Using reflective practice assessment in the first year of law to encourage a positive professional identity and promote law student well-being.

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Abstract

In this paper we argue that intentional curriculum design in the first year of law should encourage law students to develop an emergent sense of a positive professional identity. When first year law students engage with a nascent notion of a positive professional identity, their well-being is supported because their studies are informed and contextualised by a sense of purpose for their future professional life. In a first year law subject run for the first time at the QUT Law School in 2011, reflective practice was successfully used to achieve these goals. The paper discusses the subject, the opportunity of using reflective practice to teach a positive sense of professional identity, and some student perspectives on the subject’s design.

Introduction

Law school is a stressful and rigorous tertiary education experience for students. It is now well established that Australian law students are suffering concerningly elevated levels of psychological distress (BMRI, 2009; Hall, Townes O’Brien & Tang, 2010; Leahy et al, 2010) and that this distress begins to manifest in their first year of legal education (Hall, Townes O’Brien & Tang, 2011; Antolak-Saper, England & Lester, 2011). Field’s 2010 ALTC Teaching Fellowship proposes that intentional curriculum design is an important strategy for working to address these elevated levels of psychological distress. In the first year particularly, curriculum interventions can work to prevent psychological distress from manifesting and in fact work to promote student well-being.

This paper discusses a curriculum strategy used in a subject developed by Field and Duffy at the Queensland University of Technology Law School as part of Field’s Fellowship – LWB150 Lawyering and Dispute Resolution. The curriculum strategy adopted is to promote the psychological well-being of students by using reflective practice assessment to encourage them to develop a nascent positive professional identity. First, this paper introduces the subject, its teaching philosophy, teaching delivery methods and assessment. Second, we articulate the importance of introducing first year law students to a positive sense of professional identity. Third, we discuss the reflective practice assessment design and process. Finally, we consider some student comments in evaluation of the approach taken.
LWB150 Lawyering and Dispute Resolution, Positive Professional Identity and Reflective Practice.

LWB150 Lawyering and Dispute Resolution

LWB150 Lawyering and Dispute Resolution provides an introductory foundation for students about the contemporary context of legal professional practice. The subject promotes student awareness of the realities of the professional legal environment, and the importance of non-adversarial and alternative dispute resolution approaches to lawyering. The subject aims to engage, support and motivate student learning by introducing students to positive lawyering knowledge and practices (including the importance of positive professional identity) in the first year of their law degree.

The learning and teaching objectives of the subject particularly recognise the importance of dispute resolution and non-adversarial skills for contemporary students of law (Kift, 1997; Weisbrot, 2001). The subject emphasises the relevance of non-adversarial approaches to lawyering to the potential for a positive professional legal identity. The subject is also intentionally designed to respond to the requirements of the recently introduced Threshold Learning Outcomes for Law (Kift, Israel and Field, 2011), particularly the Thinking Skills and Self-Management outcomes. This makes the subject very different to the usual core and elective curriculum offerings in legal education, which continue to focus on the technical, rational provision of substantive law knowledge.

Lawyering and Dispute Resolution was first delivered by the authors in semester 2 of 2011, as part of the QUT Law School’s elective offerings for first year students. Its development and inclusion in the first year LLB curriculum at QUT was strongly supported by the Executive Dean of the Faculty, as well as the Head of School. The subject achieved an enrolment of close to 300 students (which included many latter year students also).

The teaching delivery approach of the subject aims to engage, support and motivate students (Kift & Field, 2009). The approach is made up of the integrated use of an interactive workbook, lectorials (lecture and tutorial approaches to active learning combined) and materials provided through the Blackboard site (Field, 2005). This design is intended to support a range of student learning approaches, as well as to take account of the different learning needs of students, and their differing life circumstances.

The interactive workbook is central to student learning in the subject as it provides students with the subject’s core content and a clear roadmap for student learning. Each weekly module of the workbook also provides activities and thinking points to help students prepare for the active, conversational discussions that occur in the classroom (Laurillard, 2002). The workbook is augmented by the prescribed text (King et al., 2009) and other resources (predominantly journal articles) provided via the Blackboard site.

The lectorial component of the subject involves 12 face to face sessions held each week of the semester for two hours. Lectorials are audio-taped and made available on the subject’s Blackboard site for all students after the lectorial has been delivered. The design of the lectorials intends to assist students to learn deeply. To achieve this, lectorials are delivered in an interactive way using a co-lecturer model (Field and Kent, 2006) which provides numerous opportunities for active learning and discussions (Laurillard, 2002). Two weeks of the semester are also devoted to small group skills workshops with a focus on practising and
developing dispute resolution and communication skills. An optional workshop for external students replicating these workshops is run during the mid-semester external attendance school (at QUT, external students are required to attend the university in person, once per semester). An optional online discussion forum provides all students, whatever their study mode, with an opportunity to engage in discussions about the subject content, concepts and issues.

The assessment design in the subject is informed by the overall design concern in the subject which is to engage, motivate and support student learning in the first year, at a time when we know that the psychological well-being of students is at risk (Field & Kift, 2010). Assessment in the subject includes a 40% reflective practice exercise (the focus of this paper) and a 60% open book exam. A range of Faculty resources to support students in their exam preparations are made available. Previous semester final exam papers with model answer guides are placed on the subject BlackBoard site. A specific podcast is also prepared for students, that deals with exam preparation and technique. The first offering of the subject also included a 30%, 2000 word assignment. This assessment component has been discontinued, as it created too great an assessment workload for both students and staff.

Students receive formative feedback through participating in lectorial discussions and through the skills workshops. Individual written feedback is also provided to students on their reflective practice exercise, as well as through a criteria rubric. Generic feedback on the reflective practice exercise and the examination is placed on the subject’s Blackboard site.

**Positive Professional Identity**

In the first year of law students experience their initial legal education; their first training ground as young lawyers. First year law offers an opportunity to introduce students for the first time to “the situational expectations of legal practice”, and to support them in understanding professional behaviours (Hall et al, 2010, p. 31). It is therefore an important and powerful time of professional transformation for students in which they “receive a number of messages about the appropriate roles and expectations of lawyers in serving clients, in ensuring the delivery of justice, and in interacting with society at large” (Floyd, 2007, p. 556). A range of literature suggests that the law school environment and legal education “play a significant role in the development of students’ professional identities” even from the first year (Hall et al, 2010, p. 31).

**Lawyering and Dispute Resolution** explicitly encourages students to think about, and begin to development, a positive sense of professional identity. The subject does this by teaching students the positive professional roles they can assume in legal practice as non-adversarial practitioners and resolvers of disputes (King et al, 2009), and through the reflective practice assessment exercise discussed below.

In creating the subject, we believed that a focus on positive professional identity was important for students in their first year of their legal education because thinking about what sort of lawyer they want to become, and how they are going to be a lawyer (Floyd, 2007, p. 556) can be critical to motivating legal learning. Focusing on a positive professional identity can engage students with the real-world context of the content of their legal studies. Exploring the notion of a ‘legal professional identity’ requires students to set a foundation for the latter years of their legal education (and their professional future) by examining their emerging professional ideals, and identifying a sense of professional purpose (Alexander,
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against what is being learned doctrinally” (Anzalone, 2010, p. 86) and this can bolster the psychological well-being of students.

In Lawyering and Dispute Resolution the trigger for the reflective assessment is an (approximately) 20 minute interview with a currently practising lawyer about what being a legal professional means for them. Hearing the career story of a current legal professional is intended to provide an associative and vicarious learning experience to inform the students’ own learning about professional identity through reflection. Floyd and Gallagher (2006-2008, p. 942) assert that engaging with narratives about lawyering “can be fruitful, if not crucial, for law students as they develop their professional identity and purpose”.

The students are responsible for organising the interview themselves, although teaching staff provide support with professional contacts if necessary. If unable to set up an interview, students also have the option of watching one of three taped videos with practising graduates of the QUT Law School. These interviews are available from the subject’s Blackboard site. Students are able to complete the assessment individually or in groups of up to three. A criterion-referenced assessment rubric for the reflective practice exercise is discussed with the students, and the elements of it are negotiated, for clarity around what is expected of their performance in the reflection.

Although students are expected to design their own questions for the interview, to overcome the “blank page” (McNamara, Field and Brown, 2009) students are supported through provision of the following possible starting points:

• What words would you use to describe the sort of lawyer you are?
• How would you explain the importance of lawyers in society?
• What is the one thing you like most about being a lawyer?
• What is the one thing you like the least about being a lawyer?
• What would you change about the legal profession if you could?

In order to complete the reflective assessment, the LWB150 students are taught to use the 4Rs reflection method developed by the ALTC DRAW Project (2010). This approach can be broken down into four components: first, reporting on the interview with the practitioner; second, relating and making connections between the interview discussions, a positive professional identity and the student’s own existing skills, experience and knowledge; third, demonstrating an understanding of professional legal identity through reference to the relevant theory and literature; and finally, developing ideas for the student’s own future professional identity and their future legal practice.

When students respond and report on the interview (an aspect of the assessment that is worth 15% of their final mark), they briefly summarise the questions asked as well as the answers given. They respond to the interview by making observations about it, and express an informed opinion about it. They also pose questions to be addressed as a result of the interview in relation to the development of the student’s own professional legal identity.

The ‘relating and making connections’ aspect of the reflection is also worth 15% of the final mark and asks students to make connections between the interview and their own existing skills, experience and knowledge. Students analyse the content of the interview against their existing impressions of a professional legal identity, and they recognise aspects of the interview that will inform the development of their own professional identity as a lawyer.
The students apply reasoning to the reflective process by demonstrating their understanding of the interview discussions and connecting with the unit content, as well as the relevant literature. This aspect of the reflection is worth 35% and involves highlighting in detail the significant issues arising in the interview relating to professional legal identity. This can include explaining and analysing the importance of the issues, referring to relevant unit content, theory or literature in support the student’s reasoning, and considering different perspectives (such as theoretical or ethical perspectives) in relation to the professional identity issues raised in the interview.

When engaged in the reconstruction component of the 4R’s process, the students consider ideas for the development of their own professional identity as a result of the interview. This part of the reflection is also worth 35% and requires students to explain how and why their own future practice as a lawyer will be informed by what they have learned through the interview. Students are also asked to elaborate on the steps they will take in the future to develop their own professional legal identity, and to explore why developing their own professional identity is important to their psychological well-being as a lawyer.

There are clear benefits to this method of reflective practice. It is a guided approach, supported by a clear framework. Through the reflective practice assessment, students connect with real practitioners, and assess and analyse positive aspects of the practice of law. They also, necessarily, discuss and contextualise, certain negative aspects of practice. The students learn through what might be considered an “apprenticeship of identity and purpose” in which they connect with “the skills and inclinations and the ethical standards, social roles, and responsibilities that mark the (legal) professional” (Alexander, 2011, p. 470).

Importantly from the academic perspective, this reflective analysis is informed by the developing literature in the field.

**Student Reactions to LWB150 Lawyering and Dispute Resolution and its Assessment Strategy**

The 2011 cohort of LWB150 students provided a range of positive responses on the subject via the university administered subject evaluation process for semester 2 2011:

- **This subject should be compulsory for all first year students. The discussion of resilience and being mindful of your eventual career, and the possibilities of ADR are enormously helpful.**

- **I believe that the material learnt in the subject will be very helpful to me in my future studies and into practice; especially the material on positive professional identity. I am very glad I decided to study this subject.**

- **This subject brings to the attention of law students the realities of practice. I think that by planting the seeds at university, a better understanding of practice will follow. I have always believed in a work life balance and really began to doubt that this was possible with law. I now think that in the future it will be, or even is right now if I find the right practice.**

- **I loved the experience of doing something else other than applying the black and white of law.**
• The subject provides students with key skills on how to cope with law school and also future practice. This subject should in fact be a 'core' subject rather than an elective as it is very important.

• I am a fourth year student, and was glad to get back to basics. The information about depression in the workplace and reflective practice was refreshing, and the fact that some of the readings looked at what lawyers actually do was really good. It was also good to learn about dispute resolution - rather than merely litigation. I definitely think that this subject should be made core!

• The discussion on positive professional identity and resilience were so helpful. I've struggled with these issues in first year and have now been taught how to deal with them in a more positive perspective.

• I personally learnt a lot about myself as the subject’s assessment required a degree of self analysis. The reflective assignment was a personal challenge and took me out of my comfort zone. However, it was a very worthwhile exercise.

Conclusion.

This paper has discussed and analysed a positive initiative in legal education that promotes the psychological well-being of law students in their first year. This initiative may have cross applications to other disciplines because the teaching of reflective practice to promote positive professional identity and psychological well-being is not a law specific exercise. Alexander (2011, p. 483) suggests that “If law schools teach only how to think like lawyers, and not how to be lawyers, then the legal academy is surely failing its students, who, today more than ever, must to take on the identity of ‘lawyer’ from the moment they join the (profession)”. The approach discussed in this paper is positive in that it allows students to discover in their first year of law school “what they really need to know to have meaningful and healthful lives as lawyers” (Krieger, 1999, p. 3).

References


