the fundamentals of legal research. Problem-based learning is founded on the concept that students learn most effectively by self-education and discovery. It abandons the lecturing model and relies on their motivation based on ownership of a problem.

It is also desirable that students gain an appreciation of the human side of legal skills — something they can acquire through simulated or role-play activities. Negotiating and advocacy or court appearances lend themselves well to this methodology. Although simulation used alone can soon lose its novelty, when used in combination with other methodologies, such as a clinical component, it can be a valid teaching tool.

The clinical method is most effective when students become involved at the commencement of their degree. Exposure to a clinical setting gives insight into how law works in its social context and blends together the interpersonal and technical skills, which have been learnt through living, with the legal doctrine that has been studied. Although sheer numbers mean that not all students could be involved in a clinic all the way through their degree, a dual system of placements at participating law firms and involvement in university-run clinics would help resolve this difficulty.

Many legal educators have not been taught to be educators, and we need a core group of teachers from within the law schools themselves who are familiar with and comfortable with different teaching methodologies, to train their colleagues in their use. A comprehensive clinical program would be expensive to run, but a law school could adopt an expansive funding style by approaching local Council and State bodies, for example, as well as the private profession itself, which is getting the ultimate benefit of such programs when it employs graduates who do not require a large commitment to train.

We know that students perform in a variety of ways depending on the mode of assessment to which they are subjected. To be fair to most students, the use of the various methodologies outlined above would require different assessment methods. There is room for assessment by formal written examinations, by participation and presentation during simulations, by performance in problem-based learning tasks and by their clinical work which can use a traditional grading system. Continuous assessment can remove the pressure of the 100 percent examination and provide students with feedback to enable them to improve their performances. In clinical work, the provision of an evaluation at various stages would enable students to adjust their performances by reference to previous feedback in the various tasks.

There is no need for an immediate revolution to put new methodologies in place. Instead, they can be introduced partially and slowly where resources permit. By utilising various methodologies of law teaching, we can make the legal system relevant for students and students relevant to the system by training them in the appropriate skills (including interpersonal, ethical and communication skills which are integrated into each subject) that they will need to survive in the professional environment.

Teaching 'lawyering' to first-year law students: an experiment in constructing legal competence
F M Schultz
52 *Wash & Lee L Rev*, 1995, pp 1643-1665

Introduction to the Lawyer's Role (Lawyer's Role) at Washington and Lee University's School of Law is one of a small number of first-year 'lawyering' courses taught at American law schools. In the second semester of first year the class is divided into six sections of approximately 20 students, each section being taught by a professor and a teaching assistant. One of the course's primary purposes is to give all first-year students a perspective on how a practitioner deals with a problem that a client brings to a law office. A second purpose is to counteract the impression readily gained from reading cases in casebooks that lawyers spend most of their time litigating in appellate courts. A third purpose is to introduce students to the major non-litigation skills one needs to practice.

Many law schools have successfully incorporated various types of clinical and practice training in the second and third years and such apprenticeships and in-class exercises are fairly well accepted in the law school community. However, schools have paid little attention to what could be taught in this area to first-year students.

The course includes preliminary looks at the art of interviewing and counselling a client, engaging in a negotiation with opposing counsel and using mediation or some other alternative dispute resolution technique to resolve a dispute short of going to court. The course also attempts to teach students how to negotiate and then draft a business contract. All this is generally accomplished by using role-playing exercises accompanied by class critiques and discussion. Students are also taught library and computerised legal research and participate in a moot court exercise which involves researching and writing a trial or appellate brief of about ten pages and making an oral argument to the instructor. There may be excursions into jurisprudential problems scattered throughout the semester or explorations of ethical problems and dilemmas. The course also includes a heavy component of legal writing,

ranging from office memoranda and critiques of class exercises to formal briefs. This is intended to follow up the intensive writing program given in the first semester through the Contracts, Torts and Criminal Law courses.

In a survey of major segments of the Chicago and Missouri bars by Garth and Martin, the authors investigated how well law scholars are doing in teaching lawyer competence, and in that regard what are the expectations of young lawyers and law hiring partners in Chicago and small communities in Missouri. Competence was defined in terms of the ten lawyering skills essential in legal practice as defined in the then recently published McCrate Report. In designing their questionnaire, the authors sought to measure some of the changes that had taken place since the 1970s when Zemans and Rosenblum surveyed the Chicago bar for the American Bar Foundation.

The major findings in the survey may be summed up as follows. First, oral and written communication skills are the most important skills for novice lawyers; secondly, there are gaps between what law graduates think could be taught in law school and what they actually learn in practice areas; thirdly, the expectations of hiring partners strongly support the importance of oral and written communication skills; fourthly, the hiring partners have lower expectations in the areas of substantive and procedural law; fifthly, the ability to attract and retain clients is one of the top three partnership skills; and sixthly, the critical importance of legal reasoning every step is the key to defining the legal profession.

The changes that have occurred in the 20 years that separate these two studies are of interest. The role of law schools in the teaching of legal ethics has dramatically increased. The ascendancy of ethics as a matter of concern to law schools is matched by a decline reported by practitioners in the relative importance of fact gathering and legal research. There may be several reasons for this. Computer legal research, which was not taught 20 years ago, has no doubt reduced the importance of library legal research and research into law and fact information do not loom as important today as communication and business skills. The 1993 survey shows a notable increase in the importance of communication skills and client relations compared with the survey done in the 1970s, perhaps reflecting the fact that law firms today tend to imitate their corporate clients in creating profit-centres which in turn necessitate more emphasis on billable hours and an earlier return on their substantial investment in new associates. Hence, today's partners expect relatively less knowledge of the content of the law and more highly developed personal skills.

The Garth-Martin survey confirms the conclusions in the McCrate Report that the skills and values of the competent lawyer are developed along a continuum that starts before law school, reaches its most formative and intensive stage during the law school experience, and continues throughout a lawyer's professional career. The authors comment that it is arguable that the key to improving practice is to pay more attention to the teaching of oral and written communication and to all the other practical skill areas including drafting legal documents, legal problem solving, negotiation, fact gathering, counselling and litigation.

They note, however, that there are certain concerns in pushing this consumer perspective too far. First, the authors ask how much law schools want to pay special attention to those who are likely to practise outside a large firm or other mentoring settings. Secondly, they ask how much deference partners' expectations deserve. They also question how much education in law schools should chase after the perceived requirements of practice.

The Lawyer's Role program includes as part of its course objectives three particular areas about which the Garth-Martin findings have a lot to say. These are legal writing (including drafting), oral advocacy, and sensitivity to ethical problems. The Lawyer's Role course is criticised by both students and members of faculty. Students complain that it is too much work, that students do not get the big picture as they would in a conventional course, that it is uneven in content and workload and that the grading seems unfair because it is subjective. Faculty members find the course burdensome to teach and find the subjective nature of the grading system hard to deal with. The author believes the course should be retained with certain modifications.

The Lawyer's Role course is one appropriate response to the changes in the law school curriculum that the MacCrate Report indicated as needed and that the Garth-Martin survey revealed was desired by practitioners. Lawyer competence and adherence to high professional standards have never been in shorter supply and the earlier law students can be introduced to the issues they raise the better.

TEACHERS

REVIEW ARTICLE

A framework for teaching and learning law
G Joughin & D Gardiner
Centre for Legal Education 1996

This recently published book, co-authored by Gordon Joughin and Professor David Gardiner, respectively Legal Education Consultant and Dean of the Faculty of Law at Queensland University of Technology, is probably the most significant work on student teaching and learning in law published in