Legal Education Digest

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IN THIS ISSUE

This edition of the *Digest* marks the beginning of a new era of its publication in that it is the first to be published since the Centre for Legal Education merged with Bond University Law Faculty's Centre for Professional Legal Education. This means that Bond University is now also the base for all future publications of the Digest.

Currently the *Digest* will certainly retain its format until the end of Volume 25, but no doubt there will be changes from the first edition of Volume 26 onwards in 2018, so watch this space!

The 2017 ALTA Annual Conference held at the beginning of July also heralded some major changes to the Association which took place, both during the conference proceedings and the ALTA Annual General Meeting held during the conference.

The Conference was well attended with the presentation of over 100 papers, and its theme 'Law on the Line' reflected some challenging discussions with regard to the questioning of well-established attitudes to law and the legal system. One of the highlights was, as always, the Conference Dinner, sponsored by the College of Law, which was held in the Mortlock Chamber within the State Library of South Australia. There was an eclectic group of people entertaining the diners including culinary legend, Maggie Beer AM, and a live musical performance from a local singer Betty Kontolean, a solicitor in the UnisSA Legal Advice Clinic.

Congratulations for the success of the Conference must go to the host Law School, the University of South Australia Law School and its Dean, the current ALTA President Professor Wendy Lacey, and to Professor Rick Sarre the Chair of the Conference Organising Committee.

The AGM incorporated some lively and spirited discussions with regard to the future of the Association, with a proposal for its renaming being withdrawn, but nevertheless the new Chairperson of the Executive, Professor Nick James, heralded the proceedings of the meeting as a portent for an ongoing discussion as to changes for the future improvement of ALTA. Among the newly elected members of the Executive Committee was that of Professor Bill McNeill, the current Chairperson of the Council of Australian Law Deans, hopefully a recognition of future closer co-operation between ALTA and CALD. It was also a time to recognise the achievements of Professor Stephen Bottomley, the outgoing Chairperson, Professor Helen Anderson, the retiring Treasurer who over ten years in that position had built the foundations for the healthy state of the Association's accounts and Professor Michael Adams, both a former ALTA Chairperson and President.

Before moving on to the digested articles, may I make a mention of the book review, a second edition of the International Law of Human Rights, authored by Adam McBeth, Justine Nolan and Simon Rice and which incorporated a forthright foreword by the Hon Michael Kirby.

The first article digested in this edition by Lazar under the heading of **Clinical Legal Education** has the title **Interdisciplinary clinical education-on empowerment, women, and a unique clinical model** and is an interesting account of a Women's Rights Clinic operating within the Law School of the College of Management in Israel which has been engaged for the last seven years in an 'assistance project' involving women cleaners working on the campus. The article describes how the workers concerned in the project began by the second year to feel confident in demanding their rights, so that by the seventh year a campaign developed within the college, aimed at raising awareness of contract cleaning workers on the campus.

There are two articles digested under **Context, Criticism and Theory.** The first by Sommerlad deals with Wes Pue's historical exploration of the relationships between the law, the profession and the developing of a Canadian national identity. This is an interesting examination of the reform of legal education within Canada and its impact on the creating of the ideal legal practitioner. The second article by Borrows also has North American origins in that it concerns how best to organize materials to help students take up the practice of Canadian Indigenous law.

Udina examines in an article covered by **Cross-Disciplinary** the complex forensic implications for legal education involved with the development of a network encultivation model in language (LSP) and translation competence acquisition, and how this may be facilitated by the creation of an e-textbook on language and law.

Institutions and Organisations is the heading for an article by Adams which is concerned with the influence exercised by Fraser and Bowker as Deans of the Faculty of Law at the University of Alberta.

Legal Education Generally involves three articles related to legal education. The first by Lopez advocates fundamentally changing legal education. The article involves an examination of the continuing influence of Langdells Socratic Case Method system and the need for a complete transformation to 'complementary competencies.' In contrast Collins compares the dilemma facing the training of future lawyers as that between focusing on increasing numbers of law graduates and declining employment opportunities, and the consideration of the changed world in which law graduates will be operating in the future. In the third article under this heading Fourie argues that

the values and philosophies that law lecturers can instil in law students could contribute to a legal order of the future which could support a transformative South Africa, thereby ensuring an equal and free democratic society as envisaged by the Country's Constitution.

Personalia is folksy but nevertheless engaging account by Nils Olsen, Jr of father and son lawyers Edward and Thomas Fairchild and their commitment to public service in the United States, the latter occupying a position of Senior Judge until his death at the age of ninety four.

Practical Training covers two articles. The first, a challenging article by Kashyap recounts how legal education in India is currently undergoing a transformation phase, whilst the second by Godwin and Wai-sang Wu is a comparative analysis of three jurisdictions in Asia, all of common-law heritage; Singapore, Hong Kong and Australia, which whilst they have contrasting pathways to admission as a legal practitioner, all require graduates to satisfy practical training before they can gain admission to practice.

Skills is concerned with Burton's approach to the teaching and assessment of problem solving and discusses the implications of the use of **IRAC — I**ssue, **R**ule, **A**pplication and **C**onclusion — as the fundamental building blocks of legal analysis.

The concluding heading of **Technology** covers a Turkish article — most probably the first time that an article within this legal jurisdiction has been published in the Digest. In this article Ongoz, Karal, Tuyuz, Yildiz and Kilic argue that simultaneous communication in the virtual environment has a motivating effect on students. They point to evidence which claims that the academic achievement of students studying in the virtual world is higher than that in traditional classrooms. Also that the information which is gained is more permanent.

This article forms an admirable conclusion to an arresting series of articles which once again illustrates the wide ranging approach adopted by law teachers to arousing and maintaining the interest of their students.

Emeritus Professor David Barker AM
Editor

Interdisciplinary clinical education — on empowerment, women, and a unique clinical model

R Lowenstein Lazar

For the past seven years, the Women's Rights Clinic operating within the Law School of the College of Management in Israel has been engaged in an "assistance project" of the women cleaners working at the campus. In the case of the women represented by the Women's Rights Clinic, they are immigrants living on the economic and social fringes of Israeli society. They are struggling with barriers of language and low socioeconomic status, exacerbated by origin and gender. This reality requires a holistic assessment of the problem, which is not exhausted within the legal field alone, and requires use of skills borrowed from the therapeutic disciplines, particularly social work.

The clinic rarely serves individual clients, and the bulk of its work focuses on community and grassroots lawyering, promotion of legislation, development of projects such as round tables and conferences aimed at policy change, and writing position papers. As part of their work, students conduct large-scale research concerning their topic, which allows them to gain experience in work that is not based strictly on individual legal assistance but on the creation and development of lawyering models for systemic social change.

The Contract Workers' Assistance Project is an example of clinical work that integrates macro and micro tools. At the micro level, clinic students have provided both individual legal and social assistance to the women workers. At the macro level, the students developed a distinctive model of empowerment that can be replicated with other groups of cleaning women in Israel. By means of this model, students observe the broad picture of the employment of contract workers in Israel, analyze gender patterns in contract work, and cooperate with organizations dealing with the topic.

The contract worker issue has multiple aspects that require intervention:

> problems with rights in the labor market, poverty, immigration, discrimination, and language, among others. Furthermore, most contract workers are women. The gender characteristic is significant given the social, cultural, and economic power differences between men and women and the unique problems that women face, such as gendered violence, wage disparities, and discrimination in a gendered labor market. Preliminary research done in the clinic indicated that most actions taken to advance the topic of outsourcing of labor belong to the domain of labor law. Activities included attempts to organize workers as well as actions against the employer (the contractor) and against the institution where contract workers work.

In the sociological literature, empowerment in its classical sense is conceptualized as giving power to oppressed groups. Barbara Solomon defined this concept as a process in the course of which people who belong to an oppressed social category obtain tools that enable them to grow and to develop skills and capabilities to influence their social function and position.

Client-centered lawyering reflects the centrality and importance of the client's voice. In its "classical' form, the client-centered approach seeks to enhance the involvement of the client in the representation and to minimize lawyer influence on client decision-making. Throughout the years, this model has evolved to encompass a range of approaches.

The domain of the law is so pure a product of tradition and hegemony that even posing the question of empowerment within its framework is in my opinion especially subversive.

The law defines the status of the citizens and of government authorities, and lies at the foundation of the relations between them. It grants rights and defines obligations, and above all, it "plays an important role in establishing the social relations between individuals; people who live under the law continue to create law; they continue to live their lives and to exercise their social relations under the law, and so forth." As such, the law serves as a tool for achieving power.

Access to knowledge and rights is an aspect of empowerment.

Despite the importance of access to knowledge, this action covers only a narrow range of the empowerment process. It does not challenge existing reality because it cannot change it, and therefore cannot serve as a complete empowerment move.

Another aspect of empowerment is participation in decision-making processes. Similar to the emphasis placed on giving voice in the empowerment process in the social work literature, this aspect emphasizes the voice of individuals and the importance of their participation in the shaping of actions for change.

Throughout the seven-year project, most of the clinic staff consisted of white students who were not familiar with the Ethiopian community or culture. Only in the first two years (2009–2011) and in the project's fifth year (2013–2014) did the staff included an Ethiopian student. This was a pedagogical challenge. First, it required the non-Ethiopian students to acknowledge their privilege as white law students from high socioeconomic status. It forced them to question their own

perceptions regarding the Ethiopian community, immigrants and black people. It was challenging to try to neutralize potential feelings of paternalism by the students.

When building the assistance project I knew that this "otherness" would be hard to unpack. Therefore, I urged the students to develop personal relationships with the women, to sit with them and talk, to get to know them. I knew that familiarity and a personal relationship would be significant tools for challenging the possible construction of the workers' otherness.

In conceptualizing the project, I wanted the assistance project to reflect the voices of the women — their narratives, needs, wishes and perspectives. This is why developing relationships and focusing on the voice of the community was essential.

Gradually, the silence was broken. In the second year of the project, the workers began to speak. They began to demand. As one of the workers, Alimito, put it:

Once we kept silent. We wouldn't open our mouth because we didn't know what was coming. Now, that we know what our rights are, we began demanding what's coming to us.

At the beginning of the process, we had a sense that we were speaking for the workers in a voice that was ours, not theirs. The fact that the workers did not speak illustrated the power differences between us and them. The space created for the workers to make their voices heard, and the attention we paid to their personal stories and to their work experiences, have led them to use this voice in order to identify the injury they suffered.

In the second year of the project, the know-your-rights lectures were conducted by lawyers from other clinics, social workers and lawyers from NGOs. During this time, the workers began approaching the clinic students and faculty with personal legal problems and questions. They felt that we could be trusted.

In its seventh year, the project combined various advocacy tools. We continued with a series of meetings with a social worker coach, who focuses on group solidarity and strength by using professional tools from social work. We developed a campaign in the college, which is aimed at raising awareness to contract cleaning workers on the campus.

The assistance project reflected both the strength and the limitations of knowledge transfer as part of empowerment. Making knowledge accessible is a complex aspect of empowerment because it requires not only provision of knowledge but also tools to implement it. Indeed, when we first presented to the workers a broad picture of rights in many areas of law, they understood the extent to which many of their rights had been denied. Later they understood that the struggle to realize those rights is difficult, frustrating, and long. At the same time, the act of making knowledge accessible has had many advantages in the process of empowerment of the workers: it has created a desire for change, aroused a need to take concrete steps for the realization of this desire, and created hope.

Despite all this, the ground covered by the workers was small. They are still dependent on knowledge that resides with us.

In our case, providing access to information about their rights has produced local and individual empowerment, but this is not group empowerment or a deep change in social consciousness.

At many points, the clinic's work required empathy, non-judgment, listening, and understanding.

The students also had to cope with many frustrating situations and a sense of despair. It was important for me to provide a space where the students could reflect on their feelings and engage in self-learning. I encouraged the students to speak out and to vent their frustrations and difficulties.

One of the main themes in these conversations was the power relations between the students and the workers. We discussed ways by which we could challenge these power relations on one hand, and make the students understand that they are not, and should not, be saviors of the women on the other hand.

The students also underwent a significant process of empowerment because of both their ability to instill their knowledge into others and their ability to look inside themselves and think about their personal stories within the political story of which they were part.

The understanding that the struggle for social change is a long-distance run and that it is the process that counts, as well as the ability to identify the power relations, have affected the students both personally and professionally.

The model of empowerment developed in the Women's Rights Clinic integrates various theoretical themes. Theories of empowerment, critical and grassroots lawyering, client-centered lawyering and clinical pedagogy informed and affected the evolvement of the project and shaped its clinical structure.

For the students (and for myself, as an active participant) the clinic's work in the project provided (and still provides) an opportunity for expressing a range of abilities and skills. It

enabled the students to use a variety of tools: they organized and developed legal rights sessions that were aimed at empowering the workers and preparing them to a better interaction with the employer and with state agencies, advanced cooperative projects with professionals from social organizations and a social work coacher, and mobilized additional lawyers to help in activities with the workers, organized the workers as a group for the purpose of legal assistance, offered individual legal assistance, and participated together with the workers in individual and group empowerment meetings with a group coach. The students also worked on raising awareness in the campus to the issue of contract workers and exposed the campus students and staff to some aspects of the Ethiopian culture. Additionally, a relationship developed between the workers and ourselves, which made possible feelings of trust, affection, and confidence. The clinic's work highlighted the importance of abilities that do not fall within the traditional legal domain. It reflected the centrality of such skills as listening, understanding, empathy, sensitivity, and patience.

Education of this type advances a broad conception of the law, and the understanding that there are various areas of activity, even if they are not perceived as necessarily legal in nature, that can promote social change. This holistic thinking instills a systemic view of the issues and includes cultural, social, and economic aspects in addition to the legal ones.

Lawyers, legal education and nation building: lessons from Lawyers' Empire

CONTEXT, CRITICISM AND THEORY

H Sommerlad

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The significance of myth in the creation of legal professionalism is the starting point for Wes Pue's rich, historical exploration of the relationships between the law, the profession and the forging of a Canadian national identity. Echoing Geertz's view of cultural resources as ingredient rather than accessory to human existence, he writes that "'culture' and structure are properly understood as mutually constitutive, not as distinct forces".

Viewing the profession through the lens of culture enables Pue to reveal how the centrality of law and the profession to "the project of government" extended beyond law making and administration to the creation, through governance, of Canadian citizens. The plurality of norms engendered by the vastness of Prairie Canada and its increasingly diverse peoples were primary stimuli for this reform project. Law was envisaged as the tool that would arrest Canada's centrifugal forces, its secular rationality rendering it uniquely capable of producing civilisation and unity: "Lawyers were to become missionaries in service of a secularized trinity: law, Britishness, and civilisation". However, the possibilities for the success of this mission were impeded by the myriad of legal authorities which the sprawling British Empire had spawned, resulting in "an explosive increase in the production of law" which threatened lawlessness. For Canada's leading lawyers, only a professional consensus could avoid anarchy: a coherent, honourable legal profession had to be created which would, through the aggregation of the mundane tasks that comprised its work, make the community, for "the state is an edifice constructed solely out of legal material. It is literally made of law".

In order to fulfil this pivotal governance role, the profession itself had to be reformed. The pursuit of the objective of forging "a body of learned practitioners working to serve the larger society, knowledgeable in law, and sensitive to community needs" was led by "prominent, energetic, busy and successful practising lawyers" who imagined that, "in getting the structures… right, they would transform the country as a whole". Such transformation was to be largely accomplished through a reformed legal education, which would "preserve the purity of the profession … channel social diversity and ultimately … ensure the integration of a pluralistic society, thereby saving the state from disintegration". The agenda was therefore to reconstruct the profession from the bottom up in order that it could then shore up both "legality and civilisation itself".

Situating the push for change within the general process of eroding aristocratic domination and forms of governance, the debates over the form and substance of legal education play out through the competition between attorneys (solicitors) and barristers.

Whereas barristers' professional dominance rested on a (still powerful) premodern narrative which linked gentlemanly status with disinterestedness and honour, attorneys espoused a utilitarian position grounded in their relationship with the client which made them "the paramount experts on matters of law and practice". The result was a contest between a view of professional formation as requiring a classical education (so that ignorance of the law was unproblematic — even, possibly, a virtue, and the drive by attorneys to ground legal education in the transmission of practical skills and knowledge. The attorney position was thus, Pue notes, expressive of a "larger middle class

challenge in the first part of the nineteenth century (which) relied on a different, instrumental conception of education".

These competing narratives of professional legitimacy — the one grounded in practical, credentialed and therefore meritocratic achievement and the other in the value of pre-modern warrants and ascription — meant that the struggle over legal education mobilised multi-layered discourses of class which, in turn, signalled ideas of honour. The practical result was a compromise between "utilitarian practicality and gentlemanly learning" as the 1846 Select Committee on Legal Education called for "both branches of the profession to become learned (in literature, languages and abstract thought), but also skilled in the peculiar subject matters or technical competence needed by clients".

The account in subsequent chapters of the reform of legal education in Canada in the period from the 1880s through to 1949 reveal the same tension between recognition of the need to instruct in practical, technocratic knowledge and the persistence of "an obsession with 'gentlemanly' values", which are explicitly linked to "moral fibre". The result "melded new ideas imported from the United States with long standing British middle class traditions of practical knowledge, honour and authority (b)oth refracted through English Canada's peculiar cultural ethos". This sweeping vision is described as 'holistic' since "all of legal education, even the 'cultural' parts, was to inform the day-to-day work of the future practitioner; and all practical work was to advance a cultural agenda: lawyers carried a 'great commission' of sorts".

However, creating the ideal professional who could play the vital role envisaged for it in the formation of the state and governance of civil society, meant "restricting entry to the right persons and subjecting them to the right sort of education". In this way the founders of Canada's twentieth century legal education "sought to achieve an enduring transformation of the law students' inner essence…". Of course this objective rested on a prior understanding of who the right persons were, and, as noted above, Pue is concerned to show us that this cultural revolution was carried out within "inherited social frames". However, Pue's historical methodology, entailing close examination of the (mutually constituting) social, intellectual, cultural and political histories of Canada's diverse provinces and territories, precludes a monocausal explanation. He explains how, in laying the new cultural foundations for a modern common law education, these diverse histories reveal "varying degrees of responsiveness to the surrounding social, political and intellectual environments". Such diversity, together with the evidence of an explicitly moral and reforming agenda, leads him to argue that the profession's project should not be read as the product of simple instrumentalism, designed to achieve market control — "such analyses paint with far too broad a brush, substituting economic or ideological principle for historical understanding".

The dominance of neo-liberal discourses and their impact on the state and civil society is visible too in the education sphere, accelerating the privatisation of legal education and threatening to reduce it to vocational training. Pue describes the legal education which developed in such universities as Manitoba as including "some exposure to what we now think of as the sociology and history of law …", and he goes on to stress the innovative nature of their approach, commenting that "there is little in current structures of legal education that was not contemplated, developed and advocated during these years of Canadian Bar Association activity". However, the legal profession's influence on the contemporary law school curriculum is less progressive; further, the dominance of the corporate sector has led to a further marginalisation of critical scholarship.

The conceptualisation of the ideal practitioner as the right sort of person, and the impact of inherited ideas about merit and de-merit which restrict who can inhabit that ideal, also remain pertinent. The profession's dismal record on gender and 'race' diversification is clearly revealed by statistical surveys and empirical research, and speaks to the significance of the resilience of the shadow culture of exclusionary homosocial networks which underlie and subvert structures designed to enhance diversity; as Pue observes: "professional culture was (and is) formed less in formal correspondence … than in conversations at bars and cafes, gentlemen's clubs, bar association dinners, golf games and railways cars". In this cultural milieu, class too remains of pre-eminent importance and, further, continues to be signalled by educational warrants which convey historically embedded understandings of merit.

Most arguments which pretend to be about law are actually arguments about the correct analysis and categorisation of the facts. Once you've understood them it's usually obvious what the answer is. The difficulty then becomes to reason your way in a respectable way towards it. That's why the study of something involving the analysis of evidence, like history or classics, or the study of a subject which comes close to pure logic, like mathematics, is at least as valuable a preparation for legal practice as the study of law.

One question our work has prompted relates to the organization of student materials. Indigenous peoples have long been colonized by other people's views of their best interests. We do not want to replicate this pattern.

Thus, the question of how to organize student materials has high stakes and is deeply personal. It is also fraught with potential for the abuse of power.

As a collective enterprise, it is possible to organize materials to help students take up the practice of Indigenous law. In fact, Indigenous laws cannot be taught and practised without some form of organization. Yet we recognize many challenges in doing so.

In my view, we must not assume there is one way of organizing the materials we teach to our students or of practising law in our communities.

The last point to note for present purposes is that the categorization of Indigenous law into common law or civil law categories may be problematic. This approach risks the crass manipulation of Indigenous legal worldviews to fit Euro-Canadian legal boxes.

Indigenous legal reasoning is distinct, but Indigenous and non-Indigenous worldviews are not necessarily incommensurable.

At the same time, in making these connections we must not lose sight of the power imbalances that operate between the systems, as Indigenous peoples struggle to remove themselves from colonial relationships.

In some instances, it can be very helpful to organize Indigenous law materials under the heading of property, tort, contract, criminal law, constitutional law, trust law, administrative law, family law, environmental law, and so forth. I do not reject these categorizations because they are often used by Indigenous communities themselves when developing their own laws.

Nevertheless, despite all these very real challenges and possibilities, I think it is best to organize the teaching of Indigenous law in ways that are distinct from the common law or civil law.

Practitioners and teachers have to be persuasive when working with legal traditions. They must find ways to bridge older ways with contemporary needs, given that no system is complete "on its own terms." Thus, in suggesting that Indigenous law must be organized on its own terms, I am not arguing for a frozen-in-time, anachronistic view of law that builds on troubling stereotypes and misleading generalizations regarding Indigenous peoples.

Friedland effectively illustrates how Cree people organize legal problems through narrative. This is a key to understanding *one* way of structuring the teaching of Indigenous law.

Friedland's categorization of one type of narrative (Windigo) helps me see what I observe in Anishinaabe communities in an even broader light.

With a broader context now in place, I am now prepared to directly answer the question posed at the beginning of this article: how might teachers of Indigenous law best organize their materials? Here is an answer: we should ask Elders and Indigenous legal practitioners about how they categorize law (as Friedland did). I must stress that narrative is only *one* way of systematizing student experience in transmitting Indigenous law.

I am asserting that the teaching of Anishinaabe law is best facilitated by understanding and working through Indigenous legal epistemologies (or as the Anishinaabe would say *Anishinaabe gikendaasowinan* or *izhitwaawinan*).

In reviewing these narratives, I am struck by the persistent appearance of four character types: Heroes, Tricksters, Monsters, and Caretakers. Just as Friedland recognized in dealing with Windigos, these characters exist as ideal types; their actions can be compared and contrasted to contemporary behaviours and analogized or distinguished to guide present actions.

In applying these categories, I can imagine teaching a law school course or organizing an entire curriculum in Anishinaabe law on this basis.

Anishinaabe heroes are numerous. Anishinaabe heroes illustrate how humans can regulate behaviours, relate to their environments, and resolve their disputes.

Each narrative communicates standards for judgment that can be applied today in organizing our societies and affairs.

When a person schooled in Anishinaabe law sees a plant, insect, bird, or animal, they may also see a case, a set of legal teachings, and principles to guide their own relationships.

Heroes also manifest legal principles related to broader economic and social obligations. Reciprocity and redistribution of wealth receive significant emphasis in Anishinaabe law, along with fierce competition and the protection of individual wealth and initiative.

Tricksters challenge established orders. They can turn them upside down to confirm, change, or transform generally accepted norms within society.

Law needs critique to be healthy and self-reflexive. Individuals and societies can get stuck in unhealthy patterns in relating to one another and the broader world. When this occurs, authoritative mechanisms drawn from within a tradition, or from another tradition, can breathe new life into a society. In the legal realm, the Trickster "reveals the cultural construction and contingency of law." This is why an entire category of law can be taught through these stories. Discord, dissention, and disagreement are not outside Anishinaabe law. Conflict and differentiation are firmly rooted within it, thus providing access to creative and innovative ways of recalibrating regulatory and adjudicatory decisions.

The Trickster demonstrates that power can be exercised in ways that undermine relationships and threaten stability, safety, health, and security (as the treaty, duck, wolf, and roses cases show). At the same time, these cases illustrate that it can be important to encourage and authorize risk (as the stealing fire and creation of butterflies cases reveal).

Monsters, like humans, are figures of destruction and dissolution. They can be devious, harsh, and malicious. Humans are monstrous; they are figures of destruction and dissolution. Humans can also be beautiful, gentle, and nurturing, as I will explain in the next section. Any legal tradition worth its salt must deal with the worst excesses of human nature.

How a community deals with Monsters can provide a way to organize Indigenous law.

Frieldland's study of Windigos concludes that Cree law generally deals with such people by trying to heal them. This best reduces the threat they pose to others. Friedland makes the point that there are clear legal procedures for dealing with Windigos.

Friedland's research also revealed that a community also has legal obligations to both potential and past victims of the Windigo. Decision makers who deal with Windigos also have the responsibility to warn individuals and communities about wrongdoers when their behaviour represents a threat to others. On the other hand, obligations that decision makers have toward a Windigo include: (1) the Windigo's right to be heard; (2) the right to have their closest family members involved in deciding their treatment; (3) the preservation of the Windigo's life, liberty, and safety; (4) the right to be helped; and (5) the right to ongoing support.

As the Supreme Court of Canada wrote in the *Rodriguez* case in 1993, when it comes to determining principles of fundamental justice, "[t]he way to resolve these problems is not to avoid historical analysis, but to make sure that one is looking not just at the existence of the practice itself … but at the rationale behind that practice and the principles which underlie it."

It is clear that Anishinaabe people have well-established ways of dealing with Monsters. Attention to contemporary mental health care is one such practice.

Caretakers are figures who encourage, mend, heal, reconcile, and make whole. Categories are not mutually exclusive. In other words, Heroes, Tricksters, and yes, even Monsters, can sometimes be Caretakers. Anishinaabe recognize great complexity in human affairs (indeed we always have). It is not realistic to expect that categories will be mutually exclusive in creating recognizable responses in dealing with harm.

The fact that legal categories are not exclusive should not undermine their use. Again, they are entry points for orienting practitioners to the range of responses they might engage when applying law. One only has to think about the common law to recognize that the failure to create watertight compartments between contract, tort, and property law is not fatal to creating effective legal systems.

Mother Earth is a Caretaker. The sun and the moon also encourage, mend, heal, reconcile, and make whole. Each of the stories contains resources that can be analysed by Anishinaabe people to guide them in regulating activities and resolving disputes.

Again, it is important to restate and recognize the non-essentialized nature of these terms (they are verbs after all even when expressed as names, and as verbs they are always in motion, as is life itself). Nevertheless, despite their fluidity these terms and the responsibilities they connote are helpful entry (not end) points for working out legal regulations and dispute resolution principles.

In this respect, I would like to explicitly draw out an implicit organizational point I used when discussing Anishinaabe law in *Drawing Out Law: A Spirit's Guide*. Drawing upon oral traditions and mnemonic devices that organize materials by the number four, the book's sixteen chapters were divided into four sections to communicate key aspects of the legal tradition. Anishinaabe law supports and even celebrates indirection, metaphor, ambiguity, and double entendre. We should remember this when creating categories for teaching. Layering activates the agency of the system's participants and dampens top-down decision making. This "check and balance" function (which

empowers individuals to constrain elites) helps Anishinaabe practitioners stimulate choices for those involved within the system.

When learning Anishinaabe language, songs, ceremonies, and teachings, the layered presentation of information draws participants into dialogue with one another. It becomes a useful teaching tool to permit readers and listeners to engage with one another at levels beyond a story, principle, or teaching's explicit meanings.

Linear reasoning appears alongside cyclical patterns to illustrate my central themes. My larger point is that Indigenous law can and should be taught in organized ways—as long as such organization is attentive to the legal processes within each Indigenous tradition. Anishinaabe law will be organized differently than laws found in Salish, Cree, Métis, Haida, Maliseet, or any other Indigenous legal tradition. While forms of organization may vary by professor, school, and tradition, resources are very much at hand to make this process a rich and rewarding experience.

Forensic linguistics implications for legal education: creating the e-textbook on language and law

CROSS-DISCIPLINARY

N Udina

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The language and law studies focus on different aspects of language such as legal language and terminology, legal genres, translation in legal sphere, legal language reforming, legal communication etc. There are different areas, theoretical and practical such as Forensic Linguistics, Forensic Discourse Analyses, Forensic Stylistics, Forensic Phonetics, Semiotics of Law. Different linguistic, sociolinguistic and psycholinguistic theories are applied to study legal language and legal communication. The relationship between these two systems: language system and system of law is of great importance for lawyers to understand how language issues contribute to law drafting, implementation of law, court procedures, legal expertise, police investigation, lawyer and client communication, law interpretation and comprehension by specialists and public in general.

The relationship of two abstract notions of language and law has been not always evident and clear. The XX century saw a heightened interest to language and law interrelation from the side of both linguists and lawyers. The development of forensic linguistics as a new branch of applied linguistics, the institutionalization of Forensic linguistics, which was marked by the setting up of the International Forensic Linguists Association in 1993 resulted in closer interaction between linguists and lawyers.

The term of forensic linguistics was introduced by Jan Svartvik in his article "The Evans Statement: A case for Forensic Linguistics" in which he presented an analysis of police statements in 1953. The term "forensic" is of Latin origin and derived from Latin "forum".

R Shuy points out that discourse analysis is capable of application in a wide variety of settings and contexts. Cases are preserved in written form to serve as the basis for later decisions and review. Law libraries house immense collections of both written text such as motions, counterclaims and judges' opinions but they also contain spoken words, transcribed in writing, such as trial testimony, questioning, and argument. Law, therefore, is a fertile field for discourse analysts.

One of the possible approaches to teaching LSP is the creation of an e-textbook.

The e-textbook Forensic English has been crafted for law students aimed at introducing basics of language and law relationship and developing knowledge of legal language. The course-book includes such topics as Forensics linguistics, the development of legal texts, the legal writing, the plain English movements and others. The format of e-textbook makes it possible to provide links to useful sites, to use multimedia and to include videos of interviews, lectures on relevant themes, etc.

The most time and effort-consuming is the text content stage, as it requires finding relevant material, structuring it and providing with assignments for various purposes: reading comprehension, speaking, reflective writing, translation and project work, etc. The use of multimedia content is intended to facilitate learning process and help retain information. English-Russian vocabulary has been compiled and may be of use for translation assignments.

The students are very positive about using e-textbook for learning LSP. They are motivated by the form and content of the e-textbook on language and law, understanding the importance of knowledge they acquire and getting the insight into legal language functions. The important characteristic of e-textbook is that a student can have an access to it in any place and at any time, so the learning time can be flexible.

Language and law is an interdisciplinary field of studies being of interest to linguists, law specialists and educators. Teaching LSP requires the special context revealing various features of professional language use. From this point of view the language and law provides an insight into legal language development and its specific functions and power. The creation of e-textbook provides wide opportunities in creation the course content, and the use of multimedia contributes to the development of cognitive abilities for perceiving various types of information and language acquisition. Learning legal language functions in various settings develops communicative competence and professional culture.

INSTITUTIONS AND ORGANISATIONS

The Dean Who Went To Law School: Crossing Borders And Searching For Purpose In North American Legal Education, 1930–1950

E M Adams

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The University of Alberta, Faculty of Law was in trouble and Steer, the hard-nosed Edmonton litigator temporarily in charge, knew it. After a series of high profile candidates turned down the deanship the University eventually offered the position on an interim basis to Wilbur Bowker, the local lawyer who had already been hired to teach most of its classes. A problem remained, however, especially for an institution still eager to solidify its scholarly reputation as a serious academic institution: Bowker possessed no graduate degree. And so in the summer of 1946 — with veterans returning to law schools across North America — Professor Bowker rattled across the prairies by train to enrol at the University of Minnesota Law School.

"My father was always concerned that we boys not be idle," Bowker recalled of his boyhood. "He didn't want us playing pool or hanging around street corners." But George and Ida Bowker also possessed a spirit of worldliness and adventure alongside their disciplined work ethic. Academic success was equally expected. And so in the fall of 1926, having completed grade 11 in Ponoka's six-room schoolhouse, and given that there were not enough students to conduct a twelfth grade, Wilbur moved to Edmonton to enroll in the six-year combined Arts-Law degree at the University of Alberta. He would spend most of the rest of his life there.

Housed in several rooms in the impressive Faculty of Arts building, Bowker, and a dozen or so classmates, including two women, entered a law school staffed by two full-time faculty members: Dean John Weir and Professor Malcolm MacIntyre. The faculty was supplemented by a handful of "over town practitioners," lawyers working downtown across the river, and a few prominent judges.

In Weir and MacIntyre, Bowker received two variants of the period's dominant modes of law teaching: Weir, the British-trained confident purveyor of common law analysis; and MacIntyre, the American-trained academic taking the first tentative steps toward situating law in a broader social context.

Securing a law degree in the 1930s was no guarantee of finding employment. Finally, in September, George Steer, one of Bowker's former "over town" instructors, agreed to take him on.

The most profound impact on Bowker's life was provided not by Steer himself, but one of the law students he hired, Marjorie Montgomery. Engaged by the summer of 1938, Wilbur and Marjorie married in the autumn of 1940 at the United Church in Wetaskiwin.

At 29, engaged to be married, and a busy professional, Bowker was an unlikely recruit when Canada declared war on Germany in September 1939. Almost immediately, Bowker joined the Army Reserve in Edmonton, training in firearms use two nights a week at the local Armories, and attending summer training camps in 1940 and 1941. Despite his desire to see action, Bowker spent the war in Canada.

In the decade after Bowker's student days, the Faculty of Law had grown modestly, but steadily, in student numbers. As the war dragged on, student numbers fell precipitously. In the summer of 1944, with the law school largely empty and in disarray, Dean MacIntyre, the only full-time faculty member, requested a leave of absence in order to return to his family law practice in Sackville, New Brunswick. MacIntyre never returned.

The search for a dean to replace MacIntyre began in earnest in the summer of 1945. "While in Ottawa," Newton reported to McGill's dean, "I succeeded in getting one of our own early graduates in Law released from the Army, and he will help us out this year." Newton had hired Wilbur Bowker.

Classes had already begun. The library was in shambles: the few remaining books were mostly torn and disorganized, and single forlorn copies of the SCRs and DLRs had not been bound since Weir died. But to everyone's surprise, 25 students appeared seeking to enroll (or re-enroll after

returning from military service) in first year law. Supressing panic, Bowker wrote to MacIntyre seeking outlines for the half-dozen courses he had agreed to teach: torts, real property, personal property, wills, jurisprudence, and recent cases. "I haven't got any outlines of courses," MacIntyre unhelpfully replied, "Marjorie will have better notes than I have." And so Bowker began "completely from scratch."

Although Bowker harboured a gentle resentment that MacIntyre had "let the law school down," his former professor had at least been right in this: Marjorie's notes did come in handy. With Marjorie helping to prepare his lectures, and crafting and organizing the moot problems, and with Bowker staying one lecture ahead of his students with nocturnal visits to the (better stocked) library of his former law firm, they survived the year. Suitably impressed (and with few other options), Newton offered Bowker a permanent position on the Faculty, but hinted obliquely that it would be preferable if Bowker somehow secured a graduate degree.

Established in 1888, the University of Minnesota Law School had, by the 1940s, risen from modest origins to become one of the leading law schools of the United States.

When Bowker arrived, Minnesota boasted a dozen or so full-time faculty and a student body of nearly one thousand, all working out of a large dedicated building equipped with a spacious and impressive library. More than that, with Fraser at the helm of the deanship, Minnesota had gone well beyond parroting Harvard, and had set its own distinct and influential course in American legal education.

Fraser advocated a new model which lengthened law school by one year, expanded the curriculum, and shifted the underlying focus of legal education. To the existing three-year LL.B. program, Fraser envisioned an additional year devoted "to subjects which are not strictly vocational, but which are cultural for lawyers[:] … administration of law, legislation — its theory, function and methods, comparative law, legal history, jurisprudence or the philosophy of law, criminology, penology."

But a vision only gets you so far, and Fraser needed professors with particular expertise to bring the Minnesota Plan to life. Over the ensuing years, he recruited a number of young new professors and charged them with developing the curriculum's new fourth year courses.

By 1935, in the pages of the *Canadian Bar Review*, Fraser was already pronouncing his "experiment" in legal education a success.

Fraser and the Minnesota Plan had been ahead of this curve by nearly a decade. Fraser was not the first or the last to place the idea of public service at the core of legal education's mission and identity, but his personality, administrative experience, and supportive institutional context allowed him to do more than most in expanding the law school curriculum, extending the length of training, and articulating a different vision for legal education.

It was very much Fraser's law school, then, that Wilbur Bowker arrived at in the summer of 1946. Although the search for a dean at the University of Alberta, Faculty of Law continued during the fall of 1946, it was becoming increasingly apparent that the deanship should fall on Bowker's capable shoulders.

Bowker returned to Alberta a successful graduate student, but yearned to be proven a successful academic. In the winter of 1947, President Newton appointed Bowker Acting Dean and Full Professor, a prelude to Bowker's official appointment as Dean the following year. Citing Pound, Holmes, Cardozo, and Fraser, Steer advocated a system of legal education which emphasized a lawyer's public duties to improve the functioning of the state, to instill the understanding that "law must develop as society does and accord with its views of fundamental relationships."

Bowker's law school was one in which the dean knew every student's name, in which a sense of collective experience was fostered, and in which Bowker would embody "a continuous and single-minded devotion to the ideals and values of law and legal institutions as well as a patriotic fervour for Canada and its people."

In this largely masculine professional world in which Bowker excelled, he cultivated a series of practices that collapsed the barriers and cemented the bonds between him and his students. But Bowker also typically admitted a handful of female students each year — including Violet King, the Faculty's first black student — and by all accounts, doubtless with his wife Marjorie as an important influence, he promoted the inclusion of women in the law school. In other respects, he remained highly protective of what he would have described as the character of the student body.

Bowker returned to Minneapolis to take classes in the summer terms of 1947 and 1948, Fraser's last year as Dean. He also began to turn his mind to writing his thesis. In comparative constitutional law, Bowker found his topic.

In 1957, on behalf of the Canadian Association of Law Teachers (CALT), Bowker drafted a Statement of Objectives for Canadian Common-Law Schools.

He retired from the deanship in 1968, deeply and widely admired across the profession, but nonetheless "glad to leave the headaches of admissions, recruiting, curriculum and endless committee meetings to others." His legal scholarship, although broad-ranging and competent, did not define him or carve a lasting legacy in the legal literature. His hoped for Ph.D. never materialized when he failed to convert his sabbatical year at Yale into a workable dissertation, and he never published the great synthesis of Alberta's legal history as he had planned. But he did shape a law school and with it a generation of lawyers and a provincial legal culture along with them, as symbolized in the provincial government justice building which bears his name.

If Fraser and Bowker signalled the beginning of one era in legal education, they equally partook in the ending of another. As essentially lifelong deans, they personified their respective institutions and fashioned law schools in symmetry with their values, visions, attributes, and deficiencies. Constrained, of course, by budgets, university administrations, and the demands of the profession, they nonetheless exercised near total control for more than two decades over the admissions, staffing, curricula, and culture of their law schools. We still teach and learn the law in the traces, imprints, and shadows they left behind.

LEGAL EDUCATION GENERALLY

Transform — Don't Just Tinker With — Legal Education

G P Lopez

Clinical Law Review, Vol. 23(2), 2017

What then shall we do about fundamentally changing legal education? Shall we just encourage every law school to proclaim they already have? After all, during the past ten years of colossal agitation over the quality of legal education, several high-profile law schools claim to have revolutionized the curriculum for the first time since 1870.

That's the message many people I know have taken away from the past decade.

If we want to transform systems, we must understand how people have managed to resist, deflect, and channel radical and reform initiatives.

Most of those I work closely with think material forces — vested interests in the status quo — tell the entire tale we need to acknowledge. I respect this opinion. I especially do because at least some of these sage advisors predicted with great accuracy how this past decade would unfold and how it would end.

Still, I'm challenging the house. I think they're all missing what's there to see or dismissing what they do recognize as neither here nor there. However muscular the material forces, and they are indeed monstrously strong, I insist ideas matter too — mattered to what already has occurred and matter right this moment.

The environment in 2017 already has proven significantly less friendly than it has been in the past decade to major suggestions, much less comprehensive visions, of fundamental change. Deans and voting majorities of faculties at most law schools are signalling no and no more.

Changes formally proposed within and about legal education rarely alter much. Even when they do, they only infrequently take lasting hold. Even those that take hold somewhere often get pushed so far to the edges that few outside of the institution and sometimes within the institution even know of their existence. Yet the 1870 reorientation of Harvard Law School's curricular ambitions and methods was fundamental, did take hold, and ultimately extended its reign to all of legal education.

In 2008, then Dean Elena Kagan proudly proclaimed that changes adopted at Harvard "mark a major step forward in our efforts to develop a law school curriculum for the 21st century. Over 100 years ago, Harvard Law School invented the basic law school curriculum, and we are now making the most significant revisions to it since that time."

But the transformation movement was hardly limited to the most powerful or the brand new.

Some schools created their own in-house transformation team; others worked together in groups, sharing their innovations and their ideas. Some did both, adopting a slate of changes and learning about changes adopted elsewhere.

Even those schools with no announced plans of altering their curriculum took the opportunity during the same years to publicize how for some considerable number of years they already had been offering students the very transformed education others now boastfully labelled "revolutionary".

For all the bickering about accuracy, for all the plotting for recognition, most involved in the debate, in the implementation, and in the selling of their respective transformations appear to make

the same claims. They would appear to reflect a recent consensus, though just as obviously they have been in the process of creating or at least fortifying one.

The consensus leads, in turn, to a menu of pre-approved options for reforms.

As divergent as suggested paths might appear, they result not from contradictory portrayals and critiques but from the same consensus. That accord equips diverse institutions to choose as they must in the face of particular constraints without breaching the dominant ethos.

What may be most important to note is the diversity of those weirded out by the current circumstance. Those asking these questions and making these comments include proponents and opponents of any significant change in legal education. And they include agnostics too, both those now exhausted by earlier efforts to change legal education and those who decided long ago to spend their considerable talents and limited energy on matters other than curricular reform. What they all share is the knowledge that they have been here before.

Most faculty members adamantly deny the charge that their vested career interests, rather than the institution's future health, drive their voting.

At least some faculty, though, openly concede anxiety about this past decade's talk of transformation. They would rather dodge the possibility that they may not be equipped to participate in a freshly conceived educational program.

The past decade's events all have taken place within a set of operative convictions and conventions, a set of "background rules of the game," what I call for now a deep stock story.

Yet no deep stock story reigns unchecked, unquestioned, and unopposed. On close enough inspection, we can detect resistance, insubordination, mutiny.

Severe pressures — both to produce law graduates as practice-ready as three years permit and to improve the experience of law students during their formal legal education — may have liberated some, obligated still others, and chastened everyone writing.

My claim is that despite our formal lack of knowledge of the deep stock story and its evolving contemporary variations—or perhaps because of our shared ignorance—we have absorbed and reproduced the messages.

The deep stock story comes packaged in a variety of ways.

In my judgment, three dominant and separable mainstream versions of the deep stock story deserve our special scrutiny.

I call these three histories of legal education the Popular Portrayal and Critique, the Functional Portrayal and Critique, and the Historically More Particular and Ideologically More Explicit Portrayal and Critique.

Recognize, though, how much each version, despite its distinctive qualities, hews closely enough to the deep stock story as to be intelligible and credible.

At the Harvard Law School, in 1870, a newly appointed professor and Dean, Christopher Columbus Langdell, revolutionized legal education.

From the script science had authored, Langdell introduced appellate court opinions selected from the library as the specimens to be studied. He employed a classroom question-and-answer format later labeled the Socratic Method to probe the cases and to embody the science of law. And with appellate decisions as the phenomena, and the Socratic Method as the means to teach, students learned both deep principles and legal science.

Langdell outlasted the early damnation. And over the next several decades, with the spread of the case method to other elite schools and the sober-minded praise by prominent figures like Louis Brandeis, the Langdellian case method became the dominant mode of educating future lawyers.

From nearly the beginning, faculties introduced curricular options. These additions responded to demands by law students, the interests of the faculty, and requirements of the organized bar. As these satellites appeared, as they added to the diversity of curricula, they strengthened the intellectual centrality of Langdell's case method.

Even with all that has been added and altered (especially available to students in the second and third year), today's education still parallels too strongly Langdell's 1870 model rather than a 21st Century model of what lawyers variously do and should know how to do.

The limits of the case method have not been lost on students or faculty.

For all the remarkable qualities of Langdell's approach, for all the admirable refinements, the time has come to alter how we educate our future lawyers.

When most of us speak seriously about transforming law schools, we still imagine building around the current core casebook method that nearly universally has been rejected and mocked when evaluated by the aspiration of "legal science" that Langdell hoped to demonstrate and develop.

As if legitimating law and providing a remarkably flexible pedagogical method were not enough, Langdell made law schools the financial envy of other units of the university.

When scrutinized by the standards of 2017, Langdell's approach deserves mixed reviews.

As the decades unfolded, casebooks reveal what a wonderfully flexible instrument Langdell had presented his colleagues. Faculties could choose and order appellate decisions to reflect their own views of important themes. They could surround appellate decisions with texts that reflected changing views in legal and interdisciplinary scholarship. They could introduce hypothetical problems that demanded students think through how relevant doctrine might apply in varied circumstances. They could inculcate their own particular take on the reasoning celebrated in the phrase "thinking like a lawyer." Indeed, the very selection and organization of appellate cases and materials permitted faculty with wildly disparate (yes, contradictory and hostile) views about law to teach students through the same case method introduced in 1870 to prove law a science.

Over the decades, in response to various schools of thought and political movements, Eliot and Langdell's approach became the centrepiece of the first year and the elective big doctrinal classrooms of the second and third years.

But that interpretation of core and periphery seems highly debatable—and perhaps dead wrong. The first year and the big doctrinal classrooms remain both the big cognitive footprint on students' categorical perception and the stuff of cultural lore.

If the Popular Portrayal and Critique far too unquestioningly lavishes praise on the Socratic Case Method, it certainly exhorts law schools to spend *considerably more* resources and time developing the practical skills and the professional identity law school graduates need. If the Functional Portrayal and Critique far too unequivocally extols the many-sided virtues of Langdell's system, it certainly *explicitly identifies the nature and some important limits* of the Socratic Case Method (yes, in ways already well established in more radical literatures about lawyering and law yet including themes and points typically ignored and obscured in mainstream accounts). And if the Historically More Particular and Ideologically More Explicit Portrayal and Critique seems entirely too resigned to (actually in favor of?) the continuing reign of the Eliot-Langdell system, it certainly provides consumers with a strong appreciation of other evocative options law schools have in the past chosen and might well still choose.

In 2017, with pressures significantly relieved, many mainstream reformers, including exceptionally prominent figures, have returned to extolling, even waxing lyrical about, the Socratic Case Method. What we do see, though, is a freshly reconciled account, one weaving together elements of the past decade's three most prominent versions of the deep stock story around the triumphant embrace of the Socratic case method emblematic of the Popular Portrayal and Critique.

Yet today's lawyers, goes this freshly reconciled account, need a broader swath of knowledge and skills. To make those available, law schools should follow the first-year doctrinal courses with learning opportunities that, in addition to second and third year Socratic case method courses, focus on a set of complementary competencies.

An approach to the education of lawyers — that historically has provoked major criticism, from ideologically and professionally diverse observers—is now being "staged" as a celebrated masterpiece in the rolling out of the "transformed curriculum." In renewing support for the Eliot-Langdell Socratic casebook system, these deans and faculty members must fully appreciate they may well reinforce the persistent mystification of "legal analysis," "legal reasoning," "thinking like a lawyer."

To be sure, there are weak and strong forms of actually implementing this newly reconciled version of the deep stock story.

Through substantial efforts and expenditures, the relatively small number of law schools that have implemented hearty training in "complementary competencies" have perhaps drawn near those law schools that already had been providing their students these same or strongly parallel opportunities. Of course, the newly arrived do not promote themselves as aiming to catch up to or as perhaps now within the competitive elite. But that's exactly what has happened.

LEGAL EDUCATION GENERALLY

Australian legal education at a crossroads

P Collins

Australian Universities Review, Vol 58(l), 2016

Australian law degrees in the newly proposed deregulated market of higher education, are forecast to incur a $100,000 student loan debt with a six per cent interest rate. Therefore, the need to ensure the law degree provides graduates with the training needed to become gainfully employed has

never been more important. After graduating from law to become a practitioner a further 15 weeks professional legal training (PLT), currently costing around $8500 is required, and to provide mediation services an additional qualification incurs further costs of over $4000.

This is all in a climate of uncertainty for lawyers with employment rates at the lowest they have been for many years.

Reports show unhealthy cultures exist with allegations of high rates of bullying in legal practice. The pressures on law students are also evident in alarming studies of the unusually high levels of mental stress in this cohort of students.

There has been a growing body of literature by Australian legal educators seeking understanding of the causal factors and ways to address the issue. The research by Kelk *et al* did not attempt to uncover causes for their disturbing finding but the study did suggest a number of probable influences, including the competitive, adversarial nature of legal education and its culture.

In this changing climate the law degree content is coming under more scrutiny, including from the professional accreditation bodies in Australia.

Amidst these pressures exist the professional law academic struggling in a competitive environment to keep the ever more demanding law student satisfied that the legal education they are providing will be relevant and useful to the student's life. Yet still there is little research into the state of mental health of the legal academic. However, this is pertinent to consideration of any reform in the sector.

The neoliberal impact on legal education in Australia has been written about extensively by Thornton. More recently she has turned attention to the 'hyper masculinity' of the global corporate law firm suggesting the corporate world of global take overs and mergers is a highly competitive world in which many lawyers are embedded to the extent that global law firms inevitably '…now mirror the competitive business ethos of their clients, evincing similar market-orientated values…'.

In this transforming environment a key interest for Thornton is the excessive focus on the positive bottom line of corporate profits with little concern for work/life balance '…when corporations and investors enjoyed robust growth, comparatively little media attention is devoted to the conditions under which lawyers work…Corporate firms rarely display the same loyalty to staff that was once the case…'.

Moving from the high end of practice there is still a strong need for lawyers to take up the small clients with 49 per cent of Australians seeking assistance with legal problems in 2014 and 22 per cent being involved in the legal system on three or more occasions. However, government funding of legal aid has been in decline since 1997 affecting lower to middle income earners, family law, Community Legal Centres and Aboriginal and Torres Strait Islander communities in particular.

The Law Admissions Consultative Committee is concerned with the increasing demand for training to keep abreast of global developments with Australian lawyers having extra study burdens when seeking admission in overseas jurisdictions. Refocusing the curriculum to accommodate globalisation by internationalising the content of courses has been a train of thought advocated for some time and would increase employability for lawyers seeking admission in another jurisdiction. This article advocates, at minimum, diversifying the legal curriculum to incorporate understanding of communication, the core skill in a lawyer's toolbox, cultural awareness, and collaborative approaches such as those used in alternative dispute resolution, and training in different legal families, such as Sharia law. However, this change has to occur in a professional degree constrained by the higher education sector demands as well as those of the professional bodies.

As a professional degree qualification a law degree must accommodate professional accreditation criteria. To practise the profession in Australia requires satisfactory completion of an Australian tertiary law degree covering academic requirements in 11 areas, (criminal law and procedure, torts, contracts, property, equity, company law, administrative law, federal and state constitutional law, civil procedure, evidence, ethics and professional responsibility).

In 2014, the Productivity Commission's report, *Access to Justice Arrangements Report* (Recommendation 7.1) suggested that the Priestley was due for an overhaul, if not entire abandonment. The outcome is uncertain with reluctance to the possibility of opening the Priestley up for reconsideration in line with the recommendations in the *Access to Justice Arrangements Report*.

In a world where education is no longer free and students have to work part-time casualised jobs, or perhaps are seeking a career change while performing in high stress jobs, along with the usual family and other commitments, education has been required to 'fit in' around the student.

Tani and Vines note that 'the focus on getting good grades as a motivator is perhaps the most significant factor differentiating law students from other students'. A prioritisation of grades over actual learning or gaining of knowledge and skills is tied to reputation and being judged

by the employer, peers and family. Reliance on external acknowledgment, however, fails to link with the students' own desires and values, creating a feeling of lack of autonomy that can lead to depression.

Other stress-producing factors on students paying high fees for their qualifications include the need to fit their study around family and work. This in turn means an increased demand for distance education provision of online courses.

In this frenzy of change and innovation, supported by rapidly adapting technologies, teachers are encouraged by the student demand for flexibility to trial new and previously unheard of approaches to education. It is likely the professional regulatory bodies may not be able to keep up with this pace of innovation.

Underpinning the discussion and mounting reports is the overriding concern that graduate lawyers will be educated to face future demands on them. Some thought is going towards an elitist direction, reducing student intake and numbers, or placing restrictions on government supported student placements in an attempt to produce the 'best of the best'. This approach feeds into the neoliberal demand for excellence; it may not however, consider the wellbeing of a student placed in such a high stakes competitive environment.

Instead of focusing on numbers and declining employment opportunities some argue recognition of the changing environment means better considering the changed world in which law graduates will be operating into the future.

The *Access to Justice Arrangements Report* reinforces the fact that not all law graduates intend to practise law, and the evidence shows the growing number of female graduates that fail to remain in the profession. Menkel-Meadow suggests '…modern legal education may need to address different types of problems in different ways…

Alternative dispute resolution for instance, looks closely at communication — including non-verbal, conflict theories, and psychological, emotional, and cultural factors. Legislation not only encourages early resolution of disputes through alternatives other than court, but aims to reduce barriers to accessing justice.

In alternative dispute resolution subjects' students are encouraged to develop a more collaborative, facilitative thinking approach that can soften the blunt edge of competitiveness. Role playing, as an essential component of alternative dispute resolution teaching, enables students to practise the skills that develop learning non-verbal and interpersonal communication techniques. This encourages a meta-awareness of our primitive brain, including our emotional brain, and its responsiveness to non-verbal cues well before cognitive processes activate. Communication, the most essential skill for lawyers, demands attention be paid to training students in all forms of communication: legal drafting, statutory interpretation, oral skills and the levels of subtlety practised by mediators.

An adversarial lawyer is not focused on the emotional costs, or the underlying human issues, the focus is on the endpoint and usually success is gauged in terms of financial outcomes.

Training in emotional awareness and empathy, as occurs in alternative dispute resolution teaching, can only assist in improving self-awareness around work/life balance and ethical behaviours. This is also likely to reduce activity such as bullying.

It is suggested that lawyers of the future, whether working in transnational legal conglomerates or the local community, will need skills in: communication, including interpreting legislation, oral and interpersonal skills, cultural awareness (languages would be useful), knowledge of conflict theory, awareness of different legal families, some international relations and geopolitical awareness, and research and technology capabilities, all embraced by a professional ethics education.

This new form of law degree and training may be seen as a new arts degree or generalist degree by some but its value lies in that fact that all these skills would be focused around delivering lawyering and providing justice in a globalised environment. This approach brings in suggestions such as the ethics of care, relational and humanistic lawyering. Encouraging a collaborative approach is likely to also aid academics in their teaching environment. Students trained in these areas will be adaptable, they will have self-awareness, an ability to ensure work-life balance and hopefully a wellness that arises from a more holistic training that incorporates emotional sensitivity and respect for the individual. They will be legal graduates ready for the future.

Constitutional Values, Therapeutic Jurisprudence and Legal Education in South Africa: Shaping our Legal Order

LEGAL EDUCATION GENERALLY

E Fourie

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The values and philosophies that law lecturers instil in law students can contribute to the legal order of the future; a legal order that supports a transformative South Africa.

A need exists to bring legal education closer to the values enshrined in our Constitution. In addition to an extensive knowledge of legal principles, critical thinking and research skills, law students should critically engage with our constitutional values.

A therapeutic jurisprudence approach is an interdisciplinary approach to studying law's impact on emotional life and focusses on the therapeutic and anti-therapeutic consequences that can flow from legal rules, legal procedure and the different roles of legal actors.

Preventative lawyering ensures a proactive approach to lawyering and a focus on planning for and avoiding future disputes, and securing the client's legal rights and opportunities. Introducing the abovementioned concepts to law students from their first year allows for a change in mind-set that can result in social change and a transformed form of adjudication, as envisaged by our Constitution.

Responses from law firms and even the Bench have indicated that the current four-year LLB degree (undergraduate) does not prepare students adequately for the legal profession. In addition to the skills and knowledge mentioned, universities need to deliver students that are socially conscious, strive for social justice and contribute to the constitutional imperative of access to justice.

A well-rounded graduate should have the capacity to be accountable and take responsibility in an academic, professional and social context. The incorporation of therapeutic jurisprudence principles allows law lecturers to create an awareness of and respect for human dignity, (both a value and a right in the constitution) by teaching students to uphold the constitutional values.

The preamble to the *Legal Practice Act* 28 of 2014 states that it aims to provide a legislative framework for the transformation and restructuring of the legal profession into a profession which is broadly representative of South Africa's demographics, to ensure that the values underpinning the Constitution are embraced, that the rule of law is upheld, and to ensure that legal services are accessible.

Section 29 of the Act provides that community service may be included as a component of vocational training by candidate legal practitioners, as well as a minimum period of recurring community service by practising legal practitioners. If a programme similar to that of medical graduates is proposed, this would certainly contribute to the constitutional imperative of access to justice for all. The continued enrolment of legal practitioners can be made dependent on this requirement.

At the University of Johannesburg the "first-year experience" is built on the premise that every first-year student will be treated with the appropriate respect due to all citizens in South Africa. It comprises both curricular and extracurricular initiatives. It attempts to establish an ethos and a way of life through which all first-year students will experience the transition into university life. Students at the University of Johannesburg are supported throughout their studies by the Psychological and Career Development Services (PsyCad).

Developing a professional legal identity from the first year of studies can support the transition into university life. A professional identity is not a static concept and can be defined as a complex matrix of internalised expectations and behaviours that arise from a role or distinct network of relationships.

To assist students to accurately engage with a legal professional identity, first-year students at the University of Johannesburg are introduced to various legal professionals during orientation.

In the creation of this professional legal identity, authentic learning (*learning to be*) plays a valuable role. When establishing this emergent professional legal identity, it is important for a law student not to experience knowledge as a mere static product of information production and consumption, but as a process and instrument of inquiry to solve problems.

To encourage authentic learning from the first year, students are provided with real-life problem situations such as mooting during formal assessments as well as in various role-play exercises and court visits.

In supporting a meaningful, integrated approach to teaching, the development of these skills should be intensified during each consecutive year of study, until final-year students are exposed to practical experiences in the law clinic.

The engagement of students can be achieved through the use of an integrated approach, providing real-life situations relevant to the various subjects in the curriculum and by connecting with the discipline beyond the prescribed minimum learning requirements. Through engaging in an authentic learning process students will acquire a sense of personal and professional verification. This process also promotes the students' psychological wellbeing, once again enhancing therapeutic jurisprudence principles.

The authentic learning activities also provide a framework for the incorporation of therapeutic jurisprudence outcomes and the advancement of constitutional values.

Teaching letter writing skills and the value of plain language to law students creates excellent opportunities to integrate valuable therapeutic jurisprudence principles into students' learning. A therapeutic jurisprudence approach concentrates on the law's impact on the emotional life and psychological wellbeing of all the participants, whereas the focus in the drafting of letters and other legal documents must primarily be on the emotional wellbeing of the client.

Throughout their studies, specifically in the Legal Skills course and the module Law of Contract, students must be made aware of the needs of their clients for the information and structure that would best assist their understanding of the content of the document. This will definitely result in a therapeutic jurisprudence outcome for the reader of the document.

During mooting activities students are given a real-life problem, involving a family law dispute regarding the care of a child. They are now encouraged to safeguard the emotional and psychological wellbeing of the child to ensure a therapeutic outcome. Practical strategies are discussed and students have the opportunity to consult with "clients" through different lawyer/client role-play exercises.

In analysing and researching the problem, students are constantly reminded of the importance of our constitutional values, such as human dignity and equality. Students are also required to research across disciplines, as the research problem addresses sensitive social issues such as HIV and AIDS, drug abuse and poverty, thereby including matters of morality, policy and important social issues.

The value of a client-centred approach can be explained to students through various role play exercises providing for reconciliation with family members, employers and other members of the community. Students also have the opportunity to collaborate with fellow students and tutors, providing a framework where they must treat colleagues and peers with respect.

When students are exposed to concepts such as therapeutic jurisprudence and preventative lawyering, an expectation is created that upon entering the profession they will promote these concepts. A therapeutic jurisprudence approach adds a human aspect to the law and enforces the constitutional value of human dignity. Justice Cameron states that the law's role is also to repair, therefore awareness that the law can afford a means of healing and restoration must be created amongst law students.

Therapeutic jurisprudence encourages the application of the law in a more therapeutic way. It is concerned with the improvement of the law and the operation thereof by searching for ways of minimising negative and promoting positive effects on the wellbeing of those affected by the law. One of the ways in which this objective can be reached is by introducing mediation as an alternative to court-based adjudication. Students at the University of Johannesburg are made aware of this form of alternative dispute resolution during their first year, when they study Law of Persons and the Family as a subject, and a mediation module has been introduced into the first year Legal Skills course.

Students are also alerted to African group-style mediation and its place in the context of the *Children's Act*, as well as to the importance of *Ubuntu* in this regard.

All final-year LLB students are required to pass the module Applied Legal Studies, of which the law clinic forms part. The law clinic is a form of service learning based in an authentic learning environment. It entails teaching and learning that is directed at specific community needs and integrated into a credit-bearing academic programme and curriculum in which students participate in contextualised, well-structured and organised service activities.

In line with the focus of preventative lawyering, students now act as planners, counsellors and negotiators. Those exposed to this approach may, once in actual practice, continue performing preventative lawyering and incorporate aspects of therapeutic jurisprudence into their practice. This approach supports lawyering with an ethic of care, and will assist in producing graduates who

embrace the spirit of *ubuntu*, are socially conscious, and are prepared to serve the community. The expanding notion of *ubuntu* as a value plays an important role in a country still endeavouring to adjust to a changing social order.

However, to succeed in this way, students must be introduced to these approaches from the first year.

As law lecturers in South Africa we want to prepare students for an active citizenship role in society and have them display the constitutional values of human dignity, equality, freedom and *ubuntu* when they interact with their fellow students, lecturers, other citizens, and one day with their clients when they enter the profession. The incorporation of therapeutic jurisprudence principles into the curriculum would thus support and enhance the values of the Constitution. By embodying these values they can improve the legal system, shape our legal order and promote progress toward an equal and free democratic society as envisaged by the Constitution.

All In The Family: A Legacy Of Public Service And Engagement-Edward And Thomas Fairchild

PERSONALIA

R. Nils Olsen, Jr.
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Our story begins in the hardscrabble northeastern Pennsylvania Borough of Towanda, on June 17, 1872, with the birth of Edward Thomas Fairchild to Mary Elizabeth Kiehle and Harvey Arthur Fairchild. Edward then pursued his life-long ambition for a career in the legal profession, clerking in the Dansville law offices of Rowe and Coyne. He subsequently sat for and passed the New York State bar examination and was admitted to practice in Buffalo in 1894.

His first office was in a vacant room in the old Milwaukee Sentinel building, which had formerly been occupied by the law firm of Kleist, Bennett and Churchill. Serendipitously, Edward's fellow boarders included Michael Laffey, who was active in local Milwaukee County Republican Party politics and later served several terms in the Wisconsin State Assembly.

In 1900, the Fourth Ward was electing a delegate to the Milwaukee County Republican Convention. Mike Laffey encouraged Edward to run for the position. He did so, was elected, and ultimately seconded Bennett's nomination for District Attorney. In 1903, Edward was rewarded for his political support and was appointed by Bennett to the position of Second Assistant Milwaukee County District Attorney.

Edward served in the Milwaukee County District Attorney's Office until 1906, when he left to join Frank Lenicheck and Frank Boesel in private practice. Together they formed the law firm of Lenicheck, Fairchild, and Boesel.

He then successfully ran for a seat in the Wisconsin State Senate in 1906, in which he served two sessions. While a State Senator, Edward developed what was to become a lifelong interest in vocational training.

On April 30, 1930, Governor Walter J. Kohler appointed Edward to a position of justice on the Wisconsin Supreme Court, where he served with distinction until his retirement, January 7, 1957, at eighty-six years of age. He became Chief Justice on January 4, 1954.

Edward was the last justice of the Wisconsin Supreme Court who did not attend law school, not to mention college.

Edward stood for retention on the Supreme Court bench in 1936 and again in 1946.

Unlike some politically conservative judges of today, Edward was a pragmatic, self-consciously collegial justice who actively sought consensus over division and was deeply respectful of the doctrine of *stare decisis*. Immediately prior to his retirement, Edward had the happy task of swearing in his son, Tom Fairchild, who was replacing him as justice on the court. Edward died October 29, 1965 at the age of ninety three.

During his third year at the law school, Tom was selected to serve as a law secretary to his father — a highly sought after part-time position that paid the then-princely sum of $150.00 per month.

Notwithstanding Tom's one-year post-graduate commitment to serve as law secretary for his father, when Edward learned that an employment opportunity had unexpectedly, and tragically, become available in the Portage law firm of Grady, Farnsworth and Walker, which was led by Dan Grady, he was most anxious that Tom seek the position. When he received an employment offer from the Portage law firm in April 1938, Tom became a junior associate and relocated his family to Portage.

Tom left the firm in 1941 to accept a position as an attorney in the World War II-era United States Office of Price Administration (OPA) in Chicago.

Tom served as the District Enforcement Attorney for the Milwaukee region. This was an exceptional legal experience for the young attorney that included making referrals to the United States Attorney for criminal prosecutions; seeking injunctions, both in federal and state court, often accompanied by associated contempt proceedings; and litigating civil suits seeking either treble damages or license suspensions. By the end of World War II and the return to normalcy, it was apparent the OPA would not long survive, and Tom once again sought new legal employment. After seriously considering a job offer from a small firm in Winona, Minnesota, he accepted an associate's position with the largest corporate law firm in Milwaukee, Miller, Mack Fairchild, presently Foley and Lardner.

However, his time at Miller, Mack was brief. Like his father before him was drawn to the cause of the Stalwart Republicans, Tom was irresistibly drawn to the brave new world of Wisconsin post-War Democratic politics.

Tom's political outlook evolved significantly during his time at Cornell, where he served as president of the Liberal Club. Everything changed for Tom on July 4, 1948, when he received an unexpected telephone call from a former University of Wisconsin acquaintance. He asked Tom if he would consider running as the Democratic Party's nominee for Attorney General of the State of Wisconsin in the 1948 elections.

After a steak dinner, and loosened up by several excellent martinis, Tom agreed to run, but with two conditions: he had long-established plans to take his annual family vacation in Dansville, so the election petition signatures would have to be obtained by others, and he had to be a part-time candidate because he needed his existing Miller, Mack salary to support his family, a consistent theme during his political career.

The only statewide success for the Democrats was Tom's unexpected victory for Attorney General, in which he received the highest vote total in history for a Democrat-and the first successful statewide election for the Democratic party since F. Ryan Duffy's one term in the United States Senate, won in the 1932 Franklin Roosevelt-New Deal landslide. Edward proudly administered the oath of office to his son.

During Tom's one term as Attorney General, he displayed two traits that were to be hallmarks throughout both his subsequent judicial and political careers-principled decision-making without regard to the probable negative political consequences and an abiding and heart-felt support for the immediate extension of civil rights protections and equal opportunities to Wisconsin's minority citizens.

As the only statewide Democratic Party officeholder, Tom was under intense pressure from his Democratic colleagues to move up the ticket in 1950 and either run for Governor, an office that had been recently vacated as a result of the retirement of popular Republican Party incumbent, successful businessman Oscar Rennebohm, or to challenge the State's admired, and aptly-named, senior independent-minded Republican Senator, Alexander Wiley, who had been first elected in 1938.

Despite several very good reasons to keep the Attorney General position, including the advantages of a well-known and comparatively popular incumbent office-holder running for reelection, not to mention a steady salary to support his family, Tom gave in to the pressure and announced for the Senate, a decision he subsequently deemed "a mistake".

Despite his aggressive campaign, Tom was defeated by a 55%-to-45% margin. Once again, he found himself unemployed, until President Truman appointed him United States Attorney for the Western District of Wisconsin, in Madison.

In November 1951, the Democratic Organizing Committee considered once again who would be the candidate best situated to challenge McCarthy, conducting a "Postcard Poll" of its membership, which listed nine potential candidates and asked party adherents to identify their first and second choices.

After a difficult period of indecision, Tom announced on July 8, 1952 that he was indeed a candidate and intended to run in a September 1952 Wisconsin primary election against Henry Reuss. In a contest that once again featured the ever-present and damaging schism within the new Democratic party, with a representative of the Dane County wing of the party (Tom) running against a Milwaukee-based opponent (Henry Reuss), Tom ultimately prevailed in what was an extremely tight election by some 3,000 votes of the 190,000 that were cast.

In spite of Tom's spirited and aggressive campaigning, the extra resources deployed in support of those efforts, and the zealous, if unconventional, support he received from the Truth Squad, McCarthy was reelected by a 54%-46% statewide margin.

In 1956, Tom decided to run for a seat on the Wisconsin Supreme Court. There was a three-candidate primary election, which Tom won handily, followed by his more than two-to-one victory in the general election.

After his retention, the future was bright. Tom was in line to become Chief Justice of the court in just two years and could have served in that post for at least eight additional years with another six after that if reelected to serve on the court for a third term.

However, shortly after his reelection, Tom was confronted with a difficult but highly enviable choice. Judge F Ryan Duffy, a long-time member of the United States Court of Appeals for the Seventh Circuit in Chicago and friend of Tom's, announced that he was finally assuming senior status. An appointment to the Seventh Circuit vacancy essentially was Tom's for the taking with his two long-time associates and fellow Young Turks Gaylord Nelson and William Proxmire then serving as Wisconsin's Senators and Lyndon Baines Johnson, a Democrat, in the White House. It was a difficult decision for Tom.

In any event, after his consultations, Tom ultimately decided to accept the federal appointment to the Seventh Circuit United States Court of Appeals.

Tom ultimately did move to Chicago in late summer 1974, in anticipation of his pending appointment as Chief Judge of the Circuit the next year. This was the year of my clerkship, and I had the unique experience of working first in the stately, historic Milwaukee Federal Courthouse during the summer months of 1974, then moving to Chicago with my wife in late August.

This period of transition from Milwaukee to Chicago resulted in a wonderful opportunity for me. Largely for the lack of much to go home to at the end of the working day, we often worked in chambers until 6:00 or 6:30 p.m.; adjourned to the nearby historic Berghoff Restaurant, where we closed down the politically incorrectly named "Gentlemen's Bar" and consumed a dinner of German sausage, sauerkraut, and dark beer; and walked back north to our respective lodgings. This was an unmatched opportunity for me to get to know the judge well from the very start of the clerkship, and I gained a keen appreciation for the fond memories of his political career and his deep, abiding love for the State of Wisconsin.

There is discernable throughout the course of Tom's distinguished judicial and political careers a clear, bright line of commitment to civil rights over thirty years from the four lads seeking to swim in the Beloit municipal pool reserved by unbroken custom for whites in the late 1940s that he challenged while Wisconsin Attorney General; to his unambiguous and courageous championing of civil rights and equal opportunity during his 1950 and 1952 senatorial campaigns; to the Milwaukee Bricklayers Union that consciously discriminated based on race, which he condemned in his 1957 dissent while serving on the Wisconsin Supreme Court; to the next generation of Black bricklayers denied employment in Cook County in 1977 because they had not been included in a list of qualified union workers in a trade that had historically excluded them from membership based upon racial identity. He never shrank from the issue, and it was always central to his deeply held personal values, public policy, and legal convictions. Tom served as a judge on the United States Court of Appeals for the Seventh Circuit from his appointment in 1966 until 1975 when he became Chief Judge of the Circuit for six years. He assumed the position of Senior Judge in 1981 until his death on February 12, 2007, at the age of ninety-four.

Professional Legal Education in India: Challenges and the Way Forward

PRACTICAL TRAINING

A K Kashyap

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India's Gross Enrollment Ratio (GER) in higher education currently is 15%, which is much lower than the world average of 23% and the target of the government is to increase it to 30% by 2020. Still there is lot to be done to make higher education accessible to commons. The University Grants Commission (UGC) was founded in 1956 to develop higher education in India, but still it is not able to come in race with the world average GER in last 50 years span.

A University can be set up only through a legislation passed by Parliament or a State Legislature. Alternately, UGC can confer 'deemed university' status to an institution to confer degrees. Professional courses and degrees of colleges and also needs to be recognized by their respective statutory body. In case of legal education, it is Bar Council of India.

All the issue relating to admissions, practice, ethics and standards are addressed by BCI in consonance with state bar councils. The powers of BCI are also envisaged under Advocates Act, 1961 under Section 7.

Section 49 provides powers to BCI to make rules with respect to legal education and related matters.

While exercising the powers given under Advocates Act, BCI has successfully done many reforms in Legal education like introduction of five years integrated degree program in Law in 1982. In the year 2007, the National Knowledge Commission submitted it's for reforms in legal education and suggested for steps to be taken for justice oriented education in field of law.

NKC further recommended for improvement of quality in legal education through establishment of independent regulatory body for dealing with all aspects of legal education. The report somewhere reflects to recommend for more experiential learning and industry linkage to train future lawyers in better way.

The Indian higher education sector is much diversified and has variety of problems in different scenarios. Low living and high thinking may be a good dictum, but educational institutions should have the minimum comforts and conveniences to enable the teachers and students to perform at the prime level. Inadequate infrastructure, particularly in the Government institutions is an immediate challenge. Problems of faculty shortage as there are a large number of unfilled vacancies for faculty in both universities and colleges. Thus in various institutions present teacher-student ratio does not meet the basic academic requirements.

Number of university level institutions and colleges has grown up from 28 to 712 and 578 to 36,671 respectively from 1951 to 2014. But still there is Rural Urban Inequality in whole nation. The GER of rural India is much below the GER of Urban India. Moreover the condition of females GER in rural India is pathetic. Lack of appropriate Industry-Academia engagements leading to unemployable graduates is big problem of majority of government colleges and universities. Poor Governance in Higher Educational institutions in India is also a foremost issue. This includes overlapping of governmental regulations, restrictions on sources of funding, multiplicity of regulations, lack of outcome-based recognition norms.

The legal education in India is currently undergoing a transformation phase. Globalization has posed varied challenges to legal education in India, but have brought opportunities. The Indian legal profession is perhaps among the largest in the world. However in terms of ratio of lawyers to the size of the country's population, there is still much to be achieved. Legal education has changed significantly during the last quarter century, reason being globalization of trade and business. Globalization has changed dynamism of entire polity and society. Moreover FDI in education sector is allowed 100% through automatic route. Foreign investment is also coming to India in education sector and has raised the standards of legal education in private sector.

The establishment of educational institutions of global outreach and new curriculum of global standards are becoming priority of the developing country like India. Globalization of the legal profession and the apparent entry of foreign lawyers into India in the near future have posed a serious threat to the legal professionals. The new and emerging law schools in race of having international existence and achieving high standards cannot afford to limit their focus to teaching and research on issues relating to Indian law only and thus are giving a tough competition to existing government funded law colleges and universities. To train these students up to the level to compete with students of developed countries is a great challenge for law schools there days.

The objective of starting five year integrated law course in India was to produce good and trained lawyers through rigorous preparation who will help in reducing backlog of cases in lower courts and raise the standard of profession with a view to creating a rule-of-law society. But, they do not want to become mofussil lawyers going to the District Courts or Tehsil Courts. Most of these students join corporate sector where they get heavy pay-packets in the beginning itself. Thus, the objective of providing justice education stand as it is when the trained students do not join the justice delivery system.

The objective of global legal education is not to create lawyers who can "practice" in a number of jurisdictions but it should be incidental effect. The objective is to create trained minds who can settle cross border issues efficiently. As per Prof. Madhav Menon, Indian Legal Faculty lacks in practice of Continuous Legal Education (CLE). CLE is a significant component in industry for professional development, better delivery of legal services and is also a measure of the accountability of the profession. This is common in countries like US and UK but in India it is at very nascent stage. As college can give them knowledge and teach them skills but practice through observation and participation is possible through CLE.

Another issue in the slow development of legal education in India is lack of researchers in law and absence of due emphasis on research and publications in the existing law schools have led to the absence of an intellectually vibrant environment. Research can contribute significantly towards

improvement in teaching and, more importantly, addressing numerous challenges relating to law and justice. With the globalization of legal education and research becoming a universal trend, promoting Clinical Legal Education through institutional mechanisms is the need of our times. Clinical Legal Education took its roots in India in the late 1960s. But Clinical Legal Education becomes integral part of curriculum only when BCI introduced four practical papers to improve standards in legal education in late 90s. A perusal of the clinical legal education as it exists today would suggest that the "clinical" or "practical" instruction is only an extension of the classroom teaching and not practical in any real sense of the term.

The law schools of the future ought to provide academic space for engaging in teaching and cutting edge research on issues of global significance. A significant focus should be on developing the curriculum so that it meets the contemporary demands for legal services, recruitment of competent and committed faculty, establishing research and training centers, necessary financial support from the state, and creating necessary infrastructure, especially a well-endowed library.

Dr Sarvepalli Radhakrishnan some decades ago wrote:

> Our Colleges of law do not hold a place of high esteems either at home or abroad, nor has law become an area of profound scholarship or enlightened research.

But today we have travelled a long distance since then, altering the landscape of legal education in our country. The need of hour is to stress on transactional law training and clinical legal education. The curriculum in the National Law Universities should be more inclusive of social problems of India with the students being made to solve real time typical social problems. For continuous legal educations of legal professionals, National Law School of India University, Bangalore, has established a Chair on Continuing Legal Education with support from the International Bar Association, the Ford Foundation and the Menon Institute of Legal Advocacy Training under the guidance of Hon'ble prof. Madhav Menon to help professional development of legal professionals and law teachers.

Further, the Higher Education and Research Bill, 2011 which propose for setting up of a National Commission for Higher Education and Research (NCHER) for determination, coordination and maintenance of standards and promotion of higher education and research, including university education, vocational, technical and professional education has raised the expectation of reforms in legal education.

National law school model established post independent Indian legal education has done a great job in development of legal education in India with a strong commitment to improve existing legal infrastructure. Certainly, with this spirit, these schools have also phased critical changes in syllabus and structure to cater to the new generation of lawyers. We have to prepare ourselves well with the purpose of keeping pace with the current developments and to meet demands of the future. Improving legal education through model law schools was second generation reform but now the third generation reform needs to internationalization of legal education.

Legal Education, Practice Skills, and Pathways to Admission: A Comparative Analysis of Singapore, Hong Kong, and Australia

PRACTICAL TRAINING

Andrew Godwin and Richard Wai-sang Wu

This paper examines three jurisdictions in Asia that share a common-law heritage but adopt substantially different pathways to admission: Singapore, Hong Kong, and Australia. All three jurisdictions share a requirement for graduates to obtain practical training before they gain admission to practice.

Singapore is unique among the three jurisdictions in that its pathway to admission involves a bar examination that follows a compulsory preparation course. Hong Kong and Australia, by contrast, currently do not adopt a bar examination and, instead, require completion of postgraduate professional legal training as a prerequisite to admission. However, two important points of difference exist between Hong Kong and Australia. First, enrollment in Hong Kong's postgraduate certificate in laws (PCLL), an intensive one year full-time legal qualification program, is through competitive application. By comparison, enrollment in the practical legal training (PLT) course in Australia is not capped and all law graduates are therefore able to enroll in the course and gain admission to practice upon successful completion of the course. The second point of difference is that graduates in Australia can undertake supervised workplace training as an alternative to the PLT course and gain admission to practice on that basis without the need to complete a postgraduate professional training course. Interestingly, Hong Kong is currently moving closer to the approach of Singapore

with the announcement by the Law Society of Hong Kong in January 2016 that a common entrance examination will be introduced and will come into effect by 2021.

A central question raised by the comparative analysis is whether professional admission courses should serve as a gatekeeper in terms of assuring quality and competence or whether they should serve simply as preparatory courses for admission to the legal profession. This paper argues that it is important for legal education to strengthen practice skills while maintaining a rigorous focus on legal doctrine and general skills such as analysis, problem-solving and research.

Over the past two decades or so, a significant trend in many jurisdictions, including the United Kingdom and the three jurisdictions that are the focus of this analysis, has been the emergence of professional training courses to prepare law graduates for admission.

Despite the emergence of professional training courses-whether delivered by the law schools themselves or by independent vocational education providers-the literature and debate concerning the role of the law degree suggest that law schools are increasingly being expected to incorporate practice skills into the law degree curriculum. This is reflected in the increase of clinical and transactional law programs within the curriculum and also the use of experiential techniques to teach law.

The evidence suggests the introduction of the bar examination in Singapore was partly driven by the inadequacies of the previous Practical Course in Law (PCL) in providing graduates with the necessary practice skills.

Writing in 1985, Lim and Ong argued that the PCL was "too academic to confer sufficient practical knowledge to the student." According to Lim and Ong:

> The Practice Law Course is not without merits but is by itself too insular, simulated and unstimulating. Further, what it teaches is not reinforced in pupillage where not many are fortunate enough to learn under a committed master. Moreover, it is submitted that the whole system of legal training in Singapore has unwittingly bred self-centred habits of thought. Legal education should cultivate healthy attitudes towards community service. The profession is a common calling-not a trade. This fact has apparently not been acknowledged by present modes of training in Singapore.

Two aspects of the above comments are relevant for the purposes of the analysis in this paper. First, the comment that the course was "too academic to confer sufficient practical knowledge to the student" suggests that the course was perceived to be too academic in its approach to imparting practice skills.

The second aspect of interest, which is still evident in the current debate, is the call for legal education to "cultivate healthy attitudes towards community service" and the assertion that the profession "is a common calling-not a trade." This public-interest element resonates with recent calls in the Report of the 4th Committee on the Supply of Lawyers for the current offering of clinical subjects to be supported and expanded.

The 2007 Rajah Report was based on a comprehensive review of legal education and the legal profession. The report considered the utility of the admission process at the time.

The Singaporean government accepted the bulk of the recommendations of the Rajah Report. As a result, the bar examination was introduced to replace both the Diploma of Singapore Law (Dip Sing), which foreign lawyers had previously been required to complete in order to qualify in Singapore, and the PCL. Part A of the bar exam replaced the Dip Sing and applies only to graduates who attended prescribed non-Singaporean universities.

The preparatory course to Part B, which is compulsory for all graduates, replaced the PCL.

After completing Part B of the bar examination, graduates must "satisfactorily [serve] the practice training period…" This currently runs for six months.

A detailed review of legal education in Hong Kong is currently being undertaken by the Standing Committee on Legal Education and Training (SCLET). The SCLET is "empowered, amongst other things, to keep under review legal education and training in Hong Kong, to make recommendations thereon, and to collect and disseminate information about legal education and training in Hong Kong."

Independently of the SCLET review, the Law Society of Hong Kong commenced its "Consultation on the feasibility of implementing a common entrance examination (CEE) in Hong Kong" in 2013.

On January 6, 2016, the Law Society of Hong Kong announced that the "[t]he Council of the Law Society has decided that, starting from 2021, a person may only enter into a trainee solicitor contract if that person has passed a Common Entrance Examination ('CEE')." The CEE would be set and marked by the Law Society. The Law Society would require completion of the PCLL course, but would not require any examination to be set by the providers of the PCLL.

In addition, it is relevant to consider the debate about the numbers of entrants to the profession and whether concerns around quality and consistency are simply a proxy for protectionism. Hong Kong has always been an open market for the provision of legal services. However, it is possible that the increase in the number of lawyers from other jurisdictions qualifying to practice Hong Kong law has added to competitive pressures and, therefore, protectionist sentiments.

Finally, it is interesting to note that the recent debates in Hong Kong do not appear to have involved any calls for practice skills to be strengthened in the academic law degree curriculum. This is perhaps not surprising given that practice skills are the domain of the PCLL, which is delivered by the law schools themselves. That said, whether practice skills should be strengthened in the curriculum and whether law schools should play a more active role along the lines suggested by the recent calls in Singapore remain open questions.

In Australia, the importance of developing legal skills within the law school curriculum, including through clinical legal education, was noted in the Pearce Report, which was presented to the Commonwealth Tertiary Education Committee in 1985. This report is said to have had a considerable impact in terms of generating "critical reflection on the nature and content of law courses and a commitment to skills development and quality teaching".

Criticism has been levelled that Australia's current academic requirements, which are designed around the Priestley Eleven core subjects, "stultify law curricula by discouraging innovation, limiting student choice and leaving little teaching time available for developing lawyering skills and professional values."

Before the most recent reforms, there had been debate in Australia over the possibility of introducing a bar examination. Some writers have noted the limited benefits of an American-style bar examination.

The experience in the three jurisdictions under examination reveals the existence of three pathways to admission:

- a bar exam with a compulsory preparatory course (Singapore);
- a professional admission course, entry to which is subject to quotas and competitive enrollment (Hong Kong);
- a practical legal training (PLT) course that provides open access to all law graduates (Australia).

An important point of distinction between Australia and the other two jurisdictions is that a second gatekeeper-namely, a second gatekeeper after the law degree-exists in both Singapore and Hong Kong. In Singapore, the preparatory course and the bar examination serve as the second gatekeeper. In Hong Kong, the pass rate for the PCLL is relatively high. However, a second gatekeeper exists by virtue of the fact that the numbers of entrants to the PCLL is capped and, consequently, the law schools impose minimum thresholds for entry.

All three jurisdictions require workplace experience. In the case of Singapore and Hong Kong, such workplace experience is required before admission to practice. In Australia, on the other hand, the workplace experience follows admission to practice, but a period of supervised legal practice is required to be completed before a lawyer has an unlimited practicing certificate. The comparative analysis raises some interesting questions. A central question is whether professional admission courses should serve as a gatekeeper in terms of assuring quality and competence or whether the professional admission courses should serve simply as preparatory courses for admission to the legal profession as in Australia. Related to this question is the fundamental question of whether the state or the market should regulate the supply of lawyers.

At the very least, we would suggest that legal education should not be disconnected from legal practice in its myriad forms and contexts. In addition, while it is important for law schools to strengthen the transactional and clinical focus, it is also critical for them to teach substantive law, to strengthen general skills such as analysis, problem-solving and research, and also to maintain the availability of subjects that have a close relevance to legal practice.

In many ways, all of this is an argument for law schools to continue to do what they have always done best: namely, teaching legal doctrine in a rigorous way that helps student develop strong analytical and problem-solving skills across all subjects within a curriculum that is supplemented **by** a balance of, on the one hand, transactional and clinical law subjects, and, on the other hand, critical legal theory.

SKILLS Teaching and Assessing Problem Solving: An Example of an Incremental Approach to Using IRAC in Legal Education

K Burton

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At the beginning of the 21st century, "problem solving and reasoning" was recognised as a key cognitive skill and one of six necessary law-graduate attributes. "Problem solving and reasoning" was defined as "critical thinking and problem solving skills, to enable effective analysis, evaluation and creative solution of legal problems".

The demand for law graduates to be able to engage in problem-solving has been well documented in numerous Australian and international standards on legal education.

In 2010, the Australian Learning and Teaching Council's Bachelor of Laws Learning and Teaching Academic Standards Statement identified six threshold learning outcomes (TLOs) for a Bachelor of Laws Program: "knowledge", "ethics and professional responsibility", "thinking skills", "research skills", "communication and collaboration" and "self-management". In particular, "thinking skills" requires law graduates to:

(a) identify and articulate legal issues,
(b) apply legal reasoning and research to generate appropriate responses to legal issues,
(c) engage in critical analysis and make a reasoned choice amongst alternatives, and
(d) think creatively in approaching legal issues and generating appropriate responses.

In the context of Australian legal education, thinking skills are underpinned by three fundamental concepts: legal reasoning, critical analysis and creative thinking. Law students engage in problem-solving in the form of legal reasoning in their first year of law study and develop these skills as they progress through their degree.

Problem-solving primarily requires a student to engage in thinking skills as well as, to a minor extent, research, communication and collaboration skills. It is postulated that problem-solving is not a TLO in its own right because of its overlapping nature and the fact that it has a narrower focus than thinking skills. Thus teaching and assessing problem-solving skills requires a focus on legal reasoning. Legal reasoning is the quintessential type of problem-solving in the discipline of law. It has been defined as "the practice of identifying the legal rules and processes of relevance to a particular legal issue and applying those rules and processes in order to reach a reasonable conclusion about, or to generate an appropriate response to, the issue". Law students need to be able to discern factual issues, policy issues, relevant issues, irrelevant issues, legal issues and non-legal issues.

There are a myriad of problem-solving approaches in the discipline of law to break down problem-based questions. A survey of the pertinent legal-education literature identified over 40 acronyms used in law schools to teach legal reasoning as a type of problem-solving.

Law schools could select one of these approaches to promote a "whole-of-curriculum approach to problem-solving across a degree or program for problem-based assignments and examinations.

A problem-solving approach that inculcates a positive professional identity in the minds of first year students and a positive perspective on the popular expression "thinking like a lawyer" should be adopted. Cultivating a positive professional legal identity is a current theme in the context of Australian legal education, and is gaining momentum.

Some examples of problem solving approaches include CRAC, CRAAP, CRAAAP, AFGAN (application, facts, grounds, answer, negotiation) and KUWAIT ("konclusion", utility, wording, answer, initiation, thoughts). These approaches offer the benefits of linear problem-solving, which helps law students to view thinking like a lawyer and look at their professional identity in a positive light.

A client wants to know the conclusion upfront; thus a client-centred approach to problem-solving equates to beginning with a conclusion. In practice, a barrister's advice is an authentic legal document prepared by a barrister that provides advice to a solicitor on the prospects of success for a client, and outlines the conclusion at the inception. However, these approaches have the shortcoming of being repetitive, inefficient and therefore expensive for clients, because the conclusion is reiterated at the end of the problem-solving approach. Ideally, law schools would choose a problem-solving approach that contains the conclusion only once for the benefit of both clients and students.

Student feedback suggests that a template helps them to complete problem-based assessment tasks; thus a student-centred, template-based approach to problem-solving is proposed as a simple and structured educational support mechanism.

While IRAC has been characterised as a traditional approach to legal reasoning, and thus problem-solving, it continues to thrive in law schools almost 40 years later and is commonly discussed and debated in current legal research and writing discourse.

IRAC is a rational approach to thinking and problem-solving; it has been described as a "logical linear pattern" and "an orderly and structured method of legal reasoning"; Further, "IRAC is much more than an organizational structure[,]…it is an important mental exercise that forces an author to a deeper understanding of the legal issues at stake". IRAC is a student-centred approach to problem-solving because it supports students as they engage in deep learning.

Even though IRAC encourages law students to engage in deep learning, it is vital to be aware of its limitations. It has been described as "formalistic" and an "unnatural way … of interrogating a legal problem", and as "oversimplifying legal reasoning and distorting the complex nature of legal problems". Additional drawbacks include inaccurate or unrealistic answers; inability to determine how multiple issues should be prioritised; and an inability to cope with diverse student learning styles.

To overcome the inadequacies associated with IRAC, some law teachers have simply opted for another problem-solving approach, primarily "to supplement the simplicity of IRAC, and aim to offer a method that is more congruent with authentic legal problem solving". Whether such an alternative approach is in fact superior remains debatable. Rather than discarding IRAC for another approach that possibly has the same defects, it is preferable, as noted above, to contextualise the four steps in IRAC to support student learning. The contextualisation process may reveal occasions when IRAC should change its shape to reflect the necessary thinking and communication skills. It is conceded that the order of IRAC may need to be determined flexibly depending on whether a student-centred or client-centred approach is preferred; and that the overarching, non-negotiable criterion is resonance with a positive professional legal identity in the sense of simple, structured reasoning, and the use of an inoffensive acronym.

Over time, the major competitor to IRAC has been MIRAT, which was particularly popular in 1990s. IRAC may be marginally easier to apply than MIRAT because it contains four instead of five steps in its linear process; this could contribute to making IRAC a more student-centred approach than MIRAT. The fundamental difference between IRAC and MIRAT is that the latter requires the material facts to be specified upfront. The usefulness of repeating the facts of a problem-based question is dubious.

Best practice documented in legal education suggests that law schools should make greater efforts to facilitate formative assessment, which provides feedback on learning, before law students embark on summative assessment, which is graded. Further, assessment and design are two of the six First Year Curriculum Principles, which, amongst other things, endorse the use of formative assessment to assist "students to make a successful transition to assessment in higher education", and support the sequential development of skills. Designing formative assessments is one way to support first-year law students.

In the context of Australian legal education, using a grid format to answer problem-based questions before preparing formal written legal advice has recently been advocated.

Contemporary Australian legal-education literature offers two sample legal-reasoning grids, which largely follow MIRAT, the main competitor to IRAC. The first grid pertains to tort law and contains the following columns: legal issues; relevant sub-section; material/relevant facts; rule (relevant case law); analogy with previous case law; and apply law to material facts (reasons for decision). The second grid pertains to criminal law and contains the following columns: elements of offence; relevant facts; legal facts; relevant case law/section on element scope; do the facts prove the element (yes/no/unclear)?; and reasons for decision.

The IRAC grid has a generic nature, enabling it to be applied to other fields of law. Its additional benefits include giving direction to the conversations between the tutor and students; guiding students through self-assessment and peer-assessment processes undertaken in their tutorials; and providing a framework on which to base marking instructions, personal feedback and generic feedback.

IRAC is functional for first-year students, and is sufficiently generic to be applied in a legal research and writing course, a thinking-skills course, a substantive law course or a course in another discipline. A student-centred approach to IRAC in a first-year experience requires innovative resources and contextualising, which should diminish in later courses "in favour of a greater emphasis upon 'flow' in the student's reasoning and consequent improvements in subtlety and persuasiveness".

For almost 40 years, IRAC has proven to be a useful framework for developing and assessing law students' problem-solving skills. IRAC inculcates a positive professional legal identity by

promoting structured reasoning and by having an inoffensive acronym. IRAC is a student-centred approach to problem solving because it is simple and structured, and facilitates deep learning. Even though IRAC includes the conclusion as the last step, while a client-centred approach prefers the conclusion as the first step, the pertinent thinking skills remain the same, and the difference is the order of the communication.

TECHNOLOGY

Development of Three Dimensional Virtual Court for Legal Education

S Öngöz, H Karal, M Tüysüz, A Yildiz, A Kiliç
Turkish Online Journal of Qualitative Inquiry, Vol 8(1), 2017, 69–90

The use of up-to-date information and communication technologies in class has always been worth investigating for educators. Virtual reality environments allow real-time movement, navigation and touching of objects to users. Sound and image sensitive heads, motion sensitive clothes, gloves and cabinets are some of the technologies used to create virtual reality.

Virtual reality has created its own virtual cultures and communities. In virtual worlds, users are represented by virtual characters that can move. These characters, called avatars, can interact with each other and with virtual objects in the environment.

Recently, there have been studies investigating the use of virtual reality and virtual worlds in learning and teaching processes. The studies comparing traditional classroom environment with virtual one suggest that the feeling of existence and belonging in the virtual environment is higher than that of the traditional classroom environment.

Simultaneous communication in the virtual environment has a motivating effect on students. According to Aric, the academic achievement of students studying in the virtual world is higher than in traditional classrooms, and the information gained is more permanent. There are studies that show that students are more comfortable in virtual classrooms than traditional classroom environments. Such environments are said to provide positive contributions to the students such as playing active roles in the process, promoting productivity, imagining, learning with fun and developing positive attitudes towards the lesson.

Although the use is increasing day by day, there are some limitations of the three-dimensional learning environments created by virtual worlds. The number of educators to develop a qualified virtual learning environment is low and the platforms to be used in this process require high cost. It is also known that designing content and objects for use in three-dimensional learning environments is not easy.

Considering users, students have the potential to share inappropriate content, as well as technical problems such as internet access and hardware shortcomings. According to Hinrichs, Hill, and Patterson it is possible that virtual worlds can be transformed into a genuine community by solving the mentioned problems.

Demira and Çiftçi state that legal education in Turkey has been a subject of debate for many years and that it is considered inadequate against international standards. In particular, there are debates about the duration of basic legal education. In most of the law faculties there are inadequacies in service building, classrooms, library, technical equipment, and academic and administrative staff. According to Ba özen and yiler, in the center of the criticisms about the law faculties in Turkey is the classical methods used in the lessons. Öztürk states that the primary purpose of the faculties is to transfer the legal information personally to the students. Despite the fact that the curriculum is very loaded, the duration of the curriculum is not sufficient and an education system based on memorization is carried out.

Considering the idea that virtual reality technologies can be used to create something if the truth is real, the development of a virtual court that reflects the structure and functioning of the courts in Turkey seems worth investigating. Yenipinar states that lawyers must be able to get over the unexpected situations that arise during the proceedings so that they can manage the court process well. A virtual court that will allow the trial experience by assuming of different roles, such as attorneys, judges and prosecutors, may be useful for law school students and inexperienced lawyers in this process. For using the virtual learning environments in legal education and presenting its results, it is necessary to design and develop these environments first. Thus, present study was planned to develop a three-dimensional virtual court to be used in the context of legal education.

In this research, Design Based Research (DBR) method, which is shown as a suitable method for technology-supported or technology-based education applications, was used.

In the first stage of the research, review of literature was conducted and the usability of the three-dimensional virtual environments in legal education was revealed. In addition, a document review was made on the duties of judicial institutions in Turkey, the structure of the courtrooms,

the types of courts and who should be present in these courts. The obtained data were used to plan the focus group meetings and to support the findings revealed by these meetings. At the next stage, a three-dimensional virtual court building, where the hearings can be held, was modelled. The opinions of the experienced lawyers on the developed virtual court building were taken and necessary updates were made accordingly. Finally, interviews with legal practitioners were made to obtain their views regarding the virtual output, and the findings were used to update the virtual court. Consequently, the virtual court was given its final shape.

The participants consist of four lawyers, six legal practitioners and five researchers.

All of the lawyers in the team reported favourable opinion regarding the transferability of real courts to virtual courts. It was stated that the virtual court must reflect the functioning of the actual courts in every aspect and courtrooms must be equivalent to real ones. It is also thought that the education to be given in the virtual court will allow the use of different teaching methods and techniques, can provide a flexible and independent learning environment and can help correct procedural mistakes made in the legal system.

A three-dimensional virtual court was planned in the direction of discoveries about how physical properties of real courts can be transferred to virtual ones.

In a study by Sanson, et al., a virtual environment was designed in which law faculty students could conduct negotiations and interviews, and applications were made with the participation of volunteer students. The results of the research revealed that the virtual world offers an independent learning environment in which law school students can use for the development of professional skills, and offers great advantages compared to face-to-face education.

One of the best examples of the use of virtual worlds in legal education is the Democracy Island, founded by the New York Law School. Students have the opportunity to learn the legal process in many ways, such as acquaintance with the managers, acquiring by sales, renting, building and using the property through the role of the students.

Law faculty students will be able to participate in the out-of-school meeting via internet from the place they want outside the school, which will save time and cost. This result seems to be supported by the study carried out by Ireland, et al. It becomes important that students who participated in the virtual court application created in the virtual world of SL have to experience a trial without having to travel within the positive opinions of the process. In the same study, it is emphasized that students should be able to participate in distance and international hearings. In the fall of 2006, a course called 'CyberOne: Law in the Court of Public Opinion' was opened by the Harvard University Law School. Students access the materials, the videos related to the lesson and the fictional courtroom through the media designed for them in the virtual world.

Rogers notes that in many countries of the world, there are virtual courts and the number of them will increase; anticipates that fictional trial contests will be held in the virtual world of SL in the future. Although the use of three-dimensional virtual learning environments for legal education in Turkey has not been widespread, the use of electronic media in the legal system is increasingly available. The study by Kılıç shows that lawyers believe in the benefits of vocational education through electronic learning environments. Therefore, it is considered that the virtual court will contribute to the spread of the use of virtual learning environments in legal education by going beyond the teaching methods and techniques in Turkey.

In order for the roles of the virtual court to be constructed in such a way as to overlap the reality, the media must be integrated into a virtual world and the means of interaction must be made available. For archiving and recording, databases should be created and integrated into the system using connection items. The virtual court can serve as a part of lifelong learning in legal education as well as in the context of pre-service and in-service professional development activities.

Research can be done on the effectiveness of the virtual court in legal education. Other working groups may be composed of law school students, legal practitioners, law faculty members and experienced lawyers separately or together. Further researchon issues such as the virtual court's contribution to interaction among users, usability with different teaching methods andtechniques; and evaluation of it from attorneys, teaching staff and students' points of view and results ca be disussd

The International Law of Human Rights

BOOK REVIEW

Adam McBeth, Justine Nolan and Simon Rice
Oxford University Press, 2017, 626 pp

The first edition of this book was published in 2011 and it is of interest that the Hon Michael Kirby has written the foreword to both editions. The former Justice of the High Court of Australia

reiterates his view that the five special features which he identified in the first edition are as still valid now as they were then. These five special features are that the text is written in an historical way, that international human rights law is in a constant state of evolution, that the writers describe fairly the responses of the traditional common law 'dualist' system to contemporary international human rights law, the effectiveness of importance of the 'snapshots' illustrating real life decisions and circumstances where international human rights law has been invoked and the successful manner in which the authors look to the future.

As Michael Kirby has stressed there is no doubt that there have been huge developments in human rights law over recent years and all three authors acknowledge that they have found writing this book to be both difficult and rewarding. It was obviously a mammoth undertaking and one that needed to clarify and articulate in reasonably concise terms a wide-reaching and continually developing topic so that both the general reader and the student could gain an understanding of complex and, as described by the authors, 'difficult and challenging issues.' In this they have succeeded.

To assist the reader the authors have adopted two stages in the writing of the text.

The first stage incorporates four parts. In Part 1 there is an Introduction to Human Rights which is both comprehensible and all-embracing and endeavours to put the Universal Declaration of Human Rights (UDHR) into context. In this the book is assisted by the authors' narrative style which they claim, quite rightly, will give the readers 'a sound understanding of the story of international human rights.' The text then moves seamlessly into Part 2 which deals with Substantive Rights including both Civil and Political Rights and Economic, Social and Cultural Rights. The latter is particularly illuminating as it reviews all aspects of the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) with the explanation being aided by a Snapshot of the complex role which the United States of America has had in its development. Part 3 is more wide ranging in that it is concerned with the International Human Rights Framework covering chapters which explain the Nature of International Law (which could embrace a book in itself), all of the United Nations Charter Bodies, The Human Rights Treaty System, Regional Mechanisms and culminates in a description of the Australian Position on many of these topics. It acknowledges that Australia has been described as having a "'patchwork quilt' approach to the protection of human rights." However it does recognise that Australia's support for the international human rights regime has now become qualified, and this perceived reluctance on the part of the Australian Government is discussed at the end of this particular chapter.

Part 4 deals with contemporary issues of human rights firstly in the context of armed conflict and terrorism, counter-terrorism and its impact on human rights. As might be expected there has been the necessity for the input of new material relating to terrorism, although as the authors explain 'terrorism is not a new phenomenon but its legal definition (at least internationally) still lacks constituency and clarity'. Besides covering human rights relating to transnational corporations, there is also a wide coverage of those who are described as 'vulnerable and marginalised people.' This latter part of the book must have a wide impact on any reader embracing as it does, children, indigenous peoples, people with disabilities, refugees and stateless peoples, women and workers. To the mind of this reviewer it has a towering influence on the importance of human rights in the modern context, as does the concluding chapter which discusses emerging rights, including those relating to sexual orientation and gender identity rights, both those recognised by the United Nations and those recognised elsewhere.

The book concludes with an inquiry into the relationship between human rights and the environment, embracing both the right to a healthy environment and the rights of the environment.

In its conclusions the book examines not only the future of the content of human rights but also the scope of corresponding obligations, and there is both a commentary on the Maastricht Principles and a Snapshot in respect of the regional processing of asylum seekers.

In their conclusion the authors state that 'What is currently lacking is a positive obligation on states to act for the betterment of people outside their borders and over whom they exercise no particular control.'

This is a book which embraces an extremely important topic in an enriching and intellectual manner and is a must-read text, not only for both the teacher and student of the law relating to Human Rights, but also for any reader who has a genuine interest in the subject.

Emeritus Professor David Barker AM
Editor

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All the materials digested have been categorised in accordance with the subject headings which are listed on the inside back cover. Where there is material in an Issue under a particular subject heading, the heading appears in bold.

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