Teaching in Higher Education

Justice and Lecturer Professionalism

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ABSTRACT *Lecturers have significant de facto power and responsibility as arbiters of student justice. However, while the literature on ethics in higher education principally focuses on a self-regarding agenda connected with research codes and power relationships between academics, the more practical concerns of pedagogy tend to be overlooked. Moreover, while many new lecturer programmes stress competence in teaching techniques they tend to give restricted attention to many of the ethical dilemmas which confront university teachers in their daily lives. This paper addresses this imbalance by presenting a conceptual framework for debating the ethics of pedagogy based on four forms of justice. The concepts of procedural, retributive, remedial, and distributive justice are presented as a means of incorporating many of the key ethical challenges that confront lecturers new to higher education. The justice framework is also recommended as a means of encouraging practitioners to identify their own key ethical principles.*

Introduction

The evolution of a framework for accrediting UK higher education teacher training in the wake of the Dearing report (National Committee of Inquiry into Higher Education, 1997) has led to the rapid development of lecturer training programmes at most UK universities. Many of these programmes have been developed at a time of uncertainty during the hiatus between the publication of the Dearing report in 1997, and the establishment of an accreditation framework by the Institute for Learning and Teaching in Higher Education 2 years later. Programmes have also been shaped by the dominant notion of developing reflective practitioners (Schon, 1983) and the philosophy of student-centred learning with its associated teaching techniques (e.g. Ramsden, 1992; Laurillard, 1993) despite the move from elite to mass provision (Scott, 1995). Given these demands upon the curriculum there is clearly limited space for including elements that reflect the wider professional role and identity of university lecturers. Lecturer training programmes internationally appear to conform to a similar format (e.g. Keeson *et al.*, 1996) giving restricted attention to the broader social and ethical framework within which 'higher' education professionals operate. In this paper, I will present a justification for the inclusion of a discussion of pedagogic ethics within programmes of learning for new

lecturers and provide a conceptual framework, based on justice, for debating key ethical issues that are closely connected with the teaching role.

Ethics and Professionalism

Notions of professionalism encompass both mastery of an area of knowledge and skill, and service beneficial to the client (Jarvis, 1983). However, the notion of 'service' is problematic for academics wary of terms like 'customer' or 'client' (Gordon, 1997) and concerned about a deskilling process Ritzer (1998), among others, has labelled 'McDonaldisation'. Within most professions the concept of service results in an ongoing discussion about ethical issues that impact on practice. It also results in the incorporation of ethics as a key component within professional programmes of learning with an attendant intellectual debate (e.g. Fleming, 1995; Bridgstock, 1996; Brockett, 1997; Van der Vorst, 1998). Moreover, this phenomenon is not confined to the 'ideal type' professions (Eraut, 1994) of law and medicine. Cummins (1999) found that 17 UK professional business bodies, such as the Institute of Chartered Accountants, have both a code of ethics for members and include formal education in ethics in the curriculum for their professional practitioners. Thus, a concern for ethics is a defining characteristic of professional identity.

The Relevance of Justice

The literature on ethics in higher education principally focuses on issues connected with research and the power relationships of the academy (e.g. Whicker & Kronenfeld, 1994). This largely self-regarding agenda includes research misconduct (e.g. the falsification of research data, the misuse of research funds or plagiarism by academics) together with more generic organisational matters of interpersonal (e.g. sexual harassment or discrimination), and organisational abuse (e.g. equipment theft or padding expense accounts). Broader analysis of the role of the lecturer as an arbiter of student justice is noticeably absent from these 'ivory tower' studies of academic ethics (e.g. Evans *et al.*, 1998). Thus, research ethics tends to receive disproportionate attention in comparison to the responsibilities of teaching and managing groups of students.

In developing a framework for understanding the broader pedagogic role of the higher education lecturer the concept of justice supplies a means of understanding and categorising a range of key issues. First, the language of student-centred learning, with its emphasis on the lecturer as 'friend' and facilitator of student learning, tends to mask the existence of a harsher day-to-day reality. Lecturers are still vested with considerable power as a judge of student achievement and an arbitrator during classroom interaction. Using their power in a wise and just manner is a key issue that concerns all educators (Kreisberg, 1992). The adoption of new forms of student assessment, such as group and peer marking, make fresh demands on lecturers to arbitrate and act in a manner where justice is transparent and power is exercised responsibly. The credibility of a new lecturer among students may

depend on their ability to handle issues of perceived justice as much as the quality of their formal teaching.

Second, the role lecturers play in handling justice issues distinguishes them from other professional service workers. While school teachers may also be involved in the assessment process, many university lecturers, working under the auspices of their institution, design degree bearing programmes and assess student levels of achievement without recourse to a national system of examinations. Despite the gathering encroachment of national agencies in the UK, university lecturers are still vested with considerable *de facto* power and autonomy in managing the learning process, and deciding upon levels of student achievement. The life chances of university students upon graduation are affected by the degree classification they receive (Dolton & Makepeace, 1990). This places an immense onus of moral responsibility on lecturers in the exercise of power.

Finally, there is a clear pragmatic case for paying greater attention to the exercise of academic power. Evidence is growing that students increasingly conceptualise their relationship with universities as a consumer of educational services (McKee & Belson, 1990; Ritzer, 1998). From an organisational perspective, this more litigious environment (Birtwistle and Askew, 1999) ought to necessitate a focus on the tight management of the rules of natural justice. Research indicates that students perceptions of fairness are affected more by procedural issues than the grades they receive (Rodabaugh & Kravitz, 1994). It follows that a moral and practical understanding of justice lies at the heart of the pedagogic role.

Justice as an Ethical Framework

Justice may be divided into four separate, but overlapping forms: procedural, retributive, remedial and distributive (Chryssides & Kaler, 1996). In the following discussion, I seek to explore the relevance of this framework for understanding and debating ethical issues among higher education teaching professionals.

Procedural Justice

Procedural justice is concerned with how people should be treated in relation to rules that govern them. Decision-making should not be arbitrary and procedures should be consistently applied. Giving someone a fair trial, for example, involves basing the case on the evidence, allowing both sides to put their case and following 'due process' in all other respects. Employers must exercise procedural justice when dealing with disciplinary issues, for example.

Procedural justice has special resonance for university lecturers as a basis for exercising their professional role. There are a number of contexts in which this principle is fundamental. The demands of procedural justice revolve largely, but not exclusively, around the assessment function. Is the grade fair? Has the process by which it has been arrived at been just? The requirement for student work to be double marked is commonplace, but the expansion of higher education means that larger teams of lecturers are now required to cope with mass courses. This increases

the difficulty and pressure in ensuring that assignments are marked fairly and consistently according to a common assessment criteria. Lecturers also play a crucial role in influencing examination boards where due process is essential. Here, lecturers are expected to act as impartial judges of academic worthiness. Much of the discussion and concern which surrounds staff-student affairs relates to whether academics in such relationships are able to maintain independence as examiners. Procedural justice is called into question in such circumstances.

Kravitz *et al.* (1997) have shown that Leventhal's (1980) justice judgement model provides a valuable framework with which to approach procedural justice issues in higher education. Leventhal identifies six justice rules: *consistency, bias suppression, accuracy* (of information), *correctability* (of errors), *representativeness* (of parties), and *ethicality* (according to basic ethical principles). While the latter two of these rules relate more closely to academic appeals where natural justice dictates that all parties should be represented, the first four justice rules are self-evidently vital when assessing student work. As Kravitz *et al.* (1997) explain:

> Anyone who has ever assigned grades knows how important it is to treat students consistently, suppress biases, assign grades on the basis of accurate information about the students' performance, and provide a means for correcting errors. (p. 703)

The classroom is also a crucial context where the principle of procedural justice is anticipated to operate. Lecturers are implicitly expected to ensure that principles such as freedom of speech, tolerance and opportunities to participate are evenly afforded. Lecturers act as arbitrators of time and the parameters of discussion. They are under pressure to strike the appropriate balance between the rights of individuals and the interests of the majority in numerous classroom situations where, for example, discussion can become monopolised by one or two dominant individuals. However, there are limits on freedom of speech in the classroom where, for example, racist or sexist language calls for the intervention of the lecturer.

Retributive Justice

Retributive justice is essentially punishment for wrong-doing. It demands determining how to punish an offence and, in so doing, striking the appropriate balance between the extremes of severity and leniency. Consistency is a key issue which overlaps with procedural justice. Punishing plagiarism is a prime example of the power of retributive justice as exercised by lecturers and their institutions. Parry & Houghton (1996) suggest that most plagiarism is dealt with informally by lecturers without reference to departmental or central bodies of the university. Although there appears to be a scarcity of published material concerning plagiarism it is an issue most academic staff will meet sooner or later. Research evidence indicates that there is considerable variation in the way universities deal with plagiarism (Parry & Houghton, 1996). However, institutions are finding that opportunities for plagiarism among university students are on the increase (Walker, 1998). Universities have found that the shift from traditional examinations to a greater emphasis on

course work assessment has made plagiarism into a bigger practical problem (Parry & Houghton, 1996). Other important factors include student access to internet sites with essays available on-line to download (O'Sullivan, 1999) and an emphasis on group learning, perceived by students as facilitating and, on occasions, excusing plagiarism (Ashworth *et al.*, 1997). What is the proper punishment for plagiarism? The most common punishment is to award a zero mark for the offending piece of work (Parry & Houghton, 1996), but circumstances, and the exact nature of the plagiarism, can vary greatly. Walker (1998) provides a useful 'plagiarism continuum' from 'sham paraphrasing' to 'purloining' and a suggestion of possible penalties in relation to each offence.

Punishing plagiarism is part of a wider disciplinary role which lecturers undertake. Perhaps the most common example of this role is deciding on the appropriate punishment for the late submission of an assignment. Research indicates that 'academic procrastination', or deliberately delaying to hand in coursework, is undertaken by up to 70 per cent of American college students (Ferrari *et al.*, 1998). The list of (commonly fraudulent) excuses makes sadly familiar reading to any experienced university lecturer: 'Alarm failed to go off', 'overslept', 'computer failed to work', 'left paper in dorm room', 'was out of town', 'personally sick', 'best friend died' and so on. Determining the legitimacy of such excuses can be a difficult and sensitive issue especially where this involves a student claiming that a close friend or relative has died. However, according to Ferrari *et al.* (1998) students making fraudulent excuses found that instructors tended to accept their excuses without requiring proof. Returning to Levanthal's (1980) justice judgement model, it should be possible in cases where personal illness is claimed to verify the claim by reference to a medical practitioner's note (*accuracy rule*). There is a danger otherwise that other, non-procrastinating students will be disadvantaged (*consistency rule*) and will, at least, perceive the decision as such.

Remedial Justice

Remedial justice is best understood as the converse of retributive justice. It is concerned with ensuring that the victim of an offence is adequately compensated or simply putting things right. Without being too literal in applying this form of justice to higher education, lecturers will be involved in a variety of decision-making dilemmas where students are seeking restitution. Illustrations include dealing with requests for coursework extensions based on illness, family bereavement or other substantive, personal circumstances, considering the merits of concessions and medical evidence at examination boards, or arbitrating in cases where students claim to have been disadvantaged by other students in a group assignment.

There is now a growing awareness in higher education of the individual differences between learners and the disadvantages affecting some students. This raises questions regarding how students with 'specific learning difficulties' (Morgan & Rooney, 1997) should be best helped. Students with dyslexia account for the largest and most rapidly growing group of disabled students in higher education (Pumphrey, 1998). However, controversy surrounds making concessions to students

with dyslexia especially where successful completion of their course of study may also entitle the student to practice as a professional (Morgan & Rooney, 1997). Students with other disabilities may require the services of assistants to act as note-takers, amanueneses or readers in order that they may be placed on an equal footing with other students. The assistant's role can cause controversy though when it develops beyond information collation into a tutorial relationship. Doherty (1996) reports that concerns were expressed that a scheme to provide disabled students with an assistant, initially paid for by the university, raised objections that the loosely defined nature of their role might result in recipients gaining an unfair academic advantage. This would break what Doherty (1996) refers to as the 'principle of equality'.

Distributive Justice

The fourth form of justice is distributive or social. Distributive justice does not relate to individual acts of wrong-doing. It is about the morally correct distribution of things like wealth, power, property or obligations between individuals, and between and within groups or societies. At the pedagogic level it might operate in terms of the fair distribution of access opportunities and support available to students. Avoiding favouritism is a classic dilemma faced by lecturers. Students, like all individuals, will consist of a mix of personality types some of whom will seek more help than others. Also, inevitably, lecturers will find some students will possess more likeable personalities than others! However, in this respect, Leventhal's *bias suppression rule* should come into play.

In a broader societal sense, distributive justice is akin to social justice. Equality lies at the heart of justice. Indeed, the leading precept in justice is to '*treat like case alike*' (Hart, 1961, p. 155). The Dearing report on UK higher education (National Committee of Inquiry into Higher Education, 1997) is founded on a commitment to lifelong learning (Watson & Taylor, 1998). It emphasises maximum participation and lifelong learning as key concepts connected with distributive justice. '*Shaping a democratic and inclusive society*' (my emphasis; National Committee of Inquiry into Higher Education, 1997, p. 72) is identified in the report as one of the four key purposes of a modern higher education. Indeed, a commitment to ensuring equality of educational opportunity is one of the professional values demanded of all members of the Institute for Learning and Teaching in Higher Education. Symbolising the shift from an elite to a mass higher education system (Scott, 1995), most modern universities also embrace a concern for principles of accessibility, broadening participation, lifelong learning and equal opportunities. Access-based institutions, in particular, expect their academic staff to support the principles of distributive justice. The UK Open University, for example, stipulates that applicants for teaching positions must have an ability to work with students from diverse backgrounds and '*an understanding of and commitment to equal opportunities policies and practices*' (Open University, 1999, p. 13). Moreover, reaching out to wider society through 'extension' or 'access' programmes has long been a concern for universities internationally (Abueva, 1989).

Linking Forms of Justice

Although I have discussed justice issues in higher education teaching by reference to its four distinct forms there are also important ways in which these separate concepts inter-link. There is, for example, a strong link between procedural and distributive justice. Gender differences in university degree results have resulted in considerable research and debate over recent years. Assessment bias is one of the explanations as to why women have tended to receive fewer firsts than men (e.g. Bradley, 1984). This type of research has led to the adoption of blind marking practices in many institutions as they seek to strengthen procedural fairness in the pursuit of social or distributive justice. This is just one of many examples of this type of overlap between procedural and distributive justice provided by issues of gender and assessment. Issues of remedial fairness also clearly impinge on the social justice agenda. There is evidence, for example, that female students record significantly higher levels of anxiety than males in relation to examinations (Martin, 1997). Adjusting assessment methods to eliminate, as far as possible, indirect discrimination has been widely debated in the context of teaching methods and the emphasis on 'finals' at Oxbridge (McCrum, 1998). Finally, determining whether a student's request for an extension to complete a piece of coursework is genuine is clearly a very real, 'everyday' problem for the higher education lecturer (Ferrari *et al.*, 1998). Making the right decision depends on gathering enough evidence in choosing between retributive or remedial justice.

Theoretical Connections

In the main, this paper has not sought to make explicit connections with wider work on ethical theory. However, John Rawls' classic book, *A Theory of Justice* (1971), probably the most influential exploration of the concept of distributive justice, has particular relevance. Rawls argues that everyone has an equal right to basic liberties (like the right to vote and the freedom of speech), but that social and economic inequalities are tolerable if they produce the greatest benefit to the least disadvantaged. While this paper has not sought to apply Rawls' theory there are key connections. Rawls asks what principles a group of rational, self-interested people would choose to live by if none of them yet knew what their own abilities, skills, family connections and so on would be like. This 'veil of ignorance' about one's life chances sets up the conditions necessary for impartiality. The logic of not knowing one's life chances would mean that people would opt for a society in which those in the very worst position would be treated as favourably as possible. Applying this 'veil of ignorance' to pedagogic ethics it provides a clear justification for the concept of distributive justice. The 'veil of ignorance' points to the need for lecturers to try to place themselves in the position of their least advantaged or least able students. Moreover, Rawls' theory, as he acknowledges, is closely related to Kant's (1964) criteria of reversibility, which demands that a person's reasons for acting must be reasons that he or she would be willing to have all others use, even as a basis for treating him or her. How, in other words, would you like it if someone did that

TABLE I. Ethical principles for public and pro-
fessional life

Nolan (1997)	Strike (1990)
Selflessness	Due process
Integrity	Equity
Accountability	Privacy
Openness	Intellectual honesty
Honesty	Freedom of expression
Leadership	Legitimate authority

(action) to you? The concept of reversibility is intuitively attractive as a means of determining the rightness of a course of action, in, for example, a lecturer putting her or himself in the position of the student when making key decisions. Alternatively, establishing a set of justice rules may be linked to utilitarianism which, as traditionally configured, is concerned with promoting the most utility (maximising happiness or minimising misery) for *all* persons affected by an action.

Identifying Professional Principles

Ethical dilemmas do not, by their nature, lend themselves to simple solutions. Indeed, adopting a restrictive approach to ethics, based on a detailed code of practice, is unlikely to be the main means by which ethical behaviour among professionals is internalised (Strike, 1990). The principles of justice, however, do imply a set of values or norms connected with *being* a higher education teacher (e.g. honesty, integrity) and *carrying out one's responsibilities* in an ethical manner (e.g. due process, proportionality). Such principles can be readily identified by practitioners via discussion or an appropriate case study (see appendix). An alternative strategy is to ask practitioners to analyse existing statements of ethical principles, such as the Nolan Committee's standards in public life (Nolan, 1997) or Strike's (1990) moral concepts for teachers (Table I).

Sets of principles help to empower the practitioner to act appropriately, rather than prescribe an exact course of action for every circumstance. The statement on professional ethics of the American Association of University Professors provides an example of this type of approach (American Association of University Professors, 2000). The second paragraph of this statement is explicitly devoted to the responsibilities of Professors as teachers and incorporates expectations of professional conduct such as encouraging free pursuit of learning, respect for students as individuals, objectivity, non-discriminatory treatment and confidentiality.

Conclusions

Ethics play a key role underpinning the conduct implicitly expected of university lecturers and forms the basis of principles central to their professional role. The

purpose of teaching ethics as part of a professional programme for new lecturers is not to be prescriptive, but to sensitise new lecturers to the day-to-day ethical dilemmas they will face in teaching and assessing student work. Through discussion and reflection, it may also help lecturers to formulate their own responses to many of the ethical dilemmas they confront in their teaching role. Moreover, the more litigious nature of modern higher education makes a focus on justice appropriate on pragmatic grounds. Research has indicated that new lecturers want information and skills for survival in the short-term (Issacs & Parker, 1997) something a consideration of ethical issues can only help to provide. My focus on justice does not preclude the claims of other theoretical approaches. Virtue theory, in particular, has a special relevance for professional practitioners (McIntyre, 1981). The research role of the lecturer demands, *inter alia*, determination to pursue the truth, honesty in the interpretation of data and humility in opening one's work up to critical appraisal (Margetson, 1997). Utilitarian calculations also play an important implicit role in many policy decisions (Warnock, 1998). This may operate, for example, when a lecturer is called upon to balance the fairness of granting assignment extensions to one or two students with the interests of the majority of a class who are required to meet the set deadline.

Institutions are responding to a more service-orientated culture and the attendant threat of litigation by developing more comprehensive procedures and policies. However, as professionals, lecturers should be involved in debating and shaping this emerging agenda, rather than simply passively adhering to it. Many of the ethical issues I have touched on in this paper, such as plagiarism, dealing with student requests for assignment extensions, or the work of examination boards, play a crucial role in the management of student learning. They are key aspects of professional practice but tend to be part of a hidden job description for lecturers in higher education. Acknowledging and coming to terms with these dilemmas is essential if new lecturers are to exercise the power they wield in a responsible and professional way. Consideration of such issues should play a central role in the professional development of higher education practitioners.

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Appendix: case study—a busy day for Dave Andrews

It is Dave Andrews' first term as a lecturer at NewU and he has been finding it hard going. After spending most of his twenties doing a PhD and then working as a postgraduate research assistant on various projects, Dave secured a lectureship on a 3-year contract last September. Although Dave did 'pick up the odd seminar' while working as a researcher, he came to NewU with very little teaching experience. He was shocked that as a new lecturer he was given such a heavy teaching load and feels dumped with several irksome administrative jobs, such as 'quality assurance', which clearly no-one else in the department wants to do.

Today Dave has a busy day ahead with teaching in the morning and the afternoon. He desperately needs to finish marking some assignments, which he has promised to return to the students by the end of the week. He also has a scheduled 'office hour' at lunch-time in order that students can come to see him on a first-come-first-served basis. Dave returns to his shared office after finishing his morning teaching. It is now his 'office hour', but he decides he needs to get on with his marking. Before he can get very far though there is a knock at the door and three students enter. They want to talk to him about a group presentation they are due to do next week, an assessed part of their course. Dave listens whilst the three students tell him that the fourth member of their group has hardly ever turned up for meetings to discuss the presentation and is generally not 'pulling their weight'. The students say they have done a lot of work and are worried that the fourth group member 'will just turn up and take equal credit for all *our* hard work' on the day of the presentation. On the other hand, they are also concerned that their grades will suffer

as the fourth group member has not prepared properly. They ask whether they can do the presentation without the fourth member. Dave tells the students that he will have to think about it and sends them away with a promise to see them the next day.

Munching a sandwich Dave returns to his marking, but quickly becomes concerned about two essays which appear very similar. On closer inspection Dave notes that there are whole paragraphs which are almost identical save for the odd word or different phrase in places. He remembers that the two students had worked well together on an earlier group project and are probably good friends. Dave sighs and puts the two essays to one side. He will have to think about this.

Just as he is about to mark another essay, there is a knock at the door and a student enters looking somewhat sheepish. The student explains that he feels under a lot of pressure because he has a number of assignments due in at the same time. He also mentions that he had a cold last week. The long and the short of it is that he wants an extension on the essay set more than 2 months ago at the beginning of term. The telephone rings and Dave tells the student to come back in the morning to discuss the matter further.

Half-an-hour later the departmental secretary appears at Dave's office with a gift for him left in the departmental office by a Chinese student from Hong Kong. The present, wrapped in Christmas paper, turns out to be a large (2-litre) bottle of whisky (Dave's favourite tipple is single malt and he remembers, somewhat guiltily, how he made some light-hearted reference to this effect, as an aside, at his last lecture). The card reads: '*To Mr Andrews, my favourite teacher, Merry Christmas and a Happy New Year, thank you for all your help, best wishes, Lee*') Dave recalls that this is a hard-working student, but one who has struggled to gain good marks partly due to problems with written English. Ironically, Dave has Lee's latest assignment as the next one on the pile to mark. He wonders what he should do about the bottle of whisky.

After finishing his last teaching session at 6 p.m., Dave returns to his office and remembers that he had better check his e-mail. Dave opens two messages from students. Opening the first e-mail, he recalls that this student is attentive and attends on a regular basis, although he is yet to mark any of her written work. The e-mail explains that as a dyslexic student she would like a few days extension on the assignment deadline in order that it can be checked over for errors by an advisor at the Student Learning Centre (a central body at NewU which, among other things, helps students with learning difficulties). The other e-mail is from a mature student Dave teaches on a part-time postgraduate course. This student also wants an extension citing 'work pressures'. Both of these requests for an extension relate to the assignment set more than 2 months ago at the beginning of term. Dave decides not to reply immediately to either e-mail in order to think over the requests before making a decision.

Dave is in a quandary about all the dilemmas he has faced during the day, but knows that in the early evening he is meeting his mentor after work and plans to ask for some advice.

Questions

1. How would you advise Dave on the various dilemmas he has faced during his day?
2. What ethical principles emerge on the basis of your advice?