

Those who argue for legal education to focus primarily on skills training unfortunately conceptualise training very narrowly and, therefore, do not even serve well the interests of the profession. For someone to be only a competent practitioner (and nothing more) it is still necessary to have critical judgment and the capacity to analyse and relate one's own position to others' opinions.

Adequate legal education can only ever be achieved through an interdisciplinary study of law, and deep learning in law must be interpreted to mean that students learn how legal knowledge is constructed and defined in the wider context of society.

Disagreements about the exact shape of the interdisciplinary study of law do not detract from the fact that major challenges to the doctrinal focus of legal analyses have been presented by the critical legal studies, feminist and other interdisciplinary movements. These critiques in various forms challenge the claim that law is autonomous, objective, neutral or principled.

A feminist critique of family law is the absolute minimum required in any family law course. The argument that other perspectives, say for example, economic analysis or alternative dispute resolution methods or historical perspectives, to name a few, are equally legitimate organising foci, misses the point that feminist perspectives challenge the gender neutrality of all knowledge. Once the partial perspective of legal knowledge is exposed, it should no longer be possible for anyone to ignore it as otherwise it amounts to maintaining an oppressive *status quo*.

The understanding of family law as soft law or an optional subject is the starting point for the organisation of the subject. This is, of course, in plain contradiction to the immediate relevance of family law to every one's life, unparalleled in any other area of law. Family law as private or personal law has existed on the fringes of legal curricula for a long time. And in keeping with this 'optional' status, the content of what is taught in family law is considered relatively unimportant.

The students are asked to assess the scope and content of the area designated family law. They are presented with various explanations of the nature of family law and expected to form their own opinions. The students thus develop their capacities for critical thinking and realise their own agency in legitimising ideas about the core and optional classification of various areas of law.

The aim of good law teaching is not merely to generate the ability to reproduce quantities of information but must be to bring about a change in the students' understanding of law. Such a change can be effected only by an interdisciplinary study of law. There are two formal objectives to such a unit: to learn how to access and apply legal rules dealing with family relations and to understand the nature of legal regulation and its function. The course begins with a collection of extracts, including feminist critiques of the family in various non-law disciplines.

Students are expected to make judgments about the fairness of sexual division of roles in contemporary society in their future roles as family law practitioners (and judges). To enable them to make these judgments they must be exposed to much more than technical interpretations present in earlier judgments of courts (precedents). If they are not to make entirely subjective decisions they must know about sociological, historical and economic literature on family structures. But more importantly as lawyers they must work out why and how this information forms the bases of their judgments. The interconnections between the law, society and economy are the stuff of legal scholarship but not necessarily of the legal curricula. The aim is to make it possible for students to take responsibility for the views they hold and defend their choices as conducive to creating a just social system.

The course on family law is organised as a set of reading materials which demonstrate the cultural and historical specificity of various family structures and the changing nature of families. Students

are familiarised with the critiques of family presented by Marxists, feminists, critical race theorists, historians and post-structuralists. The idea is to enable students to examine how various theories manage to justify hierarchies.

The students are encouraged to make a connection between interdisciplinary studies and the construction of legal knowledge. But it is important to focus on the wider issues of how needs and entitlements are constructed differently for men and women, and further complicated by their race and class membership.

In keeping with the philosophy of education explained here, there is no reliance upon lectures. The seminar discussion in the class is initiated by the lecturer but primarily the students are expected to talk to each other and explore the ideas presented in the readings. The content of the curriculum and the method of delivery are intimately connected so far as a questioning of legal doctrine is possible only if the teacher does not act as the expert transmitter of knowledge but gets the students to develop a questioning attitude and the capacity to analyse.

## **INSTITUTIONS & ORGANISATIONS**

**The law school mission statement: a survival guide for the twenty-first century**  
G T Butler

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A mission statement is a statement of the fundamental reason for an organisation's existence. It tells something about the organisation's strengths, its public image and its core values. It may also give a sense of confidence in the organisation's stability and its ability to achieve its objectives, and a sense of its uniqueness. A vision statement presents a mental image of what the organisation would like to become. In practice both statements are referred to generically as mission statements. Both offer opportunities to motivate an organisation.

Examining law school catalogues, one sees that most schools address the

important issues facing legal education. But what is difficult to determine is how intensely the school meets the issues and what are the core values that actually energise the program. What is missing is a focused statement of the law school's mission. To be sure, all law schools train lawyers and produce scholarship. But there needs to be an overriding purpose to guide these efforts and give a school its particular direction.

To determine whether the mission statement affects the law school's program and overall direction and whether the values motivating the law school are consistent with the stated mission, two questionnaires were prepared and sent to the deans of all ABA-approved schools, about 90 of which responded.

Using criteria suggested for evaluating business mission statements, it was determined whether each school's responses to the questionnaire was consistent with its mission statement. While many law schools are addressing the issues effectively, they are not doing so through use of a mission statement. In some areas, top-ranked schools have a significantly different focus from other schools. Furthermore, there are major inconsistencies between the stated objectives and the items indicated as most important on the questionnaire.

The initial questionnaire inquired about the school's internal strengths, the qualities it wished to project in its public image, and the values used in making strategic decisions. It also asked the deans to identify the trends in legal education that would have the most impact on how their law school would structure legal education during the next ten years. The initial questionnaire also asked the deans to identify the measures they use to determine success and to identify any unique programs that significantly differentiate their school from others.

The questionnaire listed sixteen internal strengths and asked the deans to designate the five most important in order of importance at their law school. It asked the deans to identify the five qualities that best described the image the

school would like to project to the public.

The essential elements of a law school mission statement can be determined from a school's internal strengths, desired public image, and values used in decision-making. Before drafting a model mission statement, one must also consider the trends in legal education.

Responses to the questionnaire showed that, with some variation in emphasis, law schools agree on the five most important trends affecting legal education during the next ten years. The top two are impact of technology and globalisation of law. Next come increased demand for skills training, emphasis on issues of ethics and 'niche' marketing of specialties.

The deans responding to the questionnaire saw technology as having the most important impact on the way legal education is structured in the next decade. With so much attention on technology it was surprising to see its low ranking on both questionnaires, as an internal strength, as an element of a desired public image and as a value in making strategic decisions. The low scores for technology may indicate that law schools have not yet integrated it into their programs. Since quality of instruction is the most important internal strength, the low scores may also indicate that technology is not yet having a significant impact on the classroom experience. Although schools are spending heavily on technology, it has not had an important impact on the way legal education is structured.

Globalisation ranked second in the trends predicted to affect legal education. But, as with technology, globalisation of law and the promotion of global/international programs did not find a place among the five most important internal strengths, elements of public image, or values used in making strategic decisions. In spite of the trend, law schools have yet to respond significantly to globalisation.

The advent of transnational practice requires law schools to prepare students

to practise in a world without borders. How can a law school, grounded in traditional teaching methodologies, alter those methodologies to embrace globalisation?

Increased demand for skills training ranked number three as a trend that will shape legal education in the coming decade, but the responses gave skills training a somewhat weak showing among internal strengths, desired public image, and values used in decision-making.

The desire to train ethical lawyers has been an important topic in legal education for many years and may have become more important during the last decade. That it was placed number four among the trends is surprising, but it may be more important than its ranking indicates. In summary, ethics is seen as an important trend in legal education and as an important element in a law school's public image but it is not seen as an internal strength.

The need to specialise ranked fifth in the trends that will affect law schools in the next decade. In the education market, schools provide a virtually identical product: a basic legal education that enables students to pass the bar exam. In such a market, the key to success is to set oneself apart, to be perceived as in some way as different.

Increased faculty/student diversity is not ranked among the top five trends likely to have the most impact on legal education. Even when combined with a related category, increased number of female students, it still does not rank in the top five. Nevertheless, a preference for diversity of faculty and students permeates law school mission statements.

The initial questionnaire asked whether the law school addressed the concern that attorneys experience depression, alcoholism, and professional dissatisfaction more than other professionals, and, if so, to describe the effort. While the degree of coverage and the intensity vary from school to school, it does not appear that a significant effort is under way in the law school community to address these problems. Although

every school addresses them to some extent, it is amazing that an issue that will affect at least twenty percent of the students directly and most others indirectly – and ruin many careers – is not a primary concern. The failure of law schools to address the problem aggressively is even more complex considering the high rate of dissatisfaction among new law firm associates.

Many of the trends likely to affect the way legal education is structured during the next ten years suggest that profound change may come to legal education. Perhaps the most visible crisis in legal education will focus on the information revolution that has already transformed the business world. Change could come suddenly and without warning. Within an organisation the only certainty is that there will be change. A mission statement is the first step in weathering the change because it provides the common purpose that the organisation has embraced.

The effort to develop a mission statement and to focus the direction of an organisation becomes a constant and necessary effort. The mission statement has been a central feature of many successful business plans. Many law schools have mission statements but they are seldom meaningful. In fact, they are difficult to find, even though a mission statement is a requirement for ABA accreditation. For most schools success is mainly excellence in teaching, scholarship and service without really seeking to define what is meant by excellence.

## **PURPOSE**

### **Lawyers' work and legal education: getting a better fit**

J R Chart

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Technical legal expertise, while obviously essential, has only ever been part of what clients seek from lawyers. Clients have always valued the lawyer who is a good communicator, a skilled negotiator and a wise counsellor. Changes in social, business and political relationships, es-

pecially over the past two decades, have if anything heightened client expectations of legal services. More than ever, lawyers need to bring to their work facility in human relations, conflict management and problem-solving, together with sound personal, ethical, commercial and political judgment.

Modern lawyers often work in teams, especially in large and medium-size firms. This requires internal negotiations with colleagues as well as external negotiations with the other side. In addition, lawyers commonly need to collaborate with other professionals such as accountants, psychologists, planners and engineers. Negotiation plays an important role in the interaction between lawyer and client and is therefore an inevitable and major part of what lawyers do.

Different practitioners, however, have different conceptualisations of what negotiation means. For some, it denotes an adversarial battle in which the aim is to score a victory at the opponent's expense. For others negotiation is synonymous with compromise and making concessions.

What does law school teach prospective lawyers about values, conflict and negotiation? What professional self-concept does traditional legal education nurture? Such questions require us to examine what law schools (mostly) do and how they do it.

New Zealand legal education continues to focus primarily on the product of the courtroom. New Zealand law schools have begun to pay attention to negotiation and mediation, but generally this has been by way of optional courses, separate from the 'mainstream' subjects. Being optional, such courses come late in the students' career, after the formative experiences of their early years of study and without the possibility of influencing attitudes to other legal study.

As a result, many students embark on legal practice with no exposure to negotiation apart from three days in the course conducted by the Institute of Professional Legal Studies. While arguably better than nothing, such a short burst at

the end of their professional education is insufficient to balance out the message of the preceding years. More significantly, the courtroom model for dealing with disputes continues to dominate the compulsory core subjects and many optional courses. Court cases are presented as the vehicle for learning about 'the law'.

The issue is that law schools do not simply impart information about the law in a neutral way. Like all professional schools, they model and give students experience of particular ways of thinking and of viewing the world. Learning to 'think like a lawyer' involves a process of acculturation. That acculturation occurs not only through what we teach but how we teach it and what we reward in our students.

The traditional lecture and examination format of teaching 'the case' also inculcates a particular way of viewing the world. The process of lecturing itself conveys the message that law is knowledge to be transmitted from expert lecturer to neophyte/learner, just as the expert lawyer will transmit this knowledge to the lay client. Students thus experience and come to expect as normal a hierarchical model of instruction which focuses on the content of rules and their impersonal analysis rather than on dynamic processes. Likewise, examinations – which remain a major form of assessment – value individualism and competition, logic and argument to the exclusion of other values, other forms of thought and behaviour.

In this traditional and still dominant model of legal education false dichotomies are set up between (valued) intellectual and (lesser) practical skills, between doctrine (important) and action (less important), between rationality (good) and emotion (to be discounted). Such dichotomies insulate students from the complexities of law in the real world. In so doing, they provide a misleading exemplar of what law and legal practice involve. They deny the essential interdependence of thought and emotion, of thinking/reasoning skills and of the interpersonal and problem-solving skills necessary in practice.