not the primary focus of the exercise but is helpful in allowing students to experience the 'real world' experience of working within a group; and finally, the exercise provided a good training in the skill of oral presentation.

Generally, the educational objectives of the exercise have been achieved. Probably most importantly, the survey has indicated that many other learning outcomes have been achieved other than merely negotiation training and substantive law inculcation. Where students were allowed to make general comments, the comment were mostly positive but some were critical of the lack of time available to negotiate and the unfair domination by some students. These problems could be overcome by reducing the size of the group or by extending the period of negotiation beyond the usual tutorial period.

Few would doubt that the role of undergraduate education should avoid overemphasis on skills training to the detriment of traditional educational goals. It is suggested that the Wytiga Negotiation indicates that students can receive valuable training in negotiation which reinforces and enriches substantive law concepts. The use of carefully contrived educational objectives can assist the process of learning by focusing educators and students upon the purpose and goals of the exercise.

## Changing culture to teach problem-solving skills
S Nathanson
14 *J Prof L Educ* 2, 1996, pp. 143–158

How do you educate students to think more deeply and to solve complex problems? This question has always been a central question of education. Many of the answers seem to be pointing in the direction of one general

strategy: away from teacher-centred learning and toward student-centred learning. Educators advocating this strategy believe it will help to develop in students deeper approaches to learning, initiative, self-directed learning skills, professional skills, critical thinking skills, and other higher-level cognitive skills. All of these skills taken together, skills we associate with competent professionalism, are referred to here as problem-solving skills.

The problem is that the universities do not do enough to motivate or equip teachers to develop problem-solving skills in their students. Many law teachers are generally unfamiliar with what has to be done, and even if they were familiar, very few on-the-job incentives exist to get them interested in doing it. This stance toward the law teacher's job and the reward system that supports it helps to sustain a research culture, a culture in which breadth and depth of specialist knowledge in and about law is respected and rewarded. By contrast, in order to produce law students with effective problem-solving skills, law teachers need to do a completely different kind of job; they need to develop a curriculum that coherently integrates a variety of skills and subjects.

To make these changes, academics have suggested various reforms in relation to teaching. Some advocate that universities need to shift the emphasis from research to teaching, that they need to modify their goals and their reward systems to improve teaching quality. Less known and not widely argued in the context of educational reform, however, is the need to focus not on teaching but on an activity much better known in professional legal training (PLT) courses than in the universities, namely instructional design. Instructional design should be regarded as a distinct

endeavour, not just because it is a recognised applied science demanding a high degree of expertise but also because, in any program of educational reform, it makes sense to address basic instructional-design issues in advance of teaching-enhancement ones.

If university law schools really want to develop problem-solving skill by bringing about a successful transition from teacher-centred to student-centred learning, they must encourage the growth of a culture of design. For students to learn flexible skills, they need to practise with realistic problems and simulations and be given expert guidance. To put the linear and flexible layers together course designers need to use a variety of teaching and curriculum-design techniques. Some educators are beginning to understand the complexities of these techniques. Many see this shift as requiring a movement away from teacher-centred learning toward student-centred learning.

Teacher-centred learning in its more extreme forms emphasises specialised subject-matter, coherent arrangement of that subject-matter, passivity in students rather than active involvement with learning tasks and an overall orientation to teaching rather than learning. Teacher-centred learning is justifiably associated with the surface approach. It can be argued that the university system tends to promote specialisation because of its explicit research aims. Student-centred learning, on the other hand, is concerned with what students need to learn. It requires students to participate actively in and to be responsible for their learning. The emphasis is on process rather than content, on knowing why and how, rather than what.

Teachers in many universities, particularly in professional faculties,

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have committed themselves to curriculum innovation in the direction of student-centred learning. Problem-based learning (PBL) is the most widely discussed innovation in the professional education literature. When PBL is effectively designed, it will probably lead to deeper approaches to learning. Evidence exists, for example, that problem-based courses that integrate the teaching of knowledge, skills and attitudes not only increase the use of deep approaches and improve the retention of information but also develop student independence and motivation.

The investment in time to do this kind of design work is enormous. Successfully designing these assessments to test problem-solving skills is an exceptionally demanding task. Materials must also be regularly revised, improved and completely rewritten, not only to reflect changes in legal practice or to incorporate feedback from the evaluation process, but also because teacher and guest teachers from the profession often tire of the same old fact scenarios. PLT courses, constrained by tight budgets but needing to adopt student-centred methods, are best developed with a large up-front investment in design. Once the initial investment is made, of course, substantial efficiencies may result, especially with large numbers of students. Well designed courses can relieve the burden on other resources, such as teaching.

The root cause of design problems is that designers may not have the necessary depth of understanding of theory and practice in their own field in addition to the instructional-design skills needed to translate that understanding into effective learning activities.

Implanting a culture of design in a law school depends on change in the university. The leaders who run it should develop a heightened awareness of the potential of instructional design. They need to define a role for instructional designers, establish systems and criteria for evaluating their work and accord the productive and creative ones high status. A new category of academic, with a new range of skills and a new set of qualifications, needs to be legitimised.

## STUDENTS

### What's wrong with faculty-student sex? The law school context
C Forell
47 *J Legal Educ* 1, 1997, pp. 47–72

How should universities in general and law schools in particular treat sexual relations between faculty and students? The Association of American Law Schools (AALS) Statement of Good Practices addresses sexual harassment and favoritism, serious harms associated with faculty-student sex, and says 'sexual relations between a professor and a student…are inappropriate whenever the professor has a professional responsibility for the student in such matters as teaching a course or in otherwise evaluating, supervising or advising a student as part of a school program.' AALS adopted this statement in 1989 at the height of the modern regulatory period in academia, when many universities first adopted codes prohibiting hate speech and sexual harassment. But now the pendulum seems to be swinging back toward deregulation, so is that policy still appropriate?

A debate continues in the university community about such policies. On one side are those who believe that the risks of harm require an institutional response. On the other side are those who argue that such regulations paternalistically infringe on consenting adults' rights of privacy and treat women as victims / objects rather than actors / subjects.

Law schools constitute one of the hardest cases for justifying the regulation of faculty-student sex. First, law students are not naïve just-barely-adults. Their average age is about 26 when they begin law school; that aspect of the power imbalance rooted in disparity of age and experience is therefore minimised for some law students. Secondly, law schools, unlike some academic areas, are no longer male dominated. Today many schools have close to a 50 / 50 division between men and women students. Thirdly, since law students are not nearly as likely as other graduate students to be dependent on one professor / mentor who can make or break their careers, the power dynamic is much less overt. Fourthly, much of the grading in law schools is entirely anonymous, which greatly reduces the possibility that a teacher can punish or reward a student who rebuffs or accepts sexual overtures. Finally, law students, by their nature and training, make particularly unattractive targets for a sexual predator. They know their rights and are trained to be adversarial.

The fundamental reason that faculty-student sex creates serious risks of harm is that the teacher-student relationship is a fiduciary one. The legal relationship between a teacher and each of his many students is the same. But when the teacher becomes sexually involved with one of his students, the other students are no longer on an equal standing with the student / lover. There are conflicts of interest — aptly described by fiduciary law as 'self-dealing' — between the teacher's personal interest in his lover and his educational interest in her and the other students. Providing rules that create clear boundaries, circumscribing what the teacher-student relationship