an integral role in preparing students to account for local legal culture and unwritten systems of rules and laws in their future law practices.

The conclusion that local legal culture and its unwritten rules may exert a powerful influence over legal systems may alter the way clinical teachers and other legal educators effectively prepare students for the practice of law. With respect to the unwritten rules and local legal culture, this process requires divining what skills are necessary effectively to discern and then to navigate within formal legal systems comprised of or influenced by unwritten systems of rules and local legal custom.

With respect to clinical teaching the question arises: does anything about the nature of these rules demand different skills, analytical approaches, or lawyering techniques? To the extent clinical legal education teaches students to learn from experience, it naturally lends itself to cultivating within students an awareness of much that is unwritten within a legal system and an ability to develop effective (and ethical) strategies on behalf of clients that appropriately take into account such unwritten rules and systems.

Clinical teachers should explicitly integrate discussions about the local legal culture and unwritten rules in the planning and reflection/evaluation phases of each legal proceeding, as well as in the classroom portion of the clinical course. In addition, certain skills should be accorded greater emphasis in clinical training programs in order to prepare students adequately for a practice of law in which they may encounter procedures, rules of etiquette and professionalism and even substantive rules not ascertainable through the traditional means of legal research.

Actual experience or learning by doing is one of the most salient features of clinical methodology. In terms of understanding local legal culture and its unwritten customs and practices, it is especially essential since by definition the process is one of ascertaining and responding to important information that generally deviates from written rules and standard prototypes. Clinical programs should consider challenging unwritten customs and practices that disadvantage some more than others. Another strategy is to codify unwritten systems and rules so that all persons have equal access to them.

Without sufficient exposure to the concept of local legal culture, clinical law students may become cynical about the legal system in which they are about to enter as lawyers. They are at risk, moreover, of succumbing unwittingly to the pressures imposed by local legal cultures, thereby diminishing their ability to represent clients effectively in such contexts and/or subjecting themselves to sanctions for violating unwritten rules of local custom and practice or committing other ethical violations.

Clinical teachers can and, indeed, must prepare students to recognise, read, and participate effectively in diverse local legal cultures. Through classroom exercises and discussions about local legal culture and unwritten rules, integration of interdisciplinary empirical studies and methodologies, such as the ethnographic method, introduction to the different theoretical models of law and express integration of the topic into case planning and reflection, students may be better prepared to ascertain and manipulate and/or navigate in systems where unwritten rules, customs and practices exert influence. Such activities also enhance students' ability to challenge unwritten rules, particularly those that produce unjust procedural processes or results and disadvantage and discriminate against certain groups of people more than others in violation of rights guaranteed by written constitutions, legislation and precedent.

CONTINUING EDUCATION

Continuing legal education in the Commonwealth: how does it fare?

C Roper

Commonwealth Legal Education Association Newsletter 82, pp 23-31

Continuing legal education (CLE) is really something that has developed since the beginning of the 1970s. It is now very much part of the life of most legal professions in the British Commonwealth. In some of them it is a very sophisticated undertaking. Unlike university-based undergraduate legal education, CLE has largely been a *laissez-faire* phenomenon. The profession has initiated it and largely left it to develop, as it will. It has thus been largely a market-driven activity.

The last 25 years has been a period, in most Commonwealth countries, of a very rapid growth in legislative activity. There have been many new laws affecting all aspects of society. It has therefore been a golden age for CLE as the professions have used CLE to keep abreast of these developments.

Obviously the principal benefit of CLE is that it provides a continuous opportunity for lawyers to continue to educate themselves. Education and training unquestionably speed up that process, avoid errors at the expense of the client and ensure some consistency and minimum standards.

Another benefit is that CLE has proved to be a very effective means of maintaining the professional life of the legal professions. The legal professions have realised that, if they are to retain the loyalty of their members, they need to be more than a regulatory body; they need to be providing services to their members.

Those initiating CLE in Commonwealth countries often believe that it will be a major source of income for the law society or bar association. They use this often as an argument for introducing CLE. The reason generally is that, the more CLE there is, the more it becomes sophisticated, useful and generally well presented. All of that costs money and, as a result, much of the money which CLE generates is spent on providing better quality CLE.

Generally the initiators of CLE in Commonwealth countries have been the law societies and bar associations. Most of them continue to do that. In some of the larger Commonwealth countries there are separate organisations responsible for continuing education. A monopolistic situation (which some consider is both de-

sirable and proper) has tended to give way to multiple providers. The result is that the situation in many countries is far more fluid, if anything less structured, and the institutional providers are under far greater pressure. Competition can bring benefits but in the area of education the normal measurement when competition occurs, namely the bottom line net profit, is not an appropriate one.

Another feature of CLE in the Commonwealth is that it has grown beyond seminars and workshops into other activities. There is no reason why information cannot be distributed to the profession by as many means as possible. As a result of these developments, a small but important sub-professional group has developed, namely CLE providers and CLE administrators. Often they have formed themselves into organisations such as the CLE Association of Australia (CLEAA).

A feature of CLE has been that, on the whole, it has dealt with substantive and procedural law, rather than legal skills. There are certainly CLE skills programs but generally they are not as well received as programs dealing with developments in the law or refresher courses in various areas of practice. The one exception is advocacy, which has generally been very well received from its inception.

A final feature of CLE is that it is largely a reactive form of education. It tends to be reactive and market driven, run largely by people for whom it is either a second career or a part-time job, attended on a voluntary basis, without any standards or evaluation systems, and not requiring participants to be assessed on their learning.

The mandating of CLE inevitably arises at some point after a CLE program has established itself. Whether or not a Commonwealth country adopts a mandatory CLE regime will depend on all sorts of arguments and dynamics. There is a range of educational arguments as to whether the mandating of CLE is a good thing. It is, however, fairly unlikely that those advocating its introduction can prove beyond doubt that the CLE really makes the difference, both to the profession as a whole and for individual lawyers.

It is not as if CLE has moved into a golden age where it no longer has problems to be faced. There is still reluctance on the part of the profession to acknowledge that good education is an investment and is critical to its survival. There is a natural tendency of most professional organisations to think small and act cautiously and thus are reluctant to commit sufficient resources to the development of the sort of CLE the professional of the future will require. There is a lack of standard systems and procedures, which means that training programs have to be highly customised if they are to be truly successful.

Another feature of CLE has been the development of in-house CLE programs. For institutional CLE providers, this has presented quite a challenge. In some cases, the in-house programs have taken away a significant part of the institutional providers' market.

Big issues for CLE in the future include: the changing distribution of solicitors and their increasing location in a small number of larger firms; the increasing importance of international corporate work; the growth of specialisation; the development of contract training for governments and other bodies working in legally related areas; the development of CLE 'series' (a number of seminars on a major topic); joint projects with other professional bodies; joint arrangements with high level presenters who can offer an ongoing program; and teleconferencing to tap into regional and country areas.

CLE in most Commonwealth countries is an undoubted part of the life of the profession. Whether this will continue to be the case is by no means a foregone conclusion. The increased use of electronic technology could well challenge many aspects of CLE. On the other hand CLE may rise to the challenge and offer increasingly interesting and diverse forms of educational activities. CLE has been marked by enthusiastic and intelligent amateurism. Whether this will continue remains to be seen.

Continuing legal education: opportunities in the new millennium

N Anderson

Commonwealth Legal Education Association Newsletter 83, pp 19-29

There has always been a recognition that a lawyer must maintain and develop his/her professional skills. The objective is clear; the achievement of the objective is not. Many hold the firm belief that reading books, articles, and current decisions is sufficient to keep a person up to date and competent. This view fails to consider how lawyers receive their primary training, the cut and thrust of questions and answers, the value of discussions and the impact of a knowledgeable speaker on a topic. It has now been widely accepted throughout the British Commonwealth that self-education is not sufficient to satisfy practitioners who are prepared to be lifelong learners.

Continuing Legal Education (CLE) is recognised as a major concern of the legal profession, behind which all of its resources must be mobilised. The approaches, methods, formats and scope of CLE programs vary throughout the Commonwealth. They range from informal seminars, in-house programs and conferences to structured programs with detailed curriculum and courses leading to specialisation. The main providers of CLE include national, state, territory and regional professional associations, universities, law schools, government agencies and private interest groups.

So far the responsibility of providing for this continuous process of legal learning and training has fallen squarely on the shoulders of law societies and bar associations. This imposes a burden far too often upon volunteers who are busy practitioners meting out what precious time they can to organise, conduct and en-courage the process. Universities and law schools throughout the Commonwealth are established for this very thing – teaching, training, and disseminating knowledge. They should be in the forefront of the process, but too often lag far behind.