

## **Interim Report: Bringing the Self to UNSW Law: an evaluation of Lawyers, Ethics & Justice**

*OLT Mini-Grant Project for Student Success and Wellbeing*

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### **Report Notice**

*Due to challenges related to Lawyers, Ethics & Justice being run for the first time in 2014, complicated by the ethics approval procedures, this project is not yet complete. As a pilot, two groups of LEJ students were asked to complete an anonymous and voluntary online survey about the course (see appendix 1) and, of the 80 asked, 65 students completed the survey. Some of the data that was collected will be presented here in the interim report. These survey results helped, and will help, to modify both the course content and the survey itself. The course will be re-evaluated in s1 2015 and a final report will be submitted.*

### **Purpose**

The objective of this project is to conduct an evaluation of an innovative UNSW UG and JD Law course, called Lawyers, Ethics & Justice (LEJ). Central to the Law School's curriculum review, LEJ has been designed by the researcher to improve the ethical competence and wellbeing of students.

LEJ frames legal ethics as an applied, social and communicative practice and positions the students' own identities, values and styles – in short, their selves - as central to this practice. Traditional ethics courses are based on the professions' codes of conduct (which are external, mechanistic and sanctions-based), with questions of the wider social purposes of lawyers bolted on and with little connection to the individual's own self. Legal ethics education does not tend to treat students as future professionals who will work with other people and organisations, and in varying roles and contexts, including when deliberating about and deciding ethics issues.

The course has been conceived to give students the opportunities to develop self-knowledge, values and skills to engage in healthy, ethical practice, driven by autonomy, relatedness and competence. It does this through a combination of academic, interpersonal and self-management components. Its primary strategies are: a fuller engagement with individuals as moral and social beings with certain intrinsic and extrinsic motivations (for studying law and entering the legal profession), opportunities to articulate, discuss and act on one's values, clinical legal experience and reflection, opportunities for positive experiences of group work and to practise peer mentoring, and real chances to set learning goals in accordance with one's values and skills. One of its distinct interventions is an adaptation of the Giving Voice to Values program, which is an approach to teaching (business) ethics

that emphasises the deliberative, interpersonal aspect of enacting our values at work/ in life (see appendix 1).

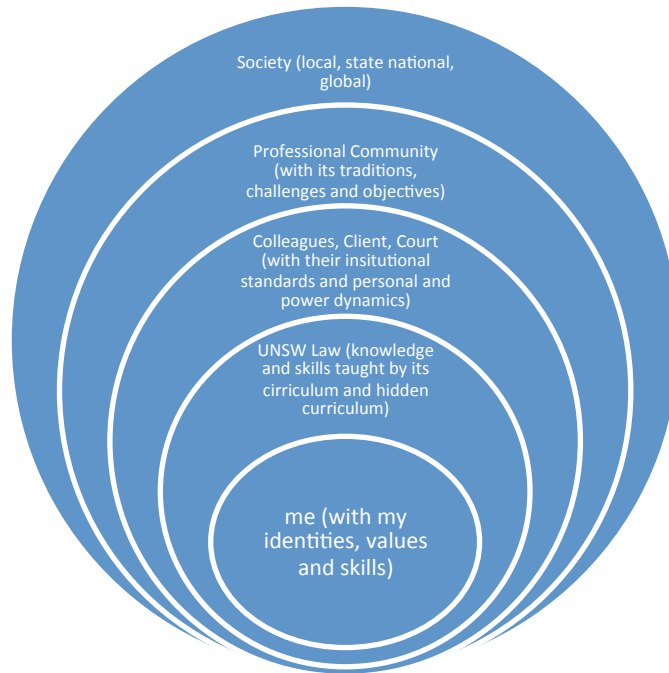


Figure 1: the rationale and structure of Lawyers, Ethics & Justice

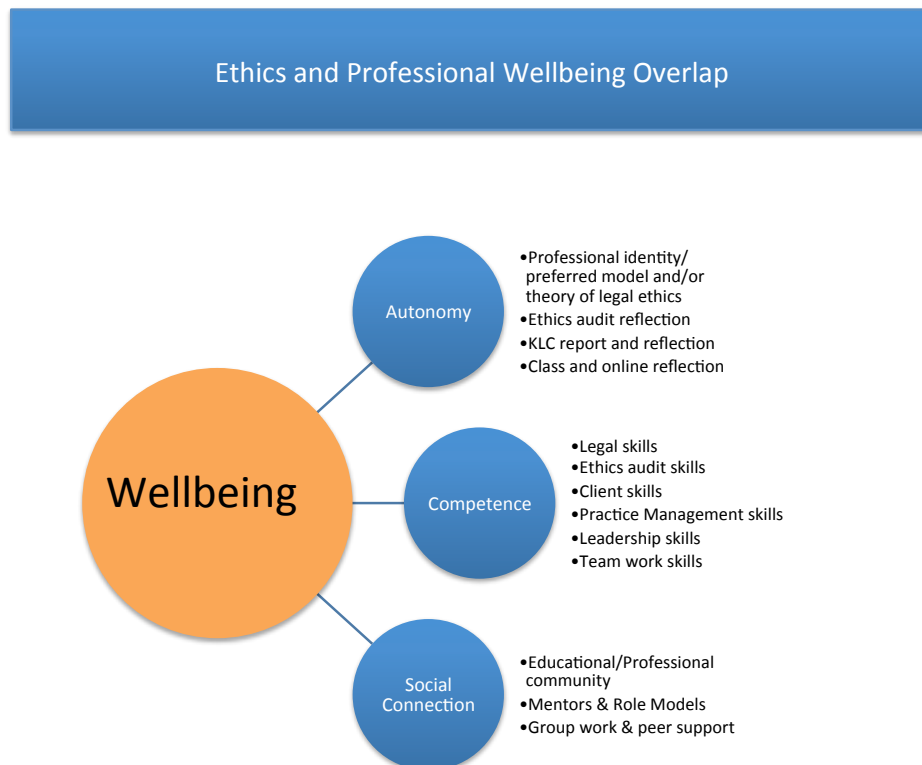


Figure 2: The connection between wellbeing and the LEJ course

The purpose of the evaluation is to assess the impacts of LEJ as an instrument for law student wellbeing and success: After LEJ, whether, to what extent, and how are students better equipped to handle being a student at UNSW Law and a prospective professional? Do they feel better about these?

### **Rationale for the Project**

UNSW Law students are a priority group for such a project. UNSW's longitudinal study of psychological health among its students has repeatedly singled out law students as the most stressed, anxious and depressed. Research at other universities also shows that law students exhibit high to very high levels of distress.

Scholars have long been concerned about the effects of 'thinking like a lawyer' on students wellbeing, identifying as problematic its emphasis on technical skills, the separation of law from morality, and reason and certainty over emotion and flexibility. UNSW Law scholars have themselves pointed to low autonomy, high competitiveness, low interest in teamwork and thus few opportunities for social connection, and a grades- and employer-focus (Tani & Vines 2009).

Meanwhile, law firms are calling for graduates to be better equipped to deal with the increasing moral uncertainties of practice. Law graduates need to be prepared for values-driven leadership, to be able to adapt to change and to make decisions in new, increasingly transnational contexts, where recourse to the professional codes is neither possible nor sufficient.

### **Initial Findings (n=65):**

#### **Some Positive Signs**

- **85% said they learnt new concepts, skills and strategies applicable to their career**
- **70% liked working in a team in LEJ (c.f. Tani & Vines 2009 – law students tend to have an extreme dislike for group work)**
- **70% said LEJ gave them valuable skills for ethical reflection and decision making**
- **90% the clinical experience was meaningful to me**
- **57% said that they were (and will be) better able to recognize and handle ethics conflict in a workplace, professional or other social situation**

- “I found the course extremely interesting, and to my surprise - - it was actually extremely practical (a lot of what we learnt, and the skills developed directly crossed over to my work as a paralegal - interviewing in KLC, negotiating in the ADR class, and actually something as seemingly simple as recognising ethical issues). It was the first class that made me feel 'lawyerly' and actually made me reflect on the kind of lawyer I want to be, which was very refreshing given my previous classes.”
- “Introducing self-reflection into a course encourages better synthesis of ideas and concepts. I feel we learn best when we do so with reference to our personal experiences and values. The other great thing was reflecting on the kind of lawyer I want to be, and strengthening my sense of my own values – which is important to do if I want to act and make decisions that are in line with those things.”
- “The other day I was crying at work (legal job) because of an ethics issue. I felt I couldn’t do anything and then I remembered I had all my LEJ skills!”
- “I went into the class believing that lawyers were corrupt and that this was an inherent part of the industry. The class demystified this stereotype for me and now I feel more empowered to act on my core values when ethical dilemmas arise in practice.”

#### Barriers and Areas for Development

- Still dominant sense among law students that lawyer professionalism and ethics irrelevant, source of derision, or only used instrumentally to further lawyer or client self-interest
- 40% said can really only learn ethical skills in practice/on the job
- 75% said they were still not sure they would do anything about an ethics issue in practice. “Still do not have the courage or confidence.” “It’s extremely frightening to think of how to speak up at a law firm.” “I won’t remember [what I have learnt] in the heat of the moment.”
- Students have been shown to be more cynical about the profession than lawyers themselves are (Asimow et al. 2005)
- Also cynical about my motivations as a legal ethics teacher: “Despite claiming to be concerned with our own ethics, Justine seems mainly concerned with convincing us of her

own convictions.” “This course gets dangerously close to telling us to preach ethics to a secular world.”

- **Waiting for cues from the profession as to whether learning skills to enhance their ethical competency and wellbeing are worthwhile. In many questions, students held off from answering (wrote neutral or explained that did not answer)– because they’re not yet sure of the value of what they have learnt. It is relative to its use – and legitimacy – in practice. They want evidence from law firms that being ethical is in their interests (“not just from academics whose articles sound like a bunch of fancy technical argle bargle”).**
- **These issues need addressing for the s1 2015 survey (and the course generally) since they can represent threats to measurements of the nature and efficacy of the course – which is far longer-term.**

**Other problem areas to be addressed:**

- **The challenges of ethics approval for surveys that include wellbeing/mental health instruments (not allowed for pilot)**
- **The survey length and focus (shorter and tighter)**
- **The time to run the test (taken on last day of semester)**

**Interim Review of Intended Outcomes:**

1. Establish what works to improve student wellbeing and what needs revision, and to share some of these findings with the students as part of the wellbeing process.

*The process of reflecting on the initial findings has revealed the need to update both the course content and the survey.*

2. Share the course innovations with other staff at UNSW Law and UNSW, through the OLT website, the legal education blog I co-run at UNSW Law and other online channels.

*I have given talks on the new course at a UNSW Law Curriculum Review event and to the UNSW Law Advisory Council.*

3. Contribute to the legal education, legal ethics education and ethics education communities by sharing any positive outcomes through their professional networks, blogs, conferences, and journal articles.

*I delivered workshops on the basis of the LEJ course innovations and the OLT findings to Monash Law School and members of the Melbourne profession in September 2014. I have been asked to teach on the UNSW Law's Continuing Professional Development program for legal practitioners, using my course and the research findings. I am currently writing an academic paper for Legal Education Review on how to incorporate Giving Voice to Values into a law program.*

4. Promote UNSW Law's curriculum review by writing on the impact of this new course as opinion pieces.

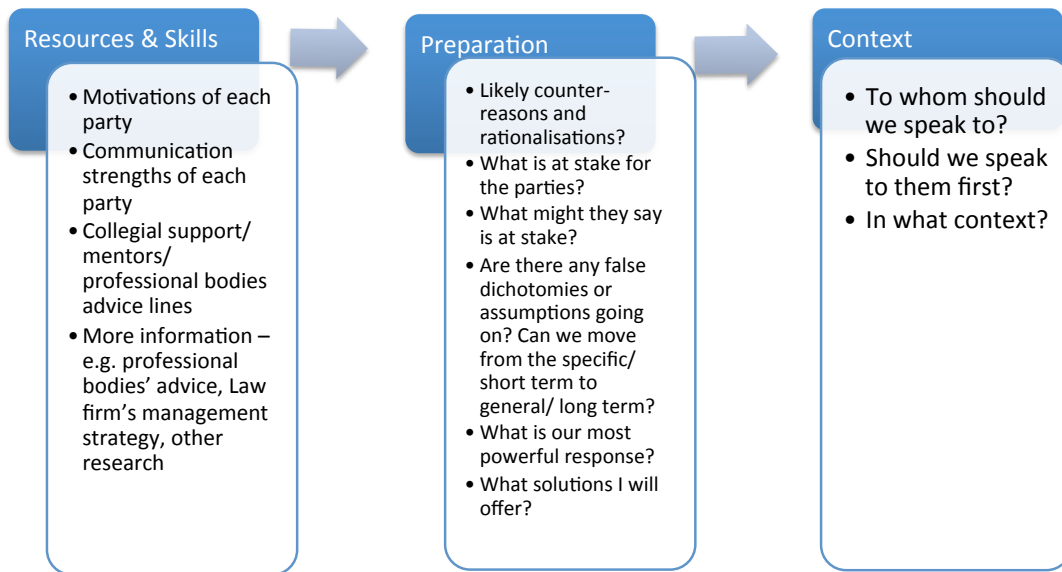
*Once the Legal Education Review piece is finished, I intend to break this into smaller opinion pieces, including for the Law Society Journal.*

## Appendices

### Appendix 1: Example of Giving Voice to Values approach

Implementation:  
ACTING ON YOUR VALUES

Having worked out what is required and what the best solution would be (legal and supportive of values and interests), it is now time to put it into practice. Sometimes this will involve a substantial degree of planning & skill.



## **Appendix 2: Lawyers, Ethics & Justice End of Course Survey (LEJ)**

### **Experiences of LEJ**

The following section asks you to reflect on your **experiences** of the Lawyers, Ethics & Justice (LEJ) course. Remember, all of the questions ask about your attitudes, opinions and feelings. There is no right or wrong answer (really!).

**[5-point scale: Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree]**

1. I liked working in a team in LEJ
2. You can really only learn ethical skills in practice/on the job
3. The LEJ course was individualistic and competitive
4. I learnt new concepts, strategies and skills applicable to my career through LEJ
5. You cannot teach ethics; you are either an ethical person or you're not
6. LEJ allowed me to better understand and know how to act on my core values
7. I developed interpersonal skills through LEJ
8. Ethics, in the context of law, is about following the professional codes
9. LEJ gave me options and choices when it came to succeeding in the course
10. I enjoyed LEJ
11. LEJ involved class activities that will help me succeed my professional life
12. LEJ provided me with valuable concepts and strategies for ethical reflection and decision-making
13. The practical clinical experience at the KLC was meaningful to me
14. My experiences of LEJ and the concepts I learnt added to my sense of wellbeing
15. Working in a team enabled me to related to and support my peers

**What was the best thing about the LEJ course?**

**What could be done differently to enhance the effectiveness and/or relevance of the LEJ course?**

**Any other comments on your experiences of the LEJ course:**

### **Being a Lawyer**

For each statement, please select the response that best represents your own opinion about the work of lawyers.

Note there are **two standards** for each statement: 1) What I thought at the beginning of the course (**BEFORE**); and 2) What I believe now, having done LEJ (**AFTER**). These are in two columns.



**[5-point scale: Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree with two columns: first for 'what I thought at beginning of the course': shortened to "BEFORE" and second for 'what I believe now, having done LEJ': shortened to "AFTER"]**

1. Lawyers really don't need to concern themselves with the ethical values and dilemmas of those they represent
2. The most important role of a lawyer is to do what the client asks you to do
3. Law firms seek and value ethical skills and knowledge among their staff
4. The most important role of a lawyer is to bring about just social change
5. The practice of law is merely a means of making a living, like any other job
6. The social and ethical reputation of the organisation will be important to me in making my decision about where to work
7. The morality of clients or their purposes should not be considered when choosing whether and how to represent them
8. Lawyers tend to be ethical
9. Once lawyers have met their formal duties to clients and the court, there are no other ethical issues they need to consider
10. Being ethical is not as straightforward as it was in the past, due to globalization and other social and technological changes
11. A lawyer's main loyalty resides with their firm or chambers, as distinct from the wider profession and legal system
12. Only senior lawyers, or those in positions of power, can be ethical

### **Ethics, Values & Conflicts**

In this section, it is important that you are honest and realistic about your views and inclinations – how you tend to see these things and how you tend to behave, not what you would like to think or do! Remember, your answers are anonymous and therefore will not be traceable to you by the researcher.

1. For this first part, please select the response that best represents your own belief or opinion about each statement.

Note there are **two standards** for each statement: 1) What I thought at the beginning of the course (**BEFORE**); and 2) What I believe now, having done LEJ (**AFTER**). These are in two columns.

**[5-point scale: Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree with two columns: first for 'what I thought at beginning of the course': BEFORE and second for 'what I believe now, having done LEJ': AFTER]**

- a. At the end of the day, people are either ethical or not
- b. Unethical things tend to be things that were done deliberately or consciously
- c. The costs of voicing your values at work are usually just too high to do so
- d. Individuals are simply not able to be ethical or influence their workplace organisations or colleagues to be ethical
- e. The human mind has all sorts of ways of allowing for unethical behaviour

- f. Most unethical things are done subconsciously
- g. Even well-intentioned people can do bad things when faced with certain outside pressures
- h. There is no explanation for unethical behaviour, people just are unethical sometimes
- i. If an individual is working within a morally weak or corrupt system, they do not have any responsibility to act ethically
- j. There are certain strategies we can learn for fostering ethical behavior, in yourself and others
- k. It is possible to have a professional life of integrity where you live your values
- l. Ethical people are likely to also be people who are not stressed and overwhelmed
- m. The costs of not voicing our values at work are usually just too high not to do so
- n. People who are not stressed and overwhelmed are likely to also be ethical people
- o. My views on these issues have changed because of LEJ

2. Again, there are no right or wrong answers, just honest and fairly realistic ones! If you find that your core values conflict with those of the organisation in which you work (say in a choice of client), or a colleague within your workplace is doing something unethical (say padding a bill or constantly belittling you or another person), how likely is it that you will:

**[Click as many items to show your likely approach]**

- a. Not mind too much
- b. Experience it as stressful but decide to do something about it
- c. Feel confident about doing something about it
- d. Prepare for a heated argument if required
- e. Know that whatever happens, your good character will carry you through
- f. Try to get others to support you or test out your concerns with someone before addressing them
- g. Use the firm's/organisation's formal procedures for dealing with ethics or HR issues
- h. Rely on the ethics audit taught in LEJ to more full identify, analyse and handle the ethics issue
- i. Avoid discussing or addressing it for as long as possible and maybe even think about leaving
- j. Try to understand your own and other people's values, interests, motivations and likely rationalisations before deciding what to do
- k. Come up with a range of possible solutions and assess the practicalities of implementing them before acting
- l. Experience it as stress and decide to do nothing about it

**My likely behaviour in handling values/ethics conflicts has changed as a result of LEJ**

**[5-point scale: Strongly disagree, Disagree, Neither agree nor disagree, Agree, Strongly agree]**

**Please comment on how your likely behaviour in handling ethics issues has changed as a result of your experiences of LEJ. What activity, concept or material do you think most contributed to this change?**

**Are there concepts or skills that you think you'd still need in order to handle an ethics dispute in practice?**

**What do you think you'd need from the organization itself?**

### **Final Evaluation**

Relate the following to yourself. **Having done LEJ:**

**[5-point scale: Not likely at all, Somewhat likely, Very likely, with mid-points in between]**

1. I am (and will be) better able to recognize and handle ethics conflict in a workplace, professional or other social situation
2. I am (and will be) better able to voice my core values to others, more often and more effectively
3. I am better at knowing how I come across in a group setting and how to relate well within a group
4. I feel better about my law studies
5. I feel better about a future career in law
6. I feel better about my future working life, whether in law or another field

**What LEJ concepts, materials or activities especially helped you?**

**Going back to the idea that wellbeing is cultivated by authenticity or autonomy, competence and connection to others, what, if anything, about LEJ added to your wellbeing?**