

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?

S Wizner

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

a kind of moral neutrality regarding the means they will employ and the ends they will pursue on behalf of clients, and towards the choice of clients whom they will serve. Learning to 'think like a lawyer' can be emotionally and morally disabling. By teaching law students to put aside their emotional responses to the facts of cases and the circumstances of the parties and to focus their attention solely on the 'legal' implications of the facts, law teachers communicate to students the implicit message that as lawyers they should respond to human situations and experiences as 'lawyers', not as human beings.

Similarly, by teaching law students to separate the 'moral from the 'legal', to focus on the 'legal' aspects of a case and put aside its moral dimensions, law teachers communicate to students the implicit message that as lawyers they should not be concerned with the moral implications of their choices and actions as lawyers. The implicit message authoritatively conveyed by many law teachers is that idealism and a commitment to social justice are not part of 'thinking like a lawyer'. Instead of encouraging students to struggle with and think intelligently about feelings of empathy, compassion, moral indignation and unfairness, law teachers demand that students set aside such feelings and learn to construct and criticise arguments in a hard-headed, analytically rigorous manner.

A central goal of legal education should be to provide professional education in the public interest, not simply to train students to 'think like lawyers'. Among a law school's pedagogical objectives should be teaching students to employ legal skills and legal theory to meet individual and social needs, to instil in students a professional commitment to public service and to challenge tendencies in the students toward opportunism and social irresponsibility.

We need to develop a new critical legal realism that not only incorporates legal practice into the law school curriculum, but exposes ways in which prevailing practices, and the distribution of legal services, fail to promote and even subvert public welfare and social justice. We need to propose and advocate systemic pro bono representation and other systemic reforms to ameliorate these conditions. Finally, we need to emphasise in our teaching and by our example, that lawyers have a professional and moral obligation to serve the poor, the vulnerable, the disempowered, and to democratise the legal system.

Legal education and the public interest

A Goldsmith

9 Legal Educ Rev 2, 1998, pp 143-170

Law is both powerful and pervasive. It is also, for the most part, highly public in nature. Legal knowledge can therefore play both a protective and facilitative role. What should count as legal knowledge, and how access to legal knowledge is determined, are profoundly political questions. What gets taught at law schools and what is excluded from the curriculum are fundamental to the outlook of students and their ultimate professional and academic orientations.

The relationship between traditional legal education and legal knowledge has been, and continues to be, strangely perverse. This perversity clearly owes a lot to student conservatism. The conventional preference of students for a relatively arcane and limited form of legal knowledge does not sit empirically or responsibly with law's social location or significance. This is aided and abetted by the legal profession and, for the most part, law teachers, who are at least constructively complicitous.

The possibilities for challenging and transforming long-established conceptions of legal education are obviously not assisted by the current institutional

configurations and range of interests represented in mainstream legal education. The traditional law school, with its focus upon teaching students to think like lawyers, continues largely unchanged by critical legal studies. A broader range of students and subjects, partly through an expanded range of law-related programs, is needed if the hegemony of the practice-oriented LLB is to be challenged. Law as it has been conceived over the last fifty years does not adequately address the public interest in legal education.

The legal profession has a long history of having to justify its privileged position both to the state and to the market. In relation to legal education, the need for careful justification stems from the power exercised by the profession in society and the fact of public expenditure on all forms of university education. The idea of a public sphere, however, points to a non-state or non-governmental view of the public interest in legal education. This would conceivably link closely to questions of citizenship, equality of opportunity and justice. Implicit in a public interest notion of legal education should be some conception of other-regardingness, a positive attempt to take into account others' perspectives, including a commitment to sensitively and effectively inquiring into the full range of views and interests at stake in legal education. The community of concern for legal education can be, and ought to be, defined quite broadly.

In Australia, there is little doubt that the core mission of law schools remains to provide primary legal education for those seeking to qualify for the right to practise in the private legal profession. These real world pressures place pressures upon legal education and inevitably constrain any reformist and public interest inclinations of students and their teachers.

Besides training for the legal profession, what else should legal education offer? Legal education has the po-