PURPOSE

Skills, 'quality' and the ideologies of managerialism
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In the literature on legal education and legal skills there is a tendency which might be referred to as 'managerialism'. In speaking of educational policy, issues of quality, organisational rationality, and economic efficiency cannot be avoided. Managerialism, however, tends to frustrate and constrain the development of an imaginative and critical approach to the current problems of legal education. Managerialism, with its foundations in commerce, will tend to seek to resolve the problem of conceptualising quality by recourse to market principles, that is consumer satisfaction. Management theory assumes the existence of a body of substantive skills that are prevalent in private practice. As a result, our conceptions of legal skills have been narrowly professional and insufficiently distinguished from the communicative, clerical and commercial skills which form the central concerns of solicitors and other legal professionals.

Academically, management doctrines are creating a crisis of identity within educational institutions, which are now uncertain as to whether they should espouse the values of impartial and rigorous scholarship as ends in themselves or whether they should justify their raison d'être in terms of market forces, which are the antithesis of these values.

The legal academy, through its closeness to the legal profession, is particularly prone to this destructive ambivalence. A balancing act between the two is not the answer; an understanding of the two is the better solution. The legal academy has to attend to the question of what it regards as its essential purpose and then seek methods of solving the issues of organising, managing and funding. At present the theory designed to deal with the organisational problem is also expected to serve as a philosophy of legal education.

RESEARCH

Using structures to teach legal reasoning
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5 *Legal Educ Rev* 2, 1994, pp 129-152

Legal reasoning is a fundamental element in the teaching and understanding of law. Substantive law courses teach legal reasoning through a study of case law and the use of standard undergraduate problems involving fact patterns designed to raise issues within a specific area of law. Bond University in Queensland, Australia, uses specific structures to teach legal reasoning.

A variation of the problem-solving acronym, MIRAT, standing for Material/missing facts, Issues, Rule (principle) of law; Application/argument and Tentative conclusion is employed. Because of the confusion involved in identifying material/missing facts at the beginning, rather than throughout the reasoning process, the Bond variation imports a spiral concept under the acronym, IRAFT: restate the Issues; define the Rules; apply the Rules; to the Facts; reach a Tentative conclusion.

The article describes research into the usefulness of such legal reasoning structures. The research investigated whether students use the structures; if so, how well and how consistently; whether their use of structures improved over time; and whether their marks improved. The research was conducted during a second year subject, so students would have overcome any culture shock that might distort the results of the research.

Students in the sample group were required to complete three standard undergraduate problems as part of the ordinary teaching in weeks 7, 11 and 14. All three problems were of the same level of difficulty. Scripts for the first two were returned to the students with sample answers using the structure. The lecturer in week 7 reviewed the use of IRAFT, which was demonstrated using examples throughout the course.

Scripts were then marked to determine, inter alia, if the structure had been used by the student. Use of the structure was graded good, satisfactory or poor. The result showed that 78% of students used a discernible structure in the week 7 problem, 92% in the week 11 problem and 96% in the week 14 exam problem. The percentage of students whose use of the structure was 'good' was 64% in the week 7 problem, 56% in the week 11 problem and 67% in the week 14 exam problem.

Clearly students find the structure simple to understand and use. The use of IRAFT or any other structure to help in the analysis of

legal fact patterns and the process of legal reasoning is largely an acquired skill. Student use of the structure improved slightly over the semester, consistent with their increased exposure to it. Use of the structure did not increase pure marks, although there was a string of correlations between the 'good' use of the structure and good marks. '*Legal reasoning is not some mystical talent given to the fortunate and favoured. It is a skill to be taught as part of a structured and incremental curriculum...*'

Acquiring basic legal skills and knowledge: what and where?
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12 *J Prof L Educ* 1, 1994 pp 1-16

It is generally accepted that one of the goals of legal education is to produce competent lawyers. Data were gathered from the leaders of the Queensland legal profession in private practice about what they consider best describe the characteristics of a competent lawyer. Those participating in the study were asked to select from 65 characteristics broadly classified under the headings 'knowledge', 'skills', 'values' and 'other attributes/abilities', ten which they considered to be the most important for a lawyer to possess. They were asked to grade each of the ten characteristics selected on a scale of 1 to 3 with 1 = 'important', 2 ='very important' and 3 = 'vital'. A knowledge of substantive law ranked first, with 48% of participants grading it as vital. This was followed by professional attitude to the practice of law (37.9%) and the ability to identify legal issues raised by a fact situation (22.7%).

Zemans and Rosenblum conducted a similar study in 1975/6, obtaining responses from a random sample of 548 Chicago lawyers. In that study participants were asked the relative importance of 21 skills and areas of knowledge. Of the 21 skills and areas of knowledge from the Zemans and Rosenblum study, the top 10 are listed for comparison purposes.

Only two characteristics are common to the top 10 of both studies. 'Substantive knowledge', which ranked first in the Queensland study ranked sixth in the Chicago study, while the 'ability to identify legal issues raised by a fact situation' was ranked third in the Queensland study and second in the Chicago study.

When the characteristics as a whole are considered, it is clear that there were clusters which were indicative of the same dimension of professional conduct. Eight core characteristics were established by the author which the survey indicated described a competent lawyer: knowledge of legal practice and procedure; knowledge of substantive law; attention to professional housekeeping; enthusiasm for dedication to the law; client oriented; fact gathering/analysis ability; orientation to practical solutions to clients' problems; and proficiency in the professional/ethical dimensions of legal practice.

The questions then arise as to where such skills and knowledge are acquired, where should they be acquired and, if it is through a course of practical legal training (LPC), where should such a course be located. Perceptions of students who took articles of clerkship (AC) and those who completed the LPC at the Queensland University of Technology showed that most of the core characteristics were acquired through experience for AC students and through experience and the LPC for LPC students. The exception was that substantive knowledge was largely acquired from the LLB course for both AC and LPC students.

The compartmentalisation of legal education into academic and skills learning as proffered by the Ormrod Committee is in question. Many law schools are integrating professional skills into their degree courses. The physical location of LPC is in issue. Should it be located within the universities, so as to make use of resources such as libraries, staff, and the interdisciplinary environment of a campus, or should it be separate, so as to signify to students that they are moving to the professional arena? The arguments are reviewed by the author, who observes that no one view can be said to have prevailed.

Law schools and the construction of competence
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The article reviews the results of many surveys carried out by the authors to investigate the assertion that legal education and legal practice occupy different worlds. Young graduate lawyers in Chicago found communication skills to be the most important lawyerly skill, followed by instilling confidence in others, legal analysis and reasoning, drafting of documents-solving and knowledge of substantive law. The skills that were essentially learned