Stop struggling for the struggle’s sake: Make it meaningful

Molly Townes O’Brien and Stephen Tang
Australian National University College of Law

Abstract

Based on our surveys of first-year law students, we found that most entered legal education with high expectations of being interested, engaged, and of helping people. Some, however, entered legal education because they didn’t know what else to do. After nearly a year in law school, most maintained their expectation that they would one day “help people”, but a large group still did not know why they had begun law school and felt less engaged than they had expected. Looking for ways to improve these students’ experience, we noticed people we call positive struggle lawyers – whose happiness and overall outlook is healthy, in spite of hard work and, occasionally, an enormous stress load. We suggest that law students may perform better and experience lower levels of psychological distress if their legal education includes a supported and meaningful struggle with the complexity, occasional absurdity and immense potential of the law.

Discovering meaning while studying law

The first year of law school is a challenging and exciting time. It is, like the beginning of university for students of other disciplines, a time of significant personal change and growth (Richardson, King, Garrett & Wrench, 2012). The literature on law students, however, takes on a rather gloomy tone. The rates of psychological distress in law students and lawyers are well documented, both in the US and in Australia. Taking note of years of US research on law student wellbeing of law students (Sheldon & Krieger, 2007; Krieger, 2002; McKinney, 2002) and research conducted in Australia at the Brain and Mind Research Institute (Kelk et al., 2009;); we began studying our law students in 2009 (Hall, 2009; O’Brien, Tang & Hall, 2011a, 2011b). Our findings are consistent with the results of previous and independent concurrent studies (Larcombe, Tumbaga, Malkin, Nicholson & Tokatlidis, 2013; Larcombe, Malkin & Nicholson, 2012; Kelk, Medlow & Hickie, 2010) showing that law students exhibit higher levels of psychological distress and depression than do their community age peers.

While higher than average rates of psychological distress have been observed across the Australian university student population (Stallman, 2010), there are a number of reasons that may explain law students’ particular risk. Law school has been described as self-degrading and delegitimising (Poole, 2012) as well as containing a “hidden curriculum” of adversarial norms and personal competitiveness which is harmful to its students (O’Brien, 2011a). The systemic denial of basic psychological needs has also been directly implicated in poor psychological health (Sheldon & Krieger, 2004, 2007). Law school also uses language and thought which “erases” social and personal experience (Mertz, 2007) and creates a normative status of pessimism through the emphasis on the zero-sum outcomes (Seligman et al., 2005). “Thinking like a lawyer” may be better described as a coping strategy that aids in dealing with information overload and the uncertainty of law, but it has become normative for wrong or misunderstood reasons (Tang & Foley, 2012).
The messages of our own papers (O’Brien, Tang & Hall, 2011a, 2011b) are, admittedly, pretty bleak. In 2009, we began surveying students at the beginning and near the end of their first year of law study. The results showed that most students entered law school with very few symptoms, or a low intensity of symptoms, of depression. By the end of the first year, however, around one-third of students in our sample had levels of psychological distress which would likely have caused substantial impairments in educational, interpersonal or occupational functioning.

We also engaged a group of students and faculty at a weekend retreat at ANU’s coastal campus. Participants were provided with opportunities to describe, discuss and re-imagine law school (O’Brien, 2011b). We observed that students described law school as a transformative journey in which they addressed complex and confusing cases but avoided or ignored the personal impact of law. Students found law school to be a place that made them more rational, competitive, adversarial, arrogant and elitist. Several students talked about mental anguish and self-doubt involved in being a law student and studying law. When asked to re-imagine their law school experience, students explained that their ideal law school experience would have been more connected – to mentors, to other students and to the real impact of law (O’Brien, Tang & Hall, 2011b).

Despite these findings, law schools attract and graduate highly intelligent, motivated and passionate people. It is an oversimplification to say that law school is universally destructive. The majority of students stay psychological healthy and go on to do good things in their post law-school lives. We need to address systemic wellbeing-impairing problems in the law school environment. At the same time, we also need to engage with students’ potential, autonomy and resilience (e.g. James, 2011; Watson & Field, 2011; Marychurch, 2011) while recognising the unique challenges of studying law. Is law school all that it can be? Law school will be a struggle, but can we do anything to ensure that the struggle is meaningful?

Survey of first-year law students

The data reported here were obtained from these same surveys of ANU law students which we have just described. A total of 470 valid responses (256 beginning of year, 214 end of year) were collected in these surveys, which were run in 2009 and 2010. We asked law students in their first two weeks of their first semester 20 questions about their expectations of law school (e.g. “I expect my law study to contribute to my growth as a person”). Students responded using a 5-point Likert scale, anchored at “Strongly Disagree” and “Strongly Agree”. Statements addressed topics such as expectations about the curriculum and teaching style, engagement and interest, social participation and personal development. The same statements were used in the end of year survey, but were rephrased to inquire about students’ experience of law school (e.g. “My law study is contributing to my growth as a person”).

We also asked students to rate their agreement or disagreement with 14 reasons why they were undertaking a law degree. The same wording was used in both surveys. The items included instrumental reasons (e.g. wanting to be successful or to make money), social justice motivations, the experience or challenge of being a lawyer, and a number of passive or low-motivation items, such as “I am not sure why I am undertaking a law degree”.

Students’ expectations, experiences of law school and motivations for studying law

Table 1 shows the pattern of responses for selected items about the expectations and experience of law school. The percentage of students endorsing each response on the scale
(SD = strongly disagree, D = disagree, N = neither disagree nor agree, A = agree, SA = strongly agree) is shown for both the beginning of year (expectations) and end of year (experiences) surveys. The last two columns show the mean scale score (SD = 1 to SA = 5), and the results of an independent samples t-test to establish whether the difference between the means was statistically significant. The difference in the means between the two survey groups is statistically significant if its t-value exceeds a certain threshold given the degrees of freedom (df) calculated from the pooled sample size. Statistically significant differences, using a 95% confidence level, are indicated by asterisks in the last column. Statistical significance does not necessarily imply practical significance.

<table>
<thead>
<tr>
<th>Summary of proposition</th>
<th>Survey</th>
<th>SD %</th>
<th>D %</th>
<th>N %</th>
<th>A %</th>
<th>SA %</th>
<th>Mean</th>
<th>t (df)</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am interested/engaged with the course material</td>
<td>Beginning</td>
<td>0.8</td>
<td>6.3</td>
<td>17.4</td>
<td>49.8</td>
<td>25.7</td>
<td>3.93</td>
<td>-5.40*** (465)</td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>2.8</td>
<td>5.1</td>
<td>37.4</td>
<td>47.7</td>
<td>7.0</td>
<td>3.51</td>
<td></td>
</tr>
<tr>
<td>Studying law contributes to my personal growth</td>
<td>Beginning</td>
<td>0.8</td>
<td>6.0</td>
<td>9.6</td>
<td>53.0</td>
<td>30.7</td>
<td>4.07</td>
<td>-4.36*** (466)</td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>4.2</td>
<td>6.5</td>
<td>24.3</td>
<td>45.3</td>
<td>19.6</td>
<td>4.70</td>
<td></td>
</tr>
<tr>
<td>Studying law enhances my self-confidence</td>
<td>Beginning</td>
<td>3.5</td>
<td>9.8</td>
<td>25.1</td>
<td>43.5</td>
<td>18.0</td>
<td>3.63</td>
<td>-7.26*** (467)</td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>9.3</td>
<td>20.6</td>
<td>36.9</td>
<td>31.3</td>
<td>1.9</td>
<td>2.96</td>
<td></td>
</tr>
<tr>
<td>I participate in law school social activities</td>
<td>Beginning</td>
<td>5.9</td>
<td>12.9</td>
<td>13.7</td>
<td>41.2</td>
<td>26.3</td>
<td>3.69</td>
<td>-10.54*** (467)</td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>23.4</td>
<td>26.2</td>
<td>28.5</td>
<td>16.4</td>
<td>5.6</td>
<td>2.55</td>
<td></td>
</tr>
<tr>
<td>My personal values are unimportant to study of law</td>
<td>Beginning</td>
<td>23.3</td>
<td>43.9</td>
<td>21.3</td>
<td>8.3</td>
<td>3.2</td>
<td>2.24</td>
<td>-2.17* (465)</td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>33.6</td>
<td>41.1</td>
<td>16.8</td>
<td>4.7</td>
<td>3.7</td>
<td>2.04</td>
<td></td>
</tr>
<tr>
<td>Studying law contributes to the rethinking of my personal values</td>
<td>Beginning</td>
<td>6.7</td>
<td>20.9</td>
<td>24.8</td>
<td>35.8</td>
<td>11.8</td>
<td>3.25</td>
<td>0.49  (466)</td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>8.9</td>
<td>16.4</td>
<td>26.6</td>
<td>31.8</td>
<td>16.4</td>
<td>3.30</td>
<td></td>
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<tr>
<td>Studying law is a good decision</td>
<td>Beginning</td>
<td>1.6</td>
<td>2.4</td>
<td>14.2</td>
<td>40.9</td>
<td>40.9</td>
<td>4.17</td>
<td>-1.50  (466)</td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>2.3</td>
<td>4.2</td>
<td>16.4</td>
<td>40.7</td>
<td>36.4</td>
<td>4.05</td>
<td></td>
</tr>
</tbody>
</table>

Statistically significant differences (at a 95% confidence level) in means between the beginning and end of year surveys are highlighted in bold in the last column. Asterisks indicate the p-value threshold reached: * p < .05, *** p < .001.

Table 1: Expectations and Experiences of Law School

Overall, these results paint a positive picture of law school: students agreed with most of the positively-worded items in both surveys. However, there was a shift in the pattern of responses from the beginning of the year to the end of the year. The mean scores on a number of the items show that experience ratings were often lower than expectation ratings. This may be an indication that the first year of law school fell short of students’ expectations, even if their overall perceptions were still relatively positive. There was an overall tendency to move away from strong expectations back to the midpoint (the “neither disagree nor agree” option). This can be interpreted as either an increase in ambivalence, dissonance (conflicting positive and negative experiences), or a generally less favourable experience than expected.

The gap between expectation and experience on questions relating to students’ engagement and interest were particularly noticeable. Students found their courses less interesting and engaging than expected, with a large decline in the “strongly agree” category (from 25.7% to 7.0%) and a similar increase in the neutral category (17.4% to 37.4%). In addition, the significant decline in students’ belief that studying law would enhance their self-confidence is
a concerning result, with two-thirds of students scoring at or below the midpoint of the scale at the end of the year, compared with only one-third at the beginning of the year. Students also participated in activities organised by the ANU College of Law or the ANU Law Students’ Society much less than they expected, with the strongly agree and strongly agree responses almost reversing in the strength of endorsement.

On the other hand, there were no statistically significant changes on other key items. The vast majority of students at both survey points felt that their personal values were important to their study of law. While two-thirds of beginning of year law students disagreed with the statement that their personal values were unimportant, this figure rose to three-quarters by the end of the year. In contrast, there was a drop in perception that studying law contributed to students’ personal growth, although the majority of students still agreed with this statement in both surveys.

Students also did not report a shift in their perceptions of whether studying law forced them to change or rethink their personal values, which remained around the midpoint of the scale. Despite declines in some of the other items, end of year students on the whole were just as positive about their decision to study law as were beginning of year students. As expected, a more positive experience of law school was associated with a lower level of psychological distress, particularly depressive symptoms ($r = -0.349$, $p < .001$). This finding affirms the inextricable relationship between psychological wellbeing and the experience of being a law student.

We found that these gaps between expectations and experiences remained even after controlling for personal characteristics such as age, gender, levels of psychological distress and preferences for rational or experiential thinking. In other words, mere exposure to the law school environment was sufficient to explain why these gaps between expectations and experience emerged.

As shown in Table 2, our results show that studying law is a mixed-motive endeavour. Students could, and did, agree with different kinds of reasons and motivations. For instance, there was a small but positive correlation between the dissimilar motivations of studying law for personal benefit and wanting to help others ($r = 0.152$, $p = 0.001$). Nonetheless, there was an increase in the endorsement of items relating to instrumental reasons for studying law (personal gain and professional prestige, but not the desire to make money) between the beginning and end of the first year. This was mirrored by a decline in intrinsic motivations, such as studying law because of intellectual curiosity or because “I think I’ll be good at it”. However, the strength of such intrinsic motivations remained as one of the best predictors of a positive experience of law school ($r = 0.455$, $p < 0.001$).

Contrary to expectations, there was no change on students’ social justice motivation, which remained very strong throughout the first year. Almost two-thirds of students agreed or strongly agreed with the statement pursuing social justice was a reason why they were studying law. On the other hand, the desire to “help others” retreated from a very strong to a weaker level of endorsement. This may hint at the emergence of dissociation between a wider, more abstract notion “social justice” and the more personal, intimate connotation of

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1 $r$ is the Pearson product-movement correlation coefficient. The minus sign indicates an inverse relationship: depressive symptoms were lower if positive experience scores were higher. Coefficients can range from 0 (no correlation) to 1 (perfect correlation), with .349 indicating that the strength of this association is moderate. The $p$-value here is less than .001, which is lower than the .05 threshold level required for statistical significance.
“helping” and “making a difference”. Social justice and helping motivations, combined, were associated with a positive law school experience ($r = .320, p < .001$).

### Table 2: Reasons for Studying Law

<table>
<thead>
<tr>
<th>Summary of proposition</th>
<th>Survey</th>
<th>SD</th>
<th>D</th>
<th>N</th>
<th>A</th>
<th>SA</th>
<th>Mean</th>
<th>$t$ (df)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal success/gain/career advantage</td>
<td>Beginning</td>
<td>15.6</td>
<td>53.9</td>
<td>19.5</td>
<td>3.79</td>
<td>2.07 (468)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>52.3</td>
<td>27.1</td>
<td>3.97</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Make lots of money</td>
<td>Beginning</td>
<td>23.4</td>
<td>27.0</td>
<td>5.1</td>
<td>2.73</td>
<td>1.23 (468)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>25.2</td>
<td>10.3</td>
<td>2.87</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional prestige</td>
<td>Beginning</td>
<td>22.7</td>
<td>37.9</td>
<td>8.6</td>
<td>3.12</td>
<td>2.51* (468)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>18.2</td>
<td>46.3</td>
<td>3.39</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Felt like a “safe move”</td>
<td>Beginning</td>
<td>13.0</td>
<td>36.6</td>
<td>6.7</td>
<td>2.83</td>
<td>2.92** (464)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>14.6</td>
<td>40.6</td>
<td>3.18</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Work for social justice</td>
<td>Beginning</td>
<td>23.6</td>
<td>36.2</td>
<td>24.0</td>
<td>3.65</td>
<td>0.01 (466)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>23.8</td>
<td>40.2</td>
<td>3.65</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Make a difference and help people</td>
<td>Beginning</td>
<td>13.3</td>
<td>45.9</td>
<td>34.9</td>
<td>4.09</td>
<td>-2.35* (467)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>20.6</td>
<td>43.5</td>
<td>3.89</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intellectual curiosity</td>
<td>Beginning</td>
<td>12.5</td>
<td>48.8</td>
<td>32.4</td>
<td>4.06</td>
<td>-4.35*** (467)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>18.8</td>
<td>42.7</td>
<td>3.68</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Think I’ll be good at it</td>
<td>Beginning</td>
<td>19.9</td>
<td>49.6</td>
<td>10.9</td>
<td>3.48</td>
<td>-2.17* (467)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>End</td>
<td>28.2</td>
<td>39.0</td>
<td>3.28</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not sure why I’m studying law</td>
<td>Beginning</td>
<td>13.3</td>
<td>16.4</td>
<td>9.4</td>
<td>2.43</td>
<td>0.45 (467)</td>
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<td>14.1</td>
<td>2.49</td>
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</table>

Statistically significant differences are highlighted in bold in the last column. * $p < .05$, ** $p < .01$, *** $p < .001$.

Interestingly, there was little movement on items about feeling uncertain about the reasons for doing a law degree despite a whole year of studies having elapsed. Around a quarter of students both at the beginning and the end of the year did not know why they were doing a law degree. At the same time, there was an increase in the perception that studying law was a safe move. While this could be explained as an instrumental motivation, it was statistically clustered with other items suggesting a passive or apathetic basis for choosing a law degree. Passive/apathetic motivations were correlated with higher depressive symptoms at the end of year ($r = .244, p = .001$) as well as a less positive experience of law school ($r = -.252, p < .001$). These findings also remained after controlling for age and gender.

There are a number of interpretative limitations in our data. Most importantly, experience and expectations are very different creatures (Wilson & Gilbert, 2005). What one expects to feel or do tends not to be identical to what one actually experiences. We also note that expectation-experience gaps are not unique to law school (Scutter et al., 2011). Our study was non-longitudinal in design, but the direction and consistency of the differences between beginning and end of year students are congruent with our previous findings on changes in thinking styles and wellbeing (O’Brien, Tang, & Hall, 2011b).
Our findings emphasise that law students’ social justice motivation remains high at the end of the first year. Students also felt that their personal values were important to their studies and were willing for these values to be shaped. While these appear to be positive outcomes, we note law study’s relative weakness in promoting the meaningful relevance of classroom work. We conclude that law school sometimes shapes law students in less than optimal ways – e.g. making them more instrumental and focused on personal gain, but less self-confident and possibly still unsure of why they are even there at all. Students’ reasons for studying law may be diluted by competing and simultaneous motivations, which may also be shaped by conflicts between their expectations and experiences.

Our results are also very similar to Larcombe et al.’s (2012) analysis of the motivations and expectations of students at Melbourne Law School. Their study also found, for instance, that extrinsic and amotivated reasons for studying law increased over time and were associated with higher levels of psychological distress. Intrinsic motivations also remained important over the law degree, just as we found in the first year. This convergence of evidence strengthens our confidence to identify and address common factors in the teaching and study of law across Australian universities which may be impairing students’ ability to thrive.

Discussion and Recommendations for Enhancing Law Study

We do not aim to eliminate all distress from law study. Instead, we intend to make recommendations that will make the study of law congruent with students’ values, hopes and goals. This includes minimising harmful and pathological levels of psychological distress, especially distress directly caused by current law school environments. More importantly, however, we hope to ensure that a healthy and meaningful environment for all law students is developed.

We believe that if more students were engaged in meaningful struggle during law school, the result would be more students with an enhanced sense of wellbeing. We accept that the experience of distress may be appropriate in certain circumstances. For instance, sadness, disgust or anger can and probably should be felt in the face of gross injustice or harm of the kind that students are exposed to in their reading or clinical legal experience. However, such distress must be given an opportunity to be voiced aloud in class and addressed in terms of meaningful action in and beyond the classroom. Negative emotions are an unavoidable part of human experience and the study and practice of law. Such emotions need to be processed reflectively and turned into values-congruent action, rather than internalised in destructive ways. The mindfulness literature has many useful things to say in this regard (James, 2011; Rogers, 2012), but we emphasise that mindful awareness and observation must be complemented with opportunities to respond and act in healthy and appropriate ways. To be very clear, this responsive and motivating kind of distress can be contrasted with the distress of humiliation, victimisation, isolation and hopelessness which have no place in law school or anywhere else.

Law students, like other students, need to have their values and judgements recognised and encouraged, especially when faced with opportunities for meaningful struggle. Doing so helps to fulfil the basic psychological needs of autonomy, competence and relatedness as set out by Self-Determination Theory (Deci & Ryan, 2002; Sheldon & Krieger, 2004, 2007; Hess, 2008; Krieger, 2012). Why does it matter if a lawyer graduates from law school with his or her values and motivations intact? Engaging with the complexity and challenge of law school in a way that is connected with the student’s own motivations and values, rather than drowning it with experience-erasing reason and argument, is essential for psychological
health and well-being. We also believe that by engaging in meaningful struggle with supported autonomy, a law student may immunise herself or himself to the psychological distress caused by disengagement, isolation, hopelessness and helplessness.

To exemplify the enormous potential of tuning in to one’s intrinsic motivation in spite of hostile extrinsic norms, we could point to the careers of any number of successful lawyers. Mahatma Gandhi, Alan Dershowitz, Sir Thomas More, Thurgood Marshall, Nelson Mandela, and many others, are among the lawyers who made significant sacrifices to support and revolutionise the law and their country’s judicial system. While these historic figures serve as inspiration, there are numerous successful lawyers whose lives are active, healthy, and worth emulating. Do they have anything in common? In our view, they may be characterised as positive-struggle lawyers. While we could search for and find many qualities positive-struggle lawyers share, for our purpose, it is important that they share a belief in their work, motivation to do their best, inspiration taken from the meaning of their work, and resilience to stress and the setbacks of hard work.

The Jack Greenberg example

We look to the US lawyer Jack Greenberg as a stellar role model of a motivated, positive-struggle lawyer. Within weeks of graduating from Columbia Law School, he accepted a low-paying job at the National Association for the Advancement of Colored People (NAACP). He went on to become a key figure at the NAACP Legal Defense and Educational Fund (LDF) over the next thirty-five years. The LDF handled school desegregation cases, equal employment cases, fair housing cases, voter registration cases and death penalty cases. Greenberg argued, tried, and won many of the cases himself.

Greenberg represented Martin Luther King, Jr., in Birmingham and won him the right to march from Selma to Montgomery. Under his leadership, the LDF forced the University of Mississippi to admit the black man, James Meredith. He also gained an order integrating the University of Alabama when George Wallace stood in the schoolhouse door. Greenberg won the cases in which the US Supreme Court repudiated the “all deliberate speed” doctrine, which had made school desegregation intolerably slow (Greenberg, 1994a). Through the 1970s and 1980s, the LDF tackled most of the important cases that enforced the new civil rights legislation of the 1960s involving public accommodations, employment, education, and health care, and started the campaigns for prisoners’ rights and against capital punishment.

In other words, Jack Greenberg worked for and achieved his clients’ goals in civil rights. He had to work very hard and consistently: it was a struggle, but a meaningful struggle. In 1994, Greenberg had an opportunity to tell some stories from his practice. The stories reflect not only Greenberg’s good spirit and hard work, but also the inherent struggle in his day-to-day practice. For example, when he talked about defending the “freedom riders” – cases in which black and white Americans were arrested for sitting in parts of buses where they were not permitted to sit – he pointed out that the LDF had “hundreds and hundreds of such cases” and that “we tried 320 cases and we won 320 cases, but it took a long time and a lot of money” (Greenberg, 1994b, p. 601–2). Indeed, he said that:

[W]hat I have done is aggregate a whole group of interesting stories that make it sound as if my practice of civil rights law was nothing but fun and games day in and day out. But mostly the practice of civil rights law is like the practice of any kind of law…. It is not very thrilling except for the occasions of amusement or satisfaction that I have grouped together to make it sound like it was that kind of a life all the time. (p. 588)
Yet his legal work showed not only dedication to equality in the face of such hard work and struggle, but also determination, planning, and creativity. As an advocate for black Americans, Greenberg had to be inventive and persuasive to find victory. He brought cases that reformed not only the law of civil rights, but also the rules of civil procedure. His work made the class action a popular form of action to challenge a school or a business. He argued 40 historic cases to the US Supreme Court. Greenberg had his share of dismay and disappointments, but kept a steady focus on his values and the purpose of his work as a lawyer.

In spite of being quite old and a veteran of numerous legal conflicts, Jack Greenberg is still contemplating new and generous strategies to achieve civil rights goals. His motivation remained strong. He has participated in human rights missions around the world. He has taught at law schools in five countries, has written books on civil rights, and on artistic and gustatory topics, such as Franz Kafka and recipes. From his continuing activity, we infer that his intrinsic motivation and embrasure of positive struggle has helped him remain energetic and engaged even into his old age.

*Law School can create more Jack Greenbergs*

Although our surveys revealed some significant problems in the study of law, they are not cause for despair. Our surveys revealed that students entered law school as psychologically healthy people with positive expectations. They expected law study to be intellectually interesting. They expected to help people with their legal learning; they expected law school would enhance their self-concept; and, although they expected law study to be difficult, they did not expect it to be boring.

The real challenge for legal educators is to meet or amplify students’ high expectations without transforming law study into a desiccated copy of itself. The goal is not to produce relaxed and superficially happy lawyers, but to produce competent lawyers and problem solvers who have the skills and the creativity to address legal and social problems and make a positive difference. Legal education should be experientially and emotionally grounded so that lawyers can embrace the idea of struggle and change. The struggle for social change may be long and arduous, but it is not isolated or boring.

A good struggle is one that is motivated by meaning. This is the heart of the idea of law as transformation and law as potential (White, 2011) which many students believe they will see and experience upon signing up for a law degree. The difficulty for some of our law students was that they became less able to see the possibility and meaning that could be present in their struggle. Many students feel attached to course outcomes, assessment tasks and other extrinsic goals which lack the opportunity for creativity, change and inter-relatedness. We contend that this focus is part of what makes them vulnerable to becoming overly rational, arrogant, isolated and psychologically distressed. The positive-struggle approach does not centre itself around gaining traditional success. Instead, it is centred around a sustained pursuit of meaningful goals. Its cornerstones are the individual’s motivation and determination.

We want to look at the law curriculum and begin fashioning a course of study that will produce lawyers who are psychologically healthy – whose outlook does not outline psychopathology but is grounded in wellness and optimism about change. Doing this requires law teachers to be attentive to their students’ values and goals, to allow and encourage students to think for themselves. Teachers should also think about legal education.
more holistically and creatively: they should allow and encourage student autonomy. Moreover, teachers should be encouraged to model appropriate expression of positive struggles in their own experience.

We know that these things will help students to experience a significantly greater sense of wellbeing, higher substantive performance in law school (as measured in learning and understanding, not merely in terms of marks or grades), and more intrinsic motivation to pursue their legal career. We don’t want law school to be stripped of its substance or to be perceived as being “easy”. We expect students to struggle sometimes. We expect law study to be hard and difficult, but we expect it to be meaningful.

References


McKinney, R.A. (2002). Depression and anxiety in law students: Are we part of the problem and can we be part of the solution? Legal Writing: Journal of the Legal Writing Institute, 8, 229-255.


