

way forward in such an environment is complementarity. In the longer term, there may well be an inexorable move towards a fragmented series of specialist mini-professions, each with its own training and qualification routes. If such a scenario at some time seems likely, the best alternative would be to strengthen the concept of a single legal profession by devising a unified route to qualification that can promote diversity, flexibility and ultimate specialisation both for those entering and those already within the profession.

The Bar Vocational Course at the College of Law: a study in curriculum coherence

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33 *Law Teacher* 2, 1999, pp 172–195

If all elements of a course can be organised in a way that enhances motivation, the course can have its own power source. In designing a course to accommodate the numerous and complex requirements of the Bar Council for the Bar Vocational Course (BVC), the College of Law designers focused on creating a special kind of coherence¹ based on concepts drawn from other practical legal training programs. They term the effect of this brand of coherence the 'coherence driver', because they believe that it powers the program forward, motivating students to work hard, learn deeply, take responsibility for their learning, and acquire skills needed for professional work.

What the Bar Council was seeking in proposals by institutions for validation of a BVC was the most ambitious educational goal professional education can espouse: to teach people job-spe-

cific tasks, yet prepare them generally for professional life. How were educators working with limited resources to achieve this?

The College of Law team's solution was to put theory and planned experience together in a coherent way. This means, on one hand, creating realistic and relevant problems in transactional contexts, while on the other, using design concepts such as skills theories to help students transfer skills from one transaction to another. At the same time the designers needed to bring the program together with a unifying theory of legal practice that keeps the purposes of practice and the goals of the client in focus, and provides continuing signals that solving legal problems is both a linear and a flexible exercise. In addition to these design concepts, the College of Law designers chose to adopt certain features derived from other PLT programs, that they believed would produce a curriculum with its own 'driver'. In analysing the now completed BVC they identify eight such interrelated features: theory reflected in course structure; coherent sequencing; systematic skills teaching; feedback culture; training groups; guest instructors; programmed instruction and end-of-term assessment.

Theory is reflected in the course structure of the BVC in that the curriculum is not carved into subjects, but rather unfolds as a succession of skills. Barristers' problem solving, which is one of the two course goals, is divided into two stages, one for each term. In the first term the focus is mainly on pre-trial matters and the theme of *advising on, and resolving, conflicts*. The skills taught include drafting, particularly pleadings, opinion writing, conference skills and negotiation. These skills are assessed at the end of the first term. In the second term the course deals mainly, though not exclusively, with trial-related skills and the theme of *competing in conflicts*. The skills taught include opinion writing, draft-

ing and advocacy. These skills are assessed at the end of the second term, including two oral assessments of advocacy. Knowledge areas are assessed by multiple-choice examinations at the beginning of the third term.

Coherent sequencing, given that the BVC is skills based, means that the curriculum design is problem-generated, not topic-generated. Problems were strung together according to principles that would result in a coherent sequence, moving, generally speaking, from simpler to more complex skills — from pre-trial to trial tasks; from conferencing, to negotiation to advocacy; from interlocutory to trial advocacy; and from uncontested to contested advocacy. Often, however, competing principles need to be reconciled with this skills-building model, and this can be done without sacrificing coherence, for instance by sequencing according to the dictates of 'transactional flow'. A more basic principle in sequencing is timing tasks so that intensive work is not bunched together.

Systematic skills teaching is achieved largely through adherence to a basic model adapted from British Columbia's Practical Legal Training Course (PLTC). The model is described as a series of five stages: teaching the theory of the skill; demonstrating the skill; analysing the skill; practising the skill; and feedback. The model helps students to reflect on their performance and those of others by encouraging them to abstract their observations, in part, by using the easy-to-understand vocabulary of skills guides. Students use the same or similar guides in a variety of contexts. In this way, they are prompted to transfer skills and to learn the self-monitoring skills that are an important aspect of a professional approach to learning.

Feedback culture fosters openness to new learning and new ways of seeing things. At the beginning of the course, all students are trained in feedback skills. The habitual use of peer

¹ In *Designing a powerful PLT program* 16 *J Prof L Educ* 2 1998 pp 229-245 (digested in 8 *Legal Education Digest* 1, 1999, pp7-8), Stephen Nathanson, one of the authors, advances very similar arguments in support of the principle of curriculum coherence in PLT design.

feedback not only seems to improve legal skills, but is also likely to produce collateral benefits, such as improvement of analytical and interpersonal skills. Self-evaluation is also important not only to improve skills, but also to improve the self-evaluation skills barristers need to monitor their own performance. Feedback from guest instructors exposes students to exacting standards as well as to models of professionalism.

Training groups, which stay together with a dedicated base room throughout the course, consist of approximately 20 students who are led by a teacher called a 'personal tutor'. Training groups are used primarily for skills learning activities. The continuity and closeness of group learning, made even more intense by regular feedback, creates strong bonds between students as well as between students and tutor. This promotes a collaborative learning climate and an open, self-evaluative stance in many students.

Programmed instruction contained in the course materials is perhaps the most obvious sign of coherence in the BVC. Popularised by PLTC and based on adult education principles, programmed instruction specifies learning objectives and step-by-step activity descriptions for each session. These are made available to students and teachers at the beginning of the year. Special editions for teachers contain comprehensive step-by-step notes with all the subject-matter the teacher needs and detailed directions for facilitating learning activities. The high degree of consistency across all training groups gives students confidence that their learning is on track, thus increasing their motivation.

End-of-term assessment is an answer to finite resources, but more importantly, motivates students to learn and transfer skills from term time to assessment and motivates designers to bring in-term learning activities into line with end-of-term assessment. The idea

that learning activities are merely 'practice assessments' is reinforced by the skills guides which use the same criteria for both learning and assessment.

Design, the authors stress, comes first in achieving quality learning, because without it the chances of producing the higher-level skills that both the professions and students need are diminished. Producing these higher-level skills requires designers to take a vast array of objectives, materials and other elements, each of which may make little sense on their own, and shape them into a coherent, synergistic whole. If the right principles of design are applied, the right kind of coherence will emerge. It is this 'coherence driver', the authors believe, that has the power to motivate students and help them learn.

PURPOSE

Is learning to 'think like a lawyer' enough?

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17 Yale L & Policy Rev 1998, p 583

The training of students to 'think like lawyers' may very well have contributed to the erosion of professional values by implicitly authorising students to become amoral, technically proficient advocates who practise law without regard for the human, social and moral implications of their choices and actions as lawyers. Are law schools educating students for technical proficiency, but failing to inculcate in them a proper sense of their social and public responsibilities as members of the legal profession?

Merely preaching to law students from time to time that, as lawyers, one day in the future, they will have some ill-defined professional responsibility to provide pro bono legal services to the poor can accomplish little. Moral exhortation alone is not effective education, legal or otherwise. Virtue, like proficiency in legal analysis and advoca-

cy, comes from understanding, insight and practice. It must be incorporated in the educational process by which law students become lawyers.

Law schools have an important role to play in addressing the crisis in legal services. They must seek to attract and admit applicants who are idealistic and committed to social justice and law faculty must teach and nurture the professional obligation of providing legal assistance to the poor.

Pro bono service should be treated not simply as a worthwhile philanthropic option, but as a central priority in professional life. At present, clinical legal education often includes several contradictions. Clinics are not integrated into the mainstream curriculum. Their presence in law schools insulates other faculty from dealing with issues of law practice and of quality and equality in the administration of justice. And clinical programs represent too small a percentage of law school budgets, include too few faculty. In effect the law school division between clinical and non-clinical education replicates the dual system of justice: law for the affluent, as distinct from law for the poor; the mainstream curriculum as distinct from the clinical curriculum.

The not-so-hidden message that law professors give to their students is that to be a lawyer one must 'think like a lawyer', even if that means suppressing one's compassion, idealism, and concern for truth and justice. To 'think like a lawyer' means adopting an emotionally remote, morally neutral approach to human problems and social issues; distancing oneself from the feelings and suffering of others; avoiding emotional engagement with clients and their causes; and withholding moral judgment. To think like a lawyer one must be dispassionate in analysing a client's legal problems and options and in developing a legal strategy for achieving the client's goals.

Law students come to believe that thinking like a lawyer means adopting