

WHAT HAVE WE HERE? THE RELATIONSHIP BETWEEN LAW STUDENT ATTENDANCE AND WELLBEING

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Two significant areas of contemporary legal education research are student wellbeing and student attendance. It is well established that, when compared with the general population, university students, including those studying law, are at greater risk of experiencing psychological distress and, when they do, it is likely to be at higher levels. Student attendance at face-to-face classes is also gaining traction as a research area, but there is a dearth of robust empirical data in this area. Moreover, the relationship between attendance and wellbeing is underexplored. This article seeks to address this gap in the literature.

We recently undertook a large empirical, mixed method study at our university, involving a survey of law students, a manual count of student attendance, and student focus groups. While the primary purpose of the study was to better understand motivations for student attendance or non-attendance, using a constructivist methodology, we extracted a wealth of qualitative data that gave additional insights into both student wellbeing and the attendance–wellbeing nexus. In this article, we present these findings through the lens of Self-Determination Theory and its principles of relatedness, autonomy and competence and in particular explore the tension between autonomy and relatedness when students do not attend lectures.

I INTRODUCTION

Student wellbeing is an ever-increasing concern in Australian law schools. It is well established that, when compared with the general population, university students in Australia, including those studying law, are at greater risk of

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experiencing psychological distress and, when they do, it is likely to be at higher levels. While there are many studies that have considered student wellbeing in higher education generally,¹ the literature on student wellbeing in legal education has developed more recently.² Alongside this, anecdotally, legal educators are increasingly aware of decreasing student attendance rates at face-to-face classes, positing this as a cause for concern, with some studies attempting to link lower attendance rates with poorer student learning outcomes.³

While both student wellbeing and student attendance are increasingly the subject of legal education research, rarely are the two examined interrelatedly in literature. This article aims to explore the relationship between the two by drawing on data from a recent comprehensive study into law student attendance at the University of Western Australia Law School ('UWALS') and the range of factors, including lecture recording, that influence students' decision-making in this regard.⁴ While not a specific aim of the UWALS study, the empirical data provided interesting insights into the attendance–wellbeing nexus. Drawing largely on qualitative data from the 900 student survey responses and two student focus groups in the UWALS study, in this article we explore this nexus through the theoretical lens of Self-Determination Theory ('SDT'). In Part II we establish the theoretical framework of SDT for this study and, in particular, the three psychological needs it suggests are central to wellbeing: relatedness, autonomy and competence. Following an outline of the research methods we adopted in our study in Part III, in Part IV we discuss key findings from the study through the lens of the three psychological needs of SDT, using them as themes through which to analyse the data. Part V discusses the findings and their implications for the rapidly changing learning environment in law, before concluding with reflections for teachers and institutions in Part VI.

II SELF-DETERMINATION THEORY

SDT is a psychological theory of how humans best thrive and reach a state of 'eudaimonia'. This term refers not simply to subjective contentment but rather

- 1 See David Robotham and Claire Julian, 'Stress and the Higher Education Student: A Critical Review of the Literature' (2006) 30(2) *Journal of Further and Higher Education* 107.
- 2 See Rachael Field, James Duffy and Colin James (eds), *Promoting Law Student and Lawyer Well-Being in Australia and Beyond* (Routledge, 2016); Wendy Larcombe et al, 'Does an Improved Experience of Law School Protect Students against Depression, Anxiety and Stress? An Empirical Study of Wellbeing and the Law School Experience of LLB and JD Students' (2013) 35(2) *Sydney Law Review* 407; Jerome M Organ, David B Jaffe and Katherine M Bender, 'Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns' (2016) 66(1) *Journal of Legal Education* 116.
- 3 See Lillian Corbin, Kylie Burns and April Chrzanowski, 'If You Teach It, Will They Come? Law Students, Class Attendance and Student Engagement' (2010) 20(1) *Legal Education Review* 13.
- 4 Natalie Skead et al, 'If You Record, They Will Not Come — But Does It Really Matter? Student Attendance and Lecture Recording at an Australian Law School' (2020) 54 *Law Teacher* (advance) <doi.org/10.1080/03069400.2019.1697578>.

a state of human thriving, flourishing or wellbeing.⁵ To achieve eudaimonia, the individual should be focused on aims and activities that extend beyond the self.⁶ To this end, SDT posits that humans are oriented towards growth, and that three needs — competence, relatedness and autonomy — are central to optimising growth and facilitating wellbeing,⁷ and that '[a]ll human beings require regular experiences of autonomy, competence and relatedness to thrive'.⁸ Ryan, Huta and Deci describe these needs:

The *need for autonomy* refers to a sense of choice and volition in the regulation of behavior. The *need for competence* concerns the sense of efficacy one has with respect to both internal and external environments. The *need for relatedness* refers to feeling connected to and cared about by others.⁹

SDT assumes that social contexts, such as law schools, can either foster or undermine human development,¹⁰ and is a well-established theoretical framework for the study of law student wellbeing.¹¹

While there is a paucity of research on the direct impact of reduced attendance on student wellbeing, much has been written on the positive association between a student's sense of connectedness, or relatedness — a sense of 'connecting with the selves of other people'¹² — and their wellbeing.¹³ In addition, strong links have been established between in-class and extracurricular engagement

- 5 Richard M Ryan, Veronika Huta and Edward L Deci, 'Living Well: A Self-Determination Theory Perspective on Eudaimonia' (2008) 9(1) *Journal of Happiness Studies* 139, 141. Eudaimonia is defined as 'a way of living that is focused on what is intrinsically worthwhile to human beings': at 147 (emphasis omitted).
- 6 Claire Carroll, 'Alert but Not Alarmed: A Response to Parker's Critique of Wellbeing Scholarship in Law' (2019) 29(1) *Legal Education Review* 1, 5.
- 7 Richard M Ryan and Edward L Deci, 'Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being' (2000) 55(1) *American Psychologist* 68 ('SDT and the Facilitation of Intrinsic Motivation'); Richard M Ryan, Randall R Curren and Edward L Deci, 'What Humans Need: Flourishing in Aristotelian Philosophy and Self-Determination Theory' in Alan S Waterman (ed), *The Best within Us: Positive Psychology Perspectives on Eudaimonia* (American Psychological Association, 2013) 57, 57.
- 8 Carroll (n 6) 12.
- 9 Ryan, Huta and Deci (n 5) 153.
- 10 Ryan and Deci, 'SDT and the Facilitation of Intrinsic Motivation' (n 7) 68.
- 11 See Kennon M Sheldon and Lawrence S Krieger, 'Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being' (2004) 22(2) *Behavioral Sciences and the Law* 261 ('Does Legal Education Have Undermining Effects on Law Students?'); Kennon M Sheldon and Lawrence S Krieger, 'Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory' (2007) 33(6) *Personality and Social Psychology Bulletin* 883 ('Understanding the Negative Effects of Legal Education on Law Students'); Larcombe et al (n 2); Wendy Larcombe and Katherine Fethers, 'Schooling the Blues? An Investigation of Factors Associated with Psychological Distress Among Law Students' (2013) 36(2) *University of New South Wales Law Journal* 390.
- 12 Sheldon and Krieger, 'Understanding the Negative Effects of Legal Education on Law Students' (n 11) 885.
- 13 James Duffy, Rachael Field and Melinda Shirley, 'Engaging Law Students to Promote Psychological Health' (2011) 36(4) *Alternative Law Journal* 250.

and relatedness,¹⁴ thereby arguably supporting, at least indirectly, an association between in-class engagement and student wellbeing.

Autonomous action is self-initiated or self-supported action ‘that has an internal perceived locus of causality’.¹⁵ Students’ sense of autonomy is a prominent focus of work done by a number of researchers on SDT in the context of law student wellbeing. Sheldon and Krieger found that autonomy was the single biggest predictor of wellbeing but also correlated with higher average grades and increased motivation for a future career in law.¹⁶ In 2010, Corbin, Burns and Chrzanowski reported on a study conducted at Griffith Law School examining student attendance across the law degree.¹⁷ In providing a profile of the ‘typical Australian law student’, the authors of the Griffith study suggested that the typical law student wants autonomy over their learning, particularly in relation to class attendance and prioritising their time.¹⁸ A recent study by Jones et al in the United Kingdom examined the mental wellbeing of online distance-based law students.¹⁹ Although overall wellbeing indicators were similar to those in other studies, they note that many of the students’ negative comments around mental wellbeing related to the distance learning nature of the law degree.²⁰ The authors compare this finding with Sheldon and Krieger’s studies which prioritise autonomy for wellbeing as, conversely, their findings indicate that the high level of autonomy provided by the online learning environment had contributed negatively to student wellbeing.²¹ They emphasise that ‘a key theme [from students] was the need for a greater sense of relatedness’, including ‘support, encouragement, and community to help [students] navigate their studies’.²² Like us, Jones, Samra and Lucassen point to the need for balance to be struck between autonomy and relatedness in the SDT framework.

- 14 Jill Howieson, ‘ADR Education: Creating Engagement and Increasing Mental Well-Being through an Interactive and Constructive Approach’ (2011) 22(1) *Australasian Dispute Resolution Journal* 58; Natalie Skead and Shane L Rogers, ‘Stress, Anxiety and Depression in Law Students: How Student Behaviours Affect Student Wellbeing’ (2014) 40(2) *Monash University Law Review* 564; Rachael Field and James Duffy, ‘Better to Light a Single Candle than to Curse the Darkness: Promoting Law Student Well-Being through a First Year Law Subject’ (2012) 12(1) *Queensland University of Technology Law and Justice Journal* 133, 138–9; Duffy, Field and Shirley (n 13); Rachael Field and James Duffy, ‘Law Student Psychological Distress, ADR and Sweet-Minded, Sweet-Eyed Hope’ (2012) 23(3) *Australasian Dispute Resolution Journal* 195.
- 15 Richard M Ryan et al, ‘Beyond Illusions and Defense: Exploring the Possibilities and Limits of Human Autonomy and Responsibility through Self-Determination Theory’ in Phillip R Shaver and Mario Mikulincer (eds), *Meaning, Mortality, and Choice: The Social Psychology of Existential Concerns* (American Psychological Association, 2012) 215, 221 (emphasis omitted).
- 16 Sheldon and Krieger, ‘Understanding the Negative Effects of Legal Education on Law Students’ (n 11) 891.
- 17 Corbin, Burns and Chrzanowski (n 3) 14.
- 18 *Ibid* 20.
- 19 Emma Jones, Rajvinder Samra and Mathijs Lucassen, ‘The World at Their Fingertips? The Mental Wellbeing of Online Distance-Based Law Students’ (2019) 53(1) *Law Teacher* 49.
- 20 *Ibid* 67.
- 21 *Ibid*, citing Sheldon and Krieger, ‘Understanding the Negative Effects of Legal Education on Law Students’ (n 11); Sheldon and Krieger, ‘Does Legal Education Have Undermining Effects on Law Students?’ (n 11).
- 22 Jones, Samra and Lucassen (n 19) 67.

Indeed, there is an inherent contradiction in the benefits of autonomy to decide when and if to attend classes, as highlighted by the participants in the Griffith study, and the need for relatedness that is one of the central tenets of SDT. Autonomy that allows students to remove themselves from the classroom has the potential to diminish their relatedness, or sense of belonging, to their cohort, school and institution. There is evidence that even in the absence of lecture recordings the law school experience may be ‘individualised and isolating for both teachers and students’.²³ Interestingly, when asked in the context of lectures whether they would prefer flexibility (in terms of lecture recordings and times), or more engaging and interactive lectures, students in a study conducted by Elphick were split 49%–51% in their responses.²⁴

Baik et al describe the third basic and universal psychological need identified in SDT — competence — as ‘experiences of being effective and able to meet the academic demands of [the] course’.²⁵ Ryan and Deci argue that feelings of competence derive from ‘interpersonal events and structures’.²⁶ These may include receiving positive feedback, communication and rewards ‘during action’.²⁷ These, in turn, ‘can enhance intrinsic motivation for that action because they allow satisfaction of the basic psychological need for competence’.²⁸

Much like the contradiction inherent in the relatedness–autonomy nexus, there is an inherent contradiction in encouraging feelings of competence in students and allowing students the autonomy to decide whether they attend, or do not attend, classes. According to Ryan and Deci, teachers support students’ feelings of competency by providing positive communication, feedback and reward ‘during action’.²⁹ In a face-to-face learning environment, this presupposes synchrony — that student and teacher are both present. This synchrony is not possible if the student is absent from the class.

SDT and the three basic and universal psychological needs for thriving discussed above provide the theoretical framework and structure for analysing the empirical data on student wellbeing obtained in the UWALS study.

23 Mary Keyes and Richard Johnstone, ‘Changing Legal Education: Rhetoric, Reality, and Prospects for the Future’ (2004) 26(4) *Sydney Law Review* 537, 542.

24 Liam Elphick, ‘Adapting Law Lectures to Maximise Student Engagement: Is It Time to “Transform”?’ (2018) 28(1) *Legal Education Review* 1, 12–13.

25 Chi Baik et al, *Enhancing Student Mental Wellbeing: A Handbook for Academic Educators* (2017) 4.

26 Richard M Ryan and Edward L Deci, ‘Intrinsic and Extrinsic Motivations: Classic Definitions and New Directions’ (2000) 25(1) *Contemporary Educational Psychology* 54, 58 (‘Intrinsic and Extrinsic Motivations’).

27 Ibid.

28 Ibid.

29 Ibid 58.

III METHOD

The UWALS study involved a large empirical mixed-method study, including a student survey (900 respondents), manual count of student attendance across 16 law subjects, and two student focus groups.³⁰ The study involved undergraduate and postgraduate students enrolled in one or more law subjects.

A *Participants*

The UWALS courses include two undergraduate majors within the Bachelor of Arts (Law and Society) and the Bachelor of Commerce (Business Law) and several postgraduate courses, including the qualifying law degree, the Juris Doctor ('JD'). Most law subjects are taught face-to-face over 12 or 13 weeks in either large group lectures followed by smaller group tutorials, or in seminars/workshops. Tutorials and seminars/workshops are not recorded and participation is typically an assessable component. It is an institutional requirement that all lectures are recorded and the recordings subsequently made available to students in downloadable format.

All University of Western Australia students enrolled in a law subject during semester one of 2018 were invited by email to complete an anonymous and voluntary online survey and to participate in focus groups. Nine hundred students completed the survey and 17 students participated in the focus groups.

At an undergraduate level, the 531 students who participated in the survey and nine undergraduate students in the focus groups were from a range of degrees. Many were from the Bachelor of Arts or Bachelor of Commerce and undertaking one or both of the two undergraduate law majors, but others were from non-cognate areas, as those students can take undergraduate law subjects as 'broadening' subjects.³¹ As such, the findings may be somewhat generalisable to all university students, rather than relating only to law students.

B *Manual Count of Attendance*

We undertook a manual, in-person count of student attendance in lectures, tutorials, and seminars/workshops in semester one of 2018. We counted attendance across 16 selected subjects across each year group of undergraduate

30 The study complied with the National Health and Medical Research Council, Australian Research Council and Universities Australia, *National Statement on Ethical Conduct in Human Research* (2018). The University of Western Australia Human Research Ethics Office provided institutional ethics approval for the study before it commenced — RA/4/20/4323.

31 'Broadening Requirements', *The University of Western Australia* (Web Page) <handbooks.uwa.edu.au/undergraduate/broadening>.

and postgraduate courses on offer to ensure breadth of results. Attendance was counted in weeks 1, 5, 9 and 13 of semester by a research assistant who was not a UWALS academic.

C Survey

We measured student attendance and influencing factors using a self-designed survey in Qualtrics. The survey comprised five sections and a total of 38 questions. It asked the participants three questions about how often they attended face-to-face lectures, tutorials, or other classes (eg, seminars or workshops). It then asked each participant to rank the factors that influence their decision to attend or not attend classes. Finally, there were three open-ended qualitative questions about what influences the participant's decision to attend different classes. The responses to these three open-ended questions provided much of the qualitative data used in this article.

D Procedure and Method of Analysis

The survey was voluntary and confidential and participants could withdraw at any time. After the time window for completing the survey had closed, we collated and analysed the findings, using Qualtrics to compile and present the demographic and descriptive data and NVivo qualitative analysis software to thematically codify and analyse the three open-ended question responses.

E Focus Groups

All students enrolled in a Law School subject in semester one of 2018 were invited to participate in a focus group. The invitations were sent via email, social media and through student representative bodies. The invitation explained the purpose of the study and stressed the importance of wide-ranging participation from those who regularly attend classes and those who attend less often. To ensure sufficient participants, additional invitations were issued using a purposive sampling approach, directing communications towards particular subjects and approaching students individually.

We recruited nine students for the undergraduate focus group and eight students for the postgraduate focus group. Students signed participant consent forms agreeing to audio recording of the focus group discussion and to the facilitator of the focus groups taking de-identified notes. The facilitator of the focus groups was external to UWALS and had no prior or subsequent dealings with the focus groups participants. The facilitator conducted semi-structured discussions that lasted approximately one hour for each group. An independent third party

transcribed the focus group recordings which we then thematically codified and analysed using NVivo.

F Methodological Reasoning

The study uses mixed methods, with both quantitative and qualitative data and both survey data and focus group data. Triangulation of these datasets was important for robust findings and to increase ‘scope, depth and consistency’.³² The qualitative data was analysed using a constructivist approach. From an epistemological perspective, a constructivist approach assumes that reality is socially constructed — the researcher constructs knowledge from a variety of views, rather than discovering it.³³ Adopting a constructivist approach is somewhat of a leap of faith for the researcher who does not know exactly what findings will emerge from the empirical data. In this case, it was a fruitful approach as, although we had not set out to explore the attendance–wellbeing nexus and had not specifically asked questions related to student wellbeing, analysis revealed a wealth of wellbeing-related data in addition to the anticipated attendance data. In Part IV below, we first briefly summarise the quantitative findings in relation to attendance and then draw out the qualitative data as it relates to student wellbeing.

G Limitations

Specifically relating to the findings reported in this article, as noted above, gathering data on student wellbeing was not the primary, or even an incidental, aim of this study. A study specifically designed to research student wellbeing would have been constructed differently and may have resulted in richer data.

IV RESULTS

Overall, although attendance was higher at postgraduate level, we found that lecture attendance averages 38% of enrolments. Absence from lectures is due to a number of factors, including lecture recording and external commitments such as work and family. Attendance at tutorials and other classes was likewise higher at postgraduate level, but significantly higher overall at 84%.

We have reported on the factors influencing students’ decisions on whether or

- 32 Udo Kelle and Christian Erzberger, ‘Qualitative and Quantitative Methods: Not in Opposition’, tr Bryan Jenner in Uwe Flick, Ernst von Kardoff and Ines Steinke (eds), *A Companion to Qualitative Research* (SAGE, 2004) 172, 174. See also Uwe Flick, ‘Triangulation in Qualitative Research’, tr Bryan Jenner in Uwe Flick, Ernst von Kardoff and Ines Steinke (eds), *A Companion to Qualitative Research* (SAGE, 2004) 178, 178–9.
- 33 Sharan B Merriam, *Qualitative Research: A Guide to Design and Implementation* (Jossey-Bass, 2nd ed, 2009) 8–9.

not to attend face-to-face classes elsewhere.³⁴ Perhaps not surprisingly, students' reasons for non-attendance were multifaceted. Some reasons for non-attendance given included students experiencing psychological distress — specifically stress and anxiety. For example, one student said in an open-ended question in the survey:

The primary reason for ever not attending to my university commitments is the need for paid employment. It is impossible to support oneself, living out of home, on the meagre Youth Allowance income. I did also for one unit experience a lecturer who was more confusing than helpful. I found those lectures stressful rather than insightful. I avoided attending and self-taught from other materials.

In the following sections, we analyse the qualitative data within an SDT-informed framework of relatedness, autonomy and competence.

A Relatedness

As discussed above, SDT scholarship has identified relatedness as a basic and universal psychological need. Through survey and focus group data, connectedness and a sense of belonging and quality of relationships (with peers and teachers) emerged as a factor relevant to student attendance at face-to-face classes. Several participants reported that when they did attend university, they enjoyed interacting with peers and teachers. For example, the following exchange is extracted from a focus group:³⁵

- Student 1: I enjoy being here.
- Student 2: Yes!
- Student 3: I like the social interaction.
- Student 1: Yeah.
- Student 2: Same.
- Student 4: Yeah.

In the survey, some students identified better learning opportunities and outcomes and connectedness as key drivers for class attendance. For example, in response to the question 'What influences your decision to attend lectures?', two students responded:

34 Skead et al (n 4).

35 Students are numbered in quotations throughout this article to identify the different speakers. However, numbering is not sequential throughout the article, rather we start by identifying the first speaker in each section as 'Student 1'. This is simply illustrative and 'Student 1' in one quotation will not necessarily be the same student as 'Student 1' in subsequent quotations.

Student 1: Enhances understanding of content. Opportunity to interact with lecturer and other students.

Student 2: My peers as it gives me an opportunity to make friends.

Another student added:

Student 3: And yeah, I think it's valuable for networking as well.

There is some evidence from the focus group data of differences in the undergraduate and postgraduate student cohorts, with postgraduate students having a stronger sense of belonging and of the importance of making connections at university:

Student 1

(postgraduate): That's, that's very true in undergrad [non-attendance]. Yes I got to know a couple of people a bit better. I don't really see them now. But in the JD, I think I know most people here. We, you're all sort of going through this experience together ... enabling one another ...

Facilitator: Yeah.

Student 1

(postgraduate): ... and for that to be able to grow you have to be here. And I think that we're quite fortunate in the sense that no one sort of understands what we are going through, but we all understand what each other's going through so ... I think in that sense it's important for us to come to uni and a lot of people do.

Similarly, this theme arose in the undergraduate focus group:

Student 1

(undergraduate): I personally, as I know that we are doing JD afterwards I'm kind of just like, 'I've just got to get through the undergrad. I don't need to make lifelong friendships in uni with these people.' And I just think for me it's almost like a stepping stone. And that I know most of the people that are in my class I probably won't see much anymore.

This difference was also borne out in the attendance data that demonstrates that postgraduate students attend classes more frequently (on average 47% attend lectures and over 88% attend tutorials) than undergraduate students (on average 31% attend lectures and 74% attend tutorials). Postgraduate students in the focus group also commented that students seemed to be either very engaged at

university, or not engaged at all. For example, one student commented that those who are involved in student societies are ‘like hyper involved’ and those who are not involved in the societies are not really involved in university life at all.

In making their decision whether to attend class, several students indicated that whether their friends are in their class, and are likely to be in class, was a factor. For example:

Student 1: I think if my friends are going to a lecture then it makes me go. Because I’ve got someone to sit next to and during the break you can talk to them and it’s less boring I guess.

There were also some discussions in focus groups of teaching staff creating opportunities for engagement and trying to foster a sense of connectedness among students. For example:

Student 2: This year, two of my tutors have raised the issue of people not engaging with others in tutes. And so they’ve split up the question, so that in groups of five, you do question one, two, three etc.

Yet, for some students, there was a clear sense of not feeling like they belonged in some class environments and so they chose not to attend.

Relationships with teachers also emerged as a prevalent theme in the survey data with students avoiding classes where the relationship was not considered positive and supportive. This reflects Elphick’s finding that 95% of students believe it is important to have a dynamic relationship with their teacher in lectures, and that most students find their teacher to be more important to their learning than the content or style of class delivered.³⁶ In some cases the students referred to lecturers:

Student 1: For example in [unit x] the material was poorly taught and irrelevant, and communicated in an aggressive manner. I thought this was disrespectful to me as a student so I learnt the content through the textbook and my tutor instead.

However, more commonly in responses to the survey, students discussed tutors:

Student 2: Whether I am sick, how anxious I am feeling about attending the tutorial, whether the teacher is encouraging or puts students down for answering questions incorrectly.

Student 3: I will always attend tutorials if they are compulsory. There has however, been one instance where I have received 0% as the tutor was quite abrupt and attending tutes started becoming stressful

36 Elphick (n 24) 13.

and my anxiety increased therefore I avoided his classes. Aside from that, I find tutes helpful towards my learning and prep for assignments.

Student 4: If the staff member is friends with students in their class, tagging in posts on Facebook, commenting on posts and photos together, etc, I am also reluctant to attend class.

Student 5: Whether I am given fair chances to speak up in class.

At UWALS, lectures are most commonly delivered by permanent members of teaching staff, whereas tutorials are often taught by sessional staff. Heath et al have identified this reliance on sessional staff as a growing phenomenon across Australian law schools and identified a need for their professional development.³⁷ They refer to this unmet professional development need of sessional law staff as ‘the elephant in the classroom’.³⁸ UWALS researchers were part of the Smart Casual project team which began to address the needs for professional development of sessional law teachers through a series of online modules, including one on supporting law student wellbeing in teaching.³⁹ All new sessional teachers at UWALS are paid to undertake this and other Smart Casual modules. Despite this, reports of aggressive or unprofessional behaviour or low-quality teaching in the survey data and focus groups indicate that this is an area requiring ongoing attention.

B *Autonomy*

Autonomy is the second core psychological need identified in SDT and, according to Sheldon and Krieger, central to law student wellbeing.⁴⁰ Baik et al note that autonomous motivation is a key driver of mental wellbeing and that ‘[a]utonomous motivations are blunted and our wellbeing is undermined when we feel pressured to act or feel that we are being controlled by others’.⁴¹ It is clear from the attendance findings from our study that students are exercising their autonomy in choosing whether to attend classes. In this way, the institutional requirements to record lectures and make them available in downloadable format supports student autonomy and, by inference, student wellbeing. Students are able to choose both when and where they access lecture material. The counterargument we highlight

37 Mary Heath et al, *Smart Casual: Towards Excellence in Sessional Teaching in Law* (Final Report, 2017) pt 1.

38 Mary Heath et al, ‘Beginning to Address “The Elephant in the Classroom”: Investigating and Responding to Australian Sessional Law Teachers’ Unmet Professional Development Needs’ (2015) 38(1) *University of New South Wales Law Journal* 240, 241.

39 ‘The Smart Casual Professional Development Modules’, *Smart Casual* (Web Page) <smartlawteacher.org/modules/>.

40 Sheldon and Krieger, ‘Understanding the Negative Effects of Legal Education on Law Students’ (n 11) 894.

41 Baik et al (n 25) 9.

above is that providing this level of autonomy may compromise relatedness by facilitating non-attendance.

A common theme in the student participant responses was that having a choice about whether or not to attend classes enables individual students to choose a learning environment and approach that may be more suited to their particular learning style and circumstances. For example, a very common response from students was that using recordings was important for the flexibility of being able to pause, slow down, or speed up the lectures and learn ‘at their own pace’. One student noted in their survey response:

Student 1: I find lectures hard to follow and write notes. I don’t attend because I know I have to go home and re-watch them again in order to really understand the content and I simply just don’t have enough time to do that given how heavy the law units are for me. I’d rather just watch them online and be able to process the information at my own pace.

A general anxiety about attending class was also a factor for many students, particularly in the survey responses. In some cases this was exacerbated by teacher attitudes, as the data above illustrates. In other cases, students felt anxious about speaking in class or otherwise find being in a class environment uncomfortable or stressful:

Student 2: Whether they [classes] are interesting and engaging, will not go if tutor is stressful or picks on people to speak.

Student 3: I find lectures a stressful environment where it’s hard to take in content, it’s hard to concentrate and I end up missing content which I would have heard in the recording, it’s a very long time to concentrate and I only attend if the lecturer is very engaging so I actually can concentrate and learn and it fits in with my timetable so I don’t waste time travelling when I could gain a few hours just staying at home.

Student 4: I’ll also go to a lecture if it is smaller and if I can avoid people because I’m a bit awkward and antisocial.

Student 5: When I find I’m excluded and odd in the class. As an international student in Law and Society, this is very common for me every semester.

Several students referred to assessing their mental health before making the decision to attend. For example, in response to the question ‘What influences your decision most when considering whether to attend your lectures/tutorials?’, survey participants responded:

- Student 1: Considering it's a default to go, the only real influence which may sway that default is my stress level. Rather than feel as though I'm jeopardising my own mental health for the sake of 'keeping' or 'catching' up, I will sacrifice class attendance until I am back at a manageable level.
- Student 2: Whether I am sick, how anxious I am feeling about attending the tutorial, whether the teacher is encouraging or puts students down for answering questions incorrectly.
- Student 3: My ongoing struggle with depression, which has resulted in my sometimes having extremely impaired concentration and memory, dissociation, fugue and existential motivation. The prospects of trying to park at university are very stressful, as my lectures are on the busiest days of the week (Monday, Tuesday), and busiest times as well. Unfortunately, my brain tends to overload, when weighing all this up to make a decision, and frequently concludes in apathy. Otherwise, when I attend lectures and have the capacity to interact with engaging lecturers ... I enjoy them thoroughly.

These responses highlight the importance of the teacher-student relationship to student attendance and student wellbeing and raise a number of important issues for law schools and law students, including the importance of creating a safe and supportive learning environment.

Another common theme in the survey data was non-attendance at class due to tiredness and fatigue and particularly struggles with early rising. The following are some examples of student comments:

- Student 1: Other commitments, time of day (if I can wake up).
- Student 2: The time of day. I have extreme difficulty getting out of bed in the morning due to several reasons including that I usually do not get enough sleep/don't fall asleep till very late etc. If a tutorial is before 11AM I am highly unlikely to attend even if I do want to.
- Student 3: The time of classes, the gap between classes and if the lecture is recorded *** 10am is a good starting point *** 5-6pm is way too late for a tutorial, brain's already dead by then.⁴²
- Student 4: I live close to uni. I am often complacent about how long it will take me to get there, and thus, am often running late. Sometimes, if I sleep in ... and feel like I'll be stressed to get ready in time I won't go. I also am less likely to go if I am not up to date on

42 Asterisks and syntax directly quoted from survey response.

lectures for that unit.

Others have established that biological and societal factors can contribute to tiredness and sleep disorders in adolescents and to a lesser extent in young adults.⁴³ Measures taken by teachers of this age group include later class start times, particularly for high school aged students. Various studies on later school start times, synthesised by Owens in 2014, have reported longer sleep duration, improvements in attendance rates, decreased daytime sleepiness, increased satisfaction with sleep and motivation and significant declines in self-reported depressed mood, and declines in visits to healthcare professionals for fatigue-related complaints.⁴⁴

Related to the theme of tiredness, many students choose not to attend classes because of external work commitments. The results of our student survey indicate that, after lecture recordings, ‘work commitments’ is the second most common reason students do not attend lectures.⁴⁵ In addition, it was the third most common reason why students do not attend tutorials after illness and the time and day of the tutorial. ‘Work commitments’ was the second most common reason for not attending seminars or workshops after the time and day of the class. It was the only factor that was in the top three reasons for non-attendance at all three types of classes.

This quantitative survey data was also confirmed in the qualitative data from the survey:

Student 1: I have to work 3–4 days a week to financially support myself through university. As a result, it is often not feasible to attend all my classes unless they are on the same day one after the other.

Student 2: Often the time of the lecture, if some are so early as 8am, that would involve waking up at 6am, which is difficult as I work in hospitality at night and if I’ve worked the night before I wouldn’t be getting to bed until after midnight. I likely would be fatigued during that lecture and have difficulty concentrating and taking in the content, compared to if I watched the recording and took notes later that afternoon.

Student 3: Very rarely, where I am severely overloaded with work, I will try and change to a different tute to avoid being embarrassed about my lack of preparation.

43 Maurice M Ohayon et al, ‘Prevalence and Patterns of Problematic Sleep among Older Adolescents’ (2000) 39(12) *Journal of the American Academy of Child and Adolescent Psychiatry* 1549.

44 Judith Owens, ‘Insufficient Sleep in Adolescents and Young Adults: An Update on Causes and Consequences’ (2014) 134(3) *Pediatrics* 921, 924.

45 The detailed results of the student survey are reported in Skead et al (n 4).

In prioritising external work commitments over attending classes students are exercising their autonomy. However, reports of excessive workloads outside of university may be detrimental to student wellbeing, compromise educational outcomes and undermine the third psychological need under SDT — competence, discussed further below.

Finally, common themes in the qualitative survey comments related to transport and parking. Many students reported long commute times, inadequate or slow public transport and a lack of parking as key factors influencing their decision whether to attend classes. The topics of transport and parking engendered quite vehement comments from students, with the issue of parking clearly emerging as the most frustrating issue for students across all qualitative data. The following are some examples from the survey responses:

- Student 1: Time it takes to get to uni. Some days it takes me 2 hours from the moment I leave my house, the moment I sit in the lecture. I'm already exhausted, angry at not finding a park, sad that I don't live closer, by the time I get to class — sometimes at 8am.
- Student 2: Parking fee is too hard also the fact that they destroyed Hackett Drive parking made uni living hell. Makes me feel like student wellbeing is not important and we are not cared for. Some people have other commitments and it will be very hard if there is no parking all the time so I will be late or miss classes all together [sic].
- Student 3: Parking — SEVERE LACK OF.
- Student 4: Parking — get more parking. Amount of car parking is disgusting.

C Competence

Relevant to this third basic psychological need of SDT, some of the student responses to the open-ended survey questions related to non-attendance at classes due to lack of preparation and an associated fear that their lack of preparation would be exposed in class. Lack of preparation was sometimes attributed to work commitments and other study commitments such as assessment deadlines:

- Student 1: Work commitments and whether or not I feel prepared for the class. If you haven't done the work, sometimes there is no point in attending as you may be singled out.
- Student 2: Being underprepared and being called on will lessen the likelihood I will go.

Student 3: Fear of the teacher calling upon me for answers and being unable to answer it, or humiliated.

Student 4: How stressed I am that week re: preparation for that week's topic or feeling not caught up on unit knowledge and so feeling stupid during tute.

Another common theme in the qualitative data was the nature of some classes, such as where 'interactions with classmates [are] awkward and lacking direction, the discussion often feels forced and not engaging' or where material covered is too basic. One student contrasted this learning environment with one that allows them to demonstrate and confirm their competence:

The opportunities to directly engage with [names staff members] have been so stimulating and affirming for me, making me feel that I have a good approach to the material. The same cannot be said for tutorials and workshops which require me to suffer through the banal, derivative lines of enquiry presented by the majority, which tutors inevitably choose to painfully tread through.

Others commented on pedagogy and teaching. For example, some students indicated they would prefer more interaction, while others want less — or indeed no — interaction, at least in lectures. Teaching staff reading from PowerPoint slides and a lack of clarity in assessment were also criticised. One student's remark in their survey response captures the relationship between attendance, acquiring competence, and wellbeing:

[B]ut if the lecturer is only going to read off the slides, then it is not worth the time and the money to go all the way to school to listen to someone read the content of the slides out to me, since I can read it on my own. So an engaging and knowledgeable lecturer would be really good, so that he/she can further explain the contents on the slides. *Happy learning is good learning.*⁴⁶

Some students in the focus groups identified that attendance at classes may not be necessary to achieve, or demonstrate, competence in a contemporary university environment:

Facilitator: Alright. So there's the dilemma [attendance]. Any other ideas of how to get around that dilemma?

Student 1: Do we have to? Sorry, but do we have to? How about enhancing the online experience?

Facilitator: Ehm, yes that's an option.

Student 1: I don't really see the need. It's, as technology develops, being

46 Emphasis added.

anywhere to do anything is becoming irrelevant. So I really don't understand why it should matter! We should be ... If you have a virtual university where you can participate virtually ...

Facilitator: So why are all these buildings here? Why don't we just sell them all off and ... ?

Student 1: Why don't we?

V DISCUSSION

The results from our study indicate that although student attendance at face-to-face lectures is low, with an average of 38% of enrolled students attending lectures, on average law student attendance at tutorials, seminars and workshops is relatively high at over 84%. There is undoubtedly a concern that declining student attendance at lectures may undermine relatedness, as non-attendance inhibits students from forming relationships with other students and their teachers. However, the fact that many students are attending tutorials, seminars and workshops may guard against this tendency. In addition, some students report that attending class is itself, on occasion, a stressful and alienating experience. This may be due to students dealing with issues such as anxiety and depression, but it may also be due to the classroom environment and the teacher's pedagogical approach. A clear message that emerges from the data is the importance of creating a safe, inclusive and supportive teaching environment in face-to-face classes that does not result in students feeling stressed or humiliated.

Absence from face-to-face classes may also compromise competence, with some studies suggesting that lower attendance rates are correlated with poorer student learning outcomes.⁴⁷ Yet many students appreciate and benefit from the autonomy of being able to choose whether to attend classes. Many report not attending classes — or at least lectures — because they learn more effectively using lecture recordings, which they can pause and listen to at their own pace. Reliance on lecture recordings rather than attendance at face-to-face classes may therefore be conducive to some students' competence, or sense of competence. Admittedly, it may be more difficult to encourage students' sense of competence through communication, positive feedback and rewards during the learning process if students do not attend classes. But, again, higher rates of attendance at tutorials,

47 Sharon Mascher and Natalie Skead, 'On the Record: The Trials and Tribulations of Lecture Recording in Law' (2011) 35(2) *University of Western Australia Law Review* 407, 426; Andrew Williams, Elisa Birch and Phil Hancock, 'The Impact of Online Lecture Recordings on Student Performance' (2012) 28(2) *Australasian Journal of Educational Technology* 199, 210; Martin R Edwards and Michael E Clinton, 'A Study Exploring the Impact of Lecture Capture Availability and Lecture Capture Usage on Student Attendance and Attainment' (2019) 77(3) *Higher Education* 403, 418; Emily Nordmann et al, 'Turn Up, Tune In, Don't Drop Out: The Relationship between Lecture Attendance, Use of Lecture Recordings, and Achievement at Different Levels of Study' (2019) 77(6) *Higher Education* 1065, 1079.

seminars and workshops mitigate against this risk to some extent.

In his work on the impact of the teaching and learning environment on psychological distress in law students, Hess identifies eight features of a welcoming, collaborative, and inclusive classroom environment that is conducive to building relationships: respect, expectation, support, collaboration, inclusion, engagement, delight and feedback.⁴⁸ These features are also key to providing a learning environment in which the three basic psychological needs identified by SDT as being necessary to human thriving, flourishing and wellbeing can be met. However, they largely presuppose, and are more easily integrated into, a face-to-face environment. For example, as noted, in our study postgraduate students reported a stronger sense of belonging which they attributed to the opportunity to interact with their peers and teachers when attending classes.

However, societal changes and the increasing reliance on technology in supporting and improving student learning — which, as our study has demonstrated, often goes hand-in-hand with non-attendance at face-to-face classes — means that it may be time to move beyond the notion that face-to-face engagement is the only way, or even the best way, to foster connectedness and a sense of competency in students. Alternative forms of engagement and, in particular, creating an ‘online’ learning community can supplement and complement existing face-to-face experiences.⁴⁹

Although lecture recording is now commonplace in Australian law schools and is increasingly used internationally,⁵⁰ it may not be the optimal way to create such a community. At the University of Western Australia lecture recording was initially introduced to provide a back-up option and supplement to face-to-face lecture rather than as a substitute for attending classes.⁵¹ The recordings are typically just an audio recording of a face-to-face lecture, accompanied by the PowerPoints or other electronic visual aids used during the lecture. As a result the lecture recording alone is rarely a deliberate and tailored online teaching strategy. In addition, it does not provide opportunities for absent students to connect with each other or their teacher or to develop a sense of competence.

48 Gerald F Hess, ‘Heads and Hearts: The Teaching and Learning Environment in Law School’ (2002) 52(1–2) *Journal of Legal Education* 75, 87.

49 See, eg, discussion of online groups and group work in Lisa Hartley and Fiona McGaughey, ‘Using Online and Face-to-Face Simulations in Human Rights Tertiary Teaching: A Comparative Analysis’ (2018) 10(1) *Journal of Human Rights Practice* 125, 138.

50 In the United Kingdom, 75% of institutions reported using lecture recording in 2018 and many are moving towards an opt-out system: see, eg, Richard Walker et al, *2018 Survey of Technology Enhanced Learning for Higher Education in the UK* (2018) 9. In the United States, a 2016 report by Technavio forecast that lecture capture will grow at a compound annual growth rate of 16.81% during the period 2017–21: see Technavio, *Lecture Capture Solutions Market in the US: 2017–2021* (December 2016). A 2011–12 survey of Australian law schools revealed that a little over half used some form of lecture capture system software. These were predominantly the law schools in the larger, metropolitan, campus-based universities: see Stephen Colbran and Anthony Gilding, ‘E-Learning in Australian Law Schools’ (2013) 23(1) *Legal Education Review* 201, 206, 220.

51 Mascher and Skead (n 47) 424.

There is, however, a growing body of literature on how these objectives can be achieved through a variety of alternative teaching strategies such as blended, flipped and entirely online units.⁵² In the face of declining student attendance, it is imperative that law schools and law teachers engage with this scholarship and adopt teaching practices that support autonomy, facilitate relatedness and encourage competence.

In addition, a systematic review of social media and adolescent mental wellbeing (albeit a younger cohort than university students) found that although online social networks can be both advantageous and harmful for mental wellbeing, online technologies may provide less stigmatising mental health services.⁵³ It has also been reported that online interventions might engage psychologically distressed university students who are unlikely to seek formal face-to-face help.⁵⁴ Therefore, it is important that we are cognisant not only of the potential harms of online learning with regard to decreasing attendance and the impact on relatedness, but also of how online learning environments might better support student wellbeing.

VI CONCLUSION

The UWALS study sought to better understand the motivations underlying student attendance and non-attendance at face-to-face classes. Although not a specific aim of the study, in analysing the empirical data we uncovered a wealth of qualitative material on the nexus between student attendance and wellbeing. In this article we have analysed this data within the SDT framework of relatedness, autonomy and competence. While the data does not reveal a clear, linear relationship between attendance and wellbeing, it provides an impetus for reflection for teachers and institutions.

First, the qualitative data confirms and illustrates what is established in other scholarship — that we must remain committed to student wellbeing. Work commitments, time pressures, logistical challenges such as parking, feelings of isolation, tiredness, stress, anxiety and depression were all prevalent in the survey and focus group data — in a project that was not asking about these topics.

52 See Michele Pistone, 'Law Schools and Technology: Where We Are and Where We Are Heading' (2015) 64(4) *Journal of Legal Education* 586; William R Slomanson, 'Blended Learning: A Flipped Classroom Experiment' (2014) 64(1) *Journal of Legal Education* 93; Melissa Castan and Ross Hyams, 'Blended Learning in the Law Classroom: Design, Implementation and Evaluation of an Intervention in the First Year Curriculum Design' (2017) 27(1) *Legal Education Review* 143; Tanya M Marcum and Sandra J Perry, 'Flips and Flops: A New Approach to a Traditional Law Course' (2015) 32(2) *Journal of Legal Studies Education* 255; Lillian Corbin and Lisa Bugden, 'Online Teaching: The Importance of Pedagogy, Place and Presence in Legal Education' (2018) 28(1) *Legal Education Review* 1.

53 Paul Best, Roger Manktelow and Brian Taylor, 'Online Communication, Social Media and Adolescent Wellbeing: A Systematic Narrative Review' (2014) 41 *Children and Youth Services Review* 27, 33.

54 Megan L Ryan, Ian M Shochet and Helen M Stallman, 'Universal Online Interventions Might Engage Psychologically Distressed University Students Who Are Unlikely to Seek Formal Help' (2010) 9(1) *Advances in Mental Health* 73.

We have suggested some initial institutional and teacher responses to these issues including consideration of timetabling and starting times and the creation of a supportive learning environment.

Overall, the data suggests that where lecture recordings are the norm, students will exercise their autonomy in choosing if, and when, to attend classes. Therefore, those developing institutional policies such as lecture recording policies must be mindful of the potentially detrimental effects upon relatedness that may follow from declining attendance at face-to-face classes. Also, emerging studies on fully online courses raise some concerns about students' relatedness and associated negative impact on their wellbeing.⁵⁵

Non-attendance at lectures may reflect the learning style that works best for the student. It may also reflect logistical challenges that students face in attending classes on campus, or the multiple work and study commitments that contemporary students juggle. It is not clear from our study if this autonomy undermines or supports student wellbeing; it is likely that it will vary from student to student. Indeed, at least for some it may entail the type of self-mastery and pursuit and achievement of goals that SDT envisages. In spite of overall low lecture attendance rates, many students report feelings of relatedness with their peers and teachers and remain engaged in face-to-face classes and extracurricular activities such as student societies. This is particularly the case for postgraduate students. Furthermore, although lecture attendance rates are low, attendance at other classes (tutorials, seminars and workshops) remain high. Therefore, opportunities for fostering relatedness remain.

Faced with the reality of societal advances in digital technology, including in tertiary teaching, thought should also be given to improving online pedagogy and engagement so that the online aspects of a student's course (lecture recording in this example) can allow students to exercise their autonomy, develop competence and maintain some relatedness, albeit in a virtual context for this element of their study.

We cede the final word to a student in one of the focus groups:

Building relationships, talking about the subject, talking about the things that you are learning with people that are like-minded and that are doing the same thing. I think that is invaluable.

55 See, eg, Jones, Samra and Lucassen (n 19) 67.