter 2. It relies on the existence of communities of inquiry of fellow practitioner researchers. In the literature about the *communities of inquiry pedagogy*, we find calls for, or

examples of, its use for the professional development of academics (Richlin and Cox, 2004; Golding, 2015; Baumfield, 2016 and 2017; Morewood et al, 2016; Willemse et al, 2016, Maher and Prescott, 2017; Pellas et al, 2017). It is fitting, given my conviction that students learn best in communities of inquiry, that I also defend the view that the professional development of teachers is likewise best accomplished in practitioner researcher communities of inquiry. This illustrates the ‘mirror effect’ where ‘interventions designed to have a particular impact on student learning have a similar effect on the teachers involved’ (Baumfield et al, 2013: 7).

4.2.5 Types of knowledge claims made in this thesis

The teacher-researcher or practitioner-researcher uses action research to develop their personal knowledge (Schon, 1983: 166). It proposes new possibilities, ‘intelligent, but provisional, lines of development’ (Stenhouse, 1975: 125). Schon argues that practitioner researchers produce knowledge that is objective (satisfactory change has been achieved or it has not) and personal (what amounts to satisfactory change is to be judged by reference to the values or appreciative system of the researcher) (Schon, 1983: 166).

The production of a rich narrative of the action research project is an important form of knowledge. Koshy says that, ‘[t]he intention of the action researcher is ... to tell a story which is of interest to other practitioners who may want to learn from it, or replicate the study or apply your findings to their situations.’ (Koshy, 2005: 123). The practitioner-researcher’s account gives rise to ‘fuzzy’ generalisations (Corden, 2001). Shulman proposes that the professional knowledge of the teacher can take one the form of case knowledge which is ‘knowledge of specific, well-documented, and richly described events’ (Shulman, 1986:11).

The knowledge claims that I make in chapters five to seven (the data analysis sections of chapter 5, the discussion chapter and the conclusion) are of various types. They concern, for example:

- the reasonableness of my educational values (in particular that the communities of inquiry pedagogy needs to be complemented by socio-cultural perspectives such as Beach's idea that learning involves consequential transition to be an adequate reflection of the idea that undergraduate education is, and is expected by students and others to be, induction into a discipline with all that that entails in terms of identity formation);
- the ways in which my pre-project teaching and learning *praxis* was misaligned with my educational values (which may be a problem that other teachers judge to be a problem for them too) (5.2.1 and table 5.2);
- my identification of the contextual factors that affect any attempt to create a teaching and learning environment that aligns with my educational values (5.2.2 and table 5.3);
- the designs chosen in each of the cycles of this project as being plausible ways of trying to enact my educational values in my context (I have already made the point that the production of a rich narrative is a form of knowledge);
- the answers to the research questions set out provisionally in 5.6 and 5.8 and drawn together in accessible form in 7.2;
- reflection on the inadequacy of the way in which Garrison deals with the concept of collaboration in the communities of inquiry pedagogy (5.6);
- the ways in which, in chapters six and seven, I claim to have contributed to the literatures reviewed in chapter three;
- the elements that I identify as being necessary to contribute to a theoretically informed and practice-oriented communities of inquiry literature in a discipline (6.5 and table 6.3).

4.2.6 Practitioner research as insider research: my position in the research setting

In this project, I am studying my own *praxis* and its development over time. I am an ‘insider’, an active participant in the research context. Being an insider has its advantages. Cochran-Smith and Lytle (1992) argue that this perspective, ‘makes visible the ways that teachers and students construct knowledge and curriculum’ (Cochran-Smith and Lytle, 1992: 43). Further, ‘the gap between researcher and researched is narrowed’ and the teacher researcher is ‘a native inhabitant of the research site’ who ‘knows the research context in its richest sense’ (Cochran-Smith and Lytle, 1992: 58).

Hammersley (1993) considers the stronger argument that insider status is not only helpful but is inherently superior to outsider educational research. He concedes that insider teacher research has its advantages:

- ‘teachers have access to their own intentions and motives, thoughts and feelings’;
- ‘the teacher-researcher will usually have long-term experience of the setting being studied, and will therefore know its history first-hand’;
- ‘the teacher already has relationships with others in the setting and can use these to collect further data’;
- ‘because teachers are key actors in the settings studied in educational research, they are in a position to test theoretical ideas in a way that a mere observer can never do’ (Hammersley, 1993: 432).

There are disadvantage of insider teacher research when contrasted with other types of educational research:

- ‘people can be wrong even about their own intentions and motives’;

- ‘understanding often requires seeing a phenomenon in its wider context, and this may be particularly difficult for those closely involved in it’;
- the information of teacher researchers derives from a particular role while an outsider researcher may have access to a wider range of sources of information;
- some of the insider’s relationships in the research context may be a hindrance rather than a help; they may be ill-placed to speak truth to those above them in the hierarchy;
- ‘What is required to test theoretical ideas may well conflict with what is needed for good practice’ (Hammersley, 1993: 432 – 3).

There is the danger of finding what you are looking for, of focusing on the evidence that fits with a pre-conceived idea. Polanyi (2003 and 2013) makes the point that ‘personal knowledge’ is an element of all scientific work. It is the commitment to a search for truth, a sense of being an apprentice to a tradition and working in expert communities of inquiry that preserves the validity of the conclusions. Acts such as the writing and submission of this thesis and giving an account of one’s research to practitioner-researcher communities of inquiry are important for this reason. Presenting one’s work to others and trying to cultivate communities of inquiry that can act as critical friends helps to overcome some of these disadvantages.

I am the course leader of *Land Law I* and of the *Issues in Property Law* elective. This project concerns these two courses. The innovations that I describe in this chapter look at how my *praxis* in relation to these courses developed over several iterations. I was the Associate Dean (Teaching and Learning) in the Faculty of Law at the Chinese University of Hong Kong from August 2017 to August 2019. This appointment meant that I was expected to chair the Teaching and Learning Committee and the Undergraduate and Postgraduate Committees; these are the committees in the Faculty of Law responsible for teaching and learning issues. As Associate Dean I was also expected

to represent the Faculty in university committees and bodies dealing with teaching and learning. The most important of these is the Senate Committee on Teaching and Learning. This appointment gave me an awareness of the broader policy context of the Faculty and the University as a whole. I also interpreted this role as entailing a responsibility for giving colleagues a platform to share their teaching practices in teaching and learning seminars and through the *Learning Matters* blog that I established (<https://www.learning.law.cuhk.edu.hk/>). In this sense, the Associate Deanship gave me a platform to try to create a teaching and learning community of inquiry. I continued with these practices even after my term as Associate Dean came to an end.

4.2.7 What kind of action research?

Kemmis et al provide a useful account of the different types of action research (Kemmis et al, 2014: 8 – 12). Of these, the most relevant form for my project is what they term ‘classroom action research’:

‘Primacy is given to teachers’ self-understandings and judgments. The emphasis is ‘practical’, that is, on the interpretations teachers and students are making and acting on in the situation. That is, classroom action research is practical not just idealistically, in a utopian way, or just about how interpretations might be different ‘in theory’, but practical in Aristotle’s sense of practical reasoning about how to act rightly and properly in a situation with which one is confronted.’ (Kemmis et al, 2014: 11)

It will be clear from my earlier account of action research that that this is the action research tradition that I have chosen to work within; this makes sense since I am concerned with the development of my own teaching practice. In this thesis when I refer to action research, I generally mean this tradition of ‘classroom action research’. The authors in this tradition include Elliott (1991), Somekh (2006) and Stenhouse (1975). The ‘living educational theory approach of Whitehead

(1989) and Whitehead and McNiff (2006) also belongs to this tradition. I also use the term ‘practitioner research’ to mean the same as ‘classroom action research’

This approach to action research differs from ‘outsider’ forms of action research. Unlike the critical participatory action research approach favoured by Kemmis et al, the focus of classroom action research is on the development of teaching and learning practice rather than broad social analysis (Kemmis et al, 2014: 11 - 12). It is also unlike participatory action research in that my project is not the result of a process of collective decision-making. I have been responsible for the learning designs and for the general conduct of the research. These differences should not, however, be overstressed. I am, as the next section will explain, interested in reflecting on the contextual factors that bear on practice and on how one might work to improve these. Although the project is not participatory in the sense proposed by Kemmis et al, I explained in 4.2.4 that action research projects seeking the improvement of teaching practice are best seen as part of the collaborative research of practitioner-researcher communities of inquiry.

4.3 Research design: the action research model

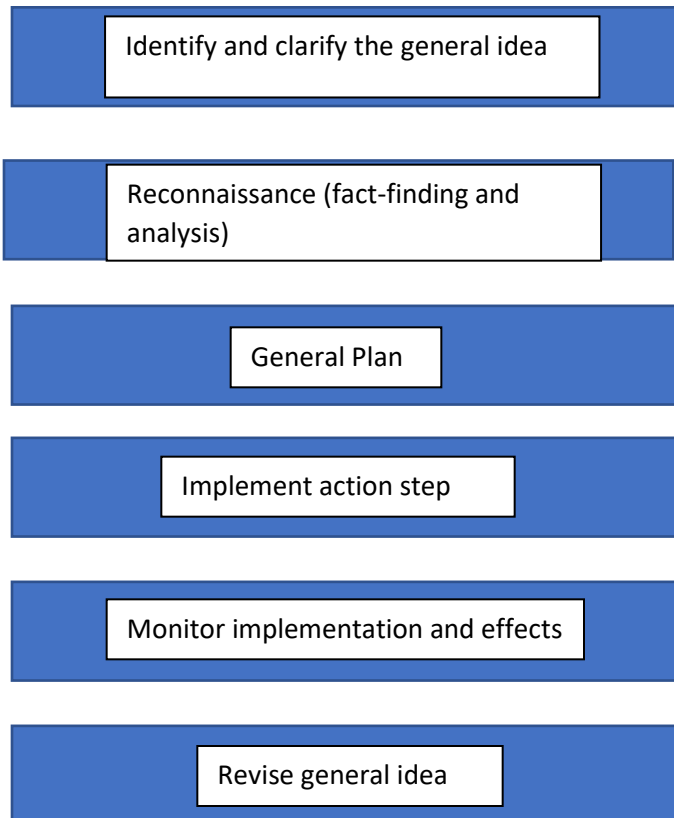
4.3.1 Purpose of this section

This section explains the research design used in this thesis. In this section I explain: the action research model and how I implemented it across the three stages of this project. I describe the role of the research questions when monitoring the implementation of the project. The action research model calls for reflection on the ethical issues raised by the research; my comment on these issues and how I responded to them will be provided as part of my account of the action research model.

4.3.2 The action research model

Action research involves iterative attempts to develop *praxis*. Elliott (1991: 70 - 77) elaborates an action research cycle with the following stages:

Figure 4.1: The action research cycle



To elaborate slightly:

- the 'general idea' is the 'state of affairs or situation one wishes to change or improve on' which in this case was the mis-match between my educational values and my teaching practice (Elliott, 1991: 72).
- Reconnaissance involves (a) gathering information about the nature of the problem and (b) analysis: 'Having collected and described the relevant facts one needs to explain them. How

do they arise? What are the relevant contingencies, or critical factors, which have a bearing on the state of affairs described?' (Elliott, 1991: 73). It is at this stage that the researcher can reflect on the structural factors that influence practice.

- The 'general plan' is a clarification of the general idea in the light of the reconnaissance with a statement of:
 - The actions one is going to take to improve the situation;
 - A statement of the negotiations one has had, or will have, before undertaking the proposed course of action;
 - A statement of the resources needed to undertake the proposed course of action;
 - A statement of the ethical framework which will govern access to and release of information (Elliott, 1991: 75). I will address the ethical issues involved in section 4.3.4.
- 'implement action step' is self-explanatory; the practitioner researcher implements the action plan. Table 4.2 in 4.3.3 outlines the steps taken in each cycle of this project.
- 'monitor implementation and its effects' is the evaluative stage. Was it possible to implement the action steps and what effects did this implementation have? I used the research questions to provide a focus for deciding on whether the steps taken in each cycle were helping to align my teaching and learning practice with my educational values. The survey and interview questions were designed to elicit data that would allow the research questions to be answered as I will explain in 4.4.
- 'revise general idea' describes the transition from one action research spiral to another within the same project (the action research spiral is explained in 4.3.3). The data gathered at the monitoring implementation stage informs the judgment of the practitioner-researcher as to whether the practice problem identified at the beginning of the project has been satisfactorily

resolved. If not, the researcher designs new action steps informed by the experience of the previous spiral.

4.3.3 The action research spiral

The practice problem may not have been satisfactorily addressed by the end of the first iteration or cycle of the action research model and so the final stage may be to revise the general idea and move to a second iteration. Thus one may move from one cycle to a second and this process may continue over several iterations. It is, then, customary to speak of an action research ‘spiral’ as the findings of each action research cycle inform the steps taken in the subsequent cycle. As the action research spiral gathers pace and force, a programme of reform emerges (Carr and Kemmis, 1986).

Educational action research frequently charts attempts to improve learning as they develop over a period of years (Case and Marshall, 2009).

This project had three cycles as shown in table 4.2:

Table 4.2: Action steps in each cycle

STEPS IN EACH CYCLE
CYCLE ONE (2015 – 16) Land Law I students produced: <ul style="list-style-type: none">• A discussion forum contribution of at least 250 words (5% of the mark for the course and graded on a pass / fail basis); and• An essay or case note (1250 words or less) (25% of the mark for the course).

CYCLE TWO (2016 – 17 to 2018 – 19 inclusive)

Land Law I students produced:

- (a) a written piece of 500 – 550 words; or (b) a 3 – 5 minute podcast or video; or (c) a short (3 – 5 minute) recording of an interview with an academic or legal practitioner ('the class participation project') (10% of the mark for the course and graded on a pass / fail basis); and
- An essay or case note (1250 - 1500 words) (30% of the mark for the course).

CYCLE THREE (Term 2, 2018 – 19)

The Issues in Property Law elective.

Students produced:

- a conference presentation (delivered at a conference in week 8 for all participants in the course) (15% of the mark for the course);
- a 1250 word blog post (25% of the mark for the course); and
- an individual research coursework (60% of the mark for the course).

Students worked in groups of 3 – 5 on the conference presentation and blog post (which were about the same project). Each group was supported by a research postgraduate student who acted as a facilitator. The students worked individually on the research coursework which could draw on work that they had done for the presentation and blog post.

The students were required to frame their own research questions. The only requirement was that it should fall within the general field of property law (conceived very broadly).

4.3.4 Ethical issues

Ethical concerns arose because students might feel coerced to participate in a survey or interview when the researcher is also the person who is responsible for grading their summative assessment work. The same fact creates the danger that students might feel obliged to give responses that they feel are desired by the researcher. There are also data privacy concerns to be addressed. Ethical clearance was obtained from Survey and Behavioural Research Ethics Committee (“SBREC”) of the Chinese University of Hong Kong and from the University of Lancaster Research Ethics Committee (“UREC”) in respect of the interview and survey forms and procedures. SBREC did not raise any concerns concerning the survey interview forms and processes that were submitted for approval. UREC raised several concerns concerning the forms that were originally submitted. I was asked, for example, to make sure that no aspect of the data gathering process and the subsequent management of the data would compromise the anonymity of those who agreed to participate.

The survey forms were made available to students online (in the course Blackboard site) so that they had a chance to study the questions before the distribution of the paper copies. They were distributed in class but not by the researcher. Students were told not to put their names on the forms. Students could return completed forms as they left the class in which the survey was distributed (again the researcher was not present in class at this point). Alternatively, they could return their completed forms to the reception counter of the Faculty of Law. The completed surveys returned this way were collected by Faculty staff and handed over to the researcher when the deadline for returning completed surveys had passed. In these ways, the dangers of actual or perceived pressure being exerted on students were removed.

It was only possible to recruit interviewees in the 2015 – 16 iteration. Four of the students from that cohort agreed to be interviewed. The interviews were conducted by a teaching assistant with experience of conducting interviews for research purposes. The same ethical issues as arose

regarding the survey were at play here. The dominant aim was to make sure that the students could speak freely. The students had to feel confident that they were not identifiable by the teacher. The students agreed on a fictitious name by which they would be identified in the interview. The interviewer asked them to sign a consent form that had been approved as part of the ethical approval procedures mentioned above. At the start of the interviews, the interviewer asked the interviewees to confirm that they agreed to the interviews being recorded.

4.4 Research methods

4.4.1 Data gathering in action research projects

In this section I comment on the sources of data, the design of the survey instrument and the semi-structured interviews. I explain how I processed the data gathered and how I used it during the project to inform my decision-making and how I use it in the data analysis in chapter five. In this project, I was interested in gathering evidence as to whether the designs deployed in each cycle were helping to align my teaching and learning practice with my educational values. The point of gathering evidence in action research is ‘to feed and nurture self-reflection, especially collective self-reflection in public spheres’ (Kemmis et al, 2014: 176). I gathered information to find out what was happening and to inform decisions about future action (Kemmis et al, 2014: 186).

Data gathering falls under the ‘reconnaissance’ and ‘monitoring implementation and its effects’ stages of the action research cycle. Although there was a concerted effort to gather data at the end of each cycle, data gathering is an ongoing affair. The practitioner-researcher is an insider, present in the research setting and so constantly observing and forming judgments. Ideally, at least some of this stream of data will be captured in a journal or blog (4.4.2). As explained in 4.3.2, the instruments employed were designed to elicit answers to research questions.

The interviews and survey instruments sought to gather evidence of student perceptions about progress through the practical inquiry model and the sense of making a consequential transition. This data provides answers to the research questions identified in the introduction. In the third cycle, the aims remained the same but questions posed in the survey and interviews focused especially on student perceptions as to whether being required to work in small collaborative groups, supported by facilitators, was helpful to their work and their development as learners. There was a narrower focus on the benefits of collaborative discussion.

4.4.2 Sources of data

Elliott (1991) and Kemmis et al (2014) provide very similar accounts of the sources of evidence that the practitioner-researcher is likely to draw on. I comment on the sources of evidence that I relied on during the project and that I draw on in the presentation of data in the next chapter. In the data analysis chapter, I explain how I interpret this evidence and the lessons, or new knowledge, that I claim emerge from this interpretation.

Diaries should aim to ‘convey a feeling of what it was like to be there’ (Elliott, 1991: 77). I kept a private blog throughout the project. It has some 500 entries. I will refer to the blog in the next chapter when, for example, I recount the work that I did in gathering, and reflecting on, the views of colleagues and students when revising the general idea between the first and second cycles of the project.

Document analysis is another source of data (Elliott, 1991: 78). Kemmis et al comment that approaches to document analysis vary from the highly theoretical through the pragmatic to the impressionistic. Pragmatic approaches are ‘guided by practical experience concerning the question or issue being investigated’ (Kemmis et al, 2014: 184). In the next chapter, I refer to the course documents, made available to all students before the start of the course, to explain the course

syllabus, teaching and learning and assessment arrangements. The course document is a record of these matters and of how these details were communicated to students. I also refer to the Blackboard discussion forum created in the first cycle and to some of the postings on that forum. These are evidence as to the effectiveness or otherwise of the discussion forum as a way of promoting collaborative, critical discourse on the part of the students; this would be evidence that the forum was creating or underpinning a classroom community of inquiry.

Interviews are ‘a good way of finding out what the situation looks like from other points of view’ (Elliott, 1991: 80). Gaining access to how things looked from the student perspective is especially important in this project because the research questions are all about student perceptions. I draw on the transcripts of lengthy interviews with four students who were involved in the first cycle and on interviews with all the third cycle facilitators. I read the interview transcripts carefully with a view to identifying passages that addressed the research questions. There are no interviews with students from either the second or third cycles. Repeated efforts were made to recruit interviewees but no-one came forward. CUHK’s teaching and learning unit (CLEAR) encountered the same difficulty when they tried to recruit Law student interviewees for their own project. I know of no reason to account for this difficulty.

Surveys / questionnaires were used in all three cycles to gather data about student perceptions of teaching and learning environments and their impact on learning. I used a Likert scale survey in the first cycle. The advantage is that it was easy for the students to complete. 44 students (out of 86) returned the surveys which were distributed and collected by a teaching assistant. This was the highest success rate. The disadvantage of the Likert scale approach is that it does not provide any insight as to why the students held the views they professed. All the later surveys posed questions and left students with space to answer the question in their own words. This provided greater insight but saw the number of survey responses fall to very low numbers.

I prepared reports summarizing and commenting on the survey responses in the first and second cycles. In the first cycle I sent the resulting report to the students through Blackboard. I also sent the third cycle facilitators the notes made from their own interviews as well as a blog post co-written with a teaching assistant about how the course had gone and the lessons learned. Five of the six facilitators confirmed that the notes and blog post agreed with their recollections and had nothing to add. Only one facilitator failed to respond. In retrospect, I asked too many questions in the second cycle survey instruments and ended up with a lot of data that was not targeted on the research questions. The length of the questionnaire may play a part in explaining the low response rate. CUHK distributes a course teaching evaluation questionnaire ('CTE') to all students at the end of every course. This survey gives students the opportunity to comment on the course. Mainly, however, students are asked to rate various features of the course on a Likert scale. They are also asked to rate their satisfaction with the course and the teacher. Occasionally, the survey responses provide useful feedback. They are one source of evidence of student dissatisfaction with the first cycle discussion forum.

Kemmis et al mention student work samples and assessment tasks as sources of evidence (Kemmis et al, 2014: 185 – 186). I have already mentioned the discussion forum postings as one source of evidence and explained the student assessment tasks in each of the three cycles. I do not use student marks or grades as evidence. I do not believe that this would be useful since the reader cannot know how I awarded those grades and whether the application of my evaluative criteria remained constant over time.

The interim conclusions in the monitoring implementation sections in chapter 5 (5.2.5, 5.3.5 and 5.4.5) are a form of data. The early sections of chapter 5 deal with data presentation. I use the action research model set out in 4.3.2 and figure 4.1 to structure the account of each cycle. The monitoring implementation section records my reaction to the data gathered in each cycle and these provisional

conclusions, my reflection on them at the time and the explanation as to how this influenced later action are a part of the story to be told. In sections 5.5 to 5.8, I look back across all three cycles of the project retrospectively to answer the research questions.

Triangulation means drawing on ‘a variety of angles and perspectives, and then comparing and contrasting them’ (Elliott, 1991: 82). The aim is to draw on all the sources of evidence available to see whether they corroborate each other or whether there are tensions which ought to be reflected on. In the first and second cycle, I rely on evidence of student perceptions from the interviews and surveys and on my own perceptions such as those recorded in the journal. I was also able to look at the discussion forum postings to look for evidence of collaborative, critical discourse. The second cycle spanned three academic years and I was able to compare student survey responses over that time. In the third cycle, the interviews with facilitators provided yet another perspective on what had taken place. Triangulation, contrasting the evidence from a range of sources, adds to the richness of the picture being painted and to the robustness of the conclusions drawn.

4.4.3 Analysing the data

I use the structure based on the stages of the practical inquiry model, explained in 1.6, and RQs 2.1 and 2.2 to organize the presentation of data in chapter 5 and the analysis in 5.5 and 5.7. The research questions are used as the lens through which to interpret the data. The meaning that I attach to survey or interview responses, for example, is determined by reference to their usefulness in responding to the research questions. The research questions provide a system of coding the responses; they refer back to the communities of inquiry pedagogy (the practical inquiry model in particular), learning as consequential transition and social constructivist and socio-cultural perspectives on assessment, feed-forward and feedback. Thus, I look at the data gathered through the lens of these theoretical perspectives.

4.5 Conclusion

Methodologically, this project belongs to the classroom action research tradition. It reflects on *praxis* and seeks the development of *phronesis* (or ‘practice sensibility’ or ‘strategic knowledge’), both my own and those of others such as those with whom I share this account in communities of inquiry. This research is validated in these communities and seeks to contribute to the knowledge base and collective reflection of those communities. In this thesis I claim that this methodology allows me to develop my own understanding of theory, how it might improve my *praxis* and the contextual factors that must be borne in mind. I will claim in chapters six and seven that this research not only builds on the scholarship of teaching and learning and legal education literatures but identifies gaps in those literatures and makes a start in contributing to these literatures. I also argue that this action research project makes an important, and ongoing, contribution to my professional development as a ‘technologist’ to use the term employed by Winch (2017).

Design-wise, the project adopts Elliott’s (1991) model of the action research cycle. Action research is iterative; frequently there are multiple iterations of the model so that an entire project involves an action research ‘spiral’ from one iteration to the next. Each cycle builds on the learning from the previous cycle. The action research spiral in this project has three cycles as I made progressively more elaborate, and informed, efforts to enact my educational values. In terms of method, I gathered evidence from a range of sources to address the research questions: a journal (kept in a private blog), documentary analysis, interviews and surveys.

In the next chapter, chapter five, I will give an account of this project as it developed over the three cycles. I will use the stages of Elliott’s action research model to structure my account of each cycle of the project. I will then analyse the data presented to answer the research questions. By the end of chapter five, I will be ready to identify the knowledge claims that I believe emerge from this study.

In the discussion in chapter six, I will reflect on how these claims draw on and develop the literature reviewed in chapter three.

5. Data presentation and analysis

5.1 Introduction

This chapter has two main functions. Sections 5.2 to 5.4 of this chapter present the empirical data concerning this action research project. They seek to be a rich and truthful account of the actions that I took, the reasons for those actions, the data that I gathered about implementation and how my initial responses to that data reflected my later actions. Sections 5.5 to 5.8 build on this account. 5.5 analyses the data relevant to RQ1 and 5.6 contains my answer to RQ1. 5.7 analyses the data relevant to RQ2 and 5.8 contains my answer to RQ2.

By way of reminder the project has three cycles:

- Cycle one (2015 – 16): students were required to contribute to a discussion forum and to write an individual research coursework, each piece of work relating to the law of the ownership of the family home;
- Cycle two (2016 – 17 – 2018 – 19): students were required to produce a ‘class participation’ project (working in groups of 2 – 3 if they chose) and an individual research coursework each piece of work relating to the law of the ownership of the family home;
- Cycle three (2018 – 19 term two): the Issues in Property Law elective.

Each cycle built on the other. The requirement to post to a discussion forum on an individual basis gave way to the class participation project which could be done collaboratively (taking this collaborative option became the norm by the end of the second cycle). The Issues in Property Law elective in the third cycle made the essential features of the second cycle the basis of the design of an entire elective course.

Analysis principally takes place in later sections of this chapter (5.5 to 5.8) in which I analyse the data looking back across all three cycles of the project as a whole. Sections 5.2 to 5.4, however, give an

account of the interim analysis at the end of each cycle since it informed decision-making about the subsequent cycle. It may be that other practitioner-researchers will find the account and raw data in sections 5.2 to 5.4 more interesting and useful than my subsequent analysis; they may prefer to draw their own conclusions as to how this account might inform the development of their own practice and even to ask questions other than the research questions that I selected. Practitioner-researchers learn from the stories that they tell each other about practice. I think that this division of labour between narrative in 5.2 to 5.4 and analysis in 5.5 to 5.8 makes sense. The reader does need to be alerted to this strategy, however, since the effect is that 5.2 to 5.4 may appear light on analysis and 5.5 to 5.8 do not repeat the evidence given in the earlier sections.

Each of sections 5.2 to 5.4 deals with one of the three cycles of this action research project. The narrative in each of these sections is structured in accordance with Elliott's (1991) action research model explained in 4.3.2. Section 5.5 analyses the data relevant to RQ1 (the communities of inquiry pedagogy) and 5.6 sets out my answer to RQ1. Section 5.7 analyses the data relevant to RQ2 (consequential transitions) and 5.8 articulates my answer to RQ2.

In 5.5 to 5.8, I look back at the evidence gathered across the entire length of the project to answer the research questions. I seek to show the interplay between the pedagogical elements of my educational values (the communities of inquiry pedagogy, feed-forward and feed-back practices and the idea that learning (especially professional learning) is best conceived of as a consequential transition) and the evidence presented in chapter five.

In 5.5 to 5.8, I italicize elements of my educational values when I mention them. This is to help the reader to identify the link between the analysis in these sections and the educational values identified in chapter two. On the first occasion on which I mention a key concept in these sections, I refer the reader to the explanation of that concept in chapter two by giving the number of the relevant section in brackets. I use the same technique where I want to refer to a source of evidence in 5.2 to

5.4. 'Research question' is abbreviated to 'RQ'. I summarise the key findings in a table at the end of each sub-section of 5.5 and 5.7.

5.2 The first cycle (2015 – 16)

5.2.1 Identifying the initial general idea

The 'general idea' is the 'state of affairs or situation one wishes to change or improve on' which in this case was the mis-match between my educational values and my teaching practice (Elliott, 1991: 72). By way of reminder, my educational values incorporate the elements shown in table 5.1:

Table 5.1: Pedagogical elements of my educational values

Pedagogical elements of my educational values
1. Communities of inquiry pedagogy (explained in 2.3)
2. Consequential transitions (explained in 2.4)
3. Assessment, feed-forward and feed-back (theoretical perspectives on these practices are explained in 2.5)

The practice problem to be solved was to overcome the deficiencies in my pre-project teaching and learning practice are identified in table 5.2.:

Table 5.2: Deficiencies in my pre-project teaching and learning practice

Deficiencies
1. No collaboration: The teaching and learning environment for Land Law I did not require students to engage in collaborative discourse nor seek to equip them to do so.
2. Students did not choose their own topics for inquiry: Students worked (in tutorials and in examinations) on problems or questions chosen by me.
3. Information transmission approach: I saw the role of the student as largely being that of understanding the material presented to them by me.
4. Failure to reflect on teaching and learning as a way of facilitating consequential transitions.
5. Lack of reflection on assessment, feed-forward and feedback processes: These processes were present but I did not gather any data as to whether the students perceived them to be useful and how they might be improved.

The initial general idea was that I should alter my teaching practice to make meaningful progress in closing the gap between my practices and my educational values in table 5.1.

5.2.2 Reconnaissance

Reconnaissance involves (a) gathering information about the nature of the problem and (b) analysis: 'Having collected and described the relevant facts one needs to explain them. How do they arise? What are the relevant contingencies, or critical factors, which have a bearing on the state of affairs

described?’ (Elliott, 1991: 73). It is at this stage that the researcher can reflect on the structural factors that influence practice.

In 2014 – 15, the academic year just before the start of this action research project, the assessment regime for Land Law I required the students to do:

- a two-hour examination for 70% of the overall mark; and
- to write a case note (a critical evaluation of an important judicial decision) of no more than 1250 words for 30% of the overall mark.

The students were given a list of three judicial decisions and had to choose one of these as the subject matter of the case-note. I gave a presentation during the course about the evaluation criteria for the case-note. I did not give individual feedback on the work submitted by the students but prepared a four-page feedback sheet for the entire class.

I reflected on the ‘critical factors’ that helped to shape my pre-project practice. These are set out in table 5.3:

Table 5.3: Critical factors

Critical factors
1. The course is compulsory for those who want to qualify as solicitors or barristers in Hong Kong (all or by far the majority of students): It is fairer to impose a radical change in teaching and assessment regime in an elective course.
2. Students are used to ‘traditional’ courses where learning and assessment are individual rather than collaborative.
3. Students have the opportunity to punish ‘deviant’ behavior through the scores that they give in the Course Teacher Evaluation (‘CTE’) Questionnaire: At the end of

each course, the students are asked to complete a CTE questionnaire in which they effectively grade their teachers on a scale from 1 (lowest) to 6 (highest). These grades are reported back to the teacher and to the Faculty Dean. They are automatically incorporated into the appraisal form submitted by the Faculty about each member of staff to the University. I am not alone in believing this system to have the potential to impede or tone down desirable innovation (Hervey and Wood, 2016).

4. **The lecture and tutorial format:** It is easy for both the teacher and the student to see the lecture as providing not material for inquiry but a package of ‘facts’ to be learned. It is also easy to see the role of the tutorial as being an opportunity to learn the ‘right’ answer.

5. **The ‘class contact hours’ requirement:** each three-credit course requires students to have thirty-nine contact hours where teachers and students are physically present in the same lecture theatre or tutorial room. Hong Kong’s University Grants Committee (‘UGC’) insists that this contact hours requirement should be adhered to. It is not possible, without Senate permission to allow students to use any of the thirty-nine hours for individual or small group study without the presence of the teacher. This reinforces the idea that the physical presence of the teacher at all times is central to student learning. It imposes limits on approaches to teaching and learning that emphasise student agency.

6. **The layout of the lecture theatre:** The lecture theatres used for Land Law I all had certain characteristics in common. Students sit in fixed seating facing the front. The teacher has a podium that incorporates a microphone (the teacher can choose to use either the fixed microphone built into the podium or a clip-on microphone). There is a projection system that the teacher uses to project powerpoint slides but other media could

also be used. These arrangements emphasise the teacher as the central figure in the teaching and learning environment.

7. Professional bodies specify subjects that need to be covered in Land Law I and II

together: There is some trade-off between breadth and depth. Ideally students would spend an entire course on individual and collaborative inquiry projects. The professional bodies have, however, specified the subjects that must be covered in the Land Law course if it is to qualify students to proceed to the PCLL, the next stage of their professional studies. The list of subjects to be studied is quite extensive. The easiest way to ensure coverage of the prescribed syllabus is to do so in traditional lectures. This reduces the amount of time that students can spend on inquiry-based work.

8. Professional bodies demand that a final written examination should be the most

significant component of the summative assessment regime: the professional bodies insist that the assessment regime, for subjects that are pre-requisites for progression to the PCLL, has to include a final written examination that will count for at least 50% of the overall mark. It would be strange if this final examination did not require knowledge of all the prescribed list of subjects to be covered. This means that the space for inquiry-based work is correspondingly reduced.

9. Other demands on student time: I have no control over the subjects that the students

take at the same time as Land Law I. Land Law I falls in the third year and students typically take three to five other courses at the same time. At least one of these is quite demanding in terms of the amount of material that students are expected to read. I believe that this affects the students' appetite and capacity to engage in inquiry.

10. Competition for PCLL places: Not all undergraduate students will get a place on the PCLL and offers for these places are made based on GPA on the undergraduate programme. This creates a sense of competing with class-mates for the available places. If students cannot secure a PCLL place then they will not be able to qualify as a solicitor or barrister in Hong Kong. Student anxiety about teaching and learning is exacerbated by this competition and their natural response is to prefer predictable assessment arrangements.

In early August 2015, I discussed my intention with a former colleague in legal practice, whose judgment I trusted. I kept a note of that conversation in an ‘Ownership of the family home folder’ in my Onedrive account. The conversation generated the idea of getting students to share ideas and critique ideas about the law of the ownership of the family home in Blackboard and so develop their understanding that knowledge is socially constructed. A few days later, on 11 August 2015, I prepared a document ‘Using Blackboard online discussion boards to support socio-constructivist approach on an undergraduate course’ outlining the general plan set out in 5.2.3.

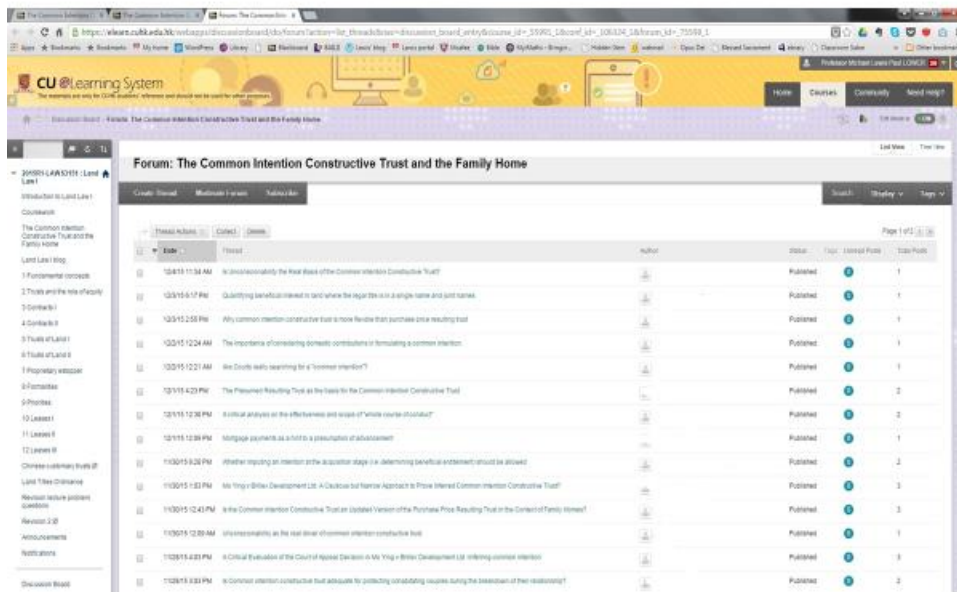
5.2.3 The general plan

The ‘general plan’ is a clarification of the general idea in the light of the reconnaissance (Elliott, 1991: 73). Following the discussions mentioned at the end of 5.2.2, I formulated the following plan for Land Law I in 2015 – 16 which I believed would be a realistic move towards aligning my practice with my educational values and so be a meaningful attempt to redress the deficiencies identified in table 5.2:

- The coursework to count for 25% (not 30%);
- Students to frame their own research question within the broad area of the law of the ownership of the family home;

- Students to post a contribution of at least 250 words to an online discussion forum (figure 5.1 below is a screenshot below of the discussion forum) for 5% of the overall mark (assessed on a pass / fail basis);
- Students to be given individual written feedback on their courseworks (with a prior explanation of the elements covered by the feedback and a subsequent opportunity to make use of this feedback and reflection on it in the Land Law II coursework);
- I was to create a section of the course Blackboard site for the family home topic with:
 - six podcasts (and scripts) drawing attention to some of the contentious issues in this area; and
 - An annotated bibliography of relevant journal articles.

Figure 5.1: Screenshot of the Blackboard discussion forum



The design did not envisage that the students would work in collaborative groups. Instead, I intended that the sense of belonging to a community of inquiry would be created in two ways. First, the coursework and the discussion forum contribution each had to relate to the theme of the law of the ownership of the family home. I hoped that having a common theme would make it possible for the sense of a classroom community of inquiry to develop. Second, I hoped that use of the discussion forum would, as Garrison et al (2000) predicted, lead to more thoughtful and carefully crafted contributions but also support a sense of community.

I expected that providing individualized written feedback would give the students greater insight as to how they could improve their research and writing. They would get the chance to make use of this insight in the Land Law II coursework. The section of the Blackboard site containing additional instructional materials and references was intended as a form of scaffolding to help the students understand which aspects of the law in this area were unsettled and to give some idea as to sources of scholarly opinion. I wanted students to have materials explicitly designed to scaffold research projects. Modest change, rather than a radical overhaul of Land Law I, seemed sensible given the critical factors mentioned in table 5.3.

5.2.4 Implement action steps

'Implementation' is the phase where the practitioner researcher implements the general plan in the light of the reconnaissance.

86 students took the course. The students had to email me when they made their post so that I could award the 5% mark to them. I acknowledged receipt by email and offered some brief comment on their post in this email. I did not, however, participate in the forum or offer any comment of my own in the forum. I hoped that the students would comment early and often. In fact, most students waited until quite close to the submission deadline before posting. Each student

contributed at least one posting to the discussion forum but most students posted only once. 22 of the 86 students posted twice. One student contributed five posts.

In the middle of the term, when the students had been introduced to the themes relevant to the coursework, I gave a presentation about the qualities of a good coursework (using a feedback sheet with the headings shown in figure 5.2 below).

Figure 5.2: Coursework evaluation criteria

Coursework evaluation criteria
Introduction – clear purpose statement? relevance / interest? Roadmap
Body – coherent logical structure
Relevant facts and key legal principles clearly explained?
Theme or themes to be explored clearly identified?
Reflective – made critical appraisal of issues
Reasonable range of literature consulted?
Sensible and consistent citation system?
Conclusion – gave clear summary of key concepts

I left the feed-forward presentation slides in the course Blackboard site. I emphasized the need to address the issues shown in table 5.4.

Table 5.4: My list of elements of a good coursework

Elements of a good coursework
Begin with a clear research question and explain its importance.
Provide clear explanations of technical concepts used in their coursework.
Identify and engage with relevant resources (judicial decisions and peer reviewed articles); to use these resources to help them to address their question.
Use a sensible citation system.
Cultivate a thoughtful and reflective tone.
Answer the question posed.
Pay attention to logical sequencing and use a system of headings to reinforce it.
End with a punchy summary reminding the reader of the question and the answer to it (which may be nuanced) and the reasons for the answer.

These ideas were based on my experience as a legal scholar and as one who had graded many hundreds (at least) of student courseworks and longer dissertations.

The feedback sheet was the form used by the Faculty for evaluating the compulsory Independent Research Paper written by every final year undergraduate Law student. In early January, some seven weeks after submission, just after the formal release of course grades for Land Law 1, I sent an announcement to the students through the Blackboard site that they could collect their courseworks (with a completed feedback sheet attached).

5.2.5 Monitoring implementation and its effects

This is the evaluative stage. Was it possible to implement the action steps and what effects did this implementation have? As explained in 1.6, the practical inquiry model described in 2.3.3 provided

much of the focus for deciding on whether the steps taken in each cycle were helping to improve my practice. The interview questions and the student surveys were each designed to seek evidence of student perceptions as to how they were supported at each stage of the practical inquiry model and as to the usefulness of feedback in improving their learning. I also sought data concerning student perceptions of having made a consequential transition. In each cycle, including the first, I examined and reflected on the evidence gathered from these sources, as well as the other sources identified in 4.4.2. At this stage, I sought tentative answers to the research questions which I used to inform my judgment as to whether the design changes made had been effective and whether to make any changes in the next cycle.

Triggering event

How did students perceive that the teacher stimulated interest in the problem under discussion?

Student freedom to choose their own research topic was intended to stimulate their interest and so act as the trigger which is the first stage of the practical inquiry problem. One of the survey questions asked the students to rate the comment that they would have preferred to be given a very specific topic. There was mild agreement with this comment (2.36 on a scale from 1 (strongly agree) to 5 (strongly disagree) with 3 indicating neutrality). The survey provided respondents with space to make 'additional comments'. I summarized these and sent this summary to the students. This report includes the statement: "There was a variety of views about the coursework; some people wanted just to be given a topic while others suggested having a less constrained choice of topic". By the end of the first cycle, then, I was not able to gain much of a sense as to whether choosing their own research question had been effective in arousing student interest.

Exploration - 1 (searching for information and ideas)

How did students perceive that the teacher supported the students' search for information (using the library, legal databases and other sources of authoritative and relevant information) and ideas (drawn either from materials made available by the teacher or from the sources just mentioned) that could help to make sense of the problem?

My educational values require students to know how to identify relevant epistemic resources relied on by members of the disciplinary community of inquiry. In 5.2.3, I explained how I tried to scaffold this process for the students, how I tried to support the students' search for information. How effective did the students perceive these scaffolding measures to have been? The survey responses showed that the mean number of podcasts watched was 3 (out of the set of 6) and that, even then, the average student (based on the mean response) watched only the beginning of the podcast. There was mild agreement with the proposition that the podcasts helped students to think more deeply about the subject. There was stronger agreement with the propositions that the annotated bibliography was a valuable source of ideas and information and that the lectures and tutorials were well-integrated with the podcasts, bibliography and discussion forum. My report to the students on their additional comments in the survey form recorded that the e-book was generally well-received. I took away from this evidence, the idea that the annotated bibliography was a resource to be cultivated.

Exploration – 2 (students volunteering their ideas)

How did students perceive that the teacher invited them to volunteer their own ideas?

There was strong agreement with the proposition that 'the instructor was helpful in identifying areas of agreement and disagreement concerning the common intention constructive trust that helped me to learn'. This is encouraging but not very illuminating and illustrates one of the shortcomings of the

Likert scale survey. The second cycle survey left the students free to answer the questions using their own words.

Exploration – 3 (students pursuing their ideas)

How did students perceive that the teacher invited them to pursue their own ideas?

There was also strong agreement with the proposition that ‘I felt encouraged to explore new concepts concerning the common intention constructive trust’. Again, the open-response survey questions in the second cycle provided richer insights.

Integration

How did students think that the teacher facilitated critical discussion of their ideas?

This is a key question given that I wanted to know whether the requirement to contribute to the discussion forum would create a classroom community of inquiry. Such a community would be characterized by critical discourse in which students engaged with, and responded to, the posts contributed by their peers. The findings were discouraging. The responses to the Likert scale survey questions showed that the students did not perceive that the discussion forum had helped them to engage more deeply with the subject, to develop a sense of collaboration nor to appreciate different perspectives.

I summarized the students’ comments concerning the discussion forum in this extract from a summary of their responses that I sent to the students soon after they returned the survey forms:

‘Those who commented on the discussion forum in the final comments section generally thought that it had not been helpful. Some commented that the forum could be kept but with contribution being purely optional. Another person thought that it would be good to encourage students to comment on each other’s posts. Yet another response suggested that

the discussion forum should count for a greater proportion of the overall mark and that more should be demanded. One of you added that examples of previous good work would be more helpful. Another suggestion was that the discussion forum should become a group project.’

The interviews suggested that to a large extent the students saw contributing to the discussion forum as something that they did mainly because it was a requirement for the course.

There was, however, some sense that the use of the discussion forum had encouraged the students to think carefully about their contributions. One of the students, Bob, expressed this ambivalence when he said in an interview with him: ‘I did it, because it was compulsory and trying to make it not so bad’. He also made the point twice in the interview that reading the discussion forum postings had allowed him to see other perspectives that he had not previously considered.

Ben contrasted what he perceived to be his peers’ lack of willingness to contribute to the discussion forum in this course with their greater willingness to do so in non-law (General Education) courses. He suggested that the difference might be that in Land Law I, the students were going to write a coursework on the same theme as their discussion forum posting; students might not want to divulge their ‘good points’ to their peers who might then use them to improve their own courseworks.

A reading of the discussion forum postings shows that there were, however, some posts where the author explicitly engaged with the posts of other students. One post by student X begins:

‘I shall attempt to argue that in spite of the criticisms of the resulting trust made by Y and Z in the posts above, the resulting trust analysis is still a better starting point than the common intention constructive trust.’

Y and Z were other students in the same cohort who had already posted to the discussion forum.

The post continues as a thoughtful riposte to the points made by X and Y; it also engages with, and references, relevant literature. There are no later responses by Y and Z to the points made by X.

Feedback

How did students perceive that the teacher's feedback helped them to develop?

The students were asked about whether they felt that they had been well-prepared for the coursework and whether the feedback they received on their project had been useful. By the time of the interviews (but not the surveys) the students had done another research coursework in the term 2 Land Law II course.

The survey responses suggested that the cohort had found the feedback helpful:

	Mean	Standard deviation	Number of responses
16. The feedback on the coursework helped me understand my strengths and weaknesses in carrying out research.	1.68	0.64	44
17. The feedback on the coursework helped me understand my strengths and weaknesses in writing.	1.63	0.65	44

(Likert Scale: 1 = Strongly agree and 5 = strongly disagree)

These responses suggest agreement (tending to strong agreement) with both propositions. In his interview, Ben said that the feedback was ‘very useful for me to review what I’ve done on that’.

Peter, by contrast, had not found the feedback useful. Overall, the responses provided confirmation that students perceived feedback to be useful but little detail as to the use that students made of it. I did, however, judge that there were some simple and obvious ways in which I could improve feedback. In later sections I will outline the steps that I took to improve the feedback sheet and to use it as the basis for discussion with individual students about their research projects.

RQ 2.1 To what extent did participation in the learning activities lead students to identify themselves as participants in the disciplinary community of inquiry (ie as researchers)?

The survey asked the students to rate the proposition that the ‘experience of researching and writing the coursework made me feel that I could contribute to academic debate in this area of law.’ ‘This area of the law’ is the law of the ownership of the family home. There was mild agreement, tending to neutrality, concerning this proposition (a mean score of 2.49 on the scale of 5 ranging from strongly agree to strongly disagree).

The interviews probed this question. The interviewees were generally cautious about the proposition that they had become legal researchers. Each interview had elements suggesting that the student felt that they had either developed their research skills or had produced work that could be a contribution to public knowledge. For example, Peter was asked whether his work was a contribution to the knowledge of the legal community. He responded: ‘Yeah for land two I think I am because there is not much literature on this case law. I think I’ve been telling something new.’ Bob was clear that the work done had developed his own knowledge but was reluctant to claim that it would be of interest to a wider community.

Ben made the following comment about the coursework:

‘Because coursework might be burdensome to students, because you have to contribute a lot of time to try to do the coursework and refine, get citations and bibliography done. That’s really burdensome, but from a positive point of view, that’s really one of the things that I appreciate myself trying to produce something apart from the exam answers, as to reflect more on some of the aspects.’

Here we see Ben acknowledging a conscious struggle to engage with the norms and customs of academia, suggesting that for him at least there was a consequential transition. So we see that students are sceptical about the idea that they have anything new to say that would be of interest to others and, after all, for most the aim is probably to pass with the best grade they can manage. Still, there were signs in the interviews to suggest that, if pushed, the interviewees perceived that they were contributing to knowledge. My decision to continue to search for ways of getting students to engage in small-scale projects was rooted in my educational values and there was certainly nothing in the student responses to lead me to abandon the small-scale projects.

RQ 2.2 To what extent did participation in the learning activities lead students to identify themselves as emerging legal practitioners?

The students agreed more strongly with the proposition that this work was good preparation for legal practice (a mean rating of 1.93 shows that most students either agreed or strongly agreed) than with the proposition that it had prepared them to contribute to academic debate.

The transcript of the interview with Bob includes the following interesting exchange:

Interviewer: So if say somebody were to ask something about land law, on one of these forums, would you feel confident to give them a response?

Bob: I would! I would- let's just say I also do participate on Facebook as well. There are communities like expat communities, and these groups, I'm also a member of. Recently there's one about rental dispute, something with the lease.

Bob: Me and a friend of mine, which is not from this university, also a law student, we actually got a discussion about what we learnt and then, you know, discuss with each other.

Bob: We actually- I actually posted and said "if you need any advice, of course it's not professional, but we would love to give you advice". But she didn't get contact, but I guess that- these knowledge really helped me.

Bob: I just got on Facebook, and I saw this, and I was like "Hey, this is something I know!"

Interviewer: So do you feel that this is contributing to the wider community then?

Bob: Well, I would say getting in contact so I can give them advice, but- I can't always say my advice is gonna work out. So I try my best-

Interviewer: But you are sort of reaching out with the knowledge you have gained from the course

Bob: Yes, I try, I try.

Interviewer: That's very, very positive I think.'

Bob actively sought ways to put his knowledge of Land Law at the disposal of 'the community' and to give legal advice on specific 'real life' problems. This feedback gave me a strong sense that Bob had undergone something of a consequential transition with respect to the practice of law. The survey data suggest, perhaps, that other students had something of the same experience. It is interesting that Bob found support and encouragement from the discussion with his law student friend. This confirms that collaboration, discussion with peers, is a valuable element of teaching arrangements to facilitate consequential transitions. It seems likely that having the ability to compare notes, to check one's understanding and ideas encourages students to make the transition.

5.3 The second cycle (2016 – 17 to 2018 – 19)

5.3.1 Revise general idea

The initial general idea is presented in 5.2.1 and the first cycle general plan is presented in 5.2.3. I drew several conclusions from my monitoring of the implementation of the first cycle which I thought should influence the second cycle. They are outlined in table 5.5.

Table 5.5: Lessons learned from the first cycle

Lessons learned from the first cycle
<p>1. Students should continue to be required to frame their own research question.</p> <p>This is unchanged from the first cycle. This is the communities of inquiry ‘triggering event’.</p>
<p>2. The research question should continue to relate to the law of the ownership of the family home. Again, this is carried over from the first cycle. 5.2.3 explains the reasons for this decision.</p>
<p>3. To remove the discussion forum requirement. I hoped the forum would be a space for collaborative, critical inquiry exploiting the affordances of this tool for asynchronous discourse. The responses about the use of the discussion forum in the first cycle and the comments made by the interviewees made me decide to abandon the discussion forum.</p>
<p>4. To improve the coursework feedback sheet. The feedback sheet is used both for feed-forward and feed-back. Figure 5.2 above shows the first cycle feed-back sheet. I thought it could be improved to reflect even more explicitly the criteria identified in table 5.4</p>
<p>5. To change the form of the survey administered to students for monitoring / data-gathering purposes. My comments in 5.2.5 about the survey evidence gathered in the</p>

first cycle explain my dissatisfaction with the Likert scale. I wanted the students to be able to comment freely and give reasons for their answers. I thought this change would yield richer evidence.

6. To introduce a requirement for students to work in small collaborative groups.

The idea of a ‘community’ suggests collaboration and yet collaboration was not written into the first cycle design except for the collaborative discourse which I hoped would emerge in the discussion forum. As we saw, the discussion forum did not work as I hoped.

I also prepared a document with a revised general plan for the second cycle of the project. This is summarized in table 5.6. As explained, I intended to retain the individual research coursework and to eliminate the discussion forum. I thought it was important to introduce a requirement to work in small collaborative groups.

Table 5.6: Proposed second cycle general plan modifications

Proposed second cycle general plan modifications
1. Forms students into ‘firms’ (teacher-assigned groups of 4 or 5).
2. Create a private working space in Blackboard for each firm.
3. Pose a problem or problems each week (some relating to the law of the ownership of the family home).
4. Each group to post its response to the problem(s) in the private working space.
5. I am to give feed-back on these responses.
6. Repeat 3 – 5 each week.

The assessment regime would be very similar to the first cycle except that the discussion forum requirement would be replaced by a new class participation mark. The document I prepared (figure 5.3) explained the new class participation mark.

Figure 5.3 Second cycle class participation project

‘The participation mark will relate to the work produced by the student groups (and not by individual students). Each group of four or five students will be expected to produce two pieces of work that will be published to the whole Land Law I cohort through the Blackboard learning management system.

Examples of possible pieces of work include:

- a) A 500 word post by the group on a topic related to the ownership of the family home. This could be a mini-essay, a case-note, a suggestion for law reform.
- b) A video recording or audio podcast along the same lines as a) or as a kind of mini (3 – 5 minute report or documentary about some aspect of the law in this area.
- c) A record of an interview with a practitioner with their thoughts about the law in this area or the problems that practitioners in this area face (this could be a written report of the interview or an audio or video recording).

These are just indicative examples of the sort of work that could be done.’

I then set out about the reconnaissance stage prior to implementing this plan.

5.3.2 Reconnaissance

I spoke to (or emailed) several colleagues and a former student then working as a trainee solicitor about the plan to form students into collaborative groups. They were all positive about this plan though the former student cautioned that it was something that the students would be unused to. I also asked the student representatives of the cohort that had just taken the course and of the cohort about to take it. Only the latter responded. They produced a report showing that their peers were strongly against the idea. In general, the students preferred the status quo with an emphasis on individual work and they were against the idea of class discussion. I recorded this process, and my reaction to the responses, in my online teaching and learning journal.

It seemed to me that it would cause great difficulty if I were to proceed with the proposals that I had put to the students in the light of their feedback. I sensed here the presence of the ‘critical factors’ listed in table 5.3 above. The student responses prioritized predictability and a focus on rewarding what one student referred to as individual ‘brilliance’. On the other hand, I thought that it was important to engage the students in collaborative work. The journal entry goes on to begin the process of a further re-design that would be different from what had just been put to the students but which would still be a decisive step towards the creation of a community of inquiry approach. I discussed this with the colleague from CLEAR (the University’s Centre for Learning Enhancement and Research). She suggested that students could be given the opportunity to work in collaborative groups without being required to do so.

5.3.3 The general plan

Following the discussion with my colleague in CLEAR, I developed a revised second cycle general plan. The essential elements are detailed in table 5.7.

Table 5.7: Elements of second cycle general plan

Elements of second cycle general plan
1. Assessment: <ul style="list-style-type: none">- 'Class participation' project for 10% of the overall mark (graded on a pass / fail basis) (more details are provided below);- Individual research coursework for 30% of the overall mark;- Final examination for 60% of the overall mark.
2. A revised coursework feedback sheet was designed and used in feed-forward, evaluation and feed-back.
3. A revised survey form allowing for open-ended responses was used in the monitoring phase.
4. A list of possible research questions was posted in a section of the course Blackboard site called 'Ownership of the family home'.

The ideas in table 5.5 were abandoned in the light of the student resistance.

The course document for 2016 - 17 provided the students with instructions about the class participation project (figure 5.4)

Figure 5.4: Instructions to students about the class participation project

‘The work that you do for the 10% class participation mark can be any of the following:

1. an article about any topic relating to the ownership of the family home (this could be addressed either to an academic audience or to the lay public); or
2. a written analysis of any of the ‘cases’ analysed in the lectures; or
3. a written outline answer to any tutorial question relating to the ownership of the family home; or
4. a 3 – 5 minute podcast or video about the ownership of the family home: or
5. a short (3 – 5 minute) interview with an academic or practitioner interested in the law relating to the ownership of the family home.

Instructions about the work for the class participation mark:

1. written work (1 – 3 above) should be 500 – 550 words;
2. it can be done as either an individual project or you can work in groups of 2 or 3 (but the groups can be no larger);
3. there is no requirement to publish the class participation work or make it visible to fellow students;
4. individuals or groups can, however, indicate that they would be willing to allow others to see their work (either during the course or at some later date). Where this is the case, the work will be posted on a blog within the course Blackboard site.

The work that you do for the class participation mark (or a link to that work if you post it online) must be emailed to me (Michael.lower@cuhk.edu.hk) by 5pm on Friday 4th November.’

This general plan remained stable for the three academic years 2016 – 17 through to 2018 – 19 (inclusive) except that in the later cycles the work had to be a written piece. The podcast, video and interview options were dropped for ease of administration. The interview option was not taken up by anyone in 2016 – 17 but the podcast and video options were. The second cycle general plan provided the model for the design of a new elective course (*Issues in Property Law*). *Issues in Property Law* is the third and final cycle in the action research spiral presented in this thesis; it is explained in section 5.4 below.

5.3.4 Implement action steps

Students were given the option to work in small collaborative groups for the class participation project but were not required to do so. The class participation project was a low-stakes environment for those who wanted to try out collaborative working. When explaining the requirements for the class participation project to students, I explained the benefits of working collaboratively. In 2017 – 18 and 2018 – 19, I was able to refer to the evidence that I gathered from earlier cohorts about the benefits that they found to have accrued from collaborative working. After one lecture in 2018 – 19, a student who had worked in a collaborative group approached me and told me that what I had said in this regard was ‘legit’ (which I think means ‘true’). In 2016 – 17, 26 out of 68 students (38%) worked in groups. By 2018 – 19, this had risen to 87 out of 106 students (82%).

I modified the feedback / evaluation sheet used for both feed-forward and feed-back relating to the research coursework to reflect more explicitly the criteria for a good coursework set out in table 5.4. I devoted a few minutes of lecture time in each of the years in the second cycle to introducing the feedback sheet to students and explaining what each item meant. I explained, for example, what I meant by ‘reflective’ or ‘careful’ or ‘critical’ thought and that this element must set the tone in a coursework that could be awarded an ‘A’. I explained the sense of logical ‘flow’ that I thought characterized successful courseworks. I made a general offer to meet each student at least once to spend a few minutes discussing their coursework plans. This offer was taken up by many students and was time-consuming. I prepared written feedback on each coursework, using the sheet, as I graded it. The coursework and feedback were made available for collection by students in early January (Land Law I runs from September to December each year and the courseworks were submitted at the end of November).

5.3.5 Monitoring implementation and its effects

The survey was changed from a Likert Scale survey to one that had only open-ended questions. Very few people responded in 2016 – 17 (11 out of 62 students or 17.4%) and in 2017 – 18 (only 2 students responded out of a cohort of 68). This may well have been because of the number of questions; the form was fairly lengthy (thirty two questions over nine A4 pages). A trimmed down version of the survey, with only ten questions, was administered in 2018 – 19 and this did improve the response rate (22 out of 106 or 20.7%). The 2018 – 19 survey was short enough for students to complete in-class (in the gap in the middle of the 105 minute lecture slot or after the lecture).

Triggering event

How did students perceive that the teacher stimulated interest in the problem under discussion?

I asked students whether the class participation project was a trigger for their individual research courseworks, providing them with a research question and ideas that they developed in their individual research courseworks. The 2016 – 17 students' responses are shown below.

In what ways, if at all, did the teacher try to stimulate your interest in the law concerning the ownership of the family home?
'Gave interesting examples of case law to illustrate a point of law'
'Introduced possible counter arguments to point of law for reflection'
'I particularly like the fact that the Land Law blog is linked to Facebook. That way even in leisure time we get to read interesting land cases.'
'There is a realistic example question in every lecture which allows us to link the law to real life practice.'

'Asking me to do a podcast'

'Use of interesting cases'

'Telling the whole story of cases'

'Discussion in class'

'The teacher would try to introduce areas and possible topics that students could write about, which may not have been discussed or brought up during class before which stimulated interest to write about a vast range of topics'

'Provision of interesting cases and easy to understand case notes on the land law blog.'

'Highlights its relevance to everyday life; given that it's more readily applicable, more interest in the subject.'

'Tutorial discussions'

'Raising interesting cases e.g. *Mo Ying*'

Providing articles

Coursework

'Mentioned interesting cases e.g. complex situations regarding couples and how the law helps to solve such problems.'

Giving examples that illustrate problems to be researched is mentioned most frequently in these responses as the factor that triggered student interest. I provided these examples through the cases discussed in class. My *Hong Kong Land Law* blog gives a brief descriptive account of well over a thousand Land Law cases. The student responses suggested that helping students to see the real life relevance of a question is important if it is to arouse their interest.

How, if at all, did your class participation work help you to identify a problem that you wanted to work on for your research coursework and to develop your ideas? (a sample of 2016 – 17 responses which have been chosen to represent the full range of ideas and responses provided)

‘It didn’t help identify the problem I wanted to work on for the coursework but it did help because part of my coursework was built on class participation ideas.’

‘It helps us to think of something that interests us.’

‘During the tutorials, questions that I was unsure about would be answered, which helped me identify problems. By understanding that topic better, I felt more confident using it as a coursework idea.’

‘I worked on different topics for class participation and coursework.’

‘The class participation work is like a shorter version of the coursework which provides me with room for further discussion.’

I told the second cycle students that they could build on the class participation work for their research coursework. I thought that it would be useful to allow students to brainstorm in collaborative groups for the class participation work and then develop the ideas generated in their individual projects. Three of the respondents here agreed that the class participation work helped them with their individual research. So there is some tentative support for practices that have small-scale collaborative projects precede related individual research projects. I continued with this in the third cycle. The *Issues in Property Law* students were told that they could build on the group blog post for their individual research coursework.

Exploration 1 – searching for information and ideas

How did students perceive that the teacher supported the students’ search for information (using the library, legal databases and other sources of authoritative and relevant information) and ideas (drawn either from materials made available by the teacher or from the sources just mentioned) that could help to make sense of the problem?

I provide a representative sample of the 2016 – 17 responses.

<p>How did the teacher support you in finding the cases, literature or other resources that you needed to carry out your work?</p>	<p>Do you feel that the way in which technology was used to support your work in this area (eg the ebook, the Hong Kong Land Law blog or the list of relevant articles) gave you helpful access to the knowledge that you needed for your work?</p>
<p>‘Gave a list of cases and further reading in each tutorial’</p> <p>‘We get more resources by reading the blog and ebooks.’</p>	<p>‘The land law blog is very useful. As the contents are closely connected to our topics, whenever we come across more complex issues in the ebook, we could always search for relevant cases in the blog, which are explained in detail.’</p> <p>‘They can efficiently supplement the information, but sometimes there are conflicts and need much more time to integrate different information.’</p>

<p>‘Providing case briefs or important case citations. Suggesting articles.’</p>	<p>‘Quite useful. Like ebook too.’</p>
<p>‘When I ask him questions, he replies which is very useful.’</p>	<p>‘Ebook and the blog are awesome in the sense that they are concise and informative.’</p>
<p>‘Raising them during tutorials. Providing relevant sources in tutorial worksheets.’</p>	<p>‘All 3 have helped enhance the learning experience; the ebook is best of all.’</p> <p>‘Yes. E-book – saving cost in purchasing textbook and more environmentally friendly.</p> <p>Land law blog – very useful summary of cases.’</p>

The *Hong Kong Land Law* e-book that I wrote and make available to students and the blog are the two resources identified by students in these responses as supporting them in their search for information. While the aim is to move away from information transmission as an organizing principle for teaching and learning, some forms can usefully scaffold students’ searches for information in the exploration phase of the community of inquiry.

Exploration – 2 (students volunteering their ideas)

How did students perceive that the teacher invited them to volunteer their own ideas?

Here is a sample of the 2106 – 17 responses

How, if at all, did the teacher encourage you to volunteer your own ideas about the law concerning the ownership of the family home?

‘There is always discussion time during classes (lectures or tutorials).’

‘The law is extracted into a much simpler content.’

‘Encouraged students to speak in tutorials. Essays.’

‘Discussion forum.’

‘Yes, asking me questions to stimulate my thinking.’

‘When I personally messaged the teacher regarding my ideas for coursework, he was very supportive and gave me lots of assistance to ideas.’

‘Yes by providing potential questions we can think about.’

‘It was always emphasized that there are no right / wrong answers. This is great in encouraging us to put forward our own ideas.’

‘Through the coursework.’

‘He didn’t limit the possible research topics.’

Posing questions, suggesting illustrative questions, allowing time for discussion, and emphasizing that students were free to choose their own topics were helpful ways of creating a space for inquiry and encouraging students to engage in inquiry. These were practices to be continued into the third cycle.

Exploration 3 – students pursuing their ideas

How did students perceive that the teacher invited them to pursue their own ideas?

Here is a sample of the 2016 – 17 responses

Did you feel that you had enough support and guidance to help you to follow up your questions and carry out your class participation mark work and research courseworks?

‘Yes. But more substantive feedback would be great.’

‘Yes, there are a lot of options suggested as to the topics and how we can approach the questions.’

‘I wish there had been a consulting session on coursework topic / submit essay plan.’

‘Yes, he would answer my questions.’

‘The list of reference articles was helpful.’

‘Yes. The lecturer is very willing to address my questions.’

‘Yes. There was a list of questions / topics which gave us an idea as to what can be done as to the coursework.’

These answers suggest that students also value support (feedback, consultation, answering questions, the list of possible questions) as they engage in inquiry. Openness and support combine to create the environment for student inquiry.

Integration

How did students think that the teacher facilitated critical discussion of their ideas?

In the second cycle the students could choose to work in small collaborative groups on their class participation project. This change was made to create a space for students to engage in collaborative, critical dialogue. The survey contained questions about the experience of working in collaborative groups. I present the 2018 – 19 responses since, as explained above, 82% of the students in the 2018 – 19 group chose to work in groups for the class participation project. The student responses in earlier surveys are in line with the 2018 – 19 responses.

What, if anything, do you feel that you gained by working as part of a group?
'Was able to get different ideas'
'Helped me to confirm that some of my ideas were inaccurate and clarified my problems'
'Useful opinion. Organization skills'
'Arguments and compromises'
'collaboration with the other members is good so we can express our own views'
'I can discuss and exchange ideas with groupmates, thus help others and help myself. I can also learn how to write a better article by observing how others write.'
'More time from division of labour.'
'To study how to cooperate, e.g. how to assign the work'
'Better brainstorming and more ideas discussed'

‘Yes. Cross check concepts’

‘It allowed me to be enlightened in the way that I started with zero and eventually coming up with the idea of my final work.’

‘Thinking from different perspectives’

‘Trying to interpret the judgment from different perspectives’

‘Collaboration helps me understand concepts better – asking each other questions will sort out ideas better, clear up confused ideas’

‘I have a better understanding on the topic. I can exchange ideas with my groupmates.’

‘-point of view from students which I have never thought of’

‘More ideas’

‘We share work and discuss, which is fun and thought-provoking. Less boring than work on my own.’

‘-learn from what and how my peers approach and present their thoughts’

These responses give an insight into the importance of collaboration and the wide range of benefits that students see as the fruit of collaborative work: more ideas and perspectives; the ability to express ideas and get peer feedback on them; learning to debate, argue and compromise; learning collaboration and co-operation skills; and a more fun and interesting learning environment. The students who had chosen to work in groups were asked whether they would do so again given the opportunity. Most, but not all, of the respondents said that they would choose to work in groups or would prefer, as in the second cycle, a combination of group and individual work. 4 of the 20 respondents in 2016 - 17, however, said that they would prefer to work on their own. The importance of promoting collaborative learning emerged in a very clear way here and these insights were confirmed in the third cycle where collaboration was compulsory. Well-structured collaborative

experiences do indeed seem to offer the cognitive and metacognitive benefits promised by the communities of inquiry pedagogy.

Feedback

How did students perceive that the teacher's feedback helped them to develop?

The revised feedback sheet captured, on one side of A4, the essential elements of a good coursework identified in table 5.4. It combines easy-to-adopt advice about structure with less concrete ideas about the importance of reflection and flow. I used this feedback sheet in my feed-forward lecture about how to do a good coursework, as a tool when individual students came to consult me about their projects and, of course, to evaluate and give feedback on student work. It is against this background that students were asked to comment on the helpfulness of feedback.

I present three sets of student comments about the importance of feedback. I will comment on all three sets in a single paragraph after presenting the three sets of evidence.

Samples of the 2016 – 17 responses are set out below:

Did the feedback you received on your coursework help you to understand how to carry out academic research? How, if at all, will the feedback affect the way that you approach the work that you do for the Land Law II coursework?

‘Yes. It helped me structure my next coursework, and know what to focus on to get the highest marks possible.’

‘Yes. The feedback tells me what mistakes I have made so that I could avoid them when I do the coursework.’

‘The feedback on the coursework is not compatible with the research because every one is themselves different in nature and required skills. The feedback on the first research might help.’

‘Yes. Not enough guidance.’

‘Yes – helped me become more mindful of a specific topic, and answering the question in a more directive way.’

‘Yes, will follow the comments given in work I to improve work II.’

‘Yes. It helps in better structuring paragraphs and presenting ideas in academic article writing.’

‘Yes. I think it helps to let me know about how the organization can be better.’

‘Yes. Yes, I’ll be more aware of the areas which require improvement in the first coursework.’

References to the ‘next coursework’ and to ‘work II’ are to the research coursework that the students would do as part of the assessment for Land Law II which was ongoing when the survey responses were given. It would have been helpful to probe these ideas further in interviews but it was not possible to recruit willing interviewees in any stage of the second cycle despite repeated systematic efforts to do so.

The next table shows some of the responses from the 2018 – 19 surveys (the same questions are asked as before but the single, composite question of 2016 – 17 is divided into two separate questions:

Did the feedback you received on your coursework help you to understand how to carry out academic research?

‘Yes it helped a lot and gave me a clear structure on how my coursework should be.’

‘Yes – on marking standard’

‘Yes. It helps me to make sure I lay down a research question, instead of writing a descriptive paper without answering a question or to argue for resolving a problem.’

'There should be more personal feedback concerning the coursework.'

'The checklist is helpful of reminding of the essential elements of a good coursework.'

'Not really. Too brief.'

'Yes. Especially on where to look for relevant journals.'

'It helped me understand how to write a research paper better (more coherent, better organized, citing sources etc.)'

'I just know the marks / grade, but I don't know how well I perform how can I improve and I am not sure about the mark in total and how the others perform.'

How, if at all, will the feedback affect the way that you approach the work that you do for the Land Law II coursework?

'I was more structured and specific on issues that I explored and my arguments are more focused & in-depth.'

'Longer paragraph'

'I will be more focusing on making clear a research question, and to avoid introducing new ideas at the end of the paper.'

'I will follow the marking grid's requirement as a checklist to ensure that I will include all these elements.'

4/5 helpful. Students take the initiative to consult the skeleton of Land Law II coursework.'

'I can learn from the mistakes I have made in the Land Law I coursework.'

'I will be more aware of the places that I need to pay attention to.'

'Refer to the comments and improve.'

'Look for more relevant academic journals to articulate the main relevant legal issues.'

‘will make me more aware of the requirements + what the course teacher is looking for.’

‘Yes, I would see what I missed in the previous coursework and I would add that in when I attempt to do the second coursework so that I won’t make the same mistake.’

‘-better citations

-More structured framework.’

‘- format (eg title, content in each paragraph.’

Feedback helped students to understand the assessment criteria and to improve subsequent performance in Land Law II. Students came to understand the need for a good research question and to present their response in a clear, structured way. They felt that they had improved their research and writing skills.

RQ 2.1 To what extent did participation in the learning activities lead students to identify themselves as participants in the disciplinary community of inquiry (ie as researchers)?

The 2016 -17 responses can be described briefly. There were 11 responses to this question and they were more or less equally divided between positive and negative responses. 2 students said ‘to some extent’. One of those who responded negatively said that it was nonetheless, ‘a nice learning experience’. When commenting on the first cycle responses to this question (in 5.4.5) I suggested that it is not surprising that undergraduate students should be initially sceptical about the idea that they are researchers. They may never have thought of themselves in this way or that this was an aim that they could or should aspire to. It is encouraging that at least some students did come to see themselves as researchers.

The students were asked two related questions:

- Would you value the opportunity to publish your views on [the law of the ownership of the family home] in a blog or journal? Why might such an opportunity be of interest to you?
- Do you think that such an opportunity would make the coursework more meaningful for you personally?

In 2016 – 17, eleven students responded to these questions. Most were interested in publishing their work but some expressed concern about whether their work would be good enough to be published. Several of the students agreed that the opportunity to publish their work would make it more meaningful.

RQ 2.2 To what extent did participation in the learning activities lead students to identify themselves as emerging legal practitioners?

From 2016 – 17 onwards, the survey asked the students whether they thought that carrying out the research coursework prepared them for legal practice. This table presents the 2016 – 17 responses:

<p>Did you feel that carrying out your research project has equipped you to give legal advice concerning the ownership of the family home? Put another way, do you feel that this work made you feel that you could imagine yourself working as a legal practitioner specializing in this area?</p>
<p>‘Not yet.’</p> <p>‘Yes. It enhanced my ability to examine and analyse legal issues in depth.’</p> <p>‘No. No. They are rather disputable academic discussions.’</p> <p>‘Not really. We’re not writing skeleton.’</p> <p>‘Yes.’</p> <p>‘Yes.’</p>

‘Unsure, but it was an interesting experience gathering research and trying to find ways to write it in a succinct manner.’

‘Yes, allowed me to approach a given issue more holistically with the support of literature.’

‘Yes. It presented very real life issues.’

‘Yes. Yes.’ (markings to indicate that each ‘yes’ was a response to the first and second elements of the question respectively).

‘Yes. Because it seems more practical.’

The 2018 – 19 responses also had a similar mix of positive and negative responses (16 of the 22 respondents responded affirmatively though the positive response was qualified in some cases). I set out some of the positive responses since they cast some light on how the students thought about the question.

Did you feel that carrying out your research project has equipped you to give legal advice concerning the ownership of the family home? Put another way, do you feel that this work made you feel that you could imagine yourself working as a legal practitioner specializing in this area?

‘I think yes, but less than the degree in the question above. Because doing a research question is more like a self-conversation process instead of giving advice. It did however give me knowledge in relevant legal areas, and thus more able to potentiall (sic) advise people.’

‘Yes, to give me an opportunity to see the legal challenges / reality of co-habitants in claiming ownership of the family home and search the best way for them to do so.’

‘Yes, by studying a case in more detailed way to see any possible arguments.’

‘It allows me to think more practically as I have to evaluate the practical implications in addition to theoretical discussions.’

‘the topic I chose didn’t exactly help me to think of legal advice or two sides of an argument - but it allowed me to process info. better + try to present the research I gathered in a clear manner.’

‘Maybe, but giving legal advice is more real life of course, we need knowledge of substantive law. I do not feel I’m working as a legal practitioner, however.’

As in the first cycle, the students were much more likely to agree that the Land Law I activities led them to see themselves as emerging legal practitioners. This, after all, is the future that most of them aspire to. In-depth engagement with ‘real-life’ issues is mentioned as a factor here.

5.4 The third cycle (term 2 of 2018 – 19): The Issues in Property Law elective

5.4.1 Revise general idea

I wanted to build on the first and second cycles by developing a new course shaped much more completely by the community of inquiry framework. I wanted collaboration to be compulsory for those students who decided to take the elective that I had in mind. The general idea for the third cycle was to develop and implement an elective course, ‘Issues in Property Law’, with the features listed in table 5.8.

Table 5.8: Third cycle general idea

Third cycle general idea
1. Students would work in collaborative groups;
2. Using the practical inquiry model;
3. To work on projects chosen by each group that fell within the broad area of ‘Property Law’;
4. Having the explicit aim of helping students to understand the qualities that would make their work publishable (eg as a blog post);
5. That would allow the students to build on the collaborative work done in groups in individual research projects.

5.4.2 Reconnaissance

The previous cycles provided a kind of reconnaissance. Getting approval for this course meant addressing some of the critical factors identified in table 5.3 in 5.2.2:

Critical factors
1. Students are used to ‘traditional’ courses where learning and assessment are individual rather than collaborative: Here collaborative working was compulsory but the course was an elective.
2. The lecture and tutorial format: Electives are timetabled in three hour blocks. I could decide for myself whether there would be any lectures.
3. The ‘class contact hours’ requirement: Students would work in small collaborative groups or individually for most of the time so that the requirement for the teacher to be

present would not be satisfied. I had to secure University permission to run the Issues in Property Law elective in cycle three as I describe below.

4. **The layout of the lecture theatre:** After week three, we booked break-out rooms in the library for the student groups.

The third cycle suggested a way to break free of the harmful effects of these critical factors although this involved the extra work of getting university approval to run the course and the time involved in booking break-out rooms.

5.4.3 The general plan

In retrospect, the general plan was developed in two phases. Phase one involved the higher-level planning and approval process for the Issues in Property elective which was the step taken in the third cycle. Phase two refers to more detailed planning steps that were taken closer to term two of 2018 – 19 when the course ran. Table 5.9 shows the Phase One steps of the third cycle general plan:

Table 5.9: Third cycle general plan (phase one)

Third cycle general plan (phase one)
1. Submit course outline for Issues in Property Law to Faculty
2. Obtain Faculty approval to run the course
3. Obtain Senate approval to run the course as a ‘blended learning’ course with reduced contact hours requirements.
4. Secure funding to support the course.

The course outline is a document prepared in accordance with a template specified by the Faculty. It describes the course and its assessment regime. This is the document that is submitted to the

Faculty's Undergraduate and Postgraduate Committee for approval. University approval was also needed to depart from the 39 hours contact time model. This was possible under a scheme for 'blended learning' agreed to by Hong Kong's University Grants Committee. I submitted the necessary form to the eLearning task force of the Senate Committee for Teaching and Learning (SCTL) and subsequently received the necessary approval. Some resources would be needed to help fund the costs of recruiting facilitators for the small groups and to cover the costs of producing videos and of data collection. I applied under the University's Teaching Development and Language Enhancement Scheme and obtained SCTL approval for my funding request on 26 February 2018. Table 5.10 is an outline of the main details of the Issues in Property Law elective that was approved and later implemented:

Table 5.10: Issues in Property Law elective main features

Issues in Property Law elective main features
<p>Delivery:</p> <p><u>Weeks 1 – 3:</u> Introduction to the course (explain tasks, performance / assessment criteria / introduce facilitators / set up groups</p> <p><u>Weeks 4 – 7:</u> Students work in groups of 3 – 5 to prepare conference presentation and blog pos (see 'assessment' below). Groups are supported by facilitators.</p> <p><u>Week 8:</u> Conference</p> <p><u>Weeks 9 – 13:</u> Students work individually to continue and complete research courseworks</p>
<p>Assessment tasks:</p> <p><u>Conference presentation:</u> 15%</p> <p><u>Blog post:</u> 25%</p> <p><u>Individual research coursework:</u> 60%</p>

Table 5.11 lists the phase two steps of the third cycle general plan.

Table 5.11: Third cycle general plan (phase two)

Third cycle general plan (phase two)
1. Produce videos and blog posts about the communities of inquiry pedagogy;
2. Produce videos about collaboration;
3. Produce videos about the ownership of the family home;
4. Recruit and train facilitators;
5. Book meeting rooms for weeks 4 – 7.

Phase two steps were mainly taken in the first term of 2018 – 19 (the term before the course ran). I thought it important that the students should understand the communities of inquiry pedagogy on which the course was based. The resources shown as items 1 and 2 in the above list are available to anyone on the *Learning Matters* blog hosted on the Faculty’s web-page. I thought that being clear about the communities of inquiry pedagogy would aid student reflection on the process of learning. I prepared the ownership of the family home videos as resources to support students who wanted to do projects in that area (only one group out of six did so as it turned out).

As the time for delivering the *Issues in Property Law* course drew nearer, I turned my attention to the question of how I would help students to understand the benefits of working in collaborative groups and how to support them in doing so (since this is a major feature of the *Issues* course). A teaching assistant, interviewed six Law Faculty alumni and a partner heading the Property department of a major Law firm about the importance of collaboration in learning and the workplace and about their experience of collaboration. The interviews were recorded on video. She then produced a video,

using clips from the interviews, explaining the importance of collaboration and the skills and values that it requires.

A Professional Consultant (teaching only member of academic staff) who was formerly a partner in a major Hong Kong law firm, produced two more videos. One explained how he had discovered the importance of collaborative skills in the workplace; the other offered suggestions as to how to structure collaborative workgroups.

Six research postgraduate students (four from Law and two from Government) were recruited and trained to act as facilitators. The role of the facilitators was to observe, to give general advice on research if asked for and, again if asked for, to listen to the students' presentations and comment on their draft blog posts. The facilitators did not have relevant subject knowledge but were more experienced researchers and were introduced to the students as such; the students were encouraged to see the facilitators as supports and as being willing to listen to their presentations, read their blog posts and give constructive feedback.

I ran one training session for the facilitators to explain the course and their role within it. We had a further training session with the facilitators during the course and once they had had some experience of facilitating on it. The second training session was led by Paul Maharg, a visiting professor from the United Kingdom with extensive experience of organizing legal education using problem-based learning in which the students worked in small, facilitated groups. We used Zoom to run the session. This reinforced the message about the role of the facilitators but also allowed the facilitators to ask questions based on their experience.

It was only in the week before the course was to run, at the beginning of January 2019, that I realized that we would need separate rooms for the student small group meetings in weeks 4 – 7. I was keen to have those meetings take place on campus and at the time scheduled for the course each week to keep the meetings on track and fully attended. I thought that it would be undesirable for six

groups to work in the same classroom. The solution was to book six breakout / meeting rooms in the University library which is very near the Faculty of Law building.

5.4.4 Implement action steps

The *Issues in Property Law* course ran in the second term of 2018 – 19. Twenty-six students registered for, and completed, the course. Most of the students were fourth years but there were some third-year students who had just completed Land Law I. There were lectures for the whole group in the first three weeks of the course. I allowed students to form their own groups. There were three exchange students (from Australia, Mainland China and the United Kingdom respectively). By default, they became one of the groups. In the final week, in response to a student request, I allowed groups to meet at a time of their own choosing provided they and the facilitator could agree on a convenient time.

In week eight we held a conference in the Faculty Moot Court in which each of the groups gave their presentation. These were recorded. I made some notes on each presentation during the conference. Soon after the conference I watched the recordings and completed the evaluation / feedback sheet for each presentation and then sent each student the feedback sheet for their group.

In week nine, the students submitted their blog posts. Four weeks later, I sent each student a completed evaluation / feedback sheet for their blog post.

Students had until the end of week fourteen to complete their individual courseworks. I emailed the students in week nine to say that I was available to discuss their individual projects and to give guidance about them. Some of the students took up this offer. Others emailed a draft of their work for comment. The students submitted their individual courseworks at the end of week 14. Nearly all the students got an A or A-. This is not surprising since: they were experienced students and they had been given extensive support by their groups, the facilitators and me.

5.4.5 Monitoring implementation and its effects

The focus of my concerns changed slightly in this cycle and the research questions do not provide a helpful focus for presenting the data gathered. The main data-gathering techniques used were a student survey with a reduced and revised set of questions. Only four students out of twenty-six returned completed survey forms. The teaching assistant interviewed the other facilitators about their experience of carrying out their roles.

The teaching assistant administered the survey and prepared a table showing the responses. There were questions to which students had to respond using a Likert scale with five possible responses ranging from strongly agree to strongly disagree. Three students strongly agreed that they liked working in collaborative groups on the course and the other agreed. One student strongly agreed and three students agreed that ‘the instructor, and the materials made available, prepared us to work collaboratively on this course. The other two items asked the students to comment on the propositions that ‘this course has contributed to my development as a learner’ and ‘this course has given me knowledge and skills that will be useful to me in my career’. Two students strongly agreed and two agreed to each of these propositions.

The responses to the open-ended survey questions were as follows:

What were the positive aspects of working in collaborative groups?
‘come up with more different ideas in research’
‘talking with groupmates stimulates new ideas’
‘It is a rare opportunity in our LLB studies to collaborate with classmates for our coursework’
‘More freedom to research. Smaller groups made it easier to speak without judgment, everyone could contribute. Opportunity to interact with other law students.’

What were the negative aspects of working in collaborative groups?
<p>'None.'</p> <p>'Need to wait for groupmates to finish their parts before moving on to another stage.'</p> <p>'There may be freeriders.'</p>
Is there anything that you would do differently if you were to do the same sort of group work in the future?
<p>'rehearse more before group presentation.'</p> <p>'Better communication between groupmates.'</p> <p>'Better communication with groupmates and better time management especially when all of us are so busy that we can rarely sit together to have a discussion.'</p> <p>'No'</p>
What more could have been done to prepare you for group work or to support the work of your group?
<p>'rehearse more before group presentation'</p> <p>'do more research'</p> <p>'none'</p> <p>'n/a'</p>
Did the explanation of the Community of Inquiry approach / the Practical Inquiry Model help you in any way?
<p>'yes'</p> <p>'don't know what that is'</p> <p>'yes'</p> <p>'?'</p>

Comment on the role that your facilitator played in your group.
<p>‘very helpful and provided guidance to us’</p> <p>‘Make sure that we are on track’</p> <p>‘not that much contribution for the project content but at least help us get together at the group discussion room’</p> <p>‘Guided discussion, contributed when they thought we were going off topic, gave useful examples for us to use and challenged our ideas’</p>
How, if at all, do you think that your experience of working in the Issues in Property Law elective has contributed to your development as a learner?
<p>‘yes’</p> <p>‘I learned different methods of assessment – working as a group and individually’</p> <p>‘I would say teamwork skill, research skill, presentation skill’</p> <p>‘I’m much more confident with research papers’</p>
How, if at all, do you think that your experience of working in the Issues in Property Law elective has given you skills or knowledge that will be useful to you in your future careers?
<p>‘yes’</p> <p>‘how to collaborate with others in group work’</p> <p>‘The importance of communication and mutual tolerance among groupmates, really’</p> <p>‘as above’</p>

These answers confirm the findings from the previous cycles about the benefits of collaboration identified by students. The students also felt that they had learned how to collaborate and mention better communication and mutual tolerance. Direct instruction about the practical inquiry model did

not make an impact on some of the students but the facilitators (not only aware of the model but with research experience) helped to keep the groups ‘on track’.

The teaching assistant interviewed the other five facilitators (she also acted as a facilitator) and asked the following questions:

1. Could you talk briefly about how you think the group you facilitated worked together?
2. What do you think the students got out of the experience?
3. Did you learn anything from your experience of acting as a facilitator?
4. Have you got any suggestions for future iterations of this course?

The teaching assistant transcribed the interviews and prepared tables showing the interviewees’ responses to each of the questions. She also recorded her own responses to these questions. I briefly summarise the main ideas to emerge from the responses to these questions.

1. Could you talk briefly about how you think the group you facilitated worked together?

Here is the teaching assistant’s response to this question:

‘The group I facilitated consists of five local students, who seem to know each other prior to this collaborative work. In general, I think they worked together very well, with division of labor in terms of research, presentation ppt making and blog post writing. In the first two sessions, they discussed together and listened to each other’s ideas on how to narrow down the question and on what are the possible hooks to start the blog post/presentation. In the later two sessions, they discussed on the content of the blog post and presentation, and researched together on the relevant cases.’

The other facilitators, too, said that the students seemed to arrive at their sessions well-prepared. It seems clear that collaboration preceded the formal meetings and may well have continued outside of

them. The teaching assistant's response neatly illustrates a progression through the stages of the practical inquiry model.

One of the other facilitators commented: "They came to the library prepared, they would have a short discussion on what each has found on the topic and went off to individual research for about half an hour and then communicate together, and then individual research again." As course leader I had to 'take attendance' using the device used in the Faculty for this purpose. As I went from break-out room to break-out room I often saw this happening. After a while, students would go out of the break-out room and into the library to work quietly on their own. The same facilitator said: "Sometimes they have disagreements but they figured it out." Another facilitator commented that the students in his group listened to each other respectfully and worked together constructively.

2. What do you think the students got out of the experience?

One of the facilitators observed that: "What I think they took out of it was, it has improved their research skills, it also improved their ability to assign tasks, and to follow those tasks to a logical conclusion." Another said that he thought the students came to understand the importance of teamwork. A third commented that: "The most important part for them, is that they knew how to do research: figure out the research question, search for supportive documents and evidence to answer the question." These responses confirm the student responses that they had learned how to collaborate and also suggest that the students were learning how to engage in structured inquiry.

3. Did you learn anything from your experience of acting as a facilitator?

The facilitators were all research post-graduate students and it is very likely that they anticipated that teaching would be an important aspect of their future careers. I was curious to know whether they had learned anything from their experience of acting as a facilitator that they might carry into their

own future *praxis*. One facilitator commented: 'I think we have met the objective to help students understand how to do research, how to frame it, how to create hook, how to look at an issue from different perspectives and different arguments, you know.' Interestingly, he continued: 'in the future, if I am really going to join the academia, I certainly think that this is something that can be implemented, and I am going to do it'. Another commented that the experience helped her to see first-hand how collaborative learning could be implemented. Another commented that: 'I think I realised that you have to give students the way to extract the best of their ideas. Sometimes students have many ideas, but they don't know how to sequentially organize them, this is I think where we come in as a facilitator.' So the experience of acting as a facilitator provided an opportunity to reflect on effective teaching and seems to have helped the facilitators to reflect on the teaching philosophies that might underpin their own future *praxis*.

4. Have you got any suggestions for future iterations of this course?

The facilitators were in a privileged position to observe and critique the part of the course with which they were involved. The suggestions received were:

- (a) Give students some instruction relevant to their research questions;
- (b) Arrange collaborative group work in the afternoon (one is more effective in the morning so the morning should be reserved for more demanding work);
- (c) Use the Issues in Property law design in other courses;
- (d) Increase the number of collaborative sessions as four is too few;
- (e) Explain the role of the facilitator better;
- (f) Arrange for the students and facilitators to meet and get to know each other before the collaborative sessions begin;
- (g) Ask the students to write a longer blog post.

These suggestions could inform planning for future iterations of the course. Some of the suggestions are very practical or administrative. The idea of explaining the role of the facilitator better is especially interesting. It is a new role in the Faculty. The evidence gathered in the third cycle will inform the training given to future facilitators.

5.5 Analysis: The communities of inquiry pedagogy and the practical inquiry model

This section analyses the data presented in the earlier sections of this chapter about my attempts in this project to enact the *communities of inquiry* pedagogy (2.3) and associated perspectives on *assessment and feedback* (2.5).

5.5.1 Triggering event

How did students perceive that the teacher stimulated interest in the problem under discussion?

The *triggering event* in the *communities of inquiry pedagogy* reminds us that knowledge is the answer, often provisional, to a question posed by participants in a disciplinary community of inquiry.

In the first cycle, student survey responses (using a Likert scale) suggested that they were ambivalent about the benefits of being free to frame their own research question; there was mild agreement with the comment that students would prefer to be given a very specific topic to write about (5.2.5).

This response seems to conflict with the idea that freedom to choose a research question will elicit student interest. A search for safety and certainty is an understandable response to the competition for PCLL places identified in 5.2.2 as a ‘critical factor’ making it more difficult to enact my educational values.

In the second cycle, students were asked: ‘In what ways, if at all, did the teacher try to stimulate your interest in the law concerning the ownership of the family home?’ The student responses in 5.3.5

mentioned the provision of detailed accounts of real-life cases about the law of the ownership of the family home (this response was, by far, the one that recurred most frequently). It may be that cases help students to see the sorts of practical problems to which the law is responding and the relevance to real life of the law concerning the ownership of the family home. This interpretation is borne out by the responses: ‘There is a realistic example question in every lecture which allows us to link the law to real life practice’ and ‘mentioned interesting cases e.g. complex situations regarding couples and how the law helps to solve such problems’. The *triggering event* may be more successful if students can see how it will facilitate the *consequential transition* (explained in 2.4) into the workplace perhaps by simulating the demands of professional practice.

Again referring to 5.3.5, we note that students were asked, ‘How, if at all, did your class participation work help you to identify a problem that you wanted to work on for your research coursework and to develop your idea?’ At least some of the students did see a useful connection between the class participation project and the individual research coursework. One student answered that, ‘it helps us to think of something that interests us’. The class participation project allowed students to weigh up whether the project was interesting enough to warrant further exploration. One student responded, ‘The class participation work is like a shorter version of the coursework which provides me with room for further discussion’ (5.3.5). A completed smaller study might be part of the inquiry process for a larger study.

The Issues in Property Law elective built on the second cycle design. The students could choose any question within the very broadly conceived area of ‘Property Law’ and this freedom was intended to add to the value of the question as a *triggering event*. There is some evidence from the elective that the students had learned the importance of framing a research question. In 5.4.5 we see one of the facilitators comment that: ‘The most important part for them, is that they knew how to do research:

figure out the research question, search for supportive documents and evidence to answer the question.’

Table 5.12: Triggering event findings

Triggering event findings
1. Giving students sample research questions can help to stimulate interest.
2. Real-life relevance of the research question contributes to the perceived value of a question as a <i>triggering event</i> .
3. Small, collaborative projects can be the basis for later individual research projects.

Teaching presence in the *triggering event* phase calls both for direct instruction to help students understand the qualities of a good research question and for critical discourse by students, ideally supported by facilitators. The relevance of the question (perhaps in the sense that students can imagine facing the problem in practice) adds to the perceived value of the question as a *triggering event*.

5.5.2 Exploration 1 (searching for information and ideas)

How did students perceive that the teacher supported the students’ search for information (using the library, legal databases and other sources of authoritative and relevant information) and ideas (drawn either from materials made available by the teacher or from the sources just mentioned) that could help to make sense of the problem?

Here, students decide on the issues raised by the *triggering event*, identify relevant and authoritative resources such as legal judgments and journal articles. If students are working in groups, this phase involves the students in discussion and information sharing (2.3.3).

From the beginning of the project, I took the view that one element of *teaching presence* was to scaffold the efforts of students by providing them with pointers to relevant resources. I prepared an annotated bibliography and some podcasts that introduced some of the problematic issues in the law of the ownership of the family home. My *Hong Kong Land Law Blog* contained accounts of very many cases relevant to the law of the ownership of the family home. The students would still need to identify which resources were relevant to their research question, engage with them and decide how to deploy them in their argument. In the feed-forward lectures and individual meetings, I encouraged the students to carry out searches for additional relevant literature and some did so. In the first cycle there was mild agreement that the podcasts were helpful and stronger agreement that the annotated bibliography was helpful (5.2.5). We saw in 5.3.5 that students found all the resources described in the previous paragraph valuable.

Table 5.13: Exploration findings: supporting students' search for authoritative sources

Exploration findings: search for sources
1. Students can be supported in the <i>exploration phase</i> by the provision of resources such as annotated bibliographies.
2. And by direct instruction in how to search for and deploy relevant authoritative resources

5.5.3 Exploration 2 (students volunteering their ideas)

How did students perceive that the teacher invited them to volunteer their own ideas?

We are still concerned with the *exploration phase* of the *practical inquiry* model; the focus now is on willingness to articulate ideas to other members of the group so that they can be developed. In the first cycle, there was strong agreement with the proposition that 'the instructor was helpful in

identifying areas of agreement and disagreement concerning the common intention constructive trust that helped me to learn’ (5.2.5). In the second cycle, the students were asked to comment on how the teacher encouraged them to volunteer their own ideas. This elicited a variety of responses and there is no dominant theme (5.3.5). The students commented that suggesting possible research questions, not limiting possible research topics and emphasizing that there may not be a settled ‘right’ answer helped them.

These comments suggest that the teacher must convey the message that knowledge is not cut and dried but is to be constructed. This is in line with Lipman’s conception of the *communities of inquiry pedagogy* which assumes that education is inquiry (Lipman, 2003: 19) and that the curriculum ‘should bring out aspects of the subject matter that are unsettled and problematic in order to capture the laggard attention of the students and to stimulate them to form a community of inquiry’ (Lipman, 2003: 21). This is not as easy as it sounds since it means disappointing any student expectations that (a) there are clear answers to every question and (b) the teacher has these answers. The *communities of inquiry pedagogy* emphasises sound inquiry procedures in a search for truth (so far as attainable).

Table 5.14: Exploration findings: encouraging students to volunteer ideas

Exploration findings: volunteering ideas
1. Allow students to frame their own research questions
2. Emphasise the primacy of sound inquiry procedures leading to the community reaching its own well-founded conclusions

5.5.4 Exploration 3 (students pursuing their ideas)

How did students perceive that the teacher invited them to pursue their own ideas?

Still in the *exploration phase*, the students were also asked how they perceived that the teacher invited them to pursue their own ideas. Having articulated ideas, how do they improve and build on them?. In the first cycle, there was strong agreement with the proposition that ‘I felt encouraged to explore new concepts concerning the common intention constructive trust’ (5.2.5). The second cycle responses in 5.3.5 do not seem to address the question. I did, however, note the request for a consultation session. In later iterations of the second cycle, I made myself available to students to discuss their research questions and their plans for conducting the research. Perhaps this helps students to understand and internalize the research conventions of the discipline. It probably also reflects the students’ attempts to mitigate the risk of going wrong in some way. The teacher must strike a balance and avoid feed-forward that is so prescriptive as to free the students from having to strike out intellectually.

In the third cycle, one of the facilitators, asked to comment on what they had learned from the experience, commented: ‘I think I realised that you have to give students the way to extract the best of their ideas. Sometimes students have many ideas, but they don’t know how to sequentially organize them, this is I think where we come in as a facilitator.’ Having facilitators who are trained to help students to work their way consciously and systematically through the inquiry process is a very practical way of promoting *cognitive presence* and helping students to improve *metacognitively*.

Table 5.15: Exploration findings: encouraging students to pursue their ideas

Exploration findings: pursuing ideas
1. It is helpful to arrange individual consultation sessions where students can articulate and get feedback on their research questions and research plans
2. Trained facilitators can remind students to follow sound inquiry procedures and so enhance <i>cognitive presence</i> and <i>metacognitive</i> skills

5.5.5 Integration

How did students think that the teacher facilitated critical discussion of their ideas?

In the *communities of inquiry pedagogy*, *cognitive presence* is synonymous with the idea of critical discussion (2.3.4). Critical discussion is something that we expect at all stages of the *practical inquiry model* so we are now also concerned with the *integration* and *resolution* phases. The *integration* phase is the convergent phase of the inquiry; students have to pull the strands of their inquiry together, reach a conclusion and prepare the artefact (blog post, podcast, coursework) that represents the fruits of their inquiry. The *resolution* phase is where students submit their work to the teacher for evaluation, make it available to peers through blog or discussion forum postings or conference presentations and, perhaps, to a wider audience through public blog postings or publication in journals; this is real-world testing and defence of the solutions proposed (2.3.3).

In the first cycle, I wanted to know whether the requirement to contribute to the discussion forum would create this sense of collaborative, critical discourse. Discussion forums seem an ideal tool allowing students to post considered and carefully crafted responses (2.3.8). We saw, however, that the student survey responses were negative about the discussion forum experience (5.2.5). There was some feedback to the effect that students felt that this was an artificial requirement that did not

contribute to their learning. On the other hand, the interview with Bob shows that he did feel that he had learned from reading the posts of others. A reading of the discussion forum postings revealed one thread in which there was some sustained discourse in which a group of three students built on each other's postings. Asynchronous discussion fora clearly could be a very useful tool to support classroom communities of inquiry that are engaged in collaborative, critical inquiry.

The lesson that I would learn from this is that getting students to engage in critical discourse in a discussion forum calls for *teaching presence*: I should have been explicit about the qualities of a good contribution to a discussion forum, about how I thought that it could help student learning and I should have been present in the forum to encourage students to reflect on the posts of their peers. There is every reason to explore the use of asynchronous discussion forums in the future and to learn more about how to make a success of them.

In the second cycle, the student responses reported in 5.3.5 suggest that they saw collaborative discussion as being relevant to both the *exploration* and *integration* phases. Respondents suggested that working collaboratively enriched the *exploration* phase. Students found collaborative work beneficial because it gave them access to a diversity of ideas and of understandings of texts that they studied. Students also found that their group-mates helped them to clarify their understanding and correct misunderstandings and benefitted from the opportunity of being able to express their views to other group members. This probably reflects the common experience that having to express one's view or understanding is a help to the prior step of formulating that view or understanding to oneself.

In 5.3.5, we saw that students who worked in collaborative groups reported that working through the *integration* phase involved 'arguments and compromises'. They also learned lessons about the challenges of group-work. Students said that they had developed organization skills, had learned how to co-operate and how the division of labour helped them to save time. Working collaboratively was also 'more fun' and 'less boring'; this hints explicitly at the *social presence* which must have been a

feature of all of the groups whose participants found collaboration beneficial. One student had learned how to write a better article by observing how others write. Another had learned from how his peers presented their thoughts.

The clear and consistent evidence of the benefits that accrue to students from working in small collaborative groups was one of the most striking features of this project. When introducing the class work project in the later iterations of the second cycle I reported to students that the earlier cohort found that there were benefits to working collaboratively on the class participation project. At the end of a lecture, one of the students working in a collaborative group approached me to report that what I had said about the benefits of working collaboratively had proved to be 'legit'; she seemed surprised. The implications for future practice are that I should explain to students the evidence gathered during this project about the benefits of collaborative work. This will be especially relevant when, as in the second cycle, they have the option to work in a group or individually. It will also be relevant when students are deciding whether to take the *Issues in Property Law* elective, where collaborative work is a compulsory feature.

The second cycle experience of collaboration and its learning benefits informed the third cycle. I worked with colleagues to prepare materials that would help the Issues in Property Law students to understand the likely importance of collaborative working practices for their study and their future professional lives. I also wanted them to understand how to collaborate. I was interested both in cultivating a disposition to collaborate and a knowledge of how to do so effectively. My teaching assistant colleague interviewed alumni about the importance of collaboration. These interviews were filmed and the teaching assistant compiled extracts from these interviews into themes and made a video using these materials. One of my colleagues with a long and successful career in legal practice behind him also made a video with personal reflections on how he had learned over a long time to overcome a preference for working alone to becoming a firm believer in collaboration. These videos

are available on the Faculty's *Learning Matters* blog. I referred the Issues in Property Law students to them (5.4.3).

The experience of working in small collaborative groups was the focus of the questions posed in the survey that the students were asked to complete and in the interviews with the facilitators (5.4.5).

One student said that 'Smaller groups made it easier to speak without judgement, everyone could contribute.' The student meant, surely, that there was less fear of being judged when working in smaller groups. Student responses suggested that working collaboratively helped to develop teamworking skills. One student responded that they had learned, 'the importance of communication and mutual tolerance among group mates really'. The facilitators confirmed that the student groups seemed to work well with students being well-prepared when they arrived for the meetings and divided tasks among themselves. Students were able to work their way through disagreements.

The facilitators, research postgraduate students with an academic career as one of their likely future options, learned how they could support students engaging in structured inquiry. One facilitator said: 'I think we have met the objective to help students understand how to do research, how to frame it, how to create hook, how to look at an issue from different perspectives and different arguments'. Another said that the experience had helped them to see how collaborative learning could be implemented. Teachers and facilitators, then, can improve in their own knowledge of supporting students as they work with the practical inquiry model.

The range of benefits that students reported from their experience of working in collaborative groups confirm the benefits of social constructivist approaches to teaching and learning as outlined in 2.3.2. Students sharpen their own ideas by having to present them to the other group members.

The group generates more relevant ideas than any individual member would have managed. Students correct each other's misunderstandings. They learn how to present their work appropriately by

seeing how other group members present their work. The *cognitive* and *teaching* presences were distributed across the group.

In the introductory lectures and the pre-course videos made available to the students I explained the *practical inquiry model* to them and suggested that they could allocate one week to each of the four stages of the model. The aim was to provide students with a road map for collaborative research which could guide them and which they could reflect on and internalize. The *practical inquiry model* was explained to the facilitators in the first of their induction sessions and it was suggested to them that they could help the students to work their way through it. I hoped that there would be benefits both in terms of *cognitive presence* and *metacognitively*. I wanted to know whether the students and facilitators thought that this explanation of, and encouragement to use, the practical inquiry model had been helpful. Two students said that it had while the other two respondents did not know what the *practical inquiry model* was.

The facilitators' responses show that, in practice, the students did seem to have understood the importance of a structured approach to inquiry and to have adopted it. One of the facilitators observed that: 'What I think they took out of it was, it has improved their research skills, it also improved their ability to assign tasks, and to follow those tasks to a logical conclusion.' Another commented that: 'The most important part for them, is that they knew how to do research: figure out the research question, search for supportive documents and evidence to answer the question'. It is not easy to know where to place these collaboration skills in terms of the *communities of inquiry* pedagogy presences. Collaboration in a community of inquiry seems to demand, and to foster, a distinctive body of knowledge, skills and dispositions. Garrison (2016) adverts to this issue. The title *Thinking collaboratively: Learning in a community of inquiry* (Garrison, 2016) signals that attention has turned to the centrality of collaboration in the *communities of inquiry pedagogy*. Garrison suggests that

the idea of collaboration can partly be thought of in terms of a concept of *shared metacognition* (Garrison, 2016: 82 – 83).

Shared metacognition may be a misleading term if it does not encourage reflection on the personal and collective values and virtues that are needed for collaboration (and careful inquiry) to work. Garrison hints at this when he asks whether women ‘have a greater skill (sensitivity, communicativeness) for thinking and learning collaboratively’ (Garrison, 2016: 83). This question illustrates an awareness that collaboration depends on more elements than those so far explored in the *communities of inquiry pedagogy* that developed from Garrison et al (2000). Having raised the possibility of there being an important dimension of values and virtues to be explored, Garrison does not pursue the idea.

The idea that the *communities of inquiry pedagogy* can be enacted as a way to help students learn ‘teamworking skills’ (the cognitive aspect of collaboration) and ‘mutual tolerance among groupmates’ (5.4.5) (the necessary dispositions) is not yet properly accounted for. This is important given both the centrality of collaborative for learning in a *community of inquiry* and in professional life. It would be highly desirable and appropriate for the *communities of inquiry pedagogy* to aim to equip students with knowledge of a repertoire of collaborative techniques and the skills and virtues needed to enact them. It would also be good to decide whether to place this in Garrison’s framework for the *communities of inquiry pedagogy*.

Table 5.16: Collaborative, critical discourse in the community of inquiry

Collaborative, critical discourse
<p>1. Discussion forums allied with effective forms of <i>teaching presence</i> can promote collaborative, critical discourse. Suggested relevant aspects of <i>teaching presence</i> are:</p> <p style="padding-left: 40px;">a. Explanation as to how the discussion forum can promote group and individual learning</p>

<ul style="list-style-type: none"> b. Explanation (with examples) of effective forum contributions; c. Teacher contributions to the forum to build on contributions and elicit further contributions
<p>2. Students who experience collaborative learning in small groups come to value it highly.</p> <p>The perceived benefits include:</p> <ul style="list-style-type: none"> a. Feeling free to express ideas; b. Improved understanding of central concepts; c. Learning how to present ideas in the group and in writing; d. Learning how to collaborate; and e. Finding learning more fun.
<p>3. Explaining the <i>practical inquiry model</i> to students may enhance <i>cognitive presence</i> and have <i>metacognitive</i> benefits</p>
<p>4. Facilitators can be trained to remind students of the <i>practical inquiry model</i> and to ask groups to reflect on how they are following it. This, too, may enhance <i>cognitive presence</i> and have <i>metacognitive</i> benefits</p>
<p>5. The <i>communities of inquiry pedagogy</i> as articulated by Garrison et al (2000) and Garrison (2011 and 2016) does not explore the concept of collaboration in sufficient depth even though collaboration is so central to the pedagogy and is mentioned so frequently in these accounts. Should learning how to collaborate effectively be an outcome that is given greater prominence in the Garrison framework? Could the framework be developed by considering whether, for example, the community of inquiry can help students to reflect on the nature of successful collaboration? Does this suggest the</p>

need to reflect on personal attributes (dispositions and virtues) that favour successful collaboration?

5.5.6 Feedback

How did students perceive that the teacher's feedback helped them to develop?

I discussed the importance of *assessment*, *feed-forward* and *feedback* practices as ways of inducting students into disciplinary communities of inquiry in 2.5. The aim is to socialize students into an understanding of 'good work' within the disciplinary community. Direct instruction, through *feed-forward* processes, provides students with explicit knowledge of the qualities of a good piece of work. It is of limited value, however, in helping students to access tacit knowledge about the qualities of good scholarly work in the discipline. 'Tacit knowledge is that which 'is learnt experientially' (O'Donovan et al, 2004: 328). *Feed-back* processes allow students to reflect on their attempts to do scholarly work, ideally in the context of discussion with teachers and peers and so engage in a work of co-constructing their knowledge and understanding of scholarly practices and values.

In the first cycle, students were asked to contribute a discussion forum posting and to write a coursework about some aspect of the law of the ownership of the family home (5.2.3). Student responses suggested that at least some students saw little value in the discussion forum posting and that they complied with it only because they had to (5.2.5). I may have been at fault in failing to be actively involved in the forum and in not providing *feedback* on student posts. I could have given *feedback*, perhaps, emphasizing what it was that I thought was helpful about postings. It would have been good to develop a shared culture around effective contributions to the forum. I pointed out the need to think more about the demands of effective *teaching presence* in the discussion forum in 5.5.5.

I provided collective *feed-forward* and individualized written *feedback* about the research coursework. The research coursework gave students a chance to write a short scholarly piece and to contribute to an ongoing set of inquiries in the disciplinary community of inquiry. There was strong agreement with the propositions that the coursework *feedback* helped the students to understand their strengths and weaknesses in carrying out research and in writing (5.2.5). I was confirmed in my belief that choosing appropriate *assessment* tasks is an important aspect of *teaching presence* when enacting the *communities of inquiry pedagogy*. The research coursework is a good example of such a task because it reports on, and makes visible, the inquiry process and the need to come to a conclusion (perhaps nuanced) brings the students to the *integration* phase of the *practical inquiry model*. *Feed-forward and feedback* allow the teacher to contribute to the articulation and development of the student's ideas. In the second cycle I changed the coursework *feedback sheet* so that it aligned better with the ideas that I found helpful in explaining to students the elements of a good coursework. *Feed-forward* was both collective (an explanation of the *feedback* sheet and the criteria it contained) and individual (5.3.3). The student survey responses are set out in 5.3.5. The students were asked whether the *feedback* they received on their coursework helped them to understand how to carry out academic research. Most respondents found the *feedback* helpful by, for example, reminding them to have a focused topic or 'in better structuring paragraphs and presenting ideas in academic article writing.' One respondent commented that: 'It helped me understand how to write a research paper better (more coherent, better organized, citing sources etc.)'. At least for this student, the *feedback* seems to have gone beyond easily expressed knowledge about 'citing sources' and to have developed tacit knowledge about values such as coherence.

In the third cycle, I developed *feedback* sheets for each item of assessment (the blog post, the conference presentation and the research coursework). I explained these to the students in the

introductory lectures. I added to the *feed-forward* process by having students read blog posts about legal issues from *The Conversation* blog and apply the *feedback* sheet to those blog posts.

The facilitators were available at the group stage to provide *feedback* on the process of inquiry followed by the students but also on their presentation rehearsals and draft blog posts. One facilitator commented that, 'I think we have met the objective to help students understand how to do research, how to frame it, how to create hook, how to look at an issue from different perspectives and different arguments, you know' (5.4.5). The facilitator perceives that their *feedback* played a useful role in helping students to internalize valuable tacit knowledge about the inquiry process. Having postgraduate students act as facilitators was a useful development in the third cycle. They provide *teaching presence*, provoking *cognitive* and *metacognitive* presence in the small collaborative groups.

Express instruction giving *feed-forward* about the elements of a good research paper can be useful. It seems to be effective as a way of conveying an understanding of some important features such as the need for a research question, to refer to authoritative resources (such as important cases or relevant journal articles) and to cite those sources appropriately. Express instruction can also be effective in explaining, for example, how to structure the introduction to a coursework. Express instruction can be given in lectures which could be live (as in this project) or recorded. My experience suggests that it pays to be careful about the design of the *feedback* sheet especially where it is to be used to provide *feed-forward*. I changed the design of the sheet to make it a better starting point for explaining and discussing the criteria for a good coursework (5.3.4). Students could be asked to evaluate the work of others as an element of this feed-forward process. In the third cycle, students were asked to apply the blog evaluation criteria to blog posts published on *The Conversation* blog.

Feed-forward and feedback processes are undoubtedly necessary. It is clear from the data presented that *feedback* on student work offers students the opportunity to reflect and, for at least some students, the opportunity to internalize an appreciation of the qualities of a good blog post. It seems, too, that having a teacher or facilitator available to comment on draft work is a further help to students. By contrast, student disappointment with the discussion forum exercise in the first cycle may reflect unhappiness at the lack of *feed-forward and feedback* by the teacher. Increasing the opportunities for students to produce scholarly work (perhaps across a variety of genres), receiving *feedback* on it and applying it in later projects may help students to improve research and presentation skills. The data analysed in 5.5.5 above suggests that students working in small collaborative groups can help each other to understand the qualities of a good coursework.

Table 5.17: Assessment, feed-forward and feedback in the communities of inquiry pedagogy

Assessment, feed-forward and feedback
1. Attempts to enact the <i>communities of inquiry pedagogy</i> must include appropriate <i>assessment</i> tasks that encourage students to work through the <i>practical inquiry model</i> .
2. Direct instruction giving <i>feed-forward</i> (individual and collective) can help students develop an appreciation of the qualities of good scholarly work.
3. Detailed and timely <i>feedback</i> can do the same.
4. Facilitators can provide more immediate and ongoing <i>feed-forward and feedback</i> .

5.6 (RQ1) How did students perceive that teaching presence was manifested in the learning activities in each of the three cycles of this project?

In this section I build on the analysis in 5.5 to construct my answer to RQ1. My conclusions are that:

- Effective *teaching presence* at every stage of the *practical inquiry model* relies both on direct instruction and on peer-to-peer collaborative discourse;
- So it seems likely that effective *teaching presence* depends on finding the right balance and interaction between direct instruction and peer-to-peer collaborative discourse to create a learning culture;
- Research postgraduate students acting as facilitators and trained in the *practical inquiry model* can be a useful, accessible to students, bridge between direct instruction provided by the teacher and peer-to-peer collaborative discourse (and between the classroom community of inquiry and the disciplinary community of inquiry);
- Overall, then, it may be appropriate to think in terms of a community of inquiry requiring an eco-system for discourse, *feed-forward* and *feed-back* with multiple layers (teacher, facilitator and students) governed by a principle of subsidiarity so that, so far as possible, *feed-forward* and *feedback* occur as close to the student as possible and is as rich and abundant as possible;
- *Feed-forward* and *feedback* processes help students to understand and enact the process of scholarly knowledge production in the classroom community of inquiry;
- Garrison's account of the *communities of inquiry pedagogy* could helpfully be developed by an account of the knowledge, skills and values that are important for effective collaboration. It would be appropriate to give increased emphasis to the *communities of inquiry pedagogy* as a way of developing students as effective operators in collaborative learning and workplace environments.

The analysis in 5.5 takes us through the phases of the *practical inquiry model* and the evidence shows that some element of direct instruction by the teacher is identified by the students as being of central importance. By contrast, the lack of direct instruction and of teacher involvement and facilitation resulted in student dissatisfaction with the use of the discussion forum in the first cycle. On the other hand, the analysis in 5.5.5 shows that students working in collaborative groups provide effective *teaching presence* providing effective support across all stages of the *practical inquiry model*. The ability of student groups to provide this teaching presence, and the metacognitive gains from collaborative working can be enhanced by recruiting and training research postgraduate students to act as facilitators.

Garrison (2016) rightly emphasizes that collaboration is at the heart of the *communities of inquiry* pedagogy and that shared commitment to the inquiry being carried out is the essential characteristic of the community of inquiry as of any human grouping. He also makes some suggestions about how collaboration generates *shared cognition* and provides practical insights as to how to organize collaborative groups (2.3.9). The evidence analysed in 5.5.5 points to the idea that successful collaboration is partly a matter of know-how but also relies on personal dispositions of the participants (teamworking skills and mutual tolerance are identified but other skills and values are probably necessary). Collaboration is central to learning in the *communities of inquiry pedagogy* and in the contemporary workplace. My own experience of planning the Issues in Property Law elective led me in a practical way to be concerned about and address the collaboration issue. I created resources that would help students to understand the importance of collaboration and how to collaborate.

Theorists seeking to develop the *communities of inquiry pedagogy* could try to build on the insights of Garrison (2016) and address the question of the development of collaborative skills and values in a systematic way.

5.7 Student perceptions about consequential transitions.

Beach's socio-cultural *consequential transitions* approach sees learning as 'the conscious reflective struggle to propagate knowledge linked with identity in ways that are consequential to the individual becoming someone or something new, and in ways that contribute to sociogenesis; the creation and metamorphosis of social activity and ultimately society. Producing culture in addition to reproducing it' (Beach, 2003: 57) (2.4).

The *communities of inquiry pedagogy* helpfully focuses attention on promoting the collaborative, critical discourse that characterizes *higher education*. It is inadequate, on its own, as a framework to guide the teacher since it seeks to develop generic inquiry procedures. Collini points out that undergraduate education requires 'engagement with some *particular* subject matter, not simply by ingesting a set of abstract propositions about the contingency of knowledge' (Collini, 2017: 235). Implicitly, Collini is making the point that knowledge develops in disciplinary communities of inquiry. There is the further point that the student, particularly in a professional discipline like Law, is motivated by a desire to take their place in this community and that this raises the question of identity as being intimately intertwined with intellectual development.

5.7.1 (RQ 2.1) To what extent did participation in the learning activities lead students to identify themselves as participants in the disciplinary community of inquiry (as researchers)?

In the first cycle, there was only mild agreement with the proposition that, the 'experience of researching and writing the coursework made me feel that I could contribute to academic debate in this area of law.' We saw from the interview with Peter that he did think that he may have contributed to the literature. We also saw evidence of Ben's conscious struggle to engage with the norms and customs of academia (5.2.5). Some of the second cycle students did think that the Land Law I work led them to identify themselves as researchers (5.3.5). Many of the 2016 – 17 students

who responded thought that the opportunity to publish their work in a blog or journal article would make it more meaningful for them (5.3.5).

Table 5.18: Students as emerging researchers

Students as emerging researchers
1. Asking students to carry out a research coursework can lead them to see themselves as emerging researchers.
2. Giving students the opportunity to publish their work in a blog or journal article can lead them to see their work as being more meaningful or valuable.

5.7.2 (RQ 2.2) To what extent did participation in the learning activities lead students to identify themselves as emerging legal practitioners?

The first cycle students agreed more strongly with the proposition that their work was good preparation for legal practice. Bob was eager to find ‘clients’ who he could advise on land law matters (5.2.5). Some second cycle students said that they did feel as though the exercise had equipped them to give legal advice in this area or made them imagine themselves working as a legal practitioner. Student responses on this question referred to an enhanced ability ‘to examine and analyse legal issues in depth’, the issues raised were ‘real life’ issues and allowed a more ‘holistic’ approach and the work done for the assessment tasks seemed more practical. One student said: ‘Yes, to give me an opportunity to see the legal challenges / reality of co-habitants in claiming ownership of the family home and search the best way for them to do so.’ Students who did not think that their work was like that of the legal practitioner made the obvious points that there were differences between the work they did and what would be required of them in the workplace. They were not being asked to produce a skeleton argument as a barrister arguing a case would be; the questions

they dealt with were ‘disputable’ (unlike perhaps the cut and dried legal advice that the respondent imagined being able to give in practice) (5.3.5).

There was some limited evidence, then, of students being led to see themselves as emerging researchers or, more likely, emerging solicitors or barristers. Teachers may be able to encourage a sense of *consequential transition* by appropriate *framing* of student work (3.5.3). In courses where the aim is to facilitate a transition to legal practice, it would make sense to ask students to produce skeleton arguments, letters of advice to clients or draft contract clauses. The inquiry process would be the same but the *integration* phase would involve the production of the sort of output that would be encountered in legal practice. The blog post is now an established way to convey knowledge in a variety of domains and this is a genre that legal practitioners make use of to communicate with clients or potential clients. The third cycle required students to produce a blog post.

Table 5.19: Students as emerging legal practitioners

Students as emerging legal practitioners
1. Asking students to carry out an inquiry concerning issues that they perceive to be ‘real-life’, like the issues they might face in practice, can make it more likely that they will come to see themselves as emerging legal practitioners
2. It may help to achieve the same effect if the form in which they are asked to present their findings resembles the type of document that they think they would be expected to produce in practice

5.8 (RQ 2) To what extent did the students experience participation in the learning activities described in the previous section as a form of consequential transition?

In this section I consolidate the answers to RQs 2.1 and 2.2 to construct my answer to the main RQ2. Students (at least some of them) did experience participation in the learning activities as a form of consequential transition into membership of the disciplinary community of inquiry. The evidence suggests that it helps if the student perceives that their inquiry has ‘real-life’ relevance. This coincides with the finding in 5.5.1 that real-life relevance is an important aspect of an effective *triggering event*. Student responses also suggest that students might be helped to perceive learning as a consequential transition if the output in some way simulates the sort of work that they imagine might be required in legal practice. Some of the other findings in 5.5, those related to collaboration in 5.5.5, are relevant to RQ2. Consequential transition involves learning how to construct knowledge in accordance with the norms of the disciplinary community of inquiry, learning how to ‘get on’ in the community. We saw the rich variety of ways in which students helped each to do this when they worked in collaborative groups. The facilitators also proved effective in helping the students to work in accordance with the norms of legal scholarship and in keeping them ‘on track’. Giving students the opportunity to publish their work in a blog or journal article can lead them to see it as being more meaningful or valuable.

5.9 Conclusion

5.2 to 5.4 described the three cycles of the action research project that began in 2015 – 16 and how the monitoring process in the first and second cycles led to revised general plans: These sections recount the details of a project as it evolved over four academic years (2015 – 16 to 2018 – 19 inclusive). There is no way around this since the three cycles are linked to each other; to omit one of

the cycles would be misleading and confusing. It can reasonably be said, though, that the project had come to some kind of conclusion by the end of the third cycle.

In 5.5 to 5.8, I analysed the data presented in 5.2 to 5.4. I looked back over the entire project and considered the answers to the research questions suggested by the data. In doing so, I reminded the reader of the theoretical perspectives (the educational values) raised by each question and of the evidence relevant to each question. I summarized my findings as the analysis progressed in a table at the end of each sub-section in 5.5 (RQ1) and 5.7 (RQ2). I then synthesized these findings to create answers to RQ1 (5.6) and RQ2 (5.8). I offer the findings to experienced practitioners as well as to the educational research community as plausible readings of the evidence that build on the theoretical framework explained in chapter two. Where the findings challenge that framework (in the case of the unsuccessful discussion forum) I use the theoretical framework to suggest a way to improve future practice.

Some of my findings in 5.5.5, as well as my experience of designing the Issues in Property Law elective, led me to think that the idea of collaboration and the place of collaboration in the *communities of inquiry pedagogy* have yet to be properly articulated and assigned a place in Garrison's framework. Garrison has drawn attention to this deficiency and begun to respond to it. I believe that the attempt is only partially successful. One aspect of a better response might be to acknowledge that personal attributes of the participants (such as team spirit, mutual tolerance, respect) play an important part in successful collaboration. The next chapter looks at how the findings in this chapter relate to the practice-oriented literature presented in chapter three. Do these findings develop the literatures presented in chapter three and, if so, in which ways?

6. Discussion

6.1 Introduction

The ‘practice problem’ faced by legal educators is explained in 1.1.3. The problem is to move away from teaching and learning as the conveyance of information towards the creation of environments that promote ‘analytical, critical, creative and deep thinking’ (Redmond and Roper, 2001: 167). In chapter two, I put this another way arguing that the problem was to align my own teaching practice with my educational values based on my understanding of the idea of the university, of higher education, of knowledge and the role of the disciplinary community of inquiry in knowledge production. I argue that the *communities of inquiry pedagogy* offers a solution to this problem and seek to show how it might be enacted in practice.

The aim of this project is to contribute to the development of a theoretically informed and practice-oriented literature about the enactment of the *communities of inquiry pedagogy* with a view to inducting students into disciplinary communities of inquiry (making a *consequential transition*). Classroom action research is theoretically informed and practice-oriented and so well aligned with the production of this literature.

I hope to contribute to the development of the practice of legal educators by contributing to educational research literature directed to them. The disciplinary context is important since each discipline has its own concerns and challenges and its educators have their own educational research journals. I reflect in this chapter (6.5 below) on how legal educators, as a community, can generate a systematic body of theoretically informed and practice-oriented literature.

I claim, however, that my findings are relevant to educators across disciplines, perhaps especially professional disciplines. My contribution is not simply to import established knowledge into a new disciplinary context. I drew on literature from other disciplines and claim to contribute to that

literature. My findings contribute to the development of practice-oriented literature about the enactment of the *communities of inquiry pedagogy* in professional disciplines and the idea that learning involves a *consequential transition*, regardless of discipline. As this project shows it is possible to learn from educational research findings generated in other disciplinary contexts; this must also mean that one's own findings are potentially relevant to educators in other disciplines.

In chapter three, I reviewed practice-oriented literature building on the *communities of inquiry pedagogy*, the idea of learning as a *consequential transition* (including literature about *assessment, feed-forward and feedback practices*). I showed how this literature shaped the practices in each cycle of this project. I also commented on the patterns of development of the *communities of inquiry pedagogy* literature across disciplines. In this discussion chapter, I consider this project's contribution to the strands of literature reviewed in chapter three. This could not be attempted until the data from this project had been presented and analysed. This chapter reflects on how the findings in chapter 5, especially in 5.6 and 5.8, develop the literature reviewed in chapter 3.

6.2 looks at how my project builds on the communities of inquiry literature reviewed in section 3.4 and what it adds to the applications of the *communities of inquiry pedagogies* discussed there. 6.3 considers how my findings both build on and develop the *consequential transitions* literature reviewed in 3.5. In 6.4, I look at how I build on, and contribute to, the literature about *assessment, feed-forward and feed-back* reviewed in section 3.6. In 6.5, I consider the possibilities for the development of the communities of inquiry literature that is largely absent from the legal education literature. 6.6 is a brief conclusion.

6.2 Communities of inquiry

In chapter three I reviewed literature calling for classroom communities of inquiry to adopt the norms and practices of the disciplinary community of inquiry. 6.2.1 articulates my contribution to that

literature. I also reviewed literature on the role of discussion forums as infrastructure to facilitate collaborative, critical discourse in the classroom community of inquiry. 6.2.2 seeks to contribute to that literature.

6.2.1 The classroom community of inquiry as a portal to membership of the disciplinary community of inquiry

In 3.4, I reviewed Seixas (1993), Jones (2011) and Chang (2005). Each of these articles shares the assumptions that: (a) effective student learning takes place in a community of inquiry (Chang uses the term ‘directed community’); and (b) the classroom community of inquiry draws students into some kind of relationship with the disciplinary community of inquiry and its work of knowledge production. Each article is practice-oriented; each is concerned with how in practice the *communities of inquiry pedagogy* might be enacted.

Table 6.1 sets out the central points in each article.

Table 6.1 The classroom community of inquiry as a portal to the disciplinary community of inquiry: key findings in the literature

Key findings on classroom communities of inquiry
1. Learning is triggered by focusing student inquiry on questions relevant to their own lives (Seixas, 1993: 315).
2. The teacher provides the ‘bridge’ between the classroom community of inquiry and the disciplinary community of inquiry (Seixas, 1993: 320).
3. Students work in groups making use of ‘exacting standards of referencing and evidence’ (Jones, 2011: 188).
4. Student communities of inquiry engage in ‘cycles of proposition, discussion and argument’ (Jones, 2011: 189).
5. ‘Original research by ordinary students is made possible through close supervision and guidance not only on research methods but on the norms and customs of academia’ (Chang, 2005: 389)

Seixas argues that student inquiry should focus on issues that are relevant to student lives (Seixas, 1993: 315). We saw in 5.5.1 that Law students may be more likely to perceive research questions as ‘relevant’ if they are the sorts of questions that they might face in legal practice.

Seixas sees the teacher as the bridge between the classroom and disciplinary communities of inquiry (Seixas, 1993: 320). I argue that in higher education the teacher’s role is more nuanced. While the teacher can model participation in the disciplinary community of inquiry for students, the aim is to equip students and facilitators to play an active part in promoting the adoption of disciplinary norms

and practices by the classroom community of inquiry. *Feedforward* and *feedback* practices and an explanation of the *practical inquiry model* are ways in which students can be equipped to support each other.

We saw in 5.6 that research postgraduate students trained to act as facilitators can be a particularly effective bridge. In 5.5.5 I found that facilitators can be trained to remind students of the *practical inquiry model* and to ask groups to reflect on how they are following it. In the Issues in Property Law elective, the facilitators were research postgraduate students. They had a foot in both camps, being both students and researchers with an academic career as at least a realistic option. In 5.4, we saw the facilitators reflecting on the implications of their experience for future practice; they were already beginning to formulate theories as to their role as a teacher and the conditions for effective teaching. They said:

- ‘I think we have met the objective to help students understand how to do research, how to frame it, how to create hook, how to look at an issue from different perspectives and different arguments, you know.’
- ‘I think I realised that you have to give students the way to extract the best of their ideas. Sometimes students have many ideas, but they don’t know how to sequentially organize them, this is I think where we come in as a facilitator.’

The facilitators here reflect, and try to make sense of, their teaching role in the student groups and illustrate that they see this in terms of helping students to know how to go about research.

I concluded in 5.6 that *teaching presence* requires both direct instruction by the teacher and peer-to-peer instruction within the classroom community of inquiry; having trained research postgraduate students act as facilitators adds a very useful element of teaching presence. Chang proposes ‘close supervision’ by the teacher as a condition for high quality student inquiry (Chang, 2005: 389). This is realistic and

I did indeed devote a considerable amount of time to direct supervision of student projects. At the same time, part of the professional responsibility of the teacher is to find the right balance between providing direct instruction, on the one hand, and, on the other hand, equipping the student communities of inquiry to support each other.

To sum up then, my contributions to the literature reviewed in 3.4 are:

- Student inquiry should be triggered by having students frame research questions that are relevant. My contribution here is to suggest that ‘relevant’ means that students perceive that the questions resemble the sorts of questions that they might face in legal practice;
- The teacher is responsible for providing a bridge between the classroom community of inquiry and the disciplinary community of inquiry. I argue that while direct modelling, instruction and supervision by the teacher are important, an equally important role of the teacher is to equip participants in the classroom community of inquiry to support each other in working in accordance with the norms and practices of the disciplinary community of inquiry.
- I argue that recruiting and training research postgraduate students to work as facilitators in the classroom community of inquiry provides another useful bridge between the classroom community of inquiry and the disciplinary community of inquiry. Incidentally, it introduces the facilitators to the teaching role that is part of the academic career that many of them aspire to.

6.2.2 Asynchronous digital communication forums and the communities of inquiry pedagogy

Garrison et al (2000) and later Garrison (2011 and 2016) have pointed to the idea that asynchronous discussion forums would seem to be an ideal tool to support collaborative, critical discourse in a

community of inquiry. Students have the time to reflect on their contribution and the discipline of making their contribution in writing should also result in higher quality discussion. This is the case but my finding about the need for effective *teaching presence* at every stage of the *practical inquiry model* applies here too, as Clarke and Bartholomew (2014) point out. In 5.5.5 I found that discussion forums can promote collaborative, critical discourse but only if allied with effective forms of *teaching presence*. I conjectured that relevant aspects of *teaching presence* might include:

- a. Explanation as to how the discussion forum can promote group and individual learning;
- b. Explanation (with examples) of effective forum contributions; and
- c. Teacher contributions to the forum to build on contributions and elicit further contributions.

My findings confirm the potential for the discussion forum to facilitate collaborative, critical discourse but highlight the importance of effective *teaching presence* if this potential is to be realised.

Page et al (2020) have recently made this point and offer suggestions about the elements of effective *teaching presence* (they use the terms ‘visibility’) in online discussion forums.

6.3 Consequential transitions

I argue in 2.4 that undergraduate legal education must be concerned with helping students to find their place in Law as a disciplinary community of inquiry and that this is a form of *consequential transition*. Legal education seeks to help individuals forge a new relationship between themselves and Law (the legal community of inquiry) seen as a socio-cultural context. In 3.5, I reviewed practice-oriented literature that suggested features of learning environments that support the students in

making this *consequential transition*. How can students be helped to think like lawyers and to strengthen their sense of themselves as emerging lawyers? In this section, I set out my contributions to this literature which I believe to be relevant to legal education and to other professional disciplines.

6.3.1 The importance of relationships, collaboration and mentoring for consequential transitions

In 3.5.2 we saw that Crafter and Maunder comment that ‘other people can provide social knowledge about ways of behaving or ways of being’ and they urge practitioners to:

‘prioritise the development of relationships for learners undertaking educational transition by providing lots of opportunity for social networking; organising collaborative activities; and helping to nurture relationships between new and existing members of the learning community (either through informal or more formal means such as mentoring or buddying)’ (Crafter and Maunder, 2012: 16).

In 5.8 I found that students helped each other to learn how to construct knowledge in accordance with the norms of the disciplinary community of inquiry when they worked in collaborative groups. I had in mind the findings in 5.5.5 on how students thought that the teacher facilitated critical discussion of their ideas where I analysed the data on the rich variety of ways in which students perceived learning benefits from working in collaborative groups. In 5.8, I also pointed to the role of the facilitators in the Issues in Property Law elective; they helped the students to work in accordance with the norms of legal scholarship and kept them ‘on track’. The Property Law seminars that I established and on which I now collaborate with a colleague (<https://www.iiphk.law.cuhk.edu.hk/copy-of-events>) are an attempt to create a site that brings together students, alumni, property professionals and anyone with an interest in Hong Kong property law. The intended message to students is that what they study in class is relevant to the life and work of these other groups.

My contribution to this literature is the conclusion that *teaching presence* includes a search for as rich a variety of social relationships as possible relating to the classroom community of inquiry that can provide support and modelling for the students and show them how to operate in the disciplinary community of inquiry. Peers are one valuable source of support. Research postgraduate students acting as facilitators can support the development of students' capacity to think like lawyers as we have seen. We have also noted that acting as a facilitator can be consequential for the facilitators themselves as they prepare for the teaching elements of a future academic career.

In 5.5.5, I argued that Garrison (2016) is right to point out the central importance of collaboration for learning. My contribution here is to suggest that Garrison does not deal adequately with the knowledge and virtues collaboration requires. The development of the student's capacity for collaboration can be an important support for the strengthening of the student's professional identity. It can make it easier for students to enter into the social relationships adverted to by Crafter and Maunder.

6.3.2 Framing

Engle looked at the concept of 'transfer' from a socio-cultural perspective while Beach explains the idea of the *consequential transition* as being a better, alternative, way than transfer for thinking about learning. I thought, however, that the approaches were close enough and that Engle's findings were relevant to this project. In 3.5.3, I explained that Engle argues for the importance of 'framing' for improved learning. Specifically, he argues that learning is improved where learners are framed 'as participating in intellectual conversations within a larger community' (Engle, 2006: 457).

This coincides with the finding in 5.8 that the real-life relevance of the research question, being like the sort of problems that they would face in practice, helped students to perceive that the learning activity was relevant to their emerging identity as legal practitioners. In 5.8 we saw that giving

students the opportunity to publish their work in a blog or journal article could lead them to see it as being more meaningful or valuable. This supports the idea that appropriate framing of student discourse can facilitate a consequential transition. It also suggests that the creation of blogs (perhaps edited or co-edited by the teacher) for the dissemination of student work can be a useful strategy for teachers seeking to promote a *consequential transition* by students. Their work is then framed as being addressed to a broader professional community and the interested public. This is in line with the idea that a *consequential transition* allows learners to engage in ‘[p]roducing culture as well as reproducing it’ (Beach, 2003: 57). The Issues in Property Law blog (<https://www.iiphk.law.cuhk.edu.hk/>) has contributions by me and by students and is addressed to anyone with an interest in property law. When I suggest to students that they should consider publishing their work (perhaps in this blog) the intention is to frame their work as a contribution to a conversation of interest to a broader audience (including professional practitioners). The Property Law seminars are also intended to frame classroom learning as being about issues relevant to a broader audience.

6.3.3 Learning environments as ecological systems: consequential transition and the transformation of the system

Loi and Dillon (2006) propose that learning environments should be thought of as ecological systems which may need some disturbance to be transformed into ‘creative spaces’. In 5.5.5, we saw that having students engage in inquiry in collaborative groups conferred a range of learning benefits. *Teaching presence*, including *feed-forward and feedback* by the teacher, facilitators and other group members (5.5.6) can scaffold students as they work on authentic assessments using the methods and epistemic resources of the disciplinary community of inquiry. Students can then come to see themselves as emerging members of the disciplinary community of inquiry (5.8). Having students

work in small collaborative groups (classroom communities of inquiry) can provide the disturbance needed to transform the student learning environment into a creative space. In 6.3.2, drawing on the findings in 5.8, I suggested that having students publish their work in blogs can play a useful role in framing student work. Another way of putting this is to say that blogs can draw professionals and the interested public into the learning environment

The metaphor of the learning environment as a creative space sums up much of the earlier discussion. Collectively, the findings suggest that improving learning environments requires the teacher to think in terms of an ecological system organised around inquiry, knowledge creation and at least beginning the work of forging the professional identity that the student aspires to. The findings in this project suggest that the learning environment needs the involvement of several people or groups: the teacher, the facilitators, the students, and (through the Issues in Property Law blog and the Property Law seminars) more experienced professionals. The teacher is responsible for co-ordinating these groups and making sure that it supports the *consequential transition* of the students.

6.4 Feed-forward, feedback and assessment

In 3.6.2, I reviewed socio-cultural approaches to assessment based on Beach's concept of the *consequential transition* and Gee's very similar approach to thinking about learning. Gee calls for 'authentic assessment' that 'would tell us whether learners, faced with a complex problem, know how "to go on", how to probe, reflect, assess, and reprobe on a trajectory of action to a goal' (Gee, 2010: 34). This coincides with my finding in 5.8 that 'real-life relevance' is the factor that leads students to perceive that their learning facilitates a *consequential transition*. I conjectured that 'students might be helped to perceive learning as a consequential transition if the output in some way simulates the sort of work that they imagine might be required in legal practice'. In other words,

assessment practices that simulate the workplace that the student aspires to join could well prove to be a decisive factor for learning environments that facilitate the *consequential transitions* that undergraduate Law students and their teachers have in mind. Ideally, the learning environment will also encourage students to think about how they could help to transform that workplace. My contributions here, then, are the suggestions that the authenticity that Gee calls for means that students should perceive that the problems that they are asked to work on are like the problems that they might face in professional practice. It may also help if students perceive that the form of the work that they are asked to produce is like the sort of output that might be expected of them in practice.

6.5 Developing a legal education communities of inquiry literature

Small-scale studies, such as this, gain in significance if they are regarded as contributions to the systematic development of a larger body of research work and literature. The idea of ‘research’ suggests an original contribution to knowledge. In this section I argue that there is a body of literature concerned specifically with legal education and that I am contributing to that literature. I also argue, however, that the legal education literature is a sub-set of broader higher education literature. There is interaction between these bodies of literature and one cannot claim to be contributing to the legal education literature in a meaningful way unless one is also contributing to the general higher education literature.

There is a body of legal education literature to be found in journals such as *The Law Teacher* in the United Kingdom. There are professional bodies for legal educators such as the Association of Law Teachers (with which *The Law Teacher* is associated). Legal educators seeking a solution to their practice problems in the literature are more likely to be aware of contributions to journals such as

The Law Teacher. They are likely to be especially open to solutions proposed by other legal educators. There is a shared context, language and set of concerns that favour the sharing of ideas and practices. For that reason, I argue that there is a case to be made for trying to develop a body of practice-oriented legal education literature about the *communities of inquiry pedagogy*. This thesis is intended as a contribution to that literature.

I want, however, to repeat the point made in 6.1 that legal educators might well find practice-oriented literature from other disciplines relevant (as I have in this thesis). Equally, practice-oriented legal education literature that draws on the *communities of inquiry pedagogy* can be useful to educators in other disciplines. In 3.4.7, I gave a brief account of the state of the literature on the *communities of inquiry pedagogy* within the Scholarship of Teaching and Learning. This thesis claims to contribute both to a legal education literature and to the broader Scholarship of Teaching and Learning. It claims, that is, to contribute to a theoretically informed and practice-oriented literature relevant to teaching and learning in higher education generally as well as to a legal education literature.

In 3.4.5, I commented that there was virtually no legal education literature that draws on the *communities of inquiry pedagogy*. There are limited exceptions (Waldron, 2012; Grealy, 2015; and Nazara et al 2019) which make some mention of the pedagogy but which, however interesting they may be, do not examine the pedagogy in detail. The authors express no intention of contributing to the systematic development of a *communities of inquiry* literature in Law. I contrasted this with the development of the *communities of inquiry pedagogy* literature in library instruction. Bailey and Jacobsen's (2019) account provides helpful guidance as to the essential elements of a systematic theoretically informed but practice-oriented communities of inquiry legal education literature. I set these out in table 6.2.

Table 6.2: Elements of a theoretically informed and practice-oriented communities of inquiry legal education literature

Elements of a theoretically informed and practice-oriented legal education literature
1. clear aim of using the communities of inquiry framework to inform course design.
2. reviews the literature <u>on the fundamental aims of teaching and learning within the discipline</u> , showing why the communities of inquiry framework aligns with those aims.
3. the authors intend to contribute to a developing communities of inquiry literature within their discipline.
4. the authors express their understanding of the <i>communities of inquiry pedagogy</i> (or the aspects of it most relevant to their study).
5. the authors show how this understanding informs the design they implemented.
6. The <i>communities of inquiry</i> pedagogy (or relevant aspects of it) are used to analyse evidence gathered about student perceptions.
7. the authors reflect on how their findings increase the collective understanding of how the <i>communities of inquiry pedagogy</i> <u>can improve teaching and learning in the discipline</u> .

I assume of course that the research bears all the other characteristics of a careful research project. I assume also that the research findings are also a contribution to a more general practice-oriented higher education *communities of inquiry pedagogy* literature. I assume, that is, that the contribution goes beyond importing findings from other disciplines into legal education.

To give one example of the relevance of disciplinary context, while there is hardly any legal education literature drawing on the *communities of inquiry pedagogy*, there is a more extensive PBL legal education

literature (such as Batty, 2013; Clough and Shorter, 2015; Feehily, 2018; Gibbons, 2018a, 2018b and 2019; Grimes, 2014; Orji, 2015; Ryan, 2017). The *communities of inquiry pedagogy* has features in common with problem-based learning ('PBL') which also emphasises sound inquiry procedures leading to a conclusion. Perhaps the major difference between PBL and the *communities of inquiry pedagogy* is that PBL starts with a problem of a type that might be encountered in legal practice and simulates the sort of advice-giving that characterises legal practice. Since one of the major concerns of legal education is to prepare students for future employment in legal practice, it is no surprise that PBL has been given some (though still limited) attention in the legal education literature. The *communities of inquiry pedagogy* differs from PBL in that it allows for academic inquiry that subjects the law to critique. It is not concerned so exclusively with the transition to legal practice and has the more general concern of inducting students into a discipline and into the ways of higher education. Thus, the legal education literature, and the Scholarship of Teaching and Learning, usefully distinguish between PBL and the *communities of inquiry pedagogy*. Still, researchers seeking to develop a *communities of inquiry pedagogy* literature may be able draw on the PBL literature.

6.6 Conclusion

In this chapter I set out my claims to contribute to the higher education literatures about the enactment of the *communities of inquiry pedagogy* and the idea that learning involves a *consequential transition* (including the *consequential transitions* literature on assessment). I have argued that there is a practical case to be made for thinking about how one has contributed to a discipline-specific literature (a legal education literature in my case) as well as to the Scholarship of Teaching and Learning. I have also made some suggestions about the characteristics of research that can contribute to the development of a systematic theoretically informed and practice-oriented literature.

7. Conclusion

7.1 Introduction

This chapter addresses the research questions posed in 1.6. I then set out my claims that my findings contribute to the development of the literature on how the communities of inquiry pedagogy can be enacted to support practice in professional education. In this chapter, I reflect on the validity of my findings. I acknowledge the limitations that arise from the fact that it was sometimes not possible to gather as much evidence as I had hoped for and from the context-bound nature of the research. I remind the reader that this project is an example of insider research and the advantages and disadvantages of this feature of the research design. I reflect on the implications of this research for practice and, as part of this, on how the practices in each cycle of this project might be further developed in the light of the findings in this project.

My reflections on the policy implications of this project relate to the idea that practitioner research projects like this gain in value and validity when viewed as contributions to the collaborative, critical discourse of practitioner communities of inquiry. Universities and departments can usefully encourage and support practitioner research projects as a way of developing the professional identity and capability of teachers. I believe that this has implications for ways of thinking about academic development.

7.2 addresses the research questions, building on the discussion in chapter 5. 7.3 sets out my claims to contribute to the development of the theoretically informed, practice-oriented literature reviewed in chapter three. 7.4 reflects on the quality of this study and its limitations. 7.5 comments on the implications of this study for practice and for policy.

7.2 Addressing the research questions

This project tries to understand the importance of *teaching presence*, and what makes for effective *teaching presence*, when implementing the *communities of inquiry pedagogy*. The designs in the three cycles of this inquiry were used as probes to seek answers to these questions. I also wanted to understand the learning benefits of enacting the *communities of inquiry pedagogy*. I hoped that these benefits would include the fostering of the ability to engage in collaborative, critical discourse in the discipline of Law. I also hoped that it would facilitate a *consequential transition*, with students coming to think of themselves as lawyers able to use the norms, values, epistemic resources and ways of reasoning used in the discipline.

In 5.2 to 5.4, I explained how I came to interim conclusions about the answers to the research questions at the end of each cycle of the project. In 5.5 to 5.8, I provided answers to the questions based on my analysis of the data carried out at the end of the third and final cycle of this project. In this section, I remind the reader of these answers in what I hope is an accessible re-statement. I hope to make the core findings of this project more visible. The answers to the main questions build on the answers to the sub-questions.

I posed two research questions to address my concerns:

- RQ1 How did students perceive that teaching presence was manifested in the learning activities in each of the three cycles of this project?
- RQ2 To what extent did the students experience participation in the learning activities described in the previous section as a form of consequential transition?

Each of these questions required some consideration of how *assessment, feed-forward and feedback* fit into the *communities of inquiry pedagogy* and the idea that learning is best thought of as a *consequential*

transition. In this section I build on the analyses in 5.5 and 5.7. to generate answers to the research questions.

RQ1 How did students perceive that teaching presence was manifested in the learning activities in each of the three cycles of this project?

At the triggering event stage of the *practical inquiry model*, the students perceived that I stimulated their interest by offering sample research questions with ‘real-life’ relevance (5.5.1). In the *exploration phase*, students found the provision of resources such as annotated bibliographies and direct instruction about how to find and deploy relevant resources to be useful (5.5.2). Allowing students to frame their own research questions and emphasizing the primacy of sound inquiry procedures encouraged students to volunteer their own ideas (5.5.3). Consultation sessions to discuss research plans and, in the third cycle, the support of research postgraduate students trained to act as facilitators encouraged students to pursue their ideas (5.5.4).

The clearest message to emerge from the research concerned the wide range of benefits that students felt that they derived from working collaboratively. Explaining the *practical inquiry model* to students and having trained facilitators reinforce the use of the model also supported collaborative critical discourse. I argue that Garrison (2016) recognizes the fundamental role that collaboration plays in the *communities of inquiry pedagogy* but does not give an adequate account of it. Successful collaboration has an ethical element; it relies on virtues and values such as ‘mutual tolerance’ and ‘respect’ that are hinted at but not discussed by Garrison. Finally, feed-forward comprising direct instruction concerning criteria, the support of trained facilitators and detailed and timely feedback help students to develop their capacity to do good scholarly work (5.5.6).

The immediate implications of these findings are that effective *teaching presence* at every stage of the *practical inquiry model* relies both on direct instruction by the teacher and on peer-to-peer collaborative

discourse. Research postgraduate students trained in the *communities of inquiry pedagogy* can play a useful role in supporting *cognitive presence* and helping students to develop metacognitively. So it seems likely that effective *teaching presence* depends on finding the right balance and interaction between direct instruction by the teacher and peer-to-peer collaborative discourse (supported by facilitators) to create a learning culture. Garrison's account of the *communities of inquiry pedagogy* could helpfully be developed by an account of the knowledge, skills and values that are important for effective collaboration. It would be appropriate to give increased emphasis to the *communities of inquiry pedagogy* as a way of developing students as effective operators in collaborative learning and workplace environments. Recognising the importance of these values and working to develop them in students is important and could increase the learning benefits derived from the *communities of inquiry pedagogy*.

RQ2 To what extent do the students experience participation in the learning activities in the three cycles of this project as a form of consequential transition?

RQ2.1 asked about the extent to which participation in the learning activities led students to identify themselves as participants in the disciplinary community of inquiry (ie as researchers). The answer is that it had this effect only to a limited extent in the sense that only some students came to see themselves as having become legal researchers. An almost equivalent number of respondents said that this was not the case (5.3.5). In the first cycle, there was only mild agreement with the proposition by the first cycle respondents to the student survey with the proposition that they had come to see themselves as legal researchers (5.2.5). The same diversity of view emerged from the first cycle interviews. Peter thought that the work that he did for his Land Law II coursework had addressed a gap in the legal literature; the Land Law II coursework design was the same as for Land Law I and students could make use of the research and writing skills they developed in Land Law I.

Bob and Ben, by contrast, thought that the coursework requirement had developed their own learning but were reluctant to claim a broader contribution to knowledge (5.2.5). It may be that two reasons contribute to the explanation for this reticence. First, the students might feel that it was presumptuous for them to claim to be researchers or unsure about what they would need to do to be able to describe themselves as legal researchers. Second, few undergraduate Law students aspire to an academic career; most of them envisage a career in legal practice; part of the reason for the reticence to see themselves as legal researchers might arise from the fact that this is not a career path that they envision for themselves.

The second cycle survey asked students to comment on whether they would value the opportunity to publish their work in a blog or journal article. They were asked whether they thought such an opportunity would make the coursework more meaningful for them. Most were interested in publishing their work but some expressed concern about whether their work would be good enough to be published. When prompted, they could see that in some way, publishing would contribute to their professional or academic development.

RQ 2.2 inquired about the extent to which participation in the learning activities led students to identify themselves as emerging legal practitioners. On the 'extent' issue, students showed themselves much more likely to think that the Land Law I activities led to a strengthened sense of being emerging legal practitioners. The responses to the first cycle survey revealed strong agreement with the proposition that the first cycle work was good preparation for legal practice. We saw the eagerness of Bob to give advice via a Facebook discussion forum about 'real-life' issues (5.2.5). The second cycle survey asked students whether they felt that the Land Law I research project had equipped them to give legal advice about the law of the ownership of the family home. Could they imagine themselves as legal practitioners working in this area? Students were much more likely to say

that this was the case than that they had come to see themselves as legal researchers. Engagement with ‘real-life’ issues emerged as a relevant factor in the survey responses (5.3.5).

I conclude that:

- The learning activities studied in this project did lead at least some students to see themselves as emerging legal researchers and / or legal practitioners;
- Giving students the opportunity to publish their work in a blog or journal article could lead them to see it as being more meaningful or valuable.
- The ‘real-life relevance of the research question was a factor that led students to see their work as simulating that which they might carry out as legal practitioners.

7.3 Contributions to knowledge

I summarise the main points from the discussion in chapter seven as to the ways in which the findings in chapter six contribute to the literature reviewed in chapter three by building on or challenging it.

7.3.1 The classroom community of inquiry as a portal to the disciplinary community of inquiry

The *practical inquiry model* emphasizes the importance of a *triggering event* as the starting point for inquiry. Seixas argues that learning is triggered by focusing on questions that are relevant to students’ lives (Seixas, 1993: 315). My findings concur with the need to draw student attention to problems and issues that are relevant to them. My contribution is the insight that in the case of Law students, relevance means especially that students perceive that the question resembles the sort of question

they might face in legal practice (5.5.1)). This finding is likely to be relevant to educators working in other professional disciplines.

Seixas' (1993) contribution to the communities of inquiry pedagogy is to draw a distinction between the classroom community of inquiry and the disciplinary community of inquiry (Pardales and Girod, 2006: 308). The role of the teacher is to bring the conditions of learning in the classroom community of inquiry into fruitful relationship with the procedures for knowledge production in the disciplinary community of inquiry. Seixas had the secondary school history classroom in mind. Jones (2011) makes the same points when addressing the pedagogical needs of undergraduate history teachers and their students and makes the same point. Jones assumes, however, that the gap between the undergraduate community of inquiry and the disciplinary community of inquiry is much less pronounced; indeed he could be interpreted as suggesting that there is no meaningful distinction between the two communities of inquiry.

In my context of third and fourth year undergraduate students, my findings led me to concur with Seixas that the teacher has a role to play as a bridge between the classroom community of inquiry and the disciplinary community of inquiry (Seixas, 1993: 320). The data presented in chapter five point to some of the forms of direct instruction and support that the students have found useful as they engaged in inquiry (5.2.5 and 5.3.5).

My contribution is to highlight that the task of creating a useful bridge between the classroom community of inquiry and the disciplinary community of inquiry is not that of the teacher alone. Other participants in the classroom community of inquiry (students and facilitators) take co-responsibility for *teaching presence*. As the distance between the classroom community of inquiry and the disciplinary community of inquiry breaks down, the need for the teacher to bridge the two becomes less pressing (5.7).

Chang argues that '[o]riginal research by ordinary students is made possible through close supervision and guidance not only on research methods but on the norms and customs of academia' (Chang, 2005: 389). Chang envisaged that the teacher would provide 'close supervision' and I have just drawn attention to the data which bear out the idea that students perceive this guidance to be important and to suggest the forms that this guidance can usefully take. My contribution is that properly selected and trained facilitators can also offer this supervision acting in partnership with the teacher. I emphasise the useful contribution that research postgraduate students trained in the *practical inquiry model* can play when they act as facilitators (5.4 and 5.5.5). A benefit of this is that it provides research postgraduates with an opportunity to gain some teaching experience, some exposure to the *communities of inquiry pedagogy* and an opportunity to reflect on it and its usefulness in their future *praxis* (5.4.5).

7.3.2 Asynchronous digital communications forums and the *communities of inquiry pedagogy*

One of the core claims of the *communities of inquiry* pedagogy as articulated by Garrison is that asynchronous discussion forums can support collaborative, critical discourse in an online community of inquiry (Garrison et al, 2000; Garrison, 2011 and 2016). I have found evidence to show that this is the case but only if the teacher ensures adequate *teaching presence* helping students to understand the value of participating in a discussion forum and the qualities of a good contribution to discourse in the forum. My contribution is to draw attention to the need for the teacher to train students to engage fruitfully in critical discourse in discussion forums and the suggestion that *teaching presence* here includes being present in the forum to suggest ways in which students might build on the contributions of their peers (5.5.5).

7.3.3 The importance of relationships, collaboration and mentoring for consequential transitions

Crafter and Maunder argue that ‘other people can provide social knowledge about ways of behaving or ways of being’ in the learning community (Crafter and Maunder, 2016: 16). My findings build on this by exploring who these ‘other people’ are and the conditions under which collaboration and mentoring can help students to establish their knowledge and identity as lawyers. Having students work in small collaborative groups is one way of enacting this idea and I have drawn attention to the wide array of learning benefits that students report from working in collaborative groups (5.5.5). Having properly trained research postgraduate students act as facilitators is another (5.8). These facilitators are a source of knowledge about the process of legal inquiry. If the *practical inquiry model* is explained to undergraduate students and their research postgraduate facilitators, then they have a common understanding and language that can be used to support the mentoring work of the facilitators.

There is scope to draw others into the classroom community of inquiry to act as role models and sources of knowledge for students. In 3.4.1 I explained that I took the lead in establishing a Property Law seminar series. Some of the speakers are partners in international law firms. The seminars are open to everyone and undergraduate students receive an invitation. In 5.4.3 I described a video produced by a teaching assistant about the importance of collaboration in the workplace. The teaching assistant made video recordings of interviews with alumni about the importance of collaboration in the workplace and they were the raw material for the short video about collaboration. I also described the video made by a colleague who was formerly a partner in an international law firm in Hong Kong. He described a radical change of heart that led him to see the importance of collaboration in the workplace and how collaborative groups might be structured. These are examples of ways in which relevant others can contribute to learning and consequential transitions in the classroom community of inquiry. Ultimately, this brings us back to the importance

of forging a fruitful relationship between the classroom community of inquiry and relevant members of the disciplinary community of inquiry.

7.3.4 Framing

Learning is improved where learners are framed ‘as participating in intellectual conversations within a larger community’ (Engle, 2006: 457). My findings suggest that students are helped to make a *consequential transition* where they perceive that the problems they work on are like those that they might face in legal practice (5.8). I also found that giving students the opportunity to publish their work in a blog or journal article could lead them to see it as being more meaningful or valuable (5.8). I established the Issues in Property Law blog and the Property Law seminar series (3.4.1) as ways of helping students to see that the questions that they studied and wrote about are of interest to ‘intellectual conversations within a larger community’ (Engle, 2006: 457). My contribution here is the insight that a concern to facilitate a desirable *consequential transition* suggests that the teacher should find ways to help students to participate in, and ideally contribute to, these intellectual conversations with members of the disciplinary community of inquiry. This is consistent with my finding with 7.3.1 above. The *communities of inquiry pedagogy* and the idea that learning, especially professional learning, involves a *consequential transition* are seen to be complementary.

7.3.5 Learning environments as ecological systems: consequential transition and the transformation of the system

Learning environments can best be thought of in ecological terms (Loi and Dillon, 2006). My findings suggest that having students work in collaborative groups, using the *communities of inquiry pedagogy* can provide the disturbance needed to transform the learning environment into a ‘creative space’, a site for knowledge production. My contribution is the insight that the teacher’s aim is to

create classroom communities of inquiry in which the participants co-ordinate their work to improve the work of inquiry, knowledge-production and the formation of the professional identity of the students. The teacher has to scaffold and support the facilitators and students to achieve this end through the forms of *teaching presence* discussed in this thesis (the *communities of inquiry pedagogy*, appropriate *assessment, feed-forward and feedback*) and forging real or simulated interactions between students and the disciplinary community of inquiry. The learning environment needs the involvement of several people or groups: the teacher, the facilitators, the students, and more experienced professionals. The teacher is responsible for co-ordinating these groups and making sure that it supports the *consequential transition* of the students.

7.3.6 Feed-forward, feedback and assessment

Gee argues that authentic assessment tasks should tell us whether students have learned how to ‘go on’ in the professional community that they aspire to join (Gee, 2010: 34). I asked students whether they felt that the learning activities they engaged in led them to see themselves as emerging legal practitioners. There was relatively strong evidence to suggest that they did and that this was because they perceived that the questions they were addressing were potentially relevant in legal practice (5.8). My contribution is that teachers should ensure that this relevance to professional practice is present and made clear to students. Students should have some say in the design of assessment tasks (Garrison et al, 2011: 100 – 109). Allowing students to frame the research question for their inquiry encourages them to volunteer their own ideas and so is relevant to the *exploration phase* of the *practical inquiry model* (5.5.3).

7.3.7 Developing a legal education communities of inquiry literature that is theoretically informed and practice-oriented

In 6.5 I reflected on the qualities that literature derived from projects such as this would need to possess to contribute to a theoretically informed and practice-oriented literature within a discipline. Table 6.3 lists these qualities. I argued that small-scale practitioner research projects like mine gain in value if they contribute to a broader but internally coherent conversation (or research programme) within a practitioner community of inquiry. There is hardly any such legal education literature at present (3.4.5) and small-scale case studies are likely to be an important component of such a literature (6.5). I claim that this project would contribute to the development of such a literature. The discussion in 6.5 also makes a different kind of contribution. It makes suggestions to members of practitioner researcher communities of inquiry as to how they might engage in studies that contribute to a broader, systematic inquiry into the enactment of the communities of inquiry pedagogy. One can imagine several, overlapping communities of practitioner researchers (with overlapping literatures). These broader communities might look at the enactment of the communities of inquiry within higher education or look at the enactment of the communities of inquiry pedagogy across professional disciplines (such as Education, Law, Medicine and Nursing). In 4.2.4 I argued that these practitioner researcher communities of inquiry are sites in which the dialogic validity of research findings can be considered.

7.4 Research quality and limitations

In this section I remind the reader of my proposal that validity (especially dialogic validity) is the appropriate criterion to deploy when assessing the quality of this research. I also reflect on some of the advantages and limitations arising out of the fact that I am an insider in the research setting.

7.4.1 Validity

In 4.2.4, I claimed that the findings in this thesis could claim to have ‘dialogic validity’ meaning that the project and its findings had been subjected to a process of peer review (Anderson and Herr, 1999: 15 – 16). I said that the aim of action research is to close the gap between educational values and my own practice. That is why I was careful to explain my educational values in chapter two.

While my educational values provide the criteria for judgment or ‘appreciative system’ (Schon, 1983: 166) it is not enough that I believe the meaningful progress has been made in bridging the gap between my practice and my values. To have dialogic validity, this judgment must be made available for critique; ‘dialogic validity’ relies on the existence of a community of fellow practitioners who understand the claim being made and can critically evaluate it. I argued that understood in this way, dialogic validity also involves ‘ecological validity’; do the findings ‘have relevance to teachers’ are they ‘true to the world that they recognise’ (Baumfield et al, 2013: 26)?

I did not identify a specific ‘community of inquiry’ in the sense of a group of people to whom I explained this project and who had agreed to act as the ‘dialogic community’ for this project. If I were to start a project like this afresh, I would give explicit attention to identifying this group and the role that it might play. On the other hand, I explained in 4.2.4 that I established the Learning Matters blog (<https://www.learning.law.cuhk.edu.hk/>) in the Faculty of Law as a way of sharing ideas and practices. In 4.2.4 we saw that I took a leading role (working with others) in organizing Teaching and Learning seminars in the Faculty and the *Directions in Legal Education* conferences in 2016, 2018 and 2020, also as a way of sharing ideas and practices. I have earlier referred to Baumfield et al’s suggestion that new practices that seek to improve student learning are often mirrored by similar practices seeking the professional development of teachers (Baumfield et al, 2013: 7). The Teaching and Learning seminars and the Learning Matters blog mirror the Property Law seminars and Issues in Property Law blog (<https://www.iiplhk.law.cuhk.edu.hk/>) (3.4.1.).

Although the teaching and learning seminars and blog came first, they are each underpinned by the reflections on learning contained in this thesis.

There were other people to whom, at various stages, I explained this project and who provided feedback on it. In chapter 5, I identified people to whom I had explained some aspect or aspects of this:

- The former colleague in legal practice with whom I discussed the first cycle plan (5.2.2);
- The colleagues and former student with whom I discussed the initial plan for the second cycle (5.2.2);
- The Issues in Property Law facilitators (5.4.5).

I also gave presentations about aspects of the project within the Faculty and the University as well as in international conferences (see the list of publications derived from work on the doctoral programme at p. xviii above).

I wrote a series of posts about the *communities of inquiry pedagogy* and aspects of this project on the *Learning Matters* blog that I established at the beginning of my tenure as Associate Dean (Teaching and Learning) and these too are listed in the list of Publications derived from work on the doctoral programme (p. xviii above). This blog is hosted on CUHK Faculty of Law's website. I was asked to contribute a short piece about the project for the HERDSA Connect magazine (Lower, 2019b).

These were other ways of giving an account of the project and trying to engage in critical discourse about it. There was some evidence from comments made by participants that the findings were persuasive. For example, one of the participants in the 2018 HERDSA conference said during the Q&A session that I had 'ticked all the boxes' for him and explained how he would make use of the second cycle design in modified form in his own teaching.

Ultimately, there is a need for personal judgment (mine and that of those who read or listen to accounts of this project) as to whether the evidence set out provides a sufficient basis for adapting the designs and modes of implementation described in this thesis in practice. Do the findings in this thesis offer ‘intelligent, but provisional, lines of development’ (Stenhouse, 1975: 125). Do they ‘have relevance to teachers’ (Baumfield, 2013: 26). Whether the reader shares my appreciative system, the educational values sketched in chapter 2, may well make a difference to the reader’s judgment.

Another feature of this project is that it relies on my interpretation, using the elements of the *communities of inquiry pedagogy* and the concept of the *consequential transition* to organise and interpret the evidence gathered. On occasions, I have relied on single instances of a phenomenon (collaborative, critical discourse in the first cycle discussion forum in 5.2.5). In the third cycle, only four students returned the survey and my findings rest partly on my interpretation of these few responses. There is, however, some element of triangulation (evidence from other sources tending to confirm my interpretation. The student comments on the experience of collaboration echo comments made by the facilitators (5.4.5) and those of the second cycle students (5.3.5). During the project, I fed my interpretation of the first cycle survey responses back to the students. I arranged for each facilitator in the Issues course to receive the notes that I used of the interview with them as well as a copy of the blog post about the first iteration (an account of the course and of my interpretation of the evidence gathered about it). The facilitators were asked whether they had any comments. Three replied to say that the notes and the blog post accorded with their memory of the course. In retrospect, I should have fed back to the second and third cycle students on my interpretation of their responses.

7.4.2 Insider research

In 4.2.6 I acknowledged my status as an insider participant in the research setting. I was not an impartial observer but felt deeply committed to bringing about change in the sense of better enacting my educational values. Insider status means that the practitioner-researcher ‘knows the research context in its deepest sense’ (Cochran-Smith and Lytle, 1992: 58). The researcher is in a privileged position when it comes to testing theoretical ideas (Hammersley, 1993: 433). I acknowledged that there are disadvantages, or potential pitfalls, inherent in insider research. I argued that the personal commitment to a search for truth and presenting one’s research and findings to practitioner researcher communities of inquiry are the most effective safeguards against these dangers. Acts such as the writing and submission of this thesis and giving an account of one’s research to practitioner-researcher communities of inquiry are important for this reason. Insider research also raises ethical issues arising out of the possible abuse of the power dynamic inherent in the teacher – student relationship and in 4.3.4 I explain how I addressed these.

In 4.2.6 we saw that Hammersley identifies a set of advantages and disadvantages of insider research. Insiders have first-hand experience of the setting being studied and I found that this did mean that I had a good understanding of, for example, the professional aspirations of Law students and of the types of problems that might face them in practice. I had first-hand knowledge of the deficiencies in my previous practice (5.2.1) and the ‘critical factors’ making the enactment of practices aligned with my educational values more difficult (5.2.2). I was able to take action to introduce new practices to enact and test my educational values. One of the potential disadvantages is a loss of perspective; I argue that a constant effort to give an account to other practitioners and practitioner-researchers is the safeguard. I believe that this has worked effectively but acknowledge that I will need to continue looking for ways to give an account of this project to relevant others and pay heed to their critique. The steps explained in 4.3.4 taken to address the ethical issues respond to Hammersley’s concern that

students are ill-equipped to speak truth to their teachers. As should be clear, I disagree with Hammersly that projects that seek to develop *praxis* are not likely to test theory; classroom action research rests on the view that *praxis* brings theory and practice together.

7.5 Implications for practice and policy

Looking forward, what are the implications of this study for practice and policy? I deal with practice first to signal my view that improved practice is the primary purpose of practitioner-research or classroom action research. I do think, however, that certain policy implications are already implicit in what I have already said and I will tease them out a little further in this section.

7.5.1 Practice implications

I explained the practice problem in 1.1.3. I sought to move away from practice based on information transmission. In chapter 2, I explained that I saw the *communities of inquiry* pedagogy as way of improving learning and helping students to make a *consequential* transition to membership of the disciplinary community of inquiry. I argue that the teacher should forge close, practical links between the classroom community of inquiry and the disciplinary community of inquiry.

Technologies such as blogging can help by including the voices and the views of established legal professionals or interested and informed members of the public.

I established the *Issues in Property Law* blog and co-organise the Property Law seminars (online starting in 2020) as ways of bringing students and professionals together (3.4.1). This builds on Gee's suggestion that 'pro-am' communities, where 'amateurs become expert at whatever they have developed a passion for' (Gee, 2010: 29) have very significant learning potential. Several students have already contributed to the Issues in Property Law blog; they are producing culture, not merely

reproducing it (Beach, 2003: 57). While I always make students aware of the blog, I have not so far made a strong link between the blog and formal learning. The link could be strengthened. The blog post aspect of the Issues in Property Law assessment could take being of a good enough quality to be posted immediately on the blog as a way of describing the A grade criteria. Blog posts could be used as examples for students to reflect on in the *feed-forward* activities in the Issues in Property Law elective.

7.5.2 Policy implications

I have made the point several times already (most recently in 7.4.1) that reflection on my attempts to improve student learning has implications for the professional development of teachers; this is the ‘mirroring effect’ (Baumfield et al, 2013: 7). The professional identity and the *phronesis* of teachers are developed in practitioner researcher communities of inquiry. Participation in such dialogic communities facilitates the *consequential transition* of teachers who aspire to be professionals who are ‘technicians’ or, ideally, ‘technologists’; these are professionals who are experts in applying theory to practice and of modifying theory in the light of practice or the changing requirements of practice (Winch, 2017: 66 – 71) (4.3.3). Professional development means learning how to engage with, and contribute to, the knowledge-building discourse of practitioner-researcher communities of inquiry. If this discourse is theoretically informed and practice-oriented, it can generate sustained, coherent bodies of research of the type that I called for in 6.5. In Trowler’s words, these communities would cultivate a ‘practice sensibility’ (Trowler, 2020: 118); they would be spaces devoted to the cultivation of *phronesis* (4.2.3).

Faculties and Universities have good reasons to promote and support practitioner-researcher communities of inquiry (at least some of them being discipline-specific or drawing together clusters of disciplines (such as those concerned with professional education) as the primary mechanism for

the professional development of teaching professionals. Academic development units and Faculties of Education can provide indispensable support by offering:

- introductions to learning theory (and ongoing opportunities for discussion of theory); and
- training and guidance in research methodologies, designs and methods and ways of disseminating findings;
- introductions to the theory and practice of maintaining communities of inquiry (as well as ongoing practical support and guidance for communities that are established).

Action research should be at least one of the methodologies that is introduced since it is particularly appropriate for the work to be undertaken by practitioner-researcher communities of inquiry.

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