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There is no doubt that 2017 is going to be a full-on year for legal education in Australia. Already in March of this year the Commonwealth Legal Education Association (CLEA) held an extremely successful Conference in Melbourne which attracted 21 Conference papers covering a wide assortment of legal education topics with a good sprinkling of papers from Australian law academics. Conference delegates were also invited to a dinner hosted by Melbourne Law School for all members, participants and supporters of the moot teams competing in the fifteenth Commonwealth Moot — an initiative of the CLEA and the Commonwealth Lawyers Association whose twentieth Conference was also being held in Melbourne at the same time.

At the AGM of the CLEA, Professor David McQuod Mason of South Africa was re-elected President of the Executive Committee, with Patricia McKellar and Michael Bromby, both from the UK, as the Joint General Secretaries.

Preparations are already well in hand for the annual ALTA Conference to be held at the University of South Australia in Adelaide 6 to 8 July and the Australian Academy of Law's Conference to celebrate the 10th Anniversary of its foundation entitled the *Future of Australian Legal Education* to take place 11 to 13 August at the Federal Court in Sydney.

In this edition the book review relates to *Thomson Reuters' Guide to Mooting* which also incorporates in its foreword by the Hon. Michael Kirby an interesting account of the origin of the mooting tradition.

The first article considered in this edition of the *Digest* has been allocated a new subject heading of *Community Legal Education*. In this article Katuna and Holzer analyse an early campaign by the Connecticut Women's Educational and Legal Fund (CWEALF) to create an understanding of Title IX of the Education Amendments of 1972 which related to a prohibition of sex-based discrimination at publicly funded educational institutions. Although a complex legal area, the authors are of the view that CWEALF made connections between the action prohibited by the law and the wider gender inequality regime. In their view this represented an unobtrusive stretching of the law because Title IX regulations effectively exempted the curriculum from review. One of the conclusions by the authors is that this illustrates a recognition of the role which activists can play in legal reforms.

Curriculum is the subject heading for the article by Yastrebov whose research endeavours to analyse the Russian university-based legal education on the basis of current societal needs and development of mainstream domestic legislation.

Individual Subjects/Areas of Law involves two articles. In the first Babb undertakes another look at the need for reform of family law education, recounting the experience of responding to three recommendations relating to the Family Bar Summit: 'Shaping the system for the Families We Serve,' hosted by the Institute for the Advancement of the American Legal system at the University of Denver. The other article under this heading expresses the concerns of Bosher and Mendis as to the impact of legal drafting on the language and understanding of copyright law. They argue that the most effective approach in attempting to educate the public about copyright law is to adopt a grass-roots approach.

Under **Learning Styles** Jones reflects on the changes which have recently taken place with regard to the introduction of different teaching and learning methodologies into the undergraduate law degree in the United Kingdom shifting some of the focus away from the doctrinal tradition and 'thinking like a lawyer'.

Lifelong Learning is the heading for an article by Butler, Coe, Field, McNamara, Kift and Brown which describes the design of a project for a blueprint for final year law curricula in Australia relating to *Transition* as part of six inter-related principles identified as key to good curriculum design, the others being *Integration and Closure, Diversity, Engagement, Assessment, and Evaluation*.

Philosophy of Legal Education contains a compelling article by Ratke Bliss, Caley and Wolf on how thoughtfully designed research projects can measure the impact of social justice teaching.

Practical Training involves an article by Oh describing how in 2009 South Korea transformed its legal education system to introduce a three-year law-school education as a graduate programme so as to teach and research the legal theory and practices necessary for training legal professionals.

Professional Skills involves an article by Stukey who voices some scepticism regarding the effect on North American law schools of the American Bar Association's new mandates for teaching professional skills and values.

Under **Research**, Bell, Shakel and Steele evaluate the role of postgraduate student research groups in higher degree research (HDR) student learning and experience with particular emphasis on an interdisciplinary group involving criminology, criminal law and criminal justice (the Crim* Network) based at the Law Faculty in the University of Sydney.

Resources is the heading for an article by Amusa and Atinmo which focuses on the availability, level of use and constraints to the use of electronic resources among law lecturers in Nigeria. There are three articles considered under **Teaching Methods and Media**. The first by Whalen-Bridge describes the transsystemic approach adopted by the McGill University Law School in Canada in teaching the fundamental concepts of private law from civil law and common law traditions in an integrated fashion. The second article under this heading by Cristea relates to the problems arising in teaching business law through the English-medium of instruction (EMI) in countries or jurisdictions where the first language of the majority of the population is not English.

The final article by Petrovich Garmaev and Petrovna Chumakova describes the use of student films as an innovative means of legal education and multimedia training for future lawyers through the auspices of the Novosibirsk Institute of Law (branch) of the National Research Tomsk State University (Russia). The aim of the annual international film festival conducted by the University is to increase the efficiency of legal education and legal awareness of both students, the legal community and the general public.

As always the concluding comment of this editorial is to compliment the participants in legal education for the many innovative ways in which they endeavour to promote improvements in the teaching of their subject.

Emeritus Professor David Barker AM
Editor

Unobtrusively Stretching Law: Legal Education, Activism, and Reclaiming Title IX

B Katuna, E Holzer

Journal of Social, Cultural and Political Protest, Vol. 15(1), 2015, pp 80–96.

In this article, we analyze an early campaign by the Connecticut Women's Educational and Legal Fund (CWEALF) to shape understandings of Title IX in schools.

In short, when we compared Title IX with documents from early CWEALF campaigns we found not the feminist character of Title IX as others have argued, but rather a movement tactic that we call unobtrusively stretching law — a quiet, but deliberate strategy of legal education that fosters an interpretation more closely aligned with movement goals than the legal text would otherwise promote. We call this movement tactic 'unobtrusively stretching' law rather than interpreting law to highlight both the purposeful enlargement of legal doctrine and the necessarily tacit nature of this enlargement when more open campaigning would expose activists to accusations of violating legal intent.

Legal frames are among the most powerful frames available to activists and a major source of legitimacy for social movements. But like all framing, the effectiveness of legal frames hinges on the openness of the opportunity structure including the successful development of the legal and oppositional consciousness. Legal consciousness stems from different sources, but legal education campaigns are one key way that activists can directly help to spur its development.

As laws become more deeply codified through regulatory policy or court cases, they often solidify certain values or language that can shape future legal battles for decades. Movement activists have several strategies to promote their interpretation over other less favourable understandings; they can submit an amicus brief, deliberately pick test cases to create precedent, or lobby regulatory agencies.

Lay participation is a key dimension of legal implementation. One way that activists cultivate lay participation is through legal education campaigns. Legal education campaigns are not without controversy — some have (not always unfairly) been dubbed government propaganda. They may seek to influence the legal socialization of a specific sector of the population or a broad base of citizens.

On 23 June 1972, President Nixon signed Title IX of the Education Amendments of 1972 into law. The new law prohibited sex-based discrimination at publicly funded educational institutions. The Department of Health, Education and Welfare (HEW) issued regulations for implementation in 1975 and 1979 that mandated that schools receiving federal funding create and publicly disseminate policies to support victims of sex-based discrimination in the school system, establish a Title IX coordinator, publicly disseminate the policies in place, and take both 'remedial and affirmative steps to increase the participation of students in programs or activities where bias has occurred'.

As such, HEW regulations created institutional pressures to foster an understanding of the new law across a wide swathe, not just among the administrators.

Successful laws often take on a veneer of reasonableness that makes their acceptance appear inevitable in hindsight. This false sense of inevitability may lead researchers to discount movement activism in the aftermath of legislative victories. But the story of Title IX could have ended differently. Conservatives could potentially have repealed the law.

Between 1978 and 1980, a feminist legal aid organization based in Connecticut called CWEALF prepared, advertised, and then circulated hundreds of pamphlets on Title IX to secondary schools, high schools, and universities.

After a preliminary evaluation of all of these documents, we chose to focus in depth on the legal bulletin for students, because it served as a particularly rich and cogent example of the organization's legal education campaigns.

In analyzing the legal doctrine, we found that Title IX addresses a fairly narrow set of gender-based exclusions without using feminist language; it contains several conservative anti-feminist principles as well. In analyzing early activism, we found that CWEALF disseminated pamphlets that drew a connection between dress, gender socialization, student advocacy, and Title IX that is not present in the original language of Title IX.

The law establishes equal opportunity protections for educational programs that receive federal funding. Though Title IX is most famous for its defense of women athletes, the original Title IX language does not specifically address sports or athletics. It was not until the Education Amendments of 1974 that specific references to sports became a part of Title IX.

Like most laws, Title IX lists several exemptions to its application. It exempts institutions funded by religious organizations (Article 3) and institutions that exist solely for military training purposes (Article 4) from Title IX guarantees. Other exemptions are more ambiguous.

In short, the Title IX that emerges from this textual analysis is a pragmatic compromise between feminist ideals and conservative opposition. In contrast, the Title IX portrayed in CWEALF's account is a law that requires students, teachers and administrators to actively combat sex-role stereotypes. The four-page document is comprised of four sections, which we shall briefly summarize in the following.

In the first section, entitled 'Basic Rights of Students,' the bulletin indicates that the students need to be aware of their civil rights as they are stated in the Bill of Rights and the Constitution and recognize that they have authority to exercise their rights in the classroom.

The second section, entitled 'Sexism in Education,' notes the various ways that the education system is sexist focusing on sex-role stereotypes and school influence through teachers, counselors, courses, and administrators. The overarching thrust of the document is that underlying educator prejudices constitute one of the main threats to Title IX compliance.

The third section, entitled 'What Your School Must Do Under Title IX,' lists immediate steps that a school must take in order to be in compliance with Title IX. It also describes what Title IX does for the students framing this as offering protections. The section highlights obligations pertaining to physical education, vocational education, and policies surrounding extra-curricular activities. It also states the need to end sex-segregation in sports and to support equal educational opportunities for men and women with equal funding platforms.

The fourth section of this bulletin entitled 'What You Should Do as a Student' addresses the steps that students should take if they feel that they are confronting sex-based discrimination. The key point to this section is that students have a right and responsibility to challenge school administrators if they feel that they are facing discrimination.

CWEALF applies the principles of equal treatment to other areas of social life as well. They call for a 'thick' application of the law noting, for example, 'the creation of one team that very few girls qualify for does not provide equal opportunity. Two single-sex teams would be necessary'. The section concludes with a specific mention of equal standards for financial aid awards to girls and boys.

The organization draws attention to the place of men and boys in the gender hierarchy. But the pamphlet also argues that sex-role stereotyping hurts boys. In short, the pamphlet though framed as instructional material about Title IX is primarily concerned with sex-role stereotypes and gender socialization in schools. It encourages students to speak against manifestations of gender inequality in the classroom, in athletic contexts, and in school counseling sessions.

In the analysis that follows, we argue that CWEALF actively sought to promote the emergence of a feminist law through its legal education campaign.

Title IX was a gendered law from the onset — it highlighted the potential for different experiences in education between men and women. The legal text of Title IX did have enormous feminist potential — it barred discrimination on the basis of sex from educational programs receiving federal funding. But conservative elements such as exemptions for military and religious institutions also formed part of the legal text and had the potential to counter its feminist impulses. When they embark on legal education campaigns, activists operate under the belief that the power of a law does not derive solely from police, courts, and lawyers. Lay understandings of a law also have consequences, and these understandings do not emerge in a vacuum.

Let us consider five concrete ways that CWEALF draws connections for readers between the ways that schools reinforce sex-based stereotypes and Title IX. First, CWEALF juxtaposes the concrete steps that schools must follow to comply with Title IX with feminist social scientific perspectives on gender inequality in schools.

Second, CWEALF replaces the gender-neutral language of 'person' explicitly referencing women, girls, men and boys. This change is not accidental. CWEALF was well aware of the feminist critique of seemingly gender-neutral language.

The feminist organization mobilized feminist principles about the destructive power of language to reinforce women's inequality. Though Title IX generally uses gender-neutral language, CWEALF injected feminist principles about the significance of word choice into the text.

Third, the organization wrote that teachers should be held accountable for sexist perceptions among students.

Fourth, they extend the idea of harm from sex-role stereotypes to men and boys: 'Sex-role stereotyping also has an effect on boys. Boys in school are [at] times more likely than girls to have problems with emotional and social immaturity. The stereotypical norm for boys is to repress emotion'.

Fifth, the organization presents examples of sexist behavior not explicitly prohibited in legal text alongside actions prohibited by the law.

In short, CWEALF made connections between the actions prohibited by law and the wider gender inequality regime. This represents an unobtrusive stretching of the law because Title IX regulations effectively exempted curriculum from review.

The pamphlet sought to guide readers to reform the way that educators socialize students; a law created to protect students' rights to equal access of programming based on their sex is not quite the same thing.

The movement tactic is unobtrusive. CWEALF positions the discussion of actual Title IX guarantees as bookends in the introduction and conclusion while devoting the majority of the document to a feminist critique of gender socialization in the educational system. CWEALF does not draw attention to the disjuncture between its advocacy and education.

Legislation victories do not automatically create new resources for social movements — they provoke new framing contests. Social movements engage in a wide range of interpretive work to transform legislative victories into movement resources. Many of these strategies are directed at the centers of power like the regulatory agencies that implement laws, the political leaders that can defend against repeal or compromising amendments, and the high courts that assess the scope and legality of new legislation. But public perceptions matter, too, and as CWEALF so aptly demonstrated, activists also look to legal education campaigns to shore up legislative victories.

By examining legal education campaigns in depth, scholars can grasp more of the ways that activists struggle to infuse movement principles in 'their' laws. Social movement researchers (and some activists) have placed too much weight on legislative victories, often overstating the value of these victories and understating the challenges that activists confront in their aftermath. In reality, many new laws prove transient victories for social movements. When we explore the ways that activists stretch new laws to conform to movement values, we are in a position to recognize more of the role that activists play in legal reforms.

Renewing University-Based Curriculum in Line with Societal Needs: a Case of Legal Education in Russia

CURRICULUM

O Yastrebov

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Experts, politicians, researchers agree that Administrative Law aims to lay grounds and support government bodies, agencies and procedures with regard to increasing social welfare, fostering individuals' fair treatment, and enhancing the democratic nature of decision making process.

Therefore scholars across the world underline the growing role of the administrative procedure in the state governance. Moreover, contemporary society is facing the emergence of global administrative law.

The development of multicultural internationally oriented economies and societies and their integration into global markets and industries along with most specified domestic socio-economic needs and policies boosts the necessity to update domestic administrative law and administrative process in line with societal needs. This, in turn, requires training of specialists that could respond to current challenges and provide adequate solutions. Thus, university-based legal education deserves particular attention.

The picture above refers to the Russian legal and educational landscape, as well.

The present research aims to analyse the Russian university-based legal education with regard to the current societal needs and domestic legislation development mainstream.

The basic arguments run as follows. Current developments in administrative law and legislation on national and international levels should be taken into account when developing the legal education curriculum and designing the administrative law subjects contents. The research tries to analyse the impact of the new domestic legislation in force on the university curriculum change and development.

Understanding university-based legal education stumbling blocks and needs, developing adequate strategies for further progress in line with national legislation requirements is hardly possible without changes in the understanding and vision of social relations, which are regulated by rules of administrative law.

Philosophy grounds in the context of the issue under study urge for renewing the legal education system due to the fact that the fundamentally new educational practices emerge (including the sphere of administrative law).

The methodology included relevant literature review to shape the research grounds, empirical analysis of the Russian federal standards of legal education, the study of current domestic legislation landscape and latest developments with respect to administrative law field.

The importance and relevance of empirical analysis in the field of administrative law has been specified in a number of research works.

Regarding the university-based legal education Russia lays particular emphasis not only on making the relevant academic disciplines more content comprehensive but also on their optimal sequence of training or rather on structuring cognitive elements of the training system on the whole.

The present research focuses primarily on issues related to the solution of the above task, which stipulates a recourse to the current federal standards of the Russian higher education.

Russian university-based education is regulated by the Federal state educational standards. The standards for legal education with qualification (degree) "Bachelor" were approved by the Order of the Ministry of Education and Science of the Russian Federation.

In the above standard administrative law is one of the twenty professional disciplines that form the core disciplines module.

Meanwhile, the Code of Administrative Court Procedure of the Russian Federation has taken effect from 15 September, 2015. This event indicates an increase in human rights functions of administrative law and inevitably requires re-structuring of the Administrative Law course within the legal education curriculum.

In addition, the adoption of the above Code makes us raise the issue of introducing amendments to the curriculum of Bachelor's course: it is necessary to seek the replacement of discipline "arbitration procedure" with the discipline "administrative procedure".

We believe that the course "administrative law" as a compulsory component should include the institute of administrative justice with an emphasis on its material (subject) and organizational aspects. The material aspect should focus on revealing problematic issues related to administrative disputes being treated as a matter of administrative justice.

Regarding the organizational aspect the course of administrative law should put a strong focus on highlighting the organizational structure of administrative justice in its judicial and especially in the quasi-judicial (in the Code terminology - pre-trial) form.

The master's programme core professional module should clearly specify specialized courses such as "Current problems of administrative law" and "Current problems of administrative procedure law" rather than the unite relevant issues in a single discipline "Current problems of administrative and financial law", the above being typical of many universities, including, the RUDN University, as well.

The list of subjects within the optional module of the course depends on the master programme specialization.

The issues set out in the article and related to the innovations within administrative and legal module in the context of the Code of Administrative Court Procedure adoption comprise only a small proportion of the pressing problems, which require special approach. However, we believe that the issues hear marked are of crucial importance and require first and foremost solution.

In the present article the administrative law and procedure domain was used as an example as the Code of Administrative Court Procedure has been adopted and according to the author's experience in teaching on administrative law issues, the new legislation provisions should be reflected in the instruction process. The reflection thereof implies change both in the list of subjects (their specification) and the contents of disciplines. The recommendations put forward stand on the task to lay grounds for students' active engagement and learning, to bridge the gap between Academy, Society and Industry. The approach set out in the article allows teachers to familiarise students with latest developments in a particular field of law and teach through research methods.

The ongoing renewal of legal education curriculum in line with new legislation in force prevents the degree course from drifting off into vague theory and leads students to use theoretical concepts in a concrete up-to-date.

Another Look at the Need for Family Law Education Reform: One Law School's Innovations

B Babb

Family Court Review, Vol. 55(1), January 2017 59–69

Family law practice has undergone dramatic change in the last quarter century, perhaps more than any other area of practice. The family law curriculum in our law schools, however, do not reflect either the change in practice or its vibrancy. There are efforts to modernize underway, but they are isolated and unsystematic.

This article is a response to three recommendations related to family law education that emanated from the Family Bar Summit: Shaping the System for the Families We Serve, an event hosted by the Institute for the Advancement of the American Legal System (IAALS) at the University of Denver in November of 2015. Three of the recommendations in particular are the focus of this article: (1) "establish robust and interdisciplinary continuing legal education programs for family law attorneys and increase client-centric training programs," (2) develop specialized and interdisciplinary law school curricula tailored to the unique skill set of a family law attorney, and (3) "incorporate clinical and experiential components into the legal education of future family law practitioners."

The Family Law Education Reform (FLER) Project is co-sponsored by the Association of Family and Conciliation Courts (AFCC) and the Center for Children, Families and the Law at Hofstra Law School.

The genesis of the FLER Project is "[a] substantial and growing gap between family law teaching and family law practice [that] undermines the best efforts of new family lawyers to assist parents and children in separation, divorce, abuse and neglect, dependency, and delinquency actions."

Since the late 1990s, I have advocated that the approach to family law generally, and to family courts in particular, must become more therapeutic and holistic. This perspective advocates that family law, family courts, lawyers, and other actors involved in the family law process must aim to improve the lives of affected children and families. In addition, in order to be most effective, lawyers, judges, and others involved must examine and account for all of the systems within which children and families function, known as the ecological perspective.

Given that the FLER Project constitutes the most comprehensive approach to, and suggestions for, family law education reform to date, it is appropriate to revisit the FLER Project findings and recommendations. The FLER Project proposes that an appropriate family law curriculum does the following:

(1) It would teach law students that the family court of the early twenty-first century is often an interdisciplinary enterprise.
(2) It would emphasize the multiplicity of dispute resolution processes and treat litigation as but one alternative.
(3) It would continue to emphasize strong grounding in the law and analytic rigor, but would add a focus on competence and skills, and teach budding lawyers to be reflective and self-aware in the practice of law.

The FLER Project report recommends a focus on "Teaching the Four C's" of Content, Context, Conduct, and Competence. Regarding Content, "family issues should be assessed, as much as feasible, over time and within their appropriate context." By Context, the authors advocate introducing law students to "(1) courts and family dispute resolution processes; (2) issues of class, race, gender, age, and power; (3) financial issues; and (4) issues of policy and law reform." Conduct constitutes an emphasis on ethical family law practice and the need to improve the public's image of family lawyers. Competence includes the need for family law educators to teach active listening skills and how to handle emotional content, set boundaries with clients, communicate with a child client, explain family law and the process to clients, manage a client's case effectively toward a positive outcome, manage a law office, and take care of oneself.

Recognizing that law schools may not be able to accomplish teaching this comprehensive agenda in one family law course or even during the three years of law school, the FLER Project report urges "law schools to develop options that would allow law students wishing to specialize in family law to enhance their qualifications." The FLER Project report recommends "awarding students certificates of specialization in family law, either along with their J.D., or as part of an LL.M. program. These concentrations would be both experiential and interdisciplinary."

In response to the FLER Project recommendations, Hofstra Law School created the "Family Law with Skills" course, integrating both theory and practice.

A family law course structured around simulation-based learning is another attempt to implement the FLER Project recommendations. One of the benefits of simulations is that they "can be tailored by professors to address specific issues with each and every student." Because of the active involvement of the students, they are learning professional behaviors.

On the other hand, one legal academic believes that "[t]he most direct way to increase students' experience applying legal knowledge and skills to real cases is to increase the number of clinical and externship opportunities." Finally, he posits that "[s]chools can also arrange for sequences of related courses so that students can readily concentrate in particular areas as part of a comprehensive plan in which they receive instruction in particular sets of knowledge and skills."

As another follow-up to the FLER Project, the New York City Bar Association Committee on Family Court and Family Law conducted a survey of nine New York City and Long Island law schools in the spring of 2008. The results of the survey demonstrated that curricular reforms were underway, including a "focus on legal issues related to domestic violence and child maltreatment, the impact of increasing numbers of pro se clients, and practice issues including basic financial counseling, the structure and function of the current family law system, interdisciplinary practice, and cultural competency, to name a few." Nonetheless, these initiatives were "not available to the same extent in each school."

Nonetheless, when pushed to reform family law education as the FLER Project recommends, the response from law schools often is "that they are not trade schools—their mission is not to prepare students for the practice of law. Rather, their mission is to lay the intellectual foundations that allow for the practice of law or other careers."

Despite these challenges, the FLER Project continues to have "enormous promise to move family law pedagogy in a new direction." Thus, "[t]o that end, the FLER Project should continue to develop specific strategies for law school curricular reform to ensure implementation."

Much of the University of Baltimore School of Law's history of family law education reform predated the FLER Project. Beginning in 1988, the School of Law created a Family Law Clinic, where student attorneys represent clients in a range of family law matters under the supervision of faculty members who also are attorneys. In 2005, the law school added the Mediation Clinic for Families, a second family law clinical course where law students become certified mediators and then mediate with clients about various family law issues under the supervision of an attorney faculty member.

Recognizing that many University of Baltimore School of Law graduates often practice family law, the law school in 2013 investigated the possibility of offering an advanced degree in family law to better prepare law graduates. Initial research revealed that there are only three schools in the country offering an LL.M. in Family Law, including Hofstra University, Chicago-Kent College of Law, and Loyola

Chicago School of Law. In 2014, pursuant to grant funding, CFCC's marketing consultant convened three focus groups to gain insight into early career attorneys' need for and interest in the additional study of family/juvenile law.

The needs assessment study provided substantial guidance regarding whether and how to structure post-J.D. training in family law. According to the study:

(1) Participants in the focus groups and practitioner interviewees were very enthusiastic about a stand-alone family law certificate program which would offer a practical approach to the practice of family law and would emphasize experiential learning.
(2) Early career attorneys expressed a substantial need for and interest in an additional study, particularly in the practical areas of law, such as how to prepare court filings, financial matters that affect custody and divorce, and law firm management.
(3) Focus group participants wanted more cross-disciplinary training.
(4) Law firm partners and non-profit/government agency representatives were very positive about the value of additional family law study, with several saying that their firms would pay for their early career attorneys to take additional courses.

Following this market research, a law faculty workgroup agreed to move forward with the design of a professional post-J.D. Certificate in Family Law. With the input of this faculty workgroup, CFCC organized a Practitioners' Advisory Workgroup (PAW), consisting of sixteen highly regarded family law practitioners and judges, to provide detailed content suggestions and to assist law faculty with curricular design and course content. PAW members selected a content area and worked with members of the law faculty workgroup to develop five course proposals for the following courses: Working through a Family Law Case — Start to Finish (four credits); Understanding the Business of Practicing Family Law (three credits); Psychology, Child Development, and Mental Health in

Family Law Matters (three credits); the Craft of Problem-Solving and Advocacy in Family Law (three credits); and Financial Foundations for Family Lawyers (three credits).

Each course is intended to blend theory with a strong mix of practical considerations. In addition, each course must include some type of experiential component, such as a creative semester-long family law case simulation, structured mentoring by experienced practitioners, mock/mini trials, immersion in the courthouse environment through observations and journaling, and viewing recorded oral arguments and other resources online, to name a few.

The law school intends to begin the post-J.D. Certificate in Family Law, the only one of its kind in the nation, in the Fall 2017 semester.

Thus, the University of Baltimore School of Law has undertaken and implemented many of the curricular changes suggested by the Summit, Families Matter, and the FLER Project.

This article has responded to the IAALS Summit report regarding three recommendations related to family law education, all of which appear as recurrent themes since at least as early as 2006, the date of the FLER Project Final Report. The hope is that, by reigniting the discussion on the need to reform family law education, the information and ideas presented in the article can serve as a stimulant for other law schools and for continuing legal education programs.

Swings and roundabouts: The impact of legal drafting on the language and understanding of copyright law and the need for educational materials

INDIVIDUAL SUBJECTS/ AREAS OF LAW

H Bosher, D Mendis

International Review of Law, Computers and Technology Vol. 30(3)

Copyright legislation has a history of being criticised for its complexity, whilst drafting of copyright legislation appears to be particularly challenging for the following reasons. The first challenge is that the legislation reflects the debates and compromises made between the different stakeholders at the time of drafting.

The second challenge for the legislator lies in the unintended consequence of drafting technologically specific legislation in that such legislation can become outdated and inflexible.

This was recognised by the Whitford Committee in the subsequent 1977 copyright consultation and the 1956 law was considered "inadequate to cope with photocopying and recording machines". Therefore, in drafting of the current copyright law, Copyright, Designs and Patents Act 1988 (hereinafter CDPA 1988), the Whitford Committee considered the previous 1956 Copyright Act to be very complicated and subsequently recommended that the new law be simplified.

However, doubts and hesitations on its meaning arose quickly. As a result, the CDPA 1988 has been amended more than 80 times to keep up with emerging technologies and changing times.

Consequently, the simplicity and clarity has been lost and the law is once again considered to be over-complicated.

The complexity of copyright law in relation to online copyright means that knowledge cannot be taken for granted. For example, the Palfrey, Gasser, Simun and Barns study revealed that when students were asked 'do you know what copyright means?' 84% responded yes. However, their subsequent description of copyright was either wholly or partially incorrect. In order to cooperate with the law, individuals need to be aware that the law exists. Thus, there is a demand for copyright materials that are accessible to the public, explaining the law in simple terms.

There are at least two recent major efforts towards creating resources for the general public that focus on education and understanding of copyright law.

The first is the Copyright Hub, which was established following the recommendations made in the report by Richard Hooper and Dr Ros Lynch in 2012. According to the Copyright Hub website, the hub aims to provide basic, general information about copyright as one of its five main ambitions to become 'the place to go for copyright education'.

To assist the general public in understanding the new reforms, which were introduced in October 2014, the UKIPO published eight resources on the meaning of the new copyright exceptions on its website.

It should also be noted that copyright industry stakeholders have invested a large sum of money in copyright awareness campaigns, even though these campaigns have sometimes come under criticism for being ineffective.

Due to the nature of copyright, producing accessible educational and teaching resources is not a straightforward task.

This paper argues that the most effective approach in attempting to educate the public about copyright law is to adopt a grass-roots approach.

This argument is supported by a number of Research Studies that indicate a need to focus education on the younger generations; moving from the grassroots up.

Whilst the research and empirical studies points to the need for a grass-roots approach, the school education system in the UK does not formally provide for intellectual property or copyright education.

Recognising and responding to this gap, the UKIPO has produced material for teachers and students. Recently, in 2015, and together with the Office of Harmonisation in the Internal Market (OHIM), the UKIPO has launched a website: Cracking Ideas. This website is a hub for intellectual property (IP) education materials from the UKIPO, providing teachers with free resources, advice and guidance on Intellectual Property.

Cracking Ideas also provide clearly structured curriculum-linked lesson plans and activities for students' aged 4 to 16, plus higher education.

More recently, on 10 February 2016, the UKIPO announced the launch of a new and updated ThinkKit, which aims to help students understand the importance of protecting and respecting IP law. ThinkKit is a resource pack that includes lessons plans for teachers of GCSE or NQ Business Studies, Media Studies, Design Technology or Music, and which enables them to encourage their students to think about innovation and protect their ideas.

A second well-established resource is Copyrightuser.org an independent resource launched in 2014. Copyrightuser.org is an online resource aimed at making UK copyright law accessible to creators, media professionals, entrepreneurs, teachers and students, and members of the public. Its methodology involves taking a 'bottom-up' approach to provide answers to the most pressing concerns about copyright.

Secondly, a further benefit of this resource is that it is independent as opposed to the previous examples, which are associated with or supported by copyright stakeholders.

Embodying these various elements, Copyrightuser.org has a specific educational section, which is aimed at teachers and students. The resource adopts an innovative approach by taking an in-depth look at the methodology of an A-level educational resource and adapting it into a copyright context.

As mentioned above, as part of the Copyrightuser.org Schools and Education objective, a copyright educational resource was created for A-level Media Students, entitled Contemporary Media Regulation: A Case Study in Copyright Law.

At the outset, it is important to point out that A-level Media Studies students that are examined under the OCR Examination Board are free to study any case studies, debates and issues, providing that they relate to four set questions that are listed in the Unit Specification. Therefore, the authors adapted the four (media-related) questions to reflect case studies in copyright law.

To achieve this aim, the four questions in the OCR Unit Specification were adapted into a questionnaire, which was sent out to a broad range of copyright stakeholders. This was particularly important as the title of the Media Studies Unit, within which the resource is used, was 'Critical Perspectives in Media: Contemporary Media Issues'.

The responses generated an interesting landscape of the various perspectives on copyright, including the views of individual creators, rights holders, EU and UK regulators, collecting societies, Internet Service Providers and users' representatives, amongst others. The responses received from the stakeholders were then analysed and used to construct the resource.

Using qualitative techniques, the responses to the questionnaire were coded into the most common copyright issues.

The resource is structured using the four 'prompt questions' that the students will address in their exam, with each prompt being broken down into three sub-questions, a case study and a task. By providing consistency in structure and mirroring the exam, the resource supports the student's ability to learn the information and later recall the memory. This is because when committing information to memory, the more organised the information, the easier it is to recall.

First, it is suggested that knowledge is much more likely to be encoded and recalled later if the new concepts can be linked together in a framework of existing knowledge. The new concepts of law are integrated with real-life scenarios that the students can relate to.

This is implemented in the resource at the end of every section, by way of a case study to discuss the ideas that are presented within the section in a relevant context that students and teachers can relate to.

Secondly, research has shown that the meaningfulness of a stimulus has a substantial effect on its memorability and that deeper levels of analysis produce stronger memory traces than shallow levels of analysis. Therefore, instead of focusing on the academic or theoretical areas of copyright, the authors took a practical approach focusing on the real-world meaning of copyright. In particular,

the content of the learning resource was directed by the data collected by copyright stakeholders' questionnaire responses. The stakeholder responses also offer real-life examples to support the statements made within the text.

Another important factor in assisting students to understand and memorise information is the nature and degree of precision of semantic elaborations, i.e. the way in which the words are presented. Research has shown that information is recalled better when elaborated on, but most effective when the elaboration is minimal.

Finally, it is understood that there are two different types of long-term memory, which can be defined as semantic and episodic.

Episodic and semantic memory involve different mental processes, but are intrinsically linked and depend heavily on each other and thus can influence the other. Therefore, it is important that in the resource, the authors constantly refer to real-life examples.

In producing effective copyright teaching materials, it is important to bear in mind that the students and teachers using the educational resource are not studying law. Research suggests that teaching law to non-law students requires a different approach which includes a deep consideration of the amount of legal content to include in the course.

An additional concern for non-law students is that they often feel nervous when studying law; as they perceive it to be extremely difficult. The authors attempted to reconcile this with the use of accessible language and presenting the information in a user friendly way.

Furthermore, it is recognised that the use of appropriate imagery can assist in learning. Therefore, the interface of the resource includes images, illustrations, visual diagrams and links to video content in order to encourage learning, which is one of the unique features of Copyrightuser.org as a whole.

It is understood that different students have different learning styles. Therefore, the resource does not restrict teachers to a specific lesson plan or classroom structure, thereby enabling flexibility in teaching style, student interaction and learning environments.

Critical thinking needs to be taught in context of the subject. Therefore, the educational resource teaches copyright by drawing on the different perspectives of the people and organisations that have an interest in copyright (stakeholder responses). This approach reflects the nature of copyright as a balance of interests, as well as encouraging students to think critically about copyright.

In drawing a conclusion and as demonstrated by the analysis of the A-level Media Studies Educational Resource, the importance of producing supplementary materials as a complement to the legislation is paramount, although it is not a straightforward process. It is important for any such resource to be balanced, independent and authentic in the content of the teaching materials as well as being able to engage the public's and student's attention and understanding.

It is recognised by the UK Government (Weatherley 2014) as well as legal (Xanthaki

2014) commentators that Copyright Education Awareness is important, particularly at a grass-roots level. The hope for the future is that organisations and online resources such as Copyrightuser.org will take this initiative forward in making copyright law accessible to the public as well as schools.

One Size Fits All? Multiple Intelligences And Legal Education

LEARNING STYLES

E Jones

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In recent years there have been shifts in the content of many undergraduate law courses in the United Kingdom (UK), with a particular emphasis on the introduction of socio-legal themes and scholarship.

The body of undergraduate law students has also become increasingly large and diverse.

The pedagogy traditionally used by law schools in undergraduate law degrees has involved a focus on developing a particular form of analytical thought process in students. This is commonly associated with the doctrinal tradition. The focus of the doctrinal tradition is on a positivist neutral and objective discernment of a coherent body of legal principles with "exposition and 'neutral' analysis usually given pride of place over criticism and suggestions for reform".

The form of analytical thought process which the doctrinal tradition and "thinking like a lawyer" demand is akin to what Gardner and other proponents of multiple intelligences have termed as "linguistic and logical intelligences". It prizes a certain form of "legal reasoning" in a manner which arguably excludes, or at least denigrates the importance of, other approaches.

There has been considerable work carried out in documenting the effects of imposing this particular, "one size fits all" way of thinking on law students and their law school experience.

There are a number of parallels between the law schools' traditional "one size fits all" approach to pedagogy and the scientific community's approach to the concept of intelligence. Traditionally, intelligence has been defined as "g". This refers to a general, unitary faculty of intelligence. Accredited to Spearman, "g" is based on the theorem that: "Whenever branches of intellectual activity are at all dissimilar, then their correlations with one another appear wholly due to their being all variously saturated with some common fundamental Function (or group of Functions)".

This idea of a common function or functions has been developed in various forms, but Howe suggests that they commonly view intelligence as an "underlying quality" which is biological in origin and mostly inherited and unchangeable.

In recent years, a range of different teaching and learning methodologies have been introduced into the undergraduate law degree, shifting some of the focus away from the doctrinal tradition and "thinking like a lawyer". One of these methodologies is problem-based learning, where the problem itself is used to direct students' learning of the law. This differs from traditional problem-style exercises in law, where the information is supplied, and students apply it to a set of facts. Instead the students themselves must find and interpret the information before they can apply it. Another innovation includes a variety of uses of blended and online learning environments, ranging from the creation of Second Life type vehicles for problem-solving to the use of "Turnitin" software for peer-review purposes.

The development of a greater focus on legal skills at undergraduate level, including the growth of clinical legal education within the UK, has further contributed to this plurality of approach with a recognition that it enhances the "creativity and vitality" of legal studies.

This shift towards a pluralistic approach is arguably still incomplete. This is partly due to restraints on the legal academy imposed by the wider university environment, including the increasing corporatisation of universities.

In addition to pressures on the legal academy, there is evidence that law students have a largely instrumentalist approach to their studies. Goldsmith argues that greater student awareness of employment prospects and a move towards a more conservative cohort (through socio-economic pressures) "threaten to increase" levels of vocationalism in law schools, although he acknowledges that this may be in broader terms than simply an interest in the legal profession.

In a manner akin to the durability of the doctrinal tradition in legal education, the conventional definition of intelligence discussed above has remained remarkably stable "withstanding the test of time" for over 100 years. However, it has been critiqued by a number of theorists.

However, the theory of intelligence which has had the most significant educational impact is Gardner's multiple intelligences.

Gardner seeks a wider definition of intelligence as a "biopsychological potential to process information that can be activated in a cultural setting to solve problems or create products that are of value in a culture". Using the above definition he has devised eight criteria to apply to decide whether a particular ability is in fact an intelligence. These range from its potential isolation in the case of a brain injury to its ability to be encoded in a symbol system (such as language or music). Based on this he has identified what he claims are eight different types of intelligences: linguistic, logical-mathematical, musical, bodilykinaesthetic, spatial, intrapersonal and interpersonal and naturalist.

This concept of intelligence has attracted much criticism.

Gardner himself suggests that there is "nothing magical" about the use of the term "intelligence" but suggests that he used it to challenge the pre-eminence of "logic and language" in Western culture and its intelligence tests. The simple fact is that there is no single, definitive answer to the question of whether intelligence is a single, unitary ability or a "loose confederation of independent abilities". Despite this scientific controversy, and somewhat to Gardner's surprise, there has been considerable take-up of multiple intelligence theory within all levels of education.

Within higher education generally there have been suggestions that multiple intelligences could challenge the notion that students with linguistic or mathematical intelligence are most likely to benefit from higher education, and equip a more diverse student body with a range of talents to meet societal needs.

Perhaps the appeal and potential of multiple intelligences in education overall is best summed up by Craft who states that: "MI is an optimistic theory that recognizes rich patterns of competence and expertise in each learner". Multiple intelligences can identify the fundamental capacities present in each individual student. Adjusting teaching and learning methodologies to ensure that

the breadth of capacities is acknowledged and enhanced enables multiple intelligences to be used as a tool to generate "intellectual versatility" within each student.

Gardner defines linguistic intelligence as having four key aspects. The ability to use language to persuade others (as rhetoric), the potential to assist in memorising information, the ability to explain using language and the ability to use language to reflect on language, in other words, "metalinguistic" analysis. He suggests that lawyers have developed the skill of rhetoric "to the highest degree".

Another way linguistic intelligence could arguably be developed is by the use of narrative in legal education. This involves structuring facts in the context of stories, rather than in the context of legal rules (typically legislation and cases) to determine or show the meaning of the situation.

Amongst the more neglected of the multiple intelligences in legal education, a fruitful area for investigation is that of the personal intelligences. These are described by Gardner as "access to one's own feeling life" (intrapersonal) and "the ability to notice and make distinctions among other individuals" (interpersonal).

This offers another critique of the traditional conception of "thinking like a lawyer" which requires the suppression of any form of emotion. It also suggests there may be a significant value to incorporating intra- and interpersonal intelligences in legal education. The legal skills movement has seen an acknowledgement of some so-called "soft-skills" such as empathy and the management of emotion when dealing with clients.

There is also a considerable body of literature on law and emotion. Therefore, there is already potential to incorporate these intelligences into teaching and learning methodologies. For example, rather than being taught to suppress their emotions in their studies, students could be asked to analyse the role of emotions within their response to a particular scenario or case. The emotions of other legal actors and the impact of these could also be discussed (for example, the effect of a traumatic case on both the judiciary and the jury).

At first glance, possibly the most challenging three forms of intelligence to incorporate would be spatial, musical and bodily-kinaesthetic intelligence. Gardner defines key aspects of spatial intelligence as the ability to accurately perceive the visual world, to "perform transformations and modifications upon one's initial perceptions" and to "recreate aspects of one's visual experience". An acknowledgement of spatial intelligence could involve students creating artwork, sculpture, games and even mobile phone applications to provide visual representations of legal issues.

Musical intelligence, involving pitch, tone, rhythm and cadence is perhaps most clearly discernible in the use of oral rhetoric by lawyers. This could arguably be mimicked during moots and debating.

Bodily-kinaesthetic intelligence is defined by Gardner as "… control of one's bodily motions and capacity to handle objects skillfully". This could arguably range from appropriate use of body language to depicting legal concepts through mime, role plays, dance and other forms of acting and movement. It could also incorporate the use of more kinaesthetic materials, for example, models or props to physically manipulate.

The newer naturalist intelligence identified by Gardner is defined by him as relating to the identification and categorisation of different species. It is possible that transferring such skills to the law school could be of help in ordering and arranging facts and legal concepts. The idea of existential intelligence which deals with "the Big Questions" is perhaps easier to fit within current conceptions of legal education. The shifts in content discussed above arguably make a more philosophical approach to law almost a given.

The above discussion demonstrates the potential for the use of multiple intelligences as an organising concept to inform teaching and learning methodologies within law schools. At a basic level, it could act as a "checklist" for those developing the curriculum, to ensure they encompass the full range of cognitive abilities. More ambitiously, it can act a form of auditing tool, enabling an assessment of the extent to which a pluralistic approach has been adopted, and how successful it has been. It also provides a guide when selecting and implementing innovations.

For the legal academy, this will not only require an understanding of student profiles, but will also require members of the legal academy themselves to acknowledge and assess their "comfort zones" and actively identify and utilise opportunities to connect with, and develop, intelligences. This may well take more planning and preparation than the traditional model of law school teaching. However, the potential benefits in the development of a more pluralistic pedagogy could be great.

For the student body, the use of multiple intelligences has the potential to make a significant impact on both student well-being and the student learning experience.

LIFELONG LEARNING

Embodying life-long learning: Transition and capstone experiences

D Butler, S Coe, R Field, J McNamara, S Kift, C Brown
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Building on the momentum of curriculum change occurring within Australian universities, the authors designed a project to provide a blueprint for final year law curricula with capstones central to this framework. The project, *Curriculum Renewal in Legal Education*, developed six inter-related principles identified as key to good curriculum design. The six principles are *Transition*, *Integration and Closure*, *Diversity*, *Engagement*, *Assessment*, and *Evaluation*.

This paper focuses on the single curriculum design principle of *Transition*. It in itself consists of a number of separate components, or sub-principles, essential to this process. These are: assisting students to draw on their self-management and other skills to cope with uncertainty, complexity, and change; initiating the process of students' development of a sense of professional identity; and helping students to think about and manage their careers through planning and development.

A transition is said to have occurred when a person's reality has been disrupted causing them to 'construct a new reality'. Consequently, successful transitions necessitate a degree of awareness from the individual about what is taking place.

The idea of transition has been a part of Australian educational discourses for some time, recognising the changes young people experience as they advance through the education system.

Although it is acknowledged that there are challenges both in transitioning to the workplace or further study, Jervis and Hartley argue that the transition issues faced by students joining the professional workforce are particularly significant. Without a more structured approach to the final year curriculum, law graduates risk entering practice without an adequate understanding of their ethical and professional obligations and without a strong base for future professional learning and development. The project fills this void in final year law with its model for effective and intentional curriculum design.

Recent graduates and final year students were canvassed at three Australian universities (Queensland University of Technology [Australia's largest law school], Griffith University, and University of Western Australia) by way of six focus groups and an online survey. The outcome was that the group stressed the importance of the *Transition* principle, taking into account the diversity of student career destinations, the nurturing of a professional identity, and the development of life-long learning skills—hence the three sub-components of this principle.

Comments from final year students suggest an overwhelming sense of anxiety about what is to come (the uncertainty factor), and that their level of stress is elevated by their sense of being ill-equipped to cope with the pressures of their future professional roles.

These comments support research findings attesting to the high levels of psychological distress experienced by law students both in Australia and internationally. It also shows that as final year students enter the transition process already from a place of heightened anxiety, the process itself may add to the stress they are experiencing.

These comments demonstrate that transitions impact individuals' psychological state, their behaviours and their relationships, particularly how they see themselves and how they relate to others and their environment. Consequently, the need for law schools to assist final year students with this transition process is apparent — especially in light of the impact of this stress and anxiety on students' well-being.

Final year students, being on the precipice of transition, have awareness of what they are about to enter but often not the experience. Therefore, to a large extent, they are reliant on feedback from those who have gone before them (recent graduates). In particular, student comments suggest their high levels of anxiety are, to some degree, inflamed by anecdotal evidence that may not accurately reflect the reality of the situation.

It is unclear from these data whether such students' expectations were later matched by their experiences. Comments from recent graduates provide some insight into this experience and are discussed below.

The practice of articled clerkship in Western Australia appears to moderate the stress and anxiety final year students experience as they reflect employers' expectations that they will need guidance and assistance in their professional roles.

With Queensland students experiencing stress as they move closer to the transition from university to work, comments from recent graduates can provide insight into the reality of the experience from the other end of the process.

A participant articulated the need for a more mentoring role from the legal profession to support emerging graduates and assist the transition process.

Further comments from recent graduates indicate that they are able to find their feet and build confidence in their abilities after some initial hesitation and uncertainty following graduation. However, the above comments highlight the importance of addressing final year students' transition needs.

While ideally the best approach to ensuring an effective transition for students would involve collaboration with the profession, even in the absence of such a collaboration law schools alone can make a valuable contribution to facilitate the process.

Teaching students to effectively manage the challenges of modern life is essential to their success in their future professional lives. In particular, developing and managing their cognitive capacities can assist their recall of past experiences, help them to interpret given situations accurately, and apply their learning to new and varying contexts.

Not only does their emerging professional identity cause uncertainty for recent graduates, but the nature of legal work itself contributes to this state. Legal practice generally takes place in the grey areas of law where there is no single correct answer.

As these comments demonstrate, an important process of transition to legal professional is recognition that there are no 'definite answers' to legal problems and a legal professional's role is often to provide options and recommendations to clients. Therefore uncertainty, especially the management of uncertainty, is a crucial aspect of legal preparation, and hence, a sub-component of the *Transition* principle.

Resilience is 'the ability of the individual to adjust to adversity, maintain equilibrium, retain some sense of control over their environment, and continue to move on in a positive manner'. However, rather than promoting resilience, legal education often does much to undermine students' self-efficacy. The competitiveness of law schools sends 'negative messages to students about their competence and self-worth'.

Thoughtfully designed capstones can promote holistic thinking, self-confidence, and self-efficacy, better equipping students with the skills to deal with the challenge and change of the workplace. Through the provision of these experiences, law schools can fulfil their responsibility 'to prepare the whole student for the process of leaving the institution', and equip them with invaluable life-long learning skills.

Transition and self-identity are closely linked as the latter is affected by disruptive experiences. It is therefore important that transitioning experiences accommodate the need to develop a professional identity.

Over the course of the law school experience, students should develop an awareness of what it means to be a graduate of their discipline. They should also be encouraged and assisted in the formation of an emerging sense of professional identity which continues to develop past their university studies.

The broad range of practices that can be implemented via a capstone programme aid this identity shift for final year students.

Capstone programmes operating in disciplines with long-established histories of these learning experiences (such as medicine and engineering) may have, over time, developed ways to address this issue. However, for disciplines such as law where capstones are a fairly new learning approach (especially in Australia), careful thought needs to be given to how these programmes will contribute to the development of law students' professional identity across the entire degree course.

Closely linked to professional identity is career planning and development. This is an important component of the *Transition* principle as the 'world of work is so fundamentally different from the world of education that it requires an almost total transformation on the part of the new graduate'.

Furthermore, career planning and development need to take into account the 'diverse range of potential career destinations' many graduates will take.

As a transition experience, a capstone programme utilises a forward-looking perspective to facilitate career planning and development processes. This issue of broadening students' perspectives and initiating career planning early into the degree programme was raised by students in the project focus groups.

For a capstone programme to address the needs of final year students, career development must be addressed from a broad aspect rather than the traditional funnel into commercial law in top tier firms.

Internships and work experiences such as Work Integrated Learning (WIL) and Problem Based Learning (PBL) are also excellent mechanisms for assisting students' career development and fit comfortably within the capstone model.

It is incumbent on law schools to consider the diverse destinations of their graduates and tailor experiences accordingly. This can be achieved by using the principles of curriculum renewal to design thoughtful learning experiences that address students' transition needs.

The principle of *Transition* for curriculum design emphasises the needs of students as they move out of university and into their careers in order to better equip them for this move and furnish them with life-long learning skills. Capstones designed with students' transitions in mind bridge the divide between a degree programme focused on legal practice and the career diversity the 21st-century law graduate will experience. By designing curriculum in accordance with the principle of *Transition*, universities have the potential to play a vital and unique role in facilitating this change.

PHILOSOPHY OF LEGAL EDUCATION

Measuring The Impact Of Social Justice Teaching: Research Design And Oversight

L Radtke Bliss, S Caley, L Wolf

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This article explores how thoughtfully designed research projects can measure the impact of social justice teaching, using examples and experience gleaned from the evaluation and research component of a medical legal partnership and its affiliated law school clinic.

It also describes a medical legal partnership (hereinafter "MLP") known as the Health Law Partnership (hereinafter "the Partnership"),' and the Health Law Partnership Legal Services Clinic (hereinafter "the Partnership Clinic") at the University Law School (hereinafter "the University") and the design and evolution of the research and evaluation component of this project.

From the inception of the Partnership and the Partnership Clinic, we committed to a robust research and evaluation agenda. Designing the Partnership Project Components and Evaluation and Research Conceptualizing and developing the Partnership took place over a protracted period. From the outset, the legal partners, leaders from the Legal Aid Society ("hereinafter LAS") and the University were firmly committed to building a partnership between law and medicine in City.

The partners, along with assistance from the program evaluator, developed the following program areas for the Partnership: (1) delivery of direct legal services to low-income children and their families receiving health care services at Children's (2) providing education on two planes: (a) to hospital professionals to familiarize them with the effects social determinants have on health and how the Partnership could assist in addressing health-harming legal needs, and (b) to professional and graduate students in law, medicine, and social work to enhance their education in effective interprofessional collaboration, holistic problem-solving, addressing the social determinants of health, and overall skills development, and (3) engaging in systemic advocacy to address population health issues.

The first component to be developed was the delivery of direct services. The partners focused on decisions regarding a list of parameters and priorities. Using these parameters and priorities as a guide, the team determined the important data points and then developed a lengthy intake questionnaire designed to capture them. In addition to the intake questionnaire, the team developed a pre and post survey to be given to the parents/guardians of all children referred to the Partnership for legal services. All instruments, including the intake questionnaires and the surveys, received Institutional Review Board (IRB) approval at the University.

In addition to evaluating the benefits of providing free legal services to low-income children with the hope of improving their health outcomes and those of their parents/guardians, the Partnership also wanted to evaluate the experiences of providers when referring clients to the Partnership. Again, an IRB-approved survey instrument was developed to assess the providers' satisfaction with both the ease of referral and the receipt of feedback from the Partnership.

The partners wanted to develop the second component of the Partnership, education of professional graduate students. Using the same principle applied to the legal services component and the evaluation of provider satisfaction, the partners developed IRB-approved instruments to assess learners' experiences with the enterprise.

The first instrument, which remains in use, is a qualitative post-experience survey originally designed for law students. Perhaps the most significant question on this particular survey asks whether the learners will engage in public interest activities in their professional careers.

Four years ago, the Partnership Clinic faculty decided to develop a qualitative survey to evaluate attainment of key values associated with inter-professional clinical legal education. The instrument remains a work in progress, but the plan is to develop and implement a useful instrument as a first step in developing a longitudinal study to include current students and program graduates.

Through evaluation, teachers and researchers may determine the levels of student understanding and achievement in different concepts, goals, or ideas, and how such understanding may have changed as the result of the experiences students are exposed to in a clinical course.

Another critical area of research is a law clinic's impact on the clients and the communities a clinic serves. Many law school clinics engage in different processes to determine client satisfaction. However, satisfaction is just one measure of impact and effectiveness. Other questions may be asked that allow researchers to understand more completely the impact of legal services and legal interventions on individuals as well as communities.

In fact, the Partnership project has yielded multiple opportunities to share research results, knowledge gained, and to share the development of the project as a model for others to replicate through conference presentations, workshops, consultations, speeches, and publications.

Increasingly, healthcare providers are recognizing that they need to expand the healthcare team to include lawyers as well as problem-solvers from other disciplines in order to successfully address the complex social justice problems fermented by disparity and inequity.

Successfully addressing such problems depends upon educating the next generation of professionals from all disciplines about the principles of social justice, and the tools and collaborative models that can be employed to address social inequity. Clinical legal education has been recognized as an ideal vehicle to promote teaching and learning of social justice.

Inter-professional learning experiences, in and of themselves, involve challenging and complex relationships particularly because most are created, at least in part, to contribute to transformative change in problem-solving.

Because of this complexity, developing research projects and creating tools to evaluate effectiveness can be challenging. The common methodology, testing, is not indicative of development of skills and values. Thus, there is both opportunity and challenge in developing evaluation and research projects employing realistic metrics.

Socio-economic determinants of health affect health outcomes and legal intervention has the potential to effect improvement. Engaging in inter-professional problem solving creates a natural opportunity for students to practice, learn, and have significant impact on those they serve.

One option for other clinics interested in developing evaluation and research projects is to create an independent research team of students to help with study design and implementation. By creating a "research clinic," law students receive an applied learning experience that is as educational as other clinic models. Of course, as described below, a research clinic would need to comply with any research ethics obligations, which may include training for participating students if they are engaged in human subjects research.

Most faculties engaging in inter-professional work aspire to develop specific core attributes in their students following their exposure to the work. These core skills include: discipline role clarity; ability to understand the roles of other disciplines; skills in negotiating roles and managing role conflict; developing effective communication skills; developing group process skills, becoming more self-aware, and developing a positive attitude toward collaborative work.

Scholars have identified 21 cognitive skills associated with integrated experiences ranging from the development of critical thinking and recognition of bias to enhanced awareness of ethical issues. Fundamentally, the common objectives of inter-professional education are to improve the students' foundation in their chosen disciplines, to advance their overall ability integrate problem-solving skills from other disciplines, and to arrive at a heightened level of critical awareness at the conclusion of the experience.

Some inter-professional legal education programs utilize validated student evaluations to assess development of knowledge, skills, and values. Standardized instruments permit comparisons with similarly situated programs. In inter-professional education programs, qualitative measures may be more useful.

Quantitative measures evaluate attainment of clearly specified learning objectives and a numerical measure is affixed to performance. Assumptions made in statistical analysis can be problematic. Qualitative measures, on the other hand, may be more flexible. Challenges are associated with measuring the impact of social justice teaching.

Most legal scholars are not trained in empirical research. It demands a specific research question matched with an appropriate research methodology that provides data that will answer the question.

The first step is to develop a research question. In short, the researcher needs to ask herself what she wants to know.

Some questions the researcher should be thinking about in developing her research question include (1) who and what she wants to measure; (2) why she wants to measure it (why does the answer matter?); (3) how she is going to measure it; and (4) what is she going to do with the information once she has collected it.

In developing the research question, the researcher should be thinking about what kinds of research methods and data match the question she is trying to answer. Indeed, mixed-methods approaches that involve both quantitative and qualitative approaches within the same research project can provide a fuller picture than can be obtained with one method alone.

Most law professors — clinical and otherwise — are not trained in empirical research methods. Tools such as SurveyMonkey have made it easier for people to create surveys, but developing quality surveys that are understandable and produce quality data requires considerable skill. Similarly, although numerous statistical calculators are available free on the internet, the user needs to understand what statistical test is appropriate to what kind of data.

Another important consideration for the researcher is how the research will be funded. Much research will be conducted in the ordinary course of a legal academic's scholarship.

The Partnership has taken a hybrid approach. Our clinicians have engaged in empirical research from the beginning of the program as part of their scholarship activities. However, we have also allocated money within the Center for Law, Health and Society budget (with which the Partnership is affiliated within the University) and participated in fundraising with our community partners to support an evaluator for the research program. In addition, the Partnership has applied for and received external funding that has supported a variety of research projects.

Research involving human beings from simple surveys to complex biomedical clinical trials must comply with applicable ethical and legal standards. Legal academics who are new to empirical research may be unfamiliar with these requirements. Those who are familiar with them often complain about the burden imposed on them and the time wasted in complying with the laws.

Conducting research with human beings is a privilege, not a right, and it requires substantial thought. Accordingly, care should be taken to provide the IRB with the information that it needs to do its work.

As predicted at the inception of the project, the Partnership and the Partnership Clinic have proved to be rich sources of data regarding the effectiveness and impact of inter-professional collaboration and education on students, as well as on the lives of clients and their families, all of whom are low income and most of whom are facing multiple hardships as the result of chronic illness or disease combined with other disparities. This data has allowed us to assess the impact of our work, to improve referral systems, the services we provide, and the nature of education offered to students, and ultimately to understand whether our dual aims of educating law students about justice and health equity and holistically addressing the health problems of low income children and their families are being met.

PRACTICAL TRAINING

A Reflection on Practical Training in Legal Education in South Korea

S Oh

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In 2009, South Korea revamped its legal education system to introduce three-year law-school education as a graduate programme, replacing legal education as an undergraduate degree. Subsequently, only law school graduates are given the opportunity to take the bar exam.

The reason for introducing the graduate-programme model was to teach and research the legal theory and practices necessary for training legal professionals.

One can assume several reasons for which practical training has gained so much attention. Consumers of legal services were demanding more from their lawyers, while junior lawyers were exhibiting fewer practical skills since the transition from legal apprenticeships to legal education in universities. Furthermore, the divide between reality and theory was becoming wider, as legal theory became more conceptual and abstruse.

At present, Korean law schools are required to include practical training courses, such as legal ethics, research, drafting, mock trials and internships, in their curricula, and at least 20% of the teaching staff must have practical experience. In addition to these legal requirements, the majority of law schools also teach subjects that used to be included in the Judicial Research and Training Institute (JRTI) curricula, such as "civil procedure practice," "criminal procedure practice," "civil advocacy practice," "criminal advocacy practice," "prosecution practice" and "police practice."

Different countries certainly have different views regarding practical training and how it should be carried out. These differences stem from not only differences in legal systems, but also the ways in which legal professionals have been trained. In countries where legal professionals were traditionally trained by way of apprenticeships, it was widely accepted that the process of becoming a lawyer included an apprenticeship of some sort, in addition to legal education in the classroom. In countries where legal professionals were not traditionally trained by way of apprenticeships, practical training tends to take place in the classroom rather than workplaces such as law firms.

Furthermore, in common-law countries, where legal principles are derived from individual cases, legal principles are inextricably linked to facts. However, in civil-law countries, legal principles are manufactured concepts disassociated from the facts of particular cases. These differences influence how different countries perceive legal education and practical training.

To design effective programmes to develop the professional skills of lawyers, first identifying such skills is necessary. An oft-cited American report on legal education, the "MacCrate Report," lists ten "Fundamental Lawyering Skills" for future American lawyers. In abbreviated form, these consist of problem solving, legal analysis, legal research, factual investigation, communication, counselling, negotiation, litigation and alternative dispute resolution (administrative skills necessary to organize and manage legal work) and recognizing and resolving ethical dilemmas.

These skills could be classified into the following four groups.

Skill 1

Knowledge of the law, including statutes and case-law, is undoubtedly crucial. Understanding different commentators' views of relevant proposals for reforms would also be helpful in certain instances. If knowledge concerning such proposals extended beyond a rudimentary grasp on the black letter law and was based on an understanding of fundamental legal principles that justified such reforms, then this would be invaluable.

Such skills have been considered the province of conventional legal education—the study of legal theory wherein substantive law was taught and learned. Nonetheless, it said that legal doctrine and theory are best understood when contextualized, rather than taught simply as abstruse concepts. Therefore, more often than not, legal doctrines should be taught through the use of examples and cases.

Skill 2

This skill refers to the ability to spot issues in given facts, identifying relevant legal doctrines and applying them to patterns of facts.

Initially, it seems as though this skill would be more closely related to practical training, since it requires working with specific facts. However, the greater one's understanding of relevant legal doctrines and theories, the easier it would become to spot issues, identifying and then applying the relevant legal doctrines. From that perspective, this skill would fall under legal theory.

Skill 3

This skill consists in the ability to draft legal documents, such as letters or correspondences with other parties, draft applications, opinions, petitions, and judgments. This would likely fall under practical training, as it would be taught with reference to specific facts and cases. However, it cannot be argued that an accurate understanding of legal doctrines forms the foundation for good legal writing and therefore to completely dissociate legal theory from this skill would be questionable.

Skill 4

The ability to communicate with clients, collate information from client interviews and review relevant documents, gather necessary evidence, negotiate, work in teams, and lead when necessary are all skills required from legal professionals. Skills such as these can undoubtedly be classified as practical training.

The order in which we have analyzed these four skills does not represent a logical or practical order in which legal education is conducted. In civil-law jurisdictions like Korea, Japan, and Germany, law students start by learning legal doctrines (Skill 1). After that, they learn how to apply legal doctrines to facts (Skill 2). Finally, they practise drafting legal documents (Skill 3). According to the case method used in US Law Schools, students begin by learning how legal doctrines have been applied to facts (Skill 2), at first studying case-law by reading judgments. Legal principles and doctrines are discussed and taught after analyzing cases (Skill 1). In problem-based learning, or employing the simulation method, students learn legal principles by analyzing specific cases, where Skills 3 and 2 are at the fore, while Skill 1 is acquired last. Developing each skill results in advancing the other skills as well.

When teaching legal theory, attention should thus be given to its practical implications. This could be termed "practice awareness."

Worldwide, it is widely accepted that legal doctrine and theory (Skill 1) is taught and learned in the classroom. In Germany, Skill 1 is taught in Vorlesung, while Skill 2 is practised in Uebung. In both South Korea and Japan, while separate practice courses are sometimes offered, the application of laws also takes place during regular legal theory courses.

In the UK, legal doctrine and theory, and their application, are primarily taught throughout a three-year undergraduate course. Skills 1 and 2 are taught throughout this period as well. In England, where admission to the legal profession requires a two-year practical training period, Skills 3 and 4 are only developed in the Legal Practice Course—a practical skills course between university and the two-year practical training period.

Legal education in the US has no mandatory practical training requirement or formal law office training. Due to the absence of formal law office training, as in the UK, an attempt is made to teach Skills 3 and 4 in specific courses like legal writing, legal clinics, or legal negotiation in law schools.

In terms of providing practical training in universities, some problems seem inevitable. The classroom environment of law schools has inherent limitations in practical training, because it is difficult to replicate the most important aspects of real cases in the classroom.

A more fundamental question concerns an issue of priority: What should be taught first and to what extent? What is the most balanced mix for a curriculum? How many practical training courses should be open in law schools? To answer these questions, we have to anticipate the nature of law-school graduates. If they work mainly with routine legal cases, then they need more practical training, which would allow them to begin working upon graduation. If they work mainly with delicate and complex legal cases, then law schools should teach legal doctrines and principles, which would be the basis of their strategies and arguments. However, deciding on any one type of graduate is incredibly difficult, since graduates from different law schools might work in diverse areas.

For these reasons, law schools tend to set curricula common to all types of legal work, and such curricula tend to emphasize Skills 1 and 2. During the short three years of law school, legal education curricula leave little room for practical training courses. Even if courses on legal clinics, writing, negotiation, and externships were offered, these would only be able to cover a fraction of what is involved.

Bearing in mind that legal education is a process, for effective learning, legal theory education and practical training should be combined. Limited numbers of separate courses on practical training is not an answer. Instead, practice awareness in every subject will enhance effectiveness in learning and practice.

From a conceptual point of view, legal theory education can be separated from practical training, acknowledging that they have their own jurisdictions in practice. At the same time, however, there are areas where legal theory education and practical training seem to overlap. As such, a categorical approach to legal education, in terms of a hard and fast distinction between legal theory education and practical training, will only cause greater confusion.

For this reason, neither legal theory education nor practical training should occupy exclusive stages of legal education generally or courses particularly. Rather, they should be combined organically. The organic combination of these two is, in effect, practice awareness.

Furthermore, it is likely that legal theory education will lead to better practical training, just as practical training will lead to better legal theory education.

For this reason, developing "practice awareness" throughout legal education is important—the awareness that, even in cases where conventional legal doctrines are taught, thought should be given to how such doctrines permeate practice. The ultimate goal of legal education is lawyers who can solve legal problems for clients. Therefore, practice awareness should be maintained throughout the whole of legal education.

The American Bar Association's New Mandates For Teaching Professional Skills And Values: Impact, Human Resources, New Roles For Clinical Teachers, And Virtual Worlds

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The accreditation standards for law schools were amended on August 12, 2014, to require law schools to establish and publish learning outcomes that are designed to achieve the schools' educational objectives, which must include competence in the professional skills needed for competent and ethical participation as a member of the legal profession. Law schools must require students to satisfactorily complete "one or more experiential course(s) totaling at least six credit hours."

The new ABA mandates are an important development, and they should have a positive impact on legal education in the long run. I do not think, however, that the mandates will have an immediate and profound impact on legal education. I have two primary reasons for being skeptical. First, six credit hours of experiential education will not have a significant impact on the professional competence of law school graduates. It would take at least fifteen credit hours after the first year of law school to produce the desired results. Unfortunately, the ABA rejected the recommendation of the Clinical Legal Education Association to require fifteen credit hours.

The potential impact of the ABA mandates is also weakened by the absence of a requirement for law schools to organize their programs of instruction to help students develop their professional skills and values in a structured, coordinated curriculum.

Consequently, I do not expect many schools to respond to the ABA mandates with the comprehensive curriculum reforms they should make, at least not any time soon. We will most likely just see some additional sections of existing skills courses and field placement programs at most law schools.

The second reason for my skepticism about the short-term impact of the new ABA mandates is that, although the ABA requires law schools to seek to develop competence, it will be impossible for law schools or the ABA to measure the effectiveness of their programs of instruction.

Figuring out what needs to be taught and defining and measuring competence are important issues that each law school should be trying to answer.

It is especially important for the average or below average students at the typical law school to be as prepared as possible for law practice because they are less likely to possess highly developed self-regulated learning skills than students at the top of the class or at elite law schools. Self-regulated learners are motivated to teach themselves—that is, to learn what they need to know. They are aware of the knowledge and skills they possess or lack, and they use appropriate strategies to actively implement or acquire them.

The National Conference of Bar Examiners ("NCBE") understands the importance of knowing what lawyers do and its relation to assessing competence.

Since we focus the bar examination as an assessment of the entry-level practitioner, NCBE's job analysis will undertake to determine how new lawyers spend their time in those early years—and then consider what knowledge, skills—and yes, values—are essential. Hopefully, the results will help law schools understand where they need to be focusing their resources.

I am hopeful law schools will realize that six credit hours is not enough once they set their learning objectives and begin to consider how to achieve them. Some schools will take the challenge seriously and go far beyond the ABA's mandates. Success stories will encourage competition among schools that compete for students and job placements.

It is clear that most law schools will need to devote more human resources to teaching skills and values if they want their students to be prepared to enter the legal profession.

Simulation-based courses are the most effective tool for providing introductory skills instruction. They provide pedagogical structure to help students understand and improve on their performances of the skills being taught.

So, where are the teachers coming from? We know where they are not coming from. Law schools are not going to hire enough additional full-time instructors to teach the number of simulation-based courses they need to offer.

Here is the brutal truth: the resources to pay for this retooling are going to have to come at the expense of traditional scholarship. Time is our primary asset; this is a painful trade-off because scholarship is the most enjoyable part of the job for many law professors.

The best alternative for most law schools will be to hire practicing or retired judges and lawyers to teach simulation-based professional skills courses. They know how to practice law, and they

understand professional values. This option creates a number of problems, which I will discuss a little later.

Before I do that, let me discuss field placement courses (also known as externships). Field placement courses are underappreciated by law schools for their potential impact on students' professional values and identities. I would like to see law schools more purposely focus on the potential of field placement courses for teaching professionalism.

It would be a mistake, however, to try to use field placement courses to provide introductory instruction in professional skills.

The problems with using judges and lawyers to teach professional skills and values, in either simulation-based courses or field placement courses, boil down to one thing: they are not professional teachers. This problem can be addressed by devoting adequate resources to train, guide, monitor, and evaluate lawyers and judges who are hired to teach skills and values courses.

This raises another resource issue: where are the faculty trainers coming from? I propose that law schools divert some of their best and most experienced skills and values teachers from their regular course assignments and ask them, at least temporarily, to help lawyers and judges become competent skills and values teachers.

I am aware that many skills and values teachers would not want to become these teachers of teachers, and some would not be very good at it. While many of these reassignments might be temporary, there will be a continuing need for faculty in these roles because of the turnover of practitioner-teachers.

I am aware that my proposal to divert some faculty members from teaching students and replace them with practitioner teachers will not be popular with many of those who might be affected. As Paul Campos argued, "The expenses associated with clinical legal education can be reduced through greater use of well-designed externship programs, which allow students to obtain many of the same benefits at a radically reduced cost." This suggestion drew the following response from Scott Fruehwald in the Legal Skills Prof Blog on August 2, 2012:

> I disagree with Campos's proposal that law schools cut down on clinics in favor of externships. I believe that law students get their best training in law clinics where they are supervised by expert teachers of clinical skills. I do not trust externships. The attorneys that provide the externships do not know anything about teaching law students. (Teaching is a skill that needs to be developed.) In general, I think that law students need more practical training with teachers that are trained in providing practical training.

I expect that a lot of clinical teachers agree with Fruehwald. I agree that experienced in-house clinical teachers should be better teachers than practitioners. Fruehwald, however, overlooks the fact that there are some very worthwhile educational objectives that can be achieved by field placement courses without relying on the supervising attorneys being skilled teachers.

My proposal responds to Fruehwald's concerns by calling on law schools to devote the necessary resources to help judges and lawyers become skilled enough to teach simulation-based and field placement courses.

I hope that one impact of the ABA mandate to establish and publish competency-related outcomes will be a move to establish courses that are built around virtual law firms. It is a method of instruction that is too promising to ignore.

Courses organized around virtual law firms have been slow to develop in the United States, but they are spreading in Commonwealth countries. To my knowledge, the first one began in 2000 at the Glasgow School of Graduate Law at the University of Strathclyde in Scotland, then some programs were started in England and Wales before the concept migrated to Hong Kong and Australia. These are programs that take place after students receive their four-year undergraduate degree in law and before they begin law practice.

The largest and most sophisticated use of virtual worlds, to date, is at Australia National University's Legal Workshop in Canberra ("Legal Workshop").

The students interact, either in person or electronically, with standardized clients, each other (including students in other law firms), and lawyers who are supervising and evaluating their work as "senior partners" or mentors. Practicing lawyers may even be hired to serve as "associates" to whom the students can go for advice and assistance.

Furthermore, the PPC [the online learning and simulated practice environment entitled the Professional Practice Core] is designed to actively engage students in a messy learning process whereby they must discern the nature of their tasks, locate the resources to assist them in resolving the task, and consider that there may not be just one answer to the task provided in order to meet a clients' needs.

Arguably, this course structure helps to create the students' connections with each other and the profession. The structure also provides the engaging activities that students indicate they would like to experience through law school.

The subjects covered in the Legal Workshop include the skills areas of civil litigation, commercial, corporate, and property practice. Trust and accounting, ethics and professional responsibility, and practice management are integrated into the simulated transactions to provide the context for learning about these areas.

The new ABA mandates will not have an immediate, profound impact on the preparation of law students to enter the legal profession. They might, however, lead to changes that will eventually make a positive difference in the preparation of students for law practice.

For reforms to succeed, however, experiential educators as well as non-experiential educators must be willing to explore new options. As Eli Wald and Russell Pearce observed, "Reforming legal education, therefore, requires more than curricular and institutional changes. It also necessitates a corresponding reimagining of the role of law professors and their duties to students and the legal profession."

Law schools will not improve significantly unless they find ways to increase the number of competent teachers who are involved in providing instruction in professional skills and values. This Article proposes one way to help practicing lawyers and judges become competent teachers, and it argues that using virtual worlds in which to educate students about the practice of law could be successful, exciting, and cost efficient.

Towards Growth and Sustainability: The Institutional and Disciplinary Dynamics of Postgraduate Law Research Groups

RESEARCH

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Increasingly, attention in Australia is focusing on the role of postgraduate student research groups in higher degree research (HDR) student learning and experience. The current research project was aimed broadly at the evaluation of HDR groups, and was directed towards informing development of an interdisciplinary group around criminology, criminal law and criminal justice (the Crim* Network: http://crimstarnetwork.com/) based within the Law Faculty at the University of Sydney. Specifically, it sought to ensure the Network developed within a pedagogically informed structure, and was sustainable in the long-term with potency for growth and outreach beyond the host faculty and institution.

In the current article, we examine two related issues regarding development and sustainability of law HDR groups. The first issue is that of group sustainability. The second overarching issue is the particular challenge of sustainability for an inter-disciplinary group based in a law faculty.

In considering these two issues, we suggest that although law students may prefer the involvement of legal academics to direct or mediate group interaction, the sustainability of the group might instead depend upon academics retreating from the traditional role of teacher to explicitly promote a non-hierarchical structure and more egalitarian interactions.

Traditionally, at the institutional level, law faculties in Australia have tended to stand alone, although recent restructuring of many universities to create divisional structures or 'mega-faculties' has seen law schools become integrated with other disciplines. Arguably the traditional disciplinary boundaries of law are being pushed, witnessed by the growth of socio-legal research, empirically-based legal research and research at the intersections of law and culture.

To the extent that particular academic disciplines are likely to be imbued with different academic cultures, law reputedly retains a self-focused emphasis on professionalism and legal practice rather than the study of law itself as a site of critical inquiry.

As discussed in our previous work, we sought feedback about HDR student groups both from students who had participated in the Crim* Network and from students completing HDR degrees in law. A survey was completed by three participants in the Crim* Network.

Another survey was distributed to students attending the Sydney Law School Postgraduate Conference held in October 2012. In total, 36 surveys were received. We acknowledge that this is a very modest sample size and that the sample is self-selected.

Following analysis of the survey responses, we invited academics and HDR students who we identified through web-based research as being involved in running research-related groups, to participate in informal discussions with a researcher about their group and its goals, format and operation. Five academics and two students participated in such discussions.

These discussions were particularly useful to us as a counterpoint to the survey data, illustrating the other side of the coin, as it were: running a group, rather than being a participant.

The transient and possibly foundational nature of HDR student identity means that a student-led group that is solely member-driven, without institutional recognition or support (however informal), is likely to disband once key members have completed their HDR studies, or more likely sooner, depending upon the competing demands of members (which commonly increase as students move towards completion).

On the other hand, the value of a group that achieves its specific purpose (such as the members learning more about a particular theory or method of analysis) is not diminished by disbanding once this learning is complete.

Groups that are run by academics, even if *for* students, may be expected to have longer lifespans.

Buissink-Smith, Hart and van der Meer distinguish between groups that have developed in a 'bottom-up manner' (which they suggest are most of those described in the literature) and those 'artificially manufactured by the institution' as were the groups in their study at Otago University. Their study identified the potential for 'manufactured' groups to be successful:

> Particularly interesting here is that students and peer leaders actually found the continued involvement of the institution to be both comforting and legitimising, especially for international students.

Facilitation by the academic could be more or less hands-on as required and all members of the groups were self-selecting.

Different again to both the less formal but content-specific groups and the highly structured, skills-oriented groups, Jess (an academic and HDR student) described a different writing group. Comprised of five members who had met at the commencement of their doctoral degrees, the group was purely social for the first six months or so when its members decided to begin sharing their written work with one another. This group had existed for some three years. There had been no attempt to recruit new members as it was felt that to do so might upset the equilibrium of the group.

The range of different types of groups that emerges from the literature and from the survey and interview data illustrates that diverse structures, levels of formality and institutional support can be attributed to the different goals and purposes of the groups.

As we have previously noted, it seems that many HDR students in law do not view themselves as being in pursuit of an academic career. Nevertheless the importance of peer learning and developing academic independence is recognised amongst commentators not just for progression to an academic role but for completion of the dissertation. Baker and Pifer, reporting on their study of American doctoral students, explain as follows:

> The students in our study who did not realise the importance of networking and collaboration, or lacked the confidence to engage in these activities, suffered as a result, and had a more difficult time making that transition from student to scholar. *They seemed to be waiting for someone else to assign them to a project or otherwise direct their efforts and progress.* Efficacy and initiative are critical to making the transition from student to scholar, and engaging in collaborations with individuals in the community are key for making this transition effectively. (Emphasis added.)

Entirely student-run groups might be expected to avoid such a pitfall. However, without a certain degree of proactivity or commitment to the group, a single motivated student may be left to push the group along unassisted.

There is the potential for 'academic involvement' to assist HDR students in transitioning to viewing themselves as scholars and academics rather than novices. Yet the discussion above also highlights the need for academic involvement to be balanced by student initiative in order for the transition from being a student to be successful.

A strategic withdrawal strategy to allow hand-over to experienced students after a certain period of time might be a way of encouraging a group to become self-sustaining. Meanwhile, the structure of the group might provide students with the opportunity to locate others with whom they might work absent a mediating academic influence.

The continuing background presence of academics is likely to be beneficial for group momentum. Academics may also have a role to play in encouraging reflection on disciplinary identity and boundaries, as well as facilitating the formation of inter-disciplinary relationships, which is discussed in the following section.

A further issue raised by the interview narratives is that the most self-sustaining groups are those in which the effort of contributing is matched or exceeded by the benefits the participant receives, regardless of whether those benefits are academic, personal or social.

Therefore, HDR law student groups might begin with diverse goals and purposes and have differing levels of institutional or academic support. Yet, ultimately HDR student groups will benefit from a framework that fosters student independence, and ideally any academic involvement in a group should be aimed towards this end.

Through its approach to empiricism, law has been its own gatekeeper, determining the realities and ideas from other disciplines that will be authorised within its disciplinary space. In a discussion about situating law and legal research, Loughnan and Shackel have commented:

> Acknowledging the difficulty of the task of pinning down what it is that is distinctive about legal research, [the Council of Australian Law Deans] suggests that, in part because of the primacy of doctrinal research and the distinctive notion of 'legal reasoning', legal research falls neither wholly within one or other category.

HDR students in law are engaged in a wide range of projects. The range of research methodologies, analytical approaches and topics lends itself to a quasi-inter-disciplinarity.

In response to a question concerning interest in participating in a group with members from different faculties or disciplines, approximately two thirds of students expressed themselves as interested in participating in such a group.

Thus, there is a tension between the desire for interdisciplinarity and the need to invest one's (limited) time in subjects directly relevant to his or her immediate area of research.

It might be that inter-disciplinarity still needs to be founded upon shared theoretical, political or methodological approaches. However, at times, such an approach may lead to missed opportunities, such as the discovery of unexpected points of commonality.

Manderson has noted the lack of training in inter-disciplinarity for postgraduate research students in law. Further, he has suggested that the predominance of 'traditional' methods of the *study* of law (such as doctrinal research) may at times lead to the devaluing of the inter-disciplinary study of law and methods for doing so.

In some faculties, absence of a cohesive culture may impact upon HDR students' ability and desire to engage in collaborative and equitable group interactions. Yet, the benefits of research related groups are not confined to HDR students but are rather highly relevant also to academics and, as previously discussed, in the transition from student *to* academic.

Thus, institutional dynamics, notably the involvement of individual academics and the climate of faculty at large, is significant to the success of inter-disciplinary HDR law student groups.

We conclude that academics can have an important role in fostering skills in independence, critical thinking, listening and facilitation of discussion that are central to the success of a group. Moreover, academics and the broader faculty are in a position to foster a culture of inter-disciplinarity and collegiality.

The Course Source: The Casebook Evolved

RESOURCES

S Johnson

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Over the last several decades, many faculty members have moved away from the traditional Socratic dialogue and case method form of instruction, at least in upper-division courses. Although many more are receptive to such change, the Socratic dialogue and the case method provide faculty with a high level of control over the classroom, and faculty members are reluctant to abandon those methods unless tools are available to ease the transition to other teaching methods. The traditional casebook does not provide these tools.

The evolved casebook should be an e-book, one unlike any e-book legal publishers have marketed in the past. Rather than a traditional casebook, it should be a "course source," a one-stop shop for all of a faculty member's teaching resource needs. The Carnegie Foundation Report, *Educating Lawyers: Preparation for the Profession of Law (Carnegie Report)*, stressed the importance of training students in the *knowledge*, *skills* and *values* necessary to the legal profession.

In 2014, the ABA Section of Legal Education and Admissions to the Bar amended the accreditation standards that apply to law schools.

The assessment standards could have major implications for law schools, as in many courses at law schools across the country today, the only means of assessment for the course may be a single exam at the end of the semester.

In light of the assessment requirements of the amended ABA Standards, there will likely be increased demand for "off the shelf" formative and summative assessment instruments addressing a wide variety of topics. Ideally, those materials will be available to faculty in a single location, such as their coursebook, rather than scattered across the internet.

Although today's law students are members of Generations X and Y, they are also adults; thus, it is helpful to consider adult learning theory in framing pedagogical reforms for legal education. Fortunately, students in Generations X and Y share many characteristics with adult learners generally, so many of the reforms that will benefit adult learners are reforms that were identified above as benefitting today's students.

Pedagogical reforms, motivated by the demands of critics and the necessity to change as student demographics do, are coming slowly, but they could be implemented much more quickly if casebooks evolved to ease the transition.

Although the early casebooks included unedited cases and little else, over time, authors began to heavily edit cases and include commentary, questions, and secondary material, including excerpts of law review articles. When legal realism took hold in law schools, many casebooks expanded the amount and variety of secondary source materials included, often incorporating materials from other disciplines.

Although publishers incorporated secondary materials and problems into the traditional Langdellian casebook to respond to some pedagogical shifts, they created entirely new and independent series of books to address other pedagogical shifts.

Professors Stephen Henderson and Joseph Thai argue that course books should be linked to a community where readers can post comments and ratings of material in the book, read and respond to the comments and ratings posted by other readers, and sort the material to discover sections that were the most popular or generated the most commentary.

Although it is not unusual for three or more faculty members to collaborate on a casebook, some academics envision a future where casebooks are authored by entire communities of faculty members, perhaps through an open-source format similar to Wikipedia.

To aid faculty members in assembling a book that meets their needs, the database or online platform would be linked to some social media tool (e.g., a blog, discussion list, wiki) that facilitates commenting on and ranking materials included in the database and posting additional materials to the database.

For faculty members, a casebook often drives pedagogy and provides the overall structure and organization for the course. This is especially true for new faculty members because law faculty generally receive very little training in teaching before stepping into the classroom for the first time.

Although this is beneficial to new faculty, it provides authors with an opportunity to evangelize their own jurisprudential and normative belief systems, and the structure of casebooks promotes conformity. The next generation of casebooks will need to incorporate a wider variety of resources to provide faculty with greater flexibility in their choice of teaching methods.

The next generation of casebooks should be more than books. They should be platforms that include resources for all of a faculty member's teaching needs and a student's learning needs. For that reason, it may be appropriate to refer to the next generation of casebook as a "course source," rather than a casebook or coursebook.

Unlike casebooks of the past, a course source should be digital. There are several reasons for this choice. First, today's students are digital natives and have grown accustomed to learning through computers and technology.

Second, by providing the materials in digital format, faculty members can incorporate video, audio, interactive diagrams, and a variety of other resources to reach out to students with a variety of learning styles. Third, the addition of such resources should also create a more entertaining and engaging learning environment for the students. Fourth, by providing the materials in a digital format, there are greater opportunities to include interactive tutorials or exercises, which allow students to take a more active role in their learning. Fifth, the materials will include an abundance of hyperlinks, which should enhance learning opportunities for non-linear thinkers. Finally, because it is delivered in a digital format, the course source and accompanying teacher's manual can be quickly and easily updated by the author.

In many ways, a course source resembles a traditional casebook in that the author or authors arrange cases, notes, questions and comments, secondary materials, problems, hypotheticals, simulations, role-plays, practical skills exercises, professionalism problems, quizzes, and assessment tools in the traditional chapter and page structure of a book, and they provide faculty members with a teacher's manual that outlines the manner in which the tools included in the book can be used to teach the course. The book can also be printed, and major portions of it will be accessible off-line.

Wetlands Law: A Course Source is a prototype for the vision of a course source, and it is being published by CALI's eLangdell Press. It includes materials designed to train students in all three Carnegie apprenticeships: To address the *knowledge* apprenticeship, the "course source" includes all of the traditional elements of a casebook or coursebook (cases, commentary, notes and questions) and includes several hypotheticals and problem exercises that focus on reinforcing wetlands law…. To address the *skills* apprenticeship, the "course source" includes sixteen separate legal research exercises, several drafting exercises (including exercises that focus on drafting a [Freedom of Information Act] request, drafting comments on a proposed regulation, and drafting a citizen suit complaint and 60 day notice letter), and an interviewing and counseling exercise. To address the *values* apprenticeship, the "course source" includes several professionalism scenarios, with questions related to the scenarios.

Although the course source includes a core set of edited cases, it includes links to the unedited versions of those cases and links to dozens of other unedited cases. Similarly, when statutes and regulations are reproduced in part in the course source, they are linked to the full versions of those statutes or regulations. The cases, statutes, and regulations to which the course source links are all provided in an open-source, Creative Commons format, so faculty members can easily edit the external material.

For most of the principal cases that are excerpted in the book, there are links to decision documents, administrative orders, property maps, pictures, local media coverage or other background materials. . . . Throughout each chapter, there are several "Resource" sections that identify reports, databases, audio or visual materials, government documents, and other materials that are relevant to the topics covered in the chapter.

Finally, most of the links and materials in the book have been repurposed as a web-based library of wetlands resources, which, like the book itself, can be modified, reorganized, and redistributed in whole or part as faculty members find helpful.

As already noted, the model addresses many of the concerns raised by legal reformers and the ABA, and addresses the changing nature of the student body by providing resources that faculty members can use to focus more directly on providing instruction in practical skills and professionalism: resources for formative and summative assessment; resources to enable faculty members to present materials in a variety of formats geared to the variety of student learning styles; resources to facilitate collaborative leaming and experiential learning; resources that facilitate presentation of material in an entertaining and engaging format; and material to students in a format in which they have been accustomed to learning and which facilitates active learning.

In addition, the digital and open-source format benefits faculty members in that it gives them much more control over their course materials because they can freely add or delete material from a course source and redistribute it to their students.

Most importantly, digital materials that are distributed through a Creative Commons license can be provided to students at no cost, resulting in significant cost savings.

Although student surveys indicated a preference for digital statutory supplements and digital legal research materials, students using those materials are not reading large amounts of information on a screen as they would be if they were reading the cases, notes, and problems that are included in traditional casebooks and will continue to be included, to some extent, in a course source.

If the next generation of course materials are distributed through a Creative Commons license, publishers will not receive any revenue for producing the materials. Most publishers, therefore, will have little incentive to market those materials or to pay authors to produce those materials. If publishers will not compensate authors, conventional wisdom would suggest that faculty members would not have any incentive to produce the materials.

Ultimately, even if there are not sufficient incentives for faculty members to develop course materials distributed at no cost, the model for the next generation of casebook outlined in this Article should not be abandoned. A course source that is developed in the manner outlined in this Article and delivered in a digital format by traditional publishers for a fee, rather than through a Creative Commons license, will still provide all of the pedagogical benefits outlined above. It will not be perfect, but it will be a significant upgrade from the status quo.

Ideally, course sources-the next generation of casebooks-will include resources that will provide clear educational benefits to students, including: (1) resources to present material to students in a variety of formats designed to reach a variety of different types of learning styles; (2) resources to facilitate active, collaborative, and experiential learning; and (3) resources to create engaging and entertaining classroom experiences. Ideally, those educational benefits, coupled with instructions for students about the educational hazards created by improper use of laptops in class, should

outweigh the costs that classroom use of laptops could impose on learning, so that most faculty members will feel comfortable allowing students to use a digital set of course materials in class.

RESOURCES

Availability, Level of use and Constraints to use of Electronic Resources by Law Lecturers in Public Universities in Nigeria

O Amusa, M Atinmo

Italian Journal of Library and Information Science,

Ahmad stated that electronic legal information resources offer many advantages, the following being particularly noteworthy; in-depth searches of computer-held files can be carried out at a speed which no human can hope to match, the user is an active participant and can instantly adapt his request to the reality of what is actually in the reference file. Electronic databases can easily be re-searched using new clues, the user has easy access to an extremely wide range of indexes and databases, many of which may not be available locally. Databases searches online often offer a far greater number of access points than the corresponding printed indexes and there is almost no need for the irksome note taking so typical of many conventional searches.

According to Omekwu the use of digital technology has led to migration of lawyer's instrument of trade to electronic formats. Judicial decisions and other sources of information germane to the work of lawyers are now available in electronic format. Law reports, judicial decisions, textbooks, and case laws are now available in electronic formats and available online.

Mafix Digital emphasized the usefulness of electronic resources and the need for their adoption by law faculties in Nigeria. He stated that electronic legal information sources are designed specifically for legal professionals and lecturers. They make research work fast, save time and also enhance efficiency due to powerful searching and cross-referencing technology. A combination of electronic legal sources is a formidable information powerhouse for any institution, law practice agency, courts, etc. Considering the above mentioned benefits of electronic legal information sources, we can conclude that the resources have reduced time needed to access print legal resources, monotony, and stress associated with them. These resources are being subscribed to by many institutions in Nigeria, thereby making them available for use by law lecturers and students.

Availability of electronic information sources relates to the provision for and inclusion of the resources in the collection of the libraries at the disposal of users in academic institutions. Awareness is part of availability and it indicates the extent to which users have information and knowledge of electronic resources being subscribed to. Madukoma, Onuoha and Ikonne identified lack of awareness as major contributing factor to non-use of e-resources.

Law is a specialized and highly technical subject; it is a living discipline that keeps growing on a daily basis. This non-static nature of law has made its reliance on information resources unbridled. The professionals in the field of law are lawyers, who practice law, and law lecturers, who teach law in tertiary institutions. Law lecturers teach and conduct legal research in universities in Nigeria. These activities require the use of relevant, timely, and current legal information resources in both electronic and print formats. They operate in information intensive environment because whatever they do, teaching, research, publishing, consultancy and so on require information.

Onoyeyan and Okereke stated that electronic library resources heighten legal education. They have broadened academic experience because information can be accessed at a faster pace, at anytime and, at any place. Users can also access more information sources than can be found in traditional library.

Some constraints may also affect the use of electronic resources. Consequently, this study investigated the availability, level of use and constraints to the use of electronic resources by law lecturers in universities in Nigeria. Electronic resources in this study are those subscribed to and made available by the institutions to their staff and students. Those available on Google Scholar, Yahoo search, and other open source platforms are excluded.

Mwirigi reported that over the years, due to the rise of technology, law libraries are now managing and housing more than just books; libraries have transformed into digital and virtual libraries where books, journals and magazines have changed to e-books, e-journals and e-zines. Ukachi emphasized that the roles of reference law libraries have thus evolved in response to new societal and technological developments. Reference law libraries now use ICT to search for information, to communicate and satisfy patron's reference and information needs. She further identified challenges to adoption and use of ICT in Nigeria. These among others are irregular power supply, limited duration of use and, inadequate number of facilities.

This study adopted a survey research design to conduct a study into availability, level of use and constraints to use of electronic information by law lecturers in public universities in Nigeria. The population of this study was all the law lecturers in public universities in Nigeria.

The main instrument used to gather data for this study is a questionnaire.

The study found out the extent to which notable electronic information sources on law were available to the law lecturers in their respective faculties.

The level of availability of electronic resources in the university is very low.

The level of availability of electronic resources on law influenced their use by the law lecturers. Their responses to question on their level of use of resources portrayed low usage.

Responses obtained from the law lecturers on the issue of hindrance to their use of electronic resources are quite revealing.

Distinctly, Absence of sufficient training programme on electronic resources use was ranked highest by their mean score rating and was followed by Non-availability of desired electronic resources within the University. Further, Low level of local contents in the electronic resources, Poor IT skills on the part of law lecturers, lack of time due to tight academic and job schedules, Lack of publicity on the contents of the available electronic resources by the University were ranked high. Also, Unorganised nature and proliferation of electronic resources on law, Paucity of workstations to access electronic resources in the University and, Irrelevance of contents of electronic resources to local academic needs respectively were also ranked as constraints.

Several electronic information sources on law are available for the use of law lecturers and students from their producers. However, many of them are not readily available to the respondents in their respective universities. Information obtained from the law librarians of the universities corroborates this finding. The law librarians claimed that subscriptions to the resources are not regular; universities usually subscribed to some of them for the purpose of accreditations. Accreditation of law programmes by the national Universities Commission is a four year affair. Upon expiration of subscription done during accreditations, renewals are not fort coming until when another accreditation exercises are around the corner. Consequently, the resources are less used by the respondents.

This study focused on the availability, level of use and constraints to use of electronic resources among law lecturers in Nigeria. Arising from the analyses of the data obtained for the study are the following findings:

- The level of availability of electronic resources for the use of the law lecturers was very low; most of major electronic information resources on law like LexisNexis, Westlaw, Kluwer Arbitration, and I-law are not readily available. They are being subscribed to during accreditation exercises only.
- Use of electronic resources on law among the law lecturers was low. Majority of them reported non-use of the resources.
- Poor use of the available electronic information resources on law were due to low level of availability of the resources, non-availability of desired electronic resources within the universities, absence of sufficient training on the use of electronic resources, Paucity of work stations to access electronic resources within the universities, and low level of local contents among others.
- Relative contributions of the independent variables revealed significant contribution of availability of ICT equipment while skill in ICT application and, ease-of-use were not.

Electronic resources on law abound and are available for use of law lecturers for teaching and research purposes. However, the resources are less available in law faculties of the universities studied due to poor subscriptions hence, they are being less used by the law lecturers. Thus it can be concluded that availability of electronic resources, and some constraints influence their use by law lecturers.

A common law fly on the transsystemic wall: observing the integrated method at McGill Faculty of Law

TEACHING METHODS AND MEDIA

H Whalen-Bridge

The Law Teacher, 2016, pp 1-16

The transsystemic approach is marked by the study of common law and civil law traditions of private law in the same course at the same time. The approach is not limited to an understanding of these two major legal traditions, and the overall aim is for McGill students to graduate with "a

cosmopolitan understanding of the law, one that is not confined to specific jurisdictions, or even legal traditions".

An exact definition of the transsystemic approach, however, is not easy, and participants find the approach somewhat resistant to description. The clearest statements about the programme focus on pedagogy and student coursework, where McGill teaches fundamental concepts of private law from civil law and common law traditions in an integrated fashion.

The transsystemic approach was conceived of as a continuation from and an improvement upon McGill's previous National Programme. In the years immediately preceding the transsystemic approach, all law schools in Québec including McGill traditionally taught the federal common law of constitutional, administrative and criminal law along with the private civil law of obligations to students, which meant that all schools exposed students to both civil law and common law at some point in their study of law. However, courses were systemic, in the sense that no course addressed both common law and civil law.

In the transsystemic programme, all students are admitted to a single integrated degree where they are awarded both the BCL and the LLB. More importantly, coursework seeks to link private law subject matter to the mentalities of different legal traditions and jurisdictions within those traditions.

For the month of November in the academic year 2011–2012, the author observed all class meetings in two first year law school courses. The timing, late in the first semester of law school, was selected in order to observe students after they had been exposed to the basics of the transsystemic approach but while they were still in the process of assimilating it.

After observing all class meetings in the two private law classes during the last month of first semester classes, two main differences between McGill and common law faculties in terms of classroom dynamics were apparent: (1) the comparative nature of the method was already well established by the end of the first semester, and (2) classroom discussion prioritised discussion of the reasons for the particular shape of the law (why is the law this way?) over the particulars of the law (what is the law?).

Apart from differences in transsystemic and common law classrooms, one rather pragmatic lesson that arose from the author's observation is the value of visiting the classrooms of other law schools, and not necessarily law schools that subscribe to a radically different pedagogy.

The author's classroom observation does not allow conclusions regarding the thought process taking place in students, but what was apparent from classroom observation was the ease and comfort with which students moved between common law and civil law materials.

This systemic fluency is a major difference between McGill and common law faculties with a national focus. More information on levels of student comprehension is necessary, but the observation provides some evidence to counter the position that law students must learn one system first before they can comprehend another.

The early establishment of a more flexible classroom environment at McGill supports the suggestion that the challenge facing national-focus legal education is not so much acquiring a new method, but abandoning the old. The ease with which the transsystemic classroom handles materials from common law and civil law traditions highlights the fact that national-focus law schools create a powerful orientation toward one legal system, if not to one jurisdiction within that legal system, and that steps must be taken to correct for this in order to prepare students for a practice that moves beyond national law.

Classroom discussion in both courses frequently began with the specifics of particular laws, and sometimes incorporated an extended review of particular points of positive law, but discussions were not considered concluded or completed in the classroom until the reasons why the law might have taken the shape that it did were addressed.

Bédard explains the advantages of the transsystemic approach by arguing that learning two traditions simultaneously helps students understand both systems better, because comparison puts both points of comparison into clearer relief. Bédard also states that that the transsystemic approach "makes it easier to for teachers to persuade students to think about philosophical, economical and historical aspects of the law". These descriptions of the transsystemic approach are consistent with the author's observations, but the direction of classroom discussions at McGill suggests that something more elemental is at play.

When one positive law is at issue, the dynamic of the discussion is primarily to establish what the law is, and other concerns are subordinate to the positive law. When two positive laws are in motion, the existence of two variations naturally raises a different question — not what, but why? This question produces a fundamental shift in the treatment of different positive laws, from mildly

interesting variations to equally valid alternatives that both demand understanding. It is this type of discussion which was regularly evident in McGill classrooms and set the primary direction of discussion.

As a practical matter, the transsystemic approach limits the teaching of systemic and positive law. Once a course determines to teach both the common law and civil law of Extra-Contractual Obligations, for example, it becomes immediately clear that all the positive law will not be taught. Course content must necessarily become more selective, a result underscored by McGill Faculty. In contrast, in common law faculties, professional expertise in the law of one system creates pressure to master the law of that system. The McGill experience suggests that while guidelines limiting reading assignment pages may render class preparation more manageable for students, the perceived need to cover ever more positive law will continue to create pressure to priortise the what over the why.

The author's classroom observations suggest that the comparative process active in transsystemic classrooms focuses attention on the forces producing legal rules, because when differences in equally valid alternatives arise, their mere existence requires an explanation. The transsystemic approach clearly cannot be imported wholesale into other law schools, but a classroom dynamic that leads students to consider the reasons for legal development more seriously is a reachable goal in a national-focus law school, and there is more than one way to do it.

The possibility of using skills courses in common law faculties of law to create a comparative dynamic raises the question of the role of skills courses in the transsystemic curriculum. In the transsystemic approach, because comparative legal analysis is addressed in introductory level private law courses in greater detail, legal analysis is not primarily taught in courses on legal methodology. The forces that animate the law, including different approaches to legal reasoning, are addressed to a greater degree when teaching basic law.

The McGill experience suggests that when students with civil law exposure learn the common law, they are engaged in what is essentially a comparative law experience. To the extent that teachers can address their comparative struggles, students will have a more coherent learning experience. To implement the transsystemic programme, McGill faced considerable resource challenges, including human expertise, team teaching and coordination, library resources, and teaching materials. Individual teachers of the common law to civil law students do not have these resources, but the transsystemic classroom suggests that making the learning process explicitly comparative is a worthwhile goal.

Admission to McGill University's Faculty of Law requires degrees of fluency in both English and French.

Some professors and law students are no doubt more comfortable in one language as opposed to another, but the bilingual nature of the education was present in many ways.

In a legal practice that spans different countries, lawyers will encounter participants in transactions and disputes who do not necessarily speak English, or who are much more comfortable in a different language. The lack of fluency in more than one language limits what law professors and law students can reasonably do to prepare for this aspect of global legal practice. Particular environments, such as the bilingual tradition of Quebec, the pluralistic framework of Singapore, and the market growth and outreach efforts of China, make it legitimate to expect students to have multiple languages. These jurisdictions in turn actively promote language acquisition, thereby gaining an advantage in global practice that will be difficult to match. If language acquisition is not a necessary local skill, meaningful instruction is not likely to take place.

The transsystemic approach offers some lessons for common law faculties of law with a national focus, particularly with regard to how the need to understand more than one vision of law rearranges the priorities of class discussion from the what of law to the why. The observations that formed the basis of this article do not allow for far-reaching conclusions about the type of graduate the transsystemic programme will produce, but the flexibility demonstrated with materials from a variety of legal systems suggests that students in a transsystemic approach will not have to overcome the hesitancy and reluctance which can be produced by an exclusive national-focus curriculum.

How to improve my teaching style? Teaching business law through English-medium of instruction. Graduate and undergraduate student's point of view

S Cristea

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Teaching through the medium of English is a new professional challenge which relates both to curricular development and to course delivery. In the attempts to introduce EMI in their academic practice, Romanian academics inevitably strive to bridge diverse streams of thought, to answer questions that have not been raised before and to deliver a demanding disciplinary content.

The picture is completed by the difficulty of using metaphorical expression in a language other than your native one, by appropriate selection of judicial cases to be shared with the students, by explaining and understanding new concepts and definitions making the necessary link between linguistic expression and professional content.

The concept of English-medium of instruction (EMI) can be explained as the use of the English language to teach academic subjects in countries or jurisdictions where the first language of the majority of the population is not English.

In the Nordic countries in particular there has been a great deal of discussion in the research community about the use of English in the educational sector. These discussions have centered on highlighting the advantages of EMI, such as:

- "internationalization" means more English teaching: for lecturers, because of English Journals published in Britain and USA; for students a great opportunity to orient themselves towards an international jobs-market;
- the universities rank is raised because of English teaching, attracting the most talented international teachers and students;
- extending EMI is creating a wide industry, and this is likely to grow constantly.

But are also seen some disadvantages, such as:

- less dissemination of knowledge to the general public, non-English speakers; new knowledge is not the exclusive property of English-speakers; the students-taught exclusively in English may not be able to communicate in their native language (Danish) with politicians, journalists, patients and other relevant groups;
- native language, and thus, an important part of the nation's cultural heritage may, in the long run, be threatened by the increasing use of English; the native language "loses domain" and it will lose prestige; in time degenerating in a second-rate language used at home and not for serious business;
- teaching in a language of which neither teacher nor student is generally a native speaker, may lead to poorer learning.

There has also been a corresponding flood of empirical work. The majority of this work has taken the form of surveys that focus on the extent to which English is used in higher education, and the attitudes of lecturers and/or students to teaching and learning in English.

A survey made in Swedish universities formulates a series of recommendations from the dissatisfaction of teachers who teach their discipline for the first time in English. The author of the survey first synthesized a series of nine themes that characterize this beginning:

1: Short notice;
2: No training;
3: More preparation;
4: Less detail;
5: Less flexibility;
6: Less fluency;
7: No correction;
8: Few differences;
9: Confidence boost.

To resolve them, Airey proposed as recommendations for teachers, the following:

a. It is even more important to be well prepared when teaching in English.
b. Less is more. Decide what are the key ideas in your presentation and emphasize them.
c. Try not to translate a lecture you already have — think and prepare in English.
d. Use power point to structure your lecture, but remember it's even more important to keep the amount of text on a slide to a minimum.
e. Make a list of key terms/vocabulary.
f. Put all new terms on power point or in handouts (increased redundancy).

g. Pronunciation, check if possible — this can be a problem if your pronunciation is different than that of your (international)students.
h. Depending on your level of English either: prepare by writing a full manuscript but don't read this out in class (low level) or prepare by immersing yourself in English e.g. by reading a novel or disciplinary literature in English (higher level).
i. Practice your lecture!

These inducements may be well ahead also in my future teaching Law through English activity.

Regarding the future of EMI, the evidence from the data collected from a British Council Report suggests that the private sector will continue to drive the push for EMI for some years to come.

Apart from notable exceptions alluded to earlier, the private sector, relatively free of national political and cultural constraints will continue to portray EMI as the distinguishing feature of its educational offer. Some public institutions may therefore be constantly playing 'catch-up' in order to survive as places where quality education can be accessed.

In order to highlight students' attitudes towards and perceptions of studying Business Law, I designed two questionnaires: one questionnaire for undergraduate (11 questions), and one for graduate students (21 questions).

I have collected data from 79 respondents to the questionnaires-undergraduate and graduate students, 1st and 2nd year of study. All of them are Romanian, below 25 years of age, and a combination of males and females.

Little by little I noticed that additionally from information transmission, I can stimulate the logical thinking, asking questions and constraining the students to explain logically the situations presented. I started to get away from posture to present knowledge, therefore to analyze the concrete situations that point of law enforcement. I thought that the next step, after evaluation during the course, should be evaluating participation in a specialized conference.

But unfolding, in the morning many of the graduate students must be present at work. For these graduate students I have created an alternative: to attend evening conferences organized by taxation companies, specialized in the field, taking place every week in our University. My surprise was great when I heard that there are graduate students who cannot attend even such meetings. To help them. I reached a new proposal: for additional seminar point score, they have to compare two texts of law courses, in different editions: 2012 and 2015.

The weak presence of students in courses must have an explanation. It's possible that they consider the matter sufficiently accessible and decide to study alone at home before the exam. I decided to investigate this alternative. Statistics tell us that more than half considered opportune to attend the Law lectures.

The percentages obtained shows sufficient degree of satisfaction; almost half of the respondents declare themselves very pleased. Considering positive also the response of those who are satisfied in appropriate measure, we reaches the percentage 97.88. Statistically, the rest of 2.13% became insignificant, and could be said that the relevancy of the course is great for the majority of the students. With the new wording, this course is considered very relevant for the vast majority of students.

Comparing the responses to the question "How has this course been relevant to you?" addressed to both students at undergraduate and then to the graduate students, we find that there is a significant link in statistically between. The results allow us to appreciate the fact that the percentage of students at undergraduate study, who consider the Law course to be relevant for them is bigger (e.g. 0.532) compared to the percentage of students at master (e.g. 0.311). That means there is a stronger relationship between relevancy of the Law Course and the possibility to study this course in English, for undergraduate students (there is a medium intensity direct proportional link) and a weaker relationship for graduate students (there is a weak intensity direct proportional link). Interpreting these results, we conclude that for undergraduates students it is helpful studying Law in English, to a greater extent than master students.

On the other hand, both groups choose to study in their native language and experience learning through English is missing. In other words, that the percentage of the master students who considered useful studying Law through English is smaller, this confirms that the degree of satisfaction for their chosen career is high, and they did not regret having chosen to study in English.

If for some graduate students is so difficult to be present at professional conferences, would it be possible, and desirable, to organize their own conference in the master's degree program? This thought came to life and became graduate question formulated in the questionnaire. I received the

following answer: in the master program I consider to be appropriate to organize Law Conferences, being mandatory drawing up the essay by students themselves: 29 answers, against: 18 answers.

Combining the point of view of quantitative and qualitative research, I decide to focus on critical thinking as process, and always remember for academic future research as useful skills:

- identify other people's positions;
- evaluate evidence;
- weigh up opposing arguments fairly;
- read between the lines;
- recognize "unreasonable" persuasive techniques;
- reflect on issues in an organized way;
- draw conclusions sensibly;
- present a point of view cogently

Concluding on the subject of increasing use of EMI, we can observe that there is a large discussion of the role of English as "a global language" and as "a lingua franca for academia".

As supporting argument, in favor of EMI: the most prestigious journals are written in English and published in Britain and USA, so, the courses must be taught in English. Against, mind that English as EMI obliged teachers to dedicate more time for courses preparation and conduct to less interactive-classes; teaching style becomes relatively monologist; teachers agreed with statements that highlight the potential negative consequences of EMI, less dissemination of knowledge to the general public, poorer learning for students, and "domain loss" for the national language; the dominating-English role is marginalizing non-Anglophone researchers, with narrowing-effect for the combined knowledge of the world. An important majority of teachers also agreed with statements expressing a positive attitude towards the "internationalization" of the university, where this primarily means more teaching in English.

In the future we could expect an overall change in attitude towards EMI, because more English-positive generations will replace more skeptical generations, and the general increase in the number of courses conducted in English will make teachers more comfortable using English, which again will lead to more positive attitude.

Everything it was presented in this thesis, was a possible answer on "how to do", matched for my own way to do it. This paper could be the answer to the question "now, absolving EDURES MA program is Silvia a better teacher?"

TEACHING METHODS AND MEDIA

International Festival of Student Films as the Innovative Means of Legal Education and Multimedia Training of Future Lawyers

Y Petrovich Garmaev, L Petrovna Chumakova

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Due to the achievements of modern IT-information technologies, such terms as "e-learning", "tele-learning", "multimedia training" (and, accordingly, didactic means), etc. have firmly become a part of educational activities.

We suggest intensifying the process of introduction, to all legal sciences, of methodology of multimedia teaching technologies' use, the paradigm of priority for the creation and widespread application of multimedia cross-sectoral developments (movies, electronic memos, short manuals, booklets and other publications), understandable for the perception by a wide range of persons, through modern information and Internet technologies.

However, we probably ought to look at the problem even wider. The above-mentioned methodology and paradigm, technologies of "e-learning", "tele-learning" and multimedia training, in our opinion, should firmly enter not only into legal education as such, but also into the system of measures of legal education and legal awareness of different segments of the population.

The team of Novosibirsk Institute of Law (branch) of National Research Tomsk State University also intends to search for innovative methods, new and effective forms of training of students, as well as legal education of minors, youth and wider population. One of such extraordinary forms was found in 2014. Here we talk about the idea of holding an international festival of student films on legal subjects.

It is to inform the scientific, university legal communities and law enforcers that on April 21-22, 2016 there were held the Third International Festival of Student Films on criminalistics "Golden Trace" in Novosibirsk.

The goal of the International Film Festival is to increase efficiency of legal education and legal awareness of students, undergraduates, graduate students of law schools, as well as other citizens — the public, including a wide range of people — the Internet users, their education in spirit of respect for the law, justice, intolerance to any manifestations of crime activity.

The Organizing Committee formulated the following objectives of the event:

- Increasing the interest of students to the studies of not criminalistics only, but also of all the sciences of anti-crime cycle, identification and development of their creative abilities;
- Approbation and introduction of innovative forms of training future lawyers;
- Creation of a system of production and wide distribution of training and educational films on criminalistics for further use in educational process, in scientific and enforcement activities, as well as in the system of measures of the state policy on improvement of legal literacy and legal awareness of citizens;
- Inter-university exchanges, international and interregional cooperation in the field of legal education;
- Improving the efficiency of interaction of law schools with law enforcement and judicial authorities;
- And, certainly, — popularization of academic discipline and science "Criminalistics" among youth and other different groups of population.

As it is known, the unique feature of this science and academic discipline is related not only to applied nature of knowledge and skills, which is very important for young people striving to assert themselves in practice, law enforcement, but also to some significant moral foundation, since "the interest of criminalistics to the crime, the offender and his/her defense counsel is caused by aspiration to create scientific means which would help to establish the truth in criminal proceedings". That's why the interest of young people from different cities and regions of our country and neighboring countries to this Film Festival remains very high.

Every movie is created mainly by the students themselves, this being one of the requirements of the Festival Organizing Committee. That is, everything — from writing the script and directing — to acting and editing — indeed bears the imprint of free creativity of law students who are learning the norms of substantive and procedural laws, criminalistic tools and methods.

The foundation of the project "International film festival of student films on criminalistics "Golden Trace" was laid in December 2013, when the students of the third and fourth years of NIL (b) TSU formed the teams, and each one of them, in frame of the contest, tried to create short instructional video on criminalistics.

The 21st of April. The festive atmosphere is felt long before the official opening. Before the main entrance of the theater, the guests and participants are greeted by young people on jumpers (spring-loaded stilt walkers with shock absorbers) waving the festival flags. Those gathered in the foyer can go along the "red carpet path" and make memorable pictures with the famous character of the Soviet movie, Ostap Bender and the cinematography master Charlie Chaplin.

At 10.00 the auditorium is full. The moment of grand opening of the Film Festival has finally arrived. From the stage, the welcoming speech to those gathered is pronounced by L.P. Chumakova, the Director of NIL (b) TSU, PhD in Law, the Associate Professor. She emphasized that the Film Festival, which was held for the third time already, has successfully contributed to rapprochement of legal science and practice thus providing for increase of quality of higher legal education and preparation of future lawyers to the work in law enforcement authorities enabling to position the region as a territory where the educational communities use innovative means of education.

Upon completion of ceremonial part of the festival, the viewing of the contest films began. As in the past year, not only the opinion of the jury members was accounted for in evaluation of the films, but the opinion of the audience as well. They could vote "pro" or "con" any particular film work by raising the pre-issued notepads open at the relevant page — green or red.

On the second day, April 22, the surprise awaited the audience — the screening of films outside the program of contest. Among the student film-works submitted for the contest were those that did not meet the regulations of the contest, but, in opinion of the organizers, deserved attention. Among them a professional work from Egypt was presented, which turned out to be a big hit with viewers. After the contest screening had ended, the jury began working strenuously to summarize the results. The jury consisted of prominent scientists in the field of criminalistics, criminal law and criminal procedure and experienced criminologists-enforcers.

The strict jury of the event was formed on professional basis, and traditionally it included renowned forensic scientists, experienced teachers and practitioners, specialists in the field of cinematography.

In the process of evaluation, the professional jury took into account some shortcomings of screen performances. In some films, on the whole brilliantly made, there were noted some discrepancies and unintentional mistakes:

– Authors provided no comment at all on violations of the law;
– There were fragments bearing resemblance to the "product placement" and / or some "romanticization of criminal activity".

Besides, in some films, the emphasis was mainly put on criminal-procedural component, but not on the criminalistic part of the work of investigators and other law enforcers, which is not fully consistent with the declared themes of the Film Festival.

The Jury has decided to make appropriate amendments to the Regulation on International Festival of Student Films on Criminalistics "Golden Trace".

Traditionally, the festival awards were numerous, diverse and highlighted upon the following criteria: the Grand Prix of the Festival; awards in several thematic categories (this year there were five, for each of them there were awarded the 1st, 2nd and 3rd places); special prizes of the Festival; audience choice awards in a contest program and non-contest program; Jury prize; the prize from the Organizer — the General Directorate of the Russian Ministry of Internal Affairs in the Novosibirsk Region.

Summarizing the work of three forums, we can conclude the following: the International festival of student films on criminalistics "Golden Trace" should be considered not only as an innovative means of learning criminalistic science by the students thus improving the quality of legal education, but also as a unique form of legal education and legal upbringing of the broad layers of population, in accordance with the Principles of State Policy of the Russian Federation in the field of improvement of legal literacy and legal awareness of citizens. Besides, this project can truly be considered as the effective tool of popularization as well as the form of promotion of the city of Novosibirsk and Novosibirsk region, of all Siberian regions of Russia for the purpose of organizing various interregional and international cooperation, expanding cultural, educational, economic, investment and other ties of the Siberian regions of Russia.

The next festival will be held in April 2017. The organizing committee of the film festival has been systematically creating an open collection of video films for their use in the educational process and for anti-criminal education of minors, youth and broad layers of population.

The above-said enables us to conclude that in terms of further development of the methodology of use of multimedia technologies in legal science and education, such international and regional (local) student film festivals should be initiated and held all over the world, by national law schools (schools of law) focusing, besides criminalistics, on other legal sciences and academic disciplines.

BOOK REVIEW

Thomson Reuters' Guide to Mooting

Anthony E Cassimatis and Peter Billings
Lawbook Co/Thomson Reuters, 196 pp

The emphasis on mooting within Australian law schools is currently a highly debated topic within the legal community. This is the principal reason for anyone intending to adopt this guide as an aid to their mooting team or its use in the classroom generally to be encouraged to first read the book's foreword by the Honourable Michael Kirby. In the four pages which constitute his foreword Michael Kirby gives an interesting account of the origin of the mooting tradition which arose in the training at the London and Dublin Bars before its being superseded by the development of the scholarly analysis of the law and introduction of the lecture and tutorial process within English and Australian university law schools in the 19th century. Kirby then goes on to review the reasons for the revival of the mooting tradition within modern law schools and discusses both the arguments for and against its attraction as part of an extra-curricular element of the current legal educational curriculum.

Apart from a table of cases and one of statutes, the book consists of seven chapters. The opening **Chapter 1** incorporates an *Introduction to Mooting and Legal Advocacy*. In this respect it is questionable as to the manner in which earlier part of this chapter is written. Whilst being extremely erudite and of interest to the law academic, it maybe of questionable value to the student who will be more concerned with the outline of the remainder of the book's contents at pages 21 to 24.

I would suggest that it is in **Chapter 2: Appellate Advocacy** that information incorporating strategies to be adopted by students when taking part in common forms of advocacy in moots will really stimulate and be of value to these potential student advocates. It is this chapter which could be regarded as an invaluable manual for the student mooter in that it covers every aspect of that which might be required by a potential mooting team; from the release of the moot problem and the initial team meeting and preparation of the written and oral submissions through to the team's interaction with a moot adjudicator. It is an aide memoire which could be regarded as an essential document for any mooting team member.

Chapter 3: Merits Review, ADR and "New Advocacy" and **Chapter 4: Advocacy before the Administrative Appeals Tribunal** are, as explained in the last page of chapter 2, concerned with tribunal advocacy and the mooting competitions organised nationally by the Administrative Appeals Tribunal (AAT). There is also an explanation of the distinction between the National Administrative Appeals Tribunal Moot Competition and the Negotiating Outcomes on Time ("NOOT") Competition. As described by the author Peter Billings, these competitions require students to develop negotiation and advocacy skills in the merits review context. Whilst chapter 3 provides the necessary background for the non-adversarial and less formal approach adopted by the AAT, there is emphasis on the fact that Alternative Dispute Resolution (ADR) is a core feature of the Tribunal's processes. This means that it is important that anyone mooting within this particular context has to take notice of the theory, techniques and practices of what has been described as "new advocacy". In this respect there is a focus on the participants understanding the nature and function of preliminary procedures as required by the tribunal.

Chapter 4 carries on with a consideration of the requirements of students mooting in the AAT Competitions. These are concerned with the preparations for both a hearing and the case for a hearing by the AAT. Again this reviewer noticed that this part of the chapter contained some real elements of value to the potential mooter with such snippets as 'making the pitch — written submissions', 'the value of knowing the background of the tribunal members', 'making the pitch — oral submissions', 'etiquette' and the 'advocate's obligations of "duty to assist" and model litigant principles'. As the chapter concludes, mooting advocates are well-advised to remember that 'the tasks of an administrative tribunal and procedures to be followed are different from judicial processes.'

Chapter 5: The Willem C. Vis International Commercial Arbitration Moot has the advantage of being written by Gabriel Moens, a successful coach of teams which have won both the Willem C. Vis International Commercial Arbitration Moot Competition in Vienna, Austria and the equivalent (East) Moot Competition in Hong Kong. The Competition is concerned with the private law and international sale of goods aspects of alternative dispute resolution. In this chapter there is an emphasis on the importance of the selection of those described as the 'best' or most "suitable students" as members of the mooting team and also how appropriate coaching is a necessary condition for effective team work. As the competition consists of different components, such as writing and speaking, there is an emphasis on the necessity to select team members with diverse complementary skills and aptitudes to cover all these attributes. Following on from this advice the balance of the chapter is concerned with the preparation of memoranda in support of the claimants case and for the teams participation in simulated arbitration hearings. With regard to the team preparing for their oral submissions, there is a comprehensive strategy set out in the chapter incorporating four planks involving (i) the multi-tiered approach; (ii) the questions and answers bank; (iii) time management strategy; and (iv) participation in mock simulated arbitration hearings. This again is a chapter which contains vital information to ensure a team's successful involvement in this particular competition. However they would be wise to behove the final piece of advice at the end of the chapter which states 'Nevertheless, ultimately, success will only come through very hard, diligent and persistent work.'

Chapter 6: The International Maritime Law Arbitration Moot (IMLAM) is again concerned with alternative dispute resolution and disputes involving the international sale of goods but with emphasis on maritime law. The moot in question is the International Maritime Law Arbitration Moot. The chapter opens with a helpful six pages recounting both the relevance of arbitration to maritime law and a history of the international maritime law arbitration moot, thereby setting the scene for participating students. This is relevant to participants as they will immediately realise that the competition is different to other moots in that the moot problem is not, as explained, a summarised factual scenario but instead consists of a bundle of documents that may consist of 100 pages or more, similar to a brief to counsel in actual litigation. As with the other chapters there is basic advice for competitors regarding the preparation of a timeline of the events contained within

the problem and of the documents that refer to these events. There is also the benefit of the mooting team obtaining a "working copy" of the agreement as they seek to understand the terms in the dispute.

There is also sound advice with regard to the drafting of both the 25-page memorandum for the claimant and a second 25-page memorandum for the respondent, together with intensive preparation for the oral rounds which involve the teams making oral submissions for either the claimant or respondent. This will also involve the possibility of responding to questioning by arbitrators, responding to opponents' submission and making a reply speech. The importance of this competition is as stressed by the authors, Sarah Derrington and Samuel Walpole, that students are trained 'to think "commercially" and apply their knowledge of the law in a very practical setting.'

Chapter 7: The Philip C. Jessup International Law Moot is written by Anthony Cassimatis who has supervised University of Queensland teams to three wins in the Australian rounds of the competition and two world championship rounds. In this respect the chapter opens with four helpful pages setting the scene for potential students with regard to advocacy requirements, the background and rules of the competition. Again there is an emphasis as with other competitions on the importance of team selection, especially those attributes that go to make up a successful team member. There is also some useful information with regard to drafting memorials particularly as to the style adopted, inclusion of legal arguments and footnote referencing. The author stresses the importance with regard to the oral submissions within the competition particularly as to the holding of oral practice moots, speaker and argument selection and how the best method should be adopted with respect to opening and closing, rebuttal and surrebuttal statements. He also emphasises that the most outstanding students who have been involved in his law school mooting teams have been those who have 'researched and mooted in an intelligent and conscientious manner and they have never misstated the law.'

The value of this book is that authors have been willing to share the benefit of their experience as to the various aspects of both national and international mooting competitions with their academic colleagues. It has also been helpful that their advice has been well articulated to make it comprehensible to both those law teachers and students who may be involved in future mooting competitions and can only gain from the information incorporated in this text.

Emeritus Professor David Barker AM
Editor

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