Legal Education Review

Volume 20 | Issue 1 Article 4

1-1-2010

Enhancing Law Student Learning - The Nurturing Teacher

Nikki Bromberger
University of Western Sydney

ENHANCING LAW STUDENT LEARNING — THE NURTURING TEACHER

Nikki Bromberger*

This article considers whether the techniques and philosophy of a 'nurturing' teacher can be justified in the law school context. In doing this, the article explores two interrelated issues. The first is the effect of students' emotions on their ability to learn effectively. The second is the role of the teacher in being aware of and harnessing these emotions in order to create the optimal classroom environment for effective learning. The article examines some of the techniques of the nurturing teacher, and argues that these techniques and philosophies effectively take account of the emotional aspect of student learning, and are therefore essential to law school teaching.

I Introduction

The expression 'nurturing' teaching is a term adopted by the Teaching Perspectives Inventory ('TPI').[1] The TPI identifies various different teaching styles, philosophies and practices. These come under the headings of 'transmission', 'developmental', 'apprenticeship', 'nurturance' and 'social reform'.[2]

Each of these teaching perspectives has the potential for producing either 'good teaching' or 'bad teaching', and each perspective has its

* Nikki Bromberger is a Lecturer at the School of Law of the University of Western Sydney.

1 Daniel D Pratt and John B Collins, *Teaching Perspectives Inventory* (2001) Teaching Perspectives <http://teachingperspectives.com/html/tpi_frames.htm>.

2 Daniel D Pratt and John B Collins, *Summary of Five Perspectives on 'Good Teaching'* (2008) Teaching Perspectives <http://teachingperspectives.com/PDF/summaries.pdf>. See also David Kember, 'The Reconceptualisation of the Research into University Academics' Conceptions of Teaching' (1997) 7(3) *Learning and Instruction* 255. These teaching styles are different to teaching approaches which tend to focus on the dichotomy between the 'conceptual change student focused' approach and the 'transmission teacher focused' approach: see, eg, Michael Prosser and Keith Trigwell, 'Confirmatory Factor Analysis of the Approaches to Teaching Inventory' (2006) 76 *British Journal of Educational Psychology* 405; Keith Trigwell and Michael Prosser, 'Development and Use of Approaches to Teaching Inventory' (2004) 16(4) *Educational Psychology Review* 409. Instead, teaching styles are a function of a person's underlying personality and are fairly stable over time. They encompass a person's preferred way of teaching. See Graham Hendry et al, 'Helping Students Understand Their Learning Styles: Effects of Study Self-Efficacy, Preference for Group Work and Group Climate' (2005) 25(4) *Educational Psychology* 395.

own benefits and drawbacks.[3] The tenor of the TPI is simply that one size does not fit all — that there are several different beliefs and intentions about learning which guide teachers' practices in the classroom.[4] A nurturing teacher believes that the best way to stretch the intellectual capabilities of individual students is to promote a climate of caring and trust in the classroom.[5] This requires teachers to take account of and control the emotional context of the classroom and to draw on students' emotions to better support engaged and deep learning.

This article considers the value of the nurturing teaching style in the law school context. It highlights some of the ways in which a student's emotions affect the quality of their learning both from a cognitive (quality of thinking) and a behavioural (quantity of involvement with learning tasks) perspective,[6] and concludes that teachers who adopt a nurturing philosophy and nurturing techniques are more effective teachers.

There is little research on the issue of emotions and learning in the higher educational arena and even less so in the law school context.[7] Few of the major monographs on higher education learning deal in detail with the issue.[8] Those studies that do focus on the relevance

3 Daniel D Pratt, 'Good Teaching: One Size Fits All?' (2002) 93 *New Directions for Adult and Continuing Education* 5.

4 Ibid 6.

5 Pratt and Collins, *Summary of Five Perspectives on 'Good Teaching'*, above n 2. This is similar in some regards to the 'affective pedagogy' referred to in Allan Patience, 'The Art of Loving in the Classroom: A Defence of Affective Pedagogy' (2008) 33 *Australian Journal of Teacher Education* 55.

6 Elizabeth Linnenbrink, 'The Role of Affect in Student Learning: A Multi Dimensional Approach to Considering the Interaction of Affect, Motivation, and Engagement' in Paul Schutz (ed), *Emotion in Education* (Elsevier Academic Press, 2007) 107, 113.

7 This point is made by Paul Schutz and Reinhard Pekrun, 'Introduction to Emotion in Education' in Paul Schutz (ed), *Emotion in Education* (Elsevier Academic Press, 2007) 3; John Dirkx, 'The Power of Feelings: Emotion, Imagination, and the Construction of Meaning in Adult Learning' (2001) 89 *New Directions in Adult Continuing Education* 63; Christine Ingleton, 'Gender and Learning: Does Emotion Make a Difference?' (1995) 30 *Higher Education* 323; Christine Ingleton, 'Emotion in Learning: A Neglected Dynamic' (Paper presented at HERDSA Annual International Conference, Melbourne, 12–15 July 1999).

8 See, eg, John Biggs, *Teaching for Quality Learning at University* (Open University Press, 2nd ed, 2003); Paul Ramsden, 'Improving Teaching and Learning in Higher Education: The Case for a Relational Perspective' (1987) 12 *Studies in Higher Education* 275. Although it may be considered that some imply its relevance: John Dirkx, 'Engaging Emotions in Adult Learning: A Jungian Perspective on Emotion and Transformative Learning' (2006) 109 *New Directions in Adult Continuing Education* 15, 16 outlines the initial interest in emotions in learning in the 1960s and describes how the focus on intellectual cognitive aspects took over in the latter part of the 20th century. See also Colin Beard, *Pedagogic Research Project Report — Student Achievement: The Role of Emotions in Motivation to Learn* (2005) Higher Education Academy, 61 <http://www.heacademy.ac.uk/assets/hlst/documents/projects/round_4/r4_beard_complete.pdf >. See also Gerald Hess, 'Monographs on Teaching and Learning for Legal Educators' (2000) 35 *Gonzaga Law Review* 63 for an outline of major monographs on legal education.

of emotions in education, particularly higher education, generally relate to test anxiety and motivation.[9] In the law school context, the literature concerning student emotions refers largely to the negative emotional effects that law school has on students' wellbeing.[10]

This scarcity of literature is surprising, not only because of what most teachers would recognise as the obvious emotional context of classrooms, but also because there is increasing recognition that viewing learning simply as a matter of cognition (understanding) or knowledge transmission is limited and inaccurate. Researchers have found that cognition cannot be regarded as entirely separate from emotion and that learning must be treated as a complex interaction between cognitive, conative (striving) and emotional processes.[11]

In light of the research about the effect of emotions on students' ability to learn, and in light of the apparent gap in the legal education literature on this issue, this article suggests ways that law school teachers should be teaching so as to enhance student learning.

[9] See the same comment from Bernard Weiner, 'Examining Emotional Diversity in the Classroom: An Attribution Theorist Considers the Moral Emotions' in Paul Schutz (ed), *Emotion in Education* (Elsevier Academic Press, 2007).

[10] See, eg, Kath Hall, 'Do We Really Want to Know? Recognising the Importance of Student Psychological Wellbeing in Australian Law Schools' (2009) 9 *Queensland University of Technology Law and Justice Journal* 1; Massimiliano Tani and Prue Vines, 'Law Students' Attitudes to Education: Pointers to Depression in the Legal Academy and the Profession' (2009) 19 *Legal Education Review* 3; Norm Kelk et al, *Courting the Blues: Attitudes Towards Depression in Australian Law Students and Legal Practitioners* (Brain and Mind Research Institute, 2009); G Andrew Benjamin et al, 'The Role of Legal Education in Producing Psychological Distress among Law Students and Lawyers' (1986) 2 *American Bar Foundation Research Journal* 225; Susan Strum and Lani Guinier, 'The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity' (2007) 60 *Vanderbilt Law Review* 515; Ruth McKinney, 'Depression and Anxiety in Law Students: Are We Part of the Problem and Can We Be Part of the Solution?' (2002) 8 *Journal of the Legal Writing Institute* <http://www.law2.byu.edu/law_library/jlwi/archives/2002/mck.pdf>; Kennon Sheldon and Lawrence Krieger, 'Does Legal Education have Undermining Effects on Law Students: Evaluating Changes in Motivation, Values and Wellbeing' (2004) 22 *Behavioural Sciences and the Law* 261; Kennon Sheldon and Lawrence 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; Matthew Dammeyer and Narina Nunez, 'Anxiety and Depression among Law Students: Current Knowledge and Future Directions' (1999) 23(1) *Law and Human Behaviour* 55; Phyllis Beck and David Burns, 'Anxiety and Depression in Law Students: Cognitive Intervention' (1979) 30 *Journal of Legal Education* 270; James Taylor, 'Law School Stress and the "Deformation Professionelle"' (1975) 27 *Journal of Legal Education* 251; Ann Iijima, 'Lessons Learned: Legal Education and Law Student Dysfunction' (1998) 48 *Journal of Legal Education* 524.

[11] Peter Op 't Eynde, Erik De Corte and Lieven Verschaffel, 'Students' Emotions: A Key Component of Self Regulated Learning?' in Paul Schutz (ed), *Emotion in Education* (Elsevier Academic Press, 2007) 185, 188; Colin Beard, Sue Clegg and Karen Smith, 'Acknowledging the Affective in Higher Education' (2007) 33(2) *British Educational Research Journal* 235; Beard, above n 8.

II The Effect of Emotions on Learning

A *Physiological Factors that Affect Learning*

Studies that have examined the physiological aspects of learning indicate that a person learns most effectively when the brain is in a moderate state of arousal.[12] This is because learning is a process of change — it occurs as a result of cognitive structuring and restructuring.[13] The brain's ability to adapt to this change (neural plasticity) is created by enhancing neural connections in the brain and by increasing production of neural transmitters and neural growth hormones.[14] That is, effective learning and enhanced memory function occur when a person's brain has the ability to modify and adapt to new circumstances.[15] This is best achieved when a person is experiencing a moderate level of arousal — whether positive (mild excitement) or negative (low level anxiety or pressure).

However, a person's cognitive ability to learn is reduced if the arousal becomes too extreme. For example, the uncomfortable and unwanted feeling that is known as stress is a result of physiological changes in a person's body — increased levels of adrenaline, increased heart rate and blood pressure and tensing muscles.[16] When people experience stress, their cognitive abilities are reduced because they experience an overwhelming need to control or overcome these symptoms. The stressed individual therefore focuses energy (consciously or otherwise) towards the coping strategies required to reduce the unwanted feelings, leaving them with fewer cognitive resources to focus energies on other aims or interests. If the stressed individual is a student, focusing energy on overcoming the symptoms of stress limits the student's ability to direct personal resources to learning and memory function. The student becomes engaged in coping mechanisms rather than in the particular educational task at hand.[17] As a result, the quality of the student's engagement and learning decreases.[18]

12 Louis Cozolino and Susan Sprokay, 'Neuroscience and Adult Learning' (2006) 110 *New Directions in Adult Continuing Education* 11, 13; Barbara Glesner, 'Fear and Loathing in the Law Schools' (1991) 23 *Connecticut Law Review* 627, 635.

13 Pat Wolfe, 'The Role of Meaning and Emotion in Learning' (2006) 110 *New Directions in Adult Continuing Education* 35, 36.

14 Cozolino and Sprokay, above n 12, 14.

15 Wolfe, above n 13, 39; Linnenbrink, above n 6, 115, 118–19.

16 Wolfe, above n 13, 39.

17 Op 't Eynde, De Corte, and Verschaffel, above n 11, 198; Monique Boekaerts, 'Understanding Students' Affective Processes in the Classroom' in Paul Schutz (ed), *Emotion in Education* (Elsevier Academic Press, 2007) 37, 42; Wolfe, above n 13, 39.

18 See Biggs, above n 8. Such students often find themselves engaging in an inferior learning process referred to as a surface approach to learning rather than the more substantial and preferential learning known as a deep approach to learning. Ramsden, above n 8, 63.

B *Behavioural Factors that Affect Learning*

Teachers also need to consider the emotional environment within the classroom, because emotions can also have an impact on students' ability to learn for behavioural reasons. For example, studies have suggested that students who experience negative feelings in relation to their education (such as lack of confidence, despondency or anxiety) have lower learning goals than those who experience positive feelings about their education (such as confidence, interest or anticipation).[19] As their goals are lower, their performance also tends to be inferior.

Further, research indicates that those experiencing negative emotions in relation to their studies tend to be less inclined to pursue, engage in and ultimately persist with learning tasks than those who experience positive emotions in relation to their studies.[20] This discrepancy in attitude and ultimately performance is often due to what educational theorists refer to as the phenomenon of self-efficacy.[21] Self-efficacy refers to a person's belief in their own ability to achieve a desired result. It is different from self-esteem, which relates to a person's belief in themself generally. Self-efficacy is associated with a particular task, such as writing an essay, sitting an exam, or understanding administrative law. It is quite possible to have high self-esteem and low self-efficacy in relation to a certain task.

Those with low self-efficacy tend to avoid or not to engage well with a particular task. They focus on avoiding unwanted outcomes associated with the activity rather than on the beneficial results of the new challenge. They generally exert less effort in the task and, as a result, perform below their maximum potential. For example, a student who believes that she is no good at administrative law may be disinclined to study for the mid-semester exam, resulting in poor performance in that exam, thereby confirming her original belief that she is no good at the subject. For students with high self-efficacy, the results are reversed. They are more likely to engage at a high level and persevere with the task, perform well, and reach their

[19] Debra Meyer and Julianne Turner, 'Discovering Emotion in Classroom Motivation Research' (2002) 37(2) *Educational Psychologist* 107, 110.

[20] Op 't Eynde, De Corte, and Verschaffel, above n 11, 198; Boekaerts, above n 17, 37, 42; Wolfe, above n 13, 39; Mary Ainley, 'Being and Feeling Interested: Transient State, Mood, and Disposition' in Paul Schutz (ed), *Emotion in Education* (Elsevier Academic Press, 2007) 148, 151; Julianne Turner, Pamela Thorpe and Debra Meyer, 'Students' Reports of Motivation and Negative Affect: A Theoretical and Empirical Analysis' (1998) 90 *Journal of Educational Psychology* 758; Meyer and Turner, above n 19, 110.

[21] Albert Bandura, 'Self-Efficacy Mechanism in Human Agency' (1982) 37(2) *American Psychologist* 122; Linnenbrink, above n 6, 111; McKinney, above n 10.

academic potential.[22] Self-efficacy therefore acts as a self-fulfilling prophecy.[23] Thus negative emotions, at least in relation to particular tasks, adversely impact on student learning outcomes and success.[24]

Students with low self-efficacy are a matter of concern for universities, not only because they fall short of their academic potential, but also because they have the propensity to become despondent, depressed or anxious at their perceived inability to reach a desired goal. They are therefore faced with a choice, as they perceive it, to continue to feel dissatisfied or fearful about their inability to attain their goal, or to stop caring about the goal altogether.[25] A common response by such students is to disengage from the goal. Students with low self-efficacy are therefore prone to risk-avoidance.[26] This often leads to lack of engagement with the class and learning activities and also results in absenteeism and, ultimately, failure.[27] For example, the student who believes that she cannot comprehend administrative law decides she does not care about it anyway so will not attend class or study for the assessment tasks. She is therefore likely to perform poorly in the subject. If this negative experience occurs early in her studies, it can cause the student to feel that she is unable to understand and perform well in other law subjects, leading to the student feeling negative towards and disengaging from a broader category of task. The next step is the decision that she cannot do it, and this may lead to the realisation that she does not care about the study of law more generally and the decision to discontinue her degree.

Reducing student stress, excessive anxiety, boredom and other strong negative emotions therefore not only enhances student wellbeing for its own sake but it enhances student engagement in the learning process, resulting in more effective learning and potentially higher rates of student retention.[28] In short, mild pleasant emotions

22 Bandura, above n 21; Linnenbrink, above n 6, 111; McKinney, above n 10; Paul Pintrich, Ronald Marx and Robert Boyle, 'Beyond Cold Conceptual Change: The Role of Motivational Beliefs and Classroom Contextual Factors in the Process of Conceptual Change' (1993) 63(2) *Review of Educational Research* 167.

23 McKinney, above n 10, 18; Gerald Hess, 'Heads and Hearts: The Teaching and Learning Environment in Law School' (2002) 52(1) *Journal of Legal Education* 75, 99.

24 This conclusion that negative emotions adversely affect behavioural performance has been reached independent of self-efficacy theories. See, eg, Linnenbrink, above n 6, 115.

25 McKinney, above n 10, 7.

26 Meyer and Turner, above n 19, 108; Linnenbrink, above n 6, 111.

27 Brad Shuk, Carlos Albornoz and Marina Winberg, 'Emotions and Their Effect on Adult Learning: A Constructivist Perspective' in Sarah Nielsen and Maria Plakhotnik (eds), *Proceedings of the Sixth Annual College of Education Research Conference*: *Urban and International Education Section* (2007) 108, 110 <http://coeweb.fiu.edu/Research_Conference/2007_SUIE_Proceedings_files/Shuck,Albomoz,Winberg.FINAL.pdf>.

28 Op 't Eynde, De Corte and Verschaffel, above n 11, 202; Linnenbrink, above n 6, 122.

are more beneficial to students and universities than strong negative ones.

III The Nurturing Teacher

Part II described how emotions can affect student learning. In light of this fact, this part considers how the university teacher can take account of this knowledge so as to better support engaged and deep learning of law. Research has shown that regular interaction with classroom teachers outside of class time is an important factor in assisting students to feel secure and confident in their studies.[29] However, given the workload of academics around the world, the ability of any one teacher to give adequate time to students' needs out of class is limited.[30] Therefore, this paper focuses on the ways in which a teacher can create the best environment in the classroom for student learning. The main task for teachers is to find a point at which a student's emotional state is intensified to the appropriate level to assist learning but not to the extent that it adversely affects this process. Researchers believe that this is best achieved by challenging and stimulating students academically but in the context of a safe environment.[31] This is, in essence, the philosophy and practice of the nurturing teacher.

University student feedback supports this view.[32] A recent Irish study asked past university students to identify the characteristics of good university teachers.[33] The study was not aimed at examining the emotional component of teaching; however, the researchers found that most of the answers referred to emotional aspects of the teacher's conduct and how that conduct affected the student. Students indicated that they felt they learned best when the teacher created an environment of safety, enthusiasm, enjoyment and interest.[34] The most commonly identified characteristic of a good lecturer was interest — both the teacher's interest and the teacher's ability to invoke interest in the learners.[35] Other identified characteristics of good teachers included their passion, animation and inspiration, their

[29] Hess, above n 23, 84; Iijima, above n 10, 533; Caroline Morris, *The Law Student Experience: The Results of Some Empirical Research* (2005) HERDSA <http://conference.herdsa.org.au/2005/pdf/non_refereed/171.pdf>.

[30] Paula Baron, 'Thriving in the Legal Academy' (2007) 17 *Legal Education Review* 27; Sally Kift, 'My Law School — Then and Now' (2006) 9 *Newcastle Law Review* 1, 8.

[31] Wolfe, above n 13, 39; Cozolino and Sprokay, above n 12, 13–14.

[32] Sarah Moore and Nyiel Kuol, 'Matters of the Heart: Exploring the Emotional Dimensions of Educational Experience in Recollected Accounts of Excellent Teaching' (2007) 12(2) *International Journal of Academic Development* 87.

[33] Ibid.

[34] Ibid.

[35] Similar studies have found that teacher enthusiasm is the most important component of effective teaching: see Hess, above n 23, 104.

enthusiasm, sense of humour and general ability to make classes enjoyable, and their commitment, dedication and compassion.[36]

These findings complement other studies which have suggested that the emotional environment established by the teacher is crucial because attitudes and emotions are generally infectious. If a teacher displays positive emotions — enjoyment and interest, for example — students tend to experience reciprocal feelings.[37] In other words, enthusiasm breeds enthusiasm.[38] This is one of the reasons why creating the right classroom emotional environment is so closely tied to effective student learning.

Studies at the primary and secondary school level have also highlighted the importance of considering the emotional content of the classroom and for adopting some nurturing elements to teaching philosophy and practice. For example, it has been found that the students of teachers who incorporate emotional aspects into their teaching by being supportive of students and making them feel appreciated, acknowledged and respected (that is, nurturing teachers) have more positive learning outcomes than students whose teachers use only cognitive teaching methods.[39] When teachers display emotional elements in their teaching, students are less inclined to 'misbehave' and are better able to formulate and express their thoughts than those where the teacher fails to use such emotional techniques.[40]

The suggestion that law teachers acknowledge students' emotions may perhaps be an unpopular one as it may be interpreted as suggesting that educational standards should be reduced. However, the philosophy of a nurturing teacher does not affect educational standards — it merely supports the notion that standards may be more easily reached given an appropriate learning environment. In particular, there is no evidence to suggest that teachers who instil fear, anxiety or boredom in their students make them better lawyers. Yet there is evidence, as detailed above, to suggest that teaching styles that have these effects on students are detrimental to their ability to learn effectively. This suggests that adopting the philosophy and incorporating some of the practices of a nurturing teacher into a law classroom will have beneficial educational consequences for law students.

[36] Moore and Kuol, above n 32, 93.
[37] Hess, above n 23, 104.
[38] Andrew Metcalf and Ann Game, *Teachers Who Change Lives* (Melbourne University Press, 2006) 163.
[39] Zipora Shechtman and Judy Leichtentritt, 'Affective Teaching: A Method to Enhance Classroom Management' (2004) 27(3) *European Journal of Teacher Education* 323.
[40] Ibid 324–5. See also Meyer and Turner, above n 19, 111.

IV The Nurturing Teacher's Techniques

A *General Techniques*

The law school classroom can be an intimidating and anxiety-provoking environment.[41] In order to create the trusting, supportive environment essential for meaningful learning, nurturing teachers use various techniques, both consciously and subconsciously. These techniques have been collectively termed 'teacher immediacy'. This refers to the verbal and non-verbal clues which foster a closer relationship between teacher and student.[42] Teachers' voices, movements and overall energy are vital in maintaining interest. Non-verbal information, such as maintaining eye contact, smiling, facial expressions and arm gestures are particularly important. In fact, it has been found that these behavioural subtleties, throughout a term of study, contribute more to the classroom atmosphere than significant structural changes at the beginning of a term. Learning students' names, arriving at class early so as to engage in some informal time with students, and the manner of classroom leadership and control are simple methods of creating an optimal learning environment for students without in any way compromising the content and rigour of the class.[43] That is, 'the teacher's attitude, enthusiasm and passion are main ingredients of an effective teaching and learning environment'.[44]

These techniques may be particularly important if the teacher adopts any form of the Socratic teaching method,[45] which revolves around the teacher directing questions to particular class members on the expectation that they will provide a competent, thoughtful and eloquent response.[46] This teaching method can be stressful

41 See Hall, above n 10; Tani and Vines, above n 10.

42 Hess, above n 23, 101.

43 Joseph Lowman, *Mastering the Techniques of Teaching* (Jossey-Bass, 2nd ed, 1996) 66, 71–2; Hess, above n 23, 93; Kerri-Lee Krause et al, *The First Year Experience in Australian Universities: Findings From a Decade of National Studies* (Centre for the Study of Higher Education, 2005) 37.

44 Hess, above n 23, 104; Richard Johnstone and Sumitra Vignaendra, *Learning Outcomes and Curriculum Development in Law* (Australian Universities Teaching Committee, 2003) 277–81. In light of the important role that a teacher in the classroom plays in creating the best environment for students to learn, it may be regarded that online teaching will have particular challenges in replicating or filling the gap left by these essential personal teaching cues.

45 Bonita London, Geraldine Downey and Shauna Mace, 'Psychological Theories of Educational Engagement: A Multi-Method Approach to Studying Individual Engagement and Institutional Change' (2007) 60 *Vanderbilt Law Review* 455, 459; Lani Guinier, Michelle Fine and Jane Balin, *Becoming Gentlemen: Women, Law School and Institutional Change* (Beacon Press, 1997) 49–51.

46 In its original form the teacher did not indicate whether the answer was correct or incorrect but merely asked a subsequent question. James Gordon III, 'How Not to Succeed in Law School' (1991) 100 *Yale Law Journal* 1679, 1685; David Garner, 'Socratic Misogyny? — Analyzing Feminist Criticisms of Socratic Teaching in Legal Education' [2000] *Brigham Young University Law Review* 1597, 1599–1609.

for students, as it creates pressure to look intelligent in front of classmates and gives rise to fear of humiliation when students are unable to respond to the lecturer's questions.[47] For many students, a traditional Socratic classroom becomes a forum for students to judge one another, rather than one focused on learning.[48] As one student stated,

> the Socratic method would be a great way to learn if it was done in a more intimate, supportive setting. If I wasn't so worried about losing face, I think I'd be able to focus on grappling with the actual issues and concepts.[49]

As noted above, for some students, the way to respond to this pressure and the disappointment of believing they do not measure up to their peers is to disengage from the learning process altogether.[50]

It may be that, if a teacher chooses to adopt the Socratic teaching method, the learning outcomes of this method will be improved if the questions students are asked are smaller or more manageable than has traditionally been the case. This decreases the likelihood of students being overly confused and ultimately disenchanted by the learning process. Although this process is slower than the traditional Socratic style of questioning, it does not reduce the depth of the discussion, and it does not lend itself to the criticism that being 'nice' necessarily means being educationally weak.

In addition, teachers may reduce the anxiety felt by students by using the general techniques described above to control the classroom environment. Simple methods such as smiling, being encouraging and acknowledging the difficulty of the process may help to give students the confidence to engage with this valuable teaching method. The benefit of this approach is that there is no need to alter the content delivered to the students, merely the environment in which the content is provided.

B *First-Year Students*

The need to create the best environment for effective learning is particularly stark when considering the particular needs of first-year

47 London, Downey and Mace, above n 45, 455, 476; Wolfe, above n 13, 40.
48 Ibid 476.
49 Ibid 477.
50 Studies in the United States have found that minority students, who feel high rates of alienation and discomfort in law schools, and who feel that their peers believe their intellectual abilities to be inferior, tend to contribute less frequently to classroom discussion and generally report lower levels of perceived competence and satisfaction with their performance. See, eg, London, Downey and Mace, above n 45, 480; Hess, above n 23, 77.

students.[51] First-year law students face increased anxieties because they are required to develop a complete new skill set — this has implications for a teacher's role in enhancing self-efficacy.[52] Self-efficacy is acquired in three ways — through personal and vicarious experiences; through feedback from one's social environment; and through one's personal psychological reaction to events.[53] Teachers cannot be expected to influence students' personal reactions to events or a student's social environment, but they can contribute to students' experiences of learning tasks. In particular, positive but realistic feedback relating to a student's underlying ability is important when a student embarks on a new skill.[54] For first-year law students, particularly those who have not previously studied at the tertiary level, almost every learning task they undertake involves a new skill. Their first higher educational experience is therefore vital in determining their future attitude towards their studies.

Most first-year law students (whether they come directly from high school or have completed an undergraduate university degree) are accustomed to receiving very high marks for the assessments that they have undertaken in the past — most law students have been previously ranked in the top few per cent of their school and their State.[55] Yet, when they reach law school, the first assessment grade they receive is almost never comparable to that to which they have become accustomed. It is obviously not possible for all students to be in the top 15 per cent of the law school. Thus, the first experience at a law school learning task is almost universally disappointing to each student. This first and negative experience almost immediately creates an environment within a large section of the first-year law school cohort that produces low self-efficacy. As noted above, this can affect students' willingness to engage and excel in their learning tasks.

[51] See, eg, Karen Nelson et al, 'A Blueprint for Enhanced Transition: Taking an Holistic Approach to Managing Student Transition into a Large University' (Paper presented at First Year in Higher Education Conference, Gold Coast, Australia, 2006); Sally Kift, 'Organising First Year Engagement around Learning: Formal and Informal Curriculum Intervention' (Paper presented at the First Year in Higher Education Conference, Gold Coast, Australia, 2006); Sally Kift and Karen Nelson, 'Beyond Curriculum Reform: Embedding the Transition Experience' (Paper presented at HERDSA, Sydney, Australia, 2005); Karen Nelson, Sally Kift and John Clarke, 'Expectations and Realities for First Year Students at an Australian University' (Paper presented at the First Year in Higher Education Conference, Hobart, Australia, 2008).

[52] See, eg, Op 't Eynde, De Corte and Verschaffel, above n 11.

[53] McKinney, above n 10, 6–8.

[54] Ibid 10–12.

[55] See, eg, University Admissions Centre, *UAI Cut-Offs for Main Round Offers 2009 Admissions* (2009) <http://www.uac.edu.au/documents/uai/2009_uai_coffs_main.pdf>, indicating that for admission into law schools in Australia, a Tertiary Entrance Rank in the top 15 per cent of the students in New South Wales is generally required. See also Krause et al, above n 43, 23, which notes that 34 per cent of students surveyed regarded their average marks received in first year of university as lower than they had expected they would be.

A simple way of easing this problem without compromising academic standards is by explaining to first-year students the difference between grades received previously and those received at law school. At the very least, this will act to align students' expectations more closely with their likely outcomes and reduce disappointment, stress and anxiety, with their concomitant negative impact on future learning.[56]

Another method of reducing the feelings of disappointment, isolation and despondency which students may feel after receiving the results of their first law assessment task is to provide students with general but meaningful feedback about the way in which their peers performed in the task. Research suggests that students feel less disheartened by their grades and more likely to approach their next assignment positively if they are aware that other students made similar errors. Students have said that 'it's good to know other people have made mistakes too. You don't feel like the only one', 'it's not as daunting', and it 'makes you feel a bit better'.[57] Importantly, these emotions do not lead students to believe that they have no need to work hard in their studies, but appear to have the opposite effect. Students have reported that knowing that others had made similar errors made them feel confident about their abilities, motivated them for the next assignment and pushed them further.[58]

The way in which teachers respond to students in class can also affect self-efficacy. Teachers who provide students with immediate, constructive feedback in a supportive manner may enhance self-efficacy and therefore encourage students to continue to engage in classroom activities.[59]

When teaching first-year students, it is necessary to appreciate that not only are these students being faced with a complete new skill set, they are also expected to be mature adults and to think and learn in a way that is far more sophisticated than has ever been expected of them.[60] A method of lessening the stress and anxiety associated with

[56] For first-year expectations generally see, eg, Nelson, Kift and Clarke, above n 51.

[57] Graham Hendry, Nikki Bromberger and Susan Armstrong, 'Constructive Guidance and Feedback for Learning: The Usefulness of Exemplars, Marking Sheets and Different Types of Feedback in a First Year Law Subject' (Paper presented at First Year in Higher Education Conference, Townsville, Australia, 2009).

[58] Ibid.

[59] London, Downey and Mace, above n 45, 478.

[60] Some universities have set up first-year seminar courses which, amongst other things, are designed to give students a sense of belonging. See Dawn McKinney and Leo Denton, 'Successfully Crossing the Cultural Border between High School and College: Promoting a Sense of Belonging in a Freshman Seminar Course' (Paper presented at the 36th Frontiers in Education Conference, San Diego, CA, 2006) 18 < http://fie-conference.org/fie2006/papers/1673.pdf>; Roger Davis and Daryl Kelley, 'Academic Culture and the Classroom: A Practical Application' in Elizabeth G Peck (ed), *UNK/CTE Compendium of Teaching Recourses and Ideas* (Center for Teaching Excellence, University of Nebraska, 2004).

this change is for the teacher to both acknowledge and normalise students' negative feelings. This can be simply achieved by the teacher informing students that he or she recalls the same feelings of inadequacy. As appears to be the case with normalising the errors on a particular assignment, assuring the class that all students feel similar concerns depersonalises the stress individual students feel and therefore makes them feel less isolated and less inclined to disengage.[61]

V Conclusion

This article has highlighted the relevance of students' emotions to their ability to learn. Negative emotions such as stress and lack of confidence can reduce students' ability to learn effectively, whereas positive emotions such as interest and confidence can enhance student learning. The article has examined the classroom teacher's role in creating the optimum learning environment to foster the positive emotions necessary for effective learning. It has noted that both the information teachers provide students and the way in which this information is presented are important in creating the desired learning environment.

The positive learning outcomes associated with the practices used by nurturing teachers suggest that the outcomes of legal education would be enhanced if all law teachers adopted elements of this teaching style. Although there are several possible teaching methods and characteristics, it is here submitted that the incorporation of some elements of the nurturing teacher's approach is not merely educationally justifiable, it is imperative.

[61] London, Downey and Mace, above n 45, 477.