

The creation of the first year law teacher: A matter of transition (diversity, engagement, design, assessment, evaluation and monitoring)?

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Abstract

Very often in my experience, the participants in conferences and workshops on the first year experience (most recently at FYECD2009 in February) bemoan the fact that their university colleagues will not engage actively in the substantive change required to improve the first year foundational experience for students. Some cogitation on this theme has led me to a “What if?” moment. What if, we took all that we know about FYE and modelled a parallel experience for academic staff teaching first year? If we regard teaching a high quality first year subject as a form of transition for the teachers as well as the students, what sort of collegial support and nurture might result in more diverse, engaged and informed staff? In preparing our students for multiple heterogeneous futures, our staff are a key. What kind of learning community might a “transitioning staff” developmental model produce? This exploration is the subject of this paper.

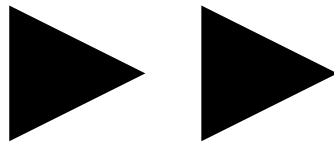
Introduction

This paper sets out to explore ideas about how we might improve the experience of the first year law student by improving the experiences of the first year law teacher. It is consciously framed by reference to experiences that occur in Australian law schools, but may have relevance for other professional schools and disciplines. Law as a discipline is fond of making the argument for its *sui generis* status, and there are aspects of law school life and culture which may legitimately claim to be unique in the academy. However, many of the challenges we face in law school as first year teachers are shared by compatriots across institutions and disciplines. The next section sets the scene of first year law teaching in an historical and methodological context.

The context: Law teaching from Langdell through *The Quiet Revolution* to Tony Kronman



Columbus Langdell



Christopher

Anthony T. Kronman

When Christopher Columbus Langdell became the Dean of Harvard Law School in 1870, after an exceedingly bumpy personal educational journey (Kimball (2002)), introduced systematic educational reform. He professionalised the program of law study, established standards for entry and progression, and revolutionised teaching methods.¹ He is best-known and most thoroughly criticised (Feldman (2004), Minow and Rakov (2007)) for his introduction of the *case method*, which was to be taught using a pedagogy of Socratic inquiry. This fundamental work of curriculum implementation and innovation in classroom pedagogy has had an enduring influence on law teaching in the common law world. Twenty-first century Australian law schools are still working with the case method legacy to a greater or lesser extent, although the extremes of the American Socratic dialectic (Hess (2002)) are dominant in few. This is especially true in foundation compulsory courses, where competing casebooks are well-entrenched and large cohorts are often matched with limited staff resources.

In the century and more since the Langdellian reforms, the legal academy has toyed with competing identities. Among these, the lawyer as teacher and the legal scholar as teacher have taken an important place, especially in the United States (Feldman (2004)). In Australia, law schools were few in number until after the Second World War and significant numbers of full-time academic appointments in law definitely date to the second half of the twentieth century (Waugh (2007)). The proliferation of law schools and consequently of law teachers dates in Australia to the 1970s and 1980s. However, the question of individual “law academic identity” as opposed to law school institutional identity was arguably a largely hidden phenomenon (Pearce et al (1987)).

In the 1990s, a great deal was happening in Australia and elsewhere. One monumental development was the publication of *The Quiet Revolution: Improving Student Learning in Law* in Australia in 1994 (Le Brun and Johnstone (1994)). It championed a student-centred and informed approach to the teaching of law. At the time of its publication it was the “first book of its kind in the world” (Le Brun and Johnstone (1994), foreword by Neil Gold). Across the ocean in the United States, challenge and change was also emerging. In 1992, the American Bar Association published its report on Legal Education and Professional Development which

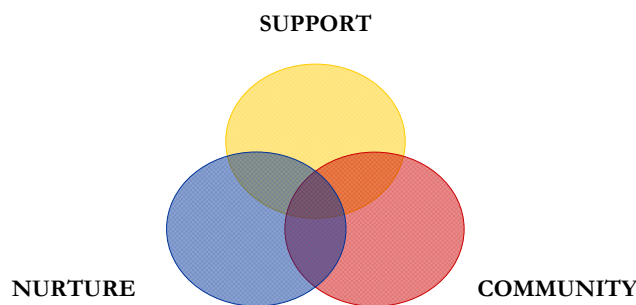
¹ Kimball has cogently traced the intellectual roots of Langdell’s reforms to John Locke’s *Some Thoughts Concerning Education* Ibid, 201-2. Locke’s work privileges notions of student autonomy, challenging students via high expectations, working from the particular to the general, using primary data in preference to secondary, and imparting a method of learning rather than mere content. These ideas appear oddly contemporary in the early 21st century higher education context.

addressed questions of the relevance of legal academic scholarship (Feldman (2004)). Around the same time, Tony Kronman, the then Dean of the Yale Law School, published *The Lost Lawyer: Failing Ideals of the Legal Profession 2* (1993). Throughout the last decade of the old millennium and since its turn, ink has been spilt across the globe on these identity-related questions: Why do I teach (Cassidy (2005)), how do I (should I teach) (Hess (2002)), where are my values in teaching (Rhode (2001)), what is law school (and legal education) (Thornton (2007)) all about? (Henderson (2003))

These are all significant and weighty issues, but perhaps a development which should give law teachers pause, is the publication in 2007 by the Tony Kronman of a stinging critique of contemporary higher education: *Education's End: Why Our colleges and University's have given up on the Meaning of Life*. While every age has its critics, not all of them are well-published, well-respected former Deans of the Yale Law School. Professor Kronman no longer teaches law, nor does he administer a Law school. He teaches in Yale's Directed Studies Program (a "great books" course). He discusses Homer, Dante, Plato, Augustine, Goethe, Shakespeare, Hobbes, Marx, Kant and Wittengenstein (*inter alia*) with his students. He has not stopped teaching, but he is directing his energies in a different fashion and to a different end. Just maybe, he is "onto" something.

Creating first year law teachers

In a small, regional law school, like the one in which I teach, we have worked hard and consistently to support students and encourage engagement. We have developed a philosophy to support our efforts:



However, making this theory a reality centrally concerns those who teach in first year courses. If it is true, as Felix Frankfurter famously wrote, that “lawyers are what law schools make them”,² then law teachers are also, to a large extent, what law schools make (or fail or neglect to make) them. My first year teaching team is a diverse group. Some are veteran first year teachers, but many are not. Some are experienced in later year teaching, or clinical legal education, but not in teaching those who are in transition. My central question is how to **nurture** and **support** these colleagues better to create a first year teaching **community** in my law school, which both reflects and models what we seek to achieve with our students. In order to do this, I seek to call in aid the six principles of transition pedagogy for first year curriculum design and renewal to support these efforts (<http://www.fyecd2009.qut.edu.au/resources/>).

Principle 1 Transition and law teaching

The first principle involves the assertion that first year teaching involves forms of transition for teachers. These will include transitions from assumptions (easily made with senior students) about students’ levels of intellectual independence, skills bases and cultural competence³; transitions from a strong content focus to a more significant consideration of generic and discipline-focused skills; transitions from concepts of appropriate role modelling inside and outside the classroom. There are real learning benefits to be gained for students where a first year teacher is kind, patient and helpful (Hess (2002)). These are attitudes, skills and competencies which can be learnt.

Blueprint for action on Principle 1

Dialogue is required amongst the first year team. This includes dialogue between course co-ordinator and individuals, and the team collectively. The dialogue may take the form of self-assessment of a teacher’s current knowledge, skills and attitudes to the transitioning issues, the identification of desired support, the sharing of experiences between experienced and inexperienced first year teachers in informal and formal settings.

Principle 2 Diversity

Increasingly, law teachers are drawn from diverse backgrounds: different international jurisdictions, different experiences of law school study (eg mature age entry to law school), different career expectations (eg teaching intensive, more traditional research and teaching roles), and different terms of engagement (eg continuing, contract and sessional staff). Further, staff members will bring the strengths and challenges of their own learning style (Le Brun & Johnstone (1994)) to the classroom setting. There are real benefits for students and staff when teachers are encouraged to be themselves, rather than conforming to models of “teaching identity” which are highly constraining (Merritt and Reskin (2003)).

² Letter from Felix Frankfurter to Mr Rosenwald 3 (May 13, 1927) quoted in Deborah L Rhode, *op cit*, 159.

³ By cultural competence, I mean students’ capacity to function easily and happily within a university and law school environment,

Blueprint for action on Principle 2

First year staff are encouraged to explore their own learning styles, through completing a learning style inventory. This can be socially engaging if carried out as a group during lunch or structured as part of a teaching and learning seminar. The next step is to work with staff reflecting on how their own learning styles influence classroom practices and including a discussion of the benefits of inclusive teaching and learning.

Informal mentoring of staff and out of class interaction can reveal much about the diversity of experience and aspirations of teachers which is highly beneficial in the creation of a teacher-based learning community. Informal mentoring may progress to a more formalised system of teaching mentoring amongst the first year teaching team.

Principle 3 Engagement

Many teachers are passionate about what they do, but sometimes teachers do not feel free to show it. Breaking down barriers to teacher engagement inside and outside the classroom (Hess (2002)) are fundamental concerns in creating an effective first year teacher. This requires encouragement and active participation from more experienced members of the team and a non-hierarchical approach to discussion.

Blueprint for action on Principle 3

Actions on this principle will involve some experience of team teaching in particular classes followed by discussion, reflection and reciprocal feedback. Further, the team will be encouraged to participate in peer observation of each other's teaching whilst completing a supportive feedback sheet⁴ and feedback and collective discussion will be undertaken afterwards. Encouraging the team to commit to monthly first year teaching team meetings over coffee or lunch to allow unstructured discussion and sharing of classroom experiences and challenges (*Conversziones*) is the third dimension of activating this principle.

Principle 4 Design

One of the fundamental issues in a foundational first year law course is the balance between content and skills acquisition (both generic and discipline-based). First year teachers may be strongly wedded to the idea that legal content should trump more generic learning. This may be the consequence of long-familiarity with the material, or the anxiety of the new teacher to deliver "good value" to students, and content is a readily quantifiable measure of "value".

Blueprint for action on Principle 4

Provide a staff development opportunity for first year teachers, which models how "less (content) can mean more (learning)". Provide discussion opportunities for sharing classroom practice and debate the value of using powerpoint slides and other support mechanisms for students.

Principle 5 Assessment

⁴ See Appendix 1.

Contemporary university contexts rely extensively on standardised instruments for evaluating teaching quality. These may be in the form of student evaluations of courses and or teaching survey instruments. First year teachers may find these inadequate in terms of formative feedback and the qualitative aspects of feedback on teaching performance.

Blueprint for action on Principle 5

Encourage first year teachers to engage with a variety of formative and summative feedback across the course of the semester. The cycle of feedback opportunities on teaching will include: self-reflection and journaling on teaching practice by individual members of the team, with opportunities for discussion with informal or formal teaching mentor, peer observation of teaching practice with feedback and discussion, small classroom assessments of teaching and learning during semester (Hess (2002)), and conduct of student evaluation questionnaires at the end of semester, with follow up discussions with mentor or others in the teaching team.

Principle 6 Evaluation and Monitoring

The combination of actions outlined in this paper may form the basis of a new and integrated means of quality assurance of teaching and learning in first year. It has the great benefit of involving both individual and collective activity across the range of teaching and learning experiences. It has the potential to be more supportive, more holistic and more conducive to community and collegiality (Seigel (2004)) than the current piecemeal approaches which are prevalent in my teaching environment.

Conclusion: Will it work?

My deepest intuition is that this will make a qualitative difference to my first year team and my own teaching experience. However, the truth is that I don't know yet: this is a work in progress and is based on theory (good student-centred theory, which is based on evidence, but as far as teachers are concerned it is theory more than anything else). I'll be able to tell you much more about the process and our findings when I present the results of my work in semester 1 2009 at the conference in July.

Appendix 1

**Newcastle Law School
Peer Observation of Teaching
2009**

Feedback for teachers

Name of teacher:

Course and class context:

Date of Observation:

Name of Observer:

- 1. The strengths of this teacher in classroom practice, including in content, presentation, style, engagement of students, use of supporting materials, the link between classroom learning and assessment.**

- 2. Matters to think about in teaching and learning.**

- 3. Suggestions for further development and/or resources which may assist.**

KAL 19/11/08

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