It is not proposed to review in detail this report, which is quite long and very comprehensive. In addition there are some distinctive features to legal education in Hong Kong arising from its colonial heritage and its current political and economic climates, which will be of limited interest to the general reader. This commentary will therefore be confined to a brief overview of the contents. Readers who wish to access the entire report can do so on the Internet at http://www.hklawsoc.org.hk

Part A of the report deals with the general themes of the mix of knowledge and skills necessary for the formation and subsequent professional development of lawyers, together with the place of values in legal education and training. It provides an account of the sources of modern structures of legal education and training, including a comparative outline of the legal education systems in other relevant countries. It also addresses environmental changes in a range of areas, including new areas of legal services, increased lawyer specialisation, the changing structures of legal practice, student centred learning and addressing unmet legal needs. These themes are then considered in the light of the particular constitutional, economic and social circumstances in Hong Kong.

In Part B chapter 4 the authors examine the range of competencies and attributes required in Hong Kong lawyers as a group, looking first at securing a match between legal training and social need and then at the range of the need for legal services. They then construct a typology of the skills, competencies and attributes required in the profession, including general intellectual skills, those specific to the discipline of law, professionals skills and the relevant personal attributes and ethical capacities to be nurtured through the legal education process.

Chapter 5 scrutinises the widespread perception in Hong Kong about an excess in the supply of lawyers, leading to concerns about a diminution of standards and the impact of these numbers on legal practice. Another critical issue which is germane to Hong Kong is the problem with language proficiency, where students undertake their studies in English, which for most is their second language.

The goals and orientation of the academic stage are addressed in chapter 7, together with the structure of law degree programs and the methods of teaching, learning and assessment necessary to achieve the skills and knowledge formation recommended. Not surprisingly, this a critical section of the report. Chapter 8 canvases the preparation for practice which occurs during the vocational stage of the legal education process.

The remaining chapters in Part B deal with the establishment of a common standard for all persons seeking professional admission in Hong Kong, academic staff development and training, equity and access issues, legal specialisation and inculcating a commitment to lifelong learning while benchmarking a CPD scheme for the profession. In chapter 14 there is a very worthwhile discussion of the place for teaching values in both the academic and vocational stages.

In the second last chapter the authors seek to shape their recommendations into a coherent model for a legal education and training system for Hong Kong. As a result, it contains the kernel of their report and is very interesting reading. The final chapter covers their recommendations for the governance structures which should be put in place to control the process of qualification for admission to practice.

Clearly, there are many features to the legal education system in Hong Kong that are creatures of its colonial legacy and have probably been thrown into greater relief since its reversion to China five years ago. Nonetheless the essence of that heritage will be shared by most common law countries, which will make this report of considerable interest to many. The authors are to be commended on the quality of their research and their scholarship. It is a comprehensive and well considered report into an entire system of legal education, no mean feat in itself. It will be very interesting to see what use the Steering Committee which commissioned the report makes of this document and to what extent its recommendations are translated into actual decisions about the future structure of an improved legal education system in Hong Kong.

Editor

LEGAL ETHICS

Teaching values in law school: shared norms, bad lawyers and the virtues of casuistry
P R Tremblay
36 *U S F L. Rev,* 2002, pp 659–718

Lawyers encounter ethical questions and morally uncertain choice opportunities on a regular basis. Many observers believe that the legal profession is riddled with ethically troublesome practices, implying that lawyers not infrequently choose the wrong answer to their ethical questions or resolve their moral uncertainties ineptly. Notwithstanding this critical trend, the literature on moral decision-making by lawyers reflects a sustained appreciation for, and sometimes deference to, a conception of moral pluralism and 'personal values.' The assertion that the legal profession lacks a shared account of normative ethics is as widespread as the claim that the profession is experiencing a moral crisis.

There may be ways, at least pragmatic ways, to talk and teach about values and virtues with lawyers and law students. There is much to be gained by a search for common, shared norms, and for 'paradigm cases' representing agreed-upon sentiments about how moral issues ought to be resolved, as a basis for reasoned conversation about more complex

moral dilemmas and conflicts. The process is known as 'casuistry.' Casuistry is a form of ethical reasoning that involves the close analysis of particular cases, seeking ethical guidance in an inductive manner rather than deductively through the application of moral theory. Casuists find meaning through paradigm cases and maxims. A case presenting moral ambiguity may be compared to a series of paradigm cases and analysed by reference to accepted maxims, in order to arrive at a reasonably satisfactory solution to the conflict at hand.

There are three possible reasons why law schools teach about ethics and values: (1) for the same reasons they teach torts, that is, because the 'ethics' of the legal profession can be useful to practitioners as basic substantive law; (2) for the same reasons bioethicists develop methods of ethical analysis, that is, to aid good faith, and enable conflicted professionals to find ways to choose amongst similarly attractive (or similarly offensive) ethical alternatives; and (3) for the same reasons therapists and jailers do their work, that is, to provide incentives for bad or misguided people to do good things. The first of these has little, but still some, relevance to an inquiry about the role of values teaching. The second and third goals are more directly relevant, but they tend to get conflated. It helps to distinguish between teaching good people how to be better and teaching bad people how to be good.

There seems to be consensus among writers in this area that students and lawyers ought to learn an art often described as 'deliberative (or reflective) judgment' — that is, how to recognise moral questions, how to parse their components and how to weigh important moral considerations in context. Seldom, though, is the suggestion made that students and lawyers can learn some right answers, or how to balance appropriately competing claims about what might be right. Teaching a sense of reflective judgment is viewed as an altogether good thing; teaching specific values, by contrast, is worrisome. Certain nagging doubts about personal values, about moral pluralism and about one's ethical identity seem to predominate.

The first, and perhaps the least troublesome, objection comes from the relativists. When the topic turns to questions of value a student might object: 'I'm sorry, but how can we talk about values here? My values may be very different from your values, and nothing we can say here can persuade me that you are right and I am wrong. Let's talk about law, which we can study, but not values, which are only in our heads.' Few respected applied ethics writers defend a deeply relativist stance. By contrast, many respected applied ethics writers treat moral values as somehow 'personal' and suggest limits on their role within professional education. The notion of personal values, neither as a basis for lawyering commitments nor as an impermissible distortion of those commitments, engenders the same incoherence that surrounded the relativist arguments. A claim that values are personal implies that they are somehow non-negotiable, that they are not based upon reasons or arguments, but just 'are.' That kind of offering is justly rejected when proffered by a relativist. Why does it have such currency and validity here?

A seemingly promising way to advance conversations about ethics from the realm of personal opinion and preferences to a more substantive reasoned plane is through the use of moral theory. Moral theory proposals make much good sense, but they are blemished by some deep problems. Moral theories reflect and organise sentiments drawn from work with actual cases. As many commentators have noted, when a carefully crafted theory clashes with deeply held moral sentiments, the theory gets jettisoned, not the sentiments.

Casuistry offers a method of moral reasoning and deliberation which resists theorising and which builds upon common sentiments about normative value. The paradigm cases represent the source of shared sentiments. Most ethical dilemmas or quandaries consist of stories or circumstances where multiple, competing ethical principles or moral theories seem to apply, and how to rank or prioritise the conflicting norms is not readily apparent. In some of those stories or circumstances, the dilemma or conflict will be insoluble for incomparability reasons. Of course, not all dilemmas or conflicts are so insoluble. Ethical conversation and debate assume that some issues are subject to reasoned analysis. Casuistry offers a coherent, practical method for that analysis. It permits the same kind of inductive, analogy-driven scrutiny that legal scholars employ when using common law precedent to decide on a right answer in a difficult legal dispute. Law students perform that process regularly in substantive law courses; they might then be shown a similar process in ethics contexts.

SKILLS

Law talk: speaking, writing, and entering the discourse of law
S L DeJarnatt
40 *Duq L Rev,* 2002, pp 489–509

What is the normal discourse of the academic community of law, a community that exists to produce professionals in the field of law practice and not necessarily to replenish the ranks of law scholars? The practice of law requires lawyers to work collaboratively and collectively — to define issues, create documents, negotiate and resolve legal disputes. It requires lawyers to discuss their writing with their target audience as well as with their colleagues. Law professors regularly present scholarly work to an audience of peers for their reaction.