

education, was to start by looking, not at law schools, but at lawyers, that is the total profession for which law graduates must prepare.

The Report sought to provide a comprehensive review of the legal profession today. From the data collected ten generic skills were isolated which are considered fundamental to competent performance by lawyers. Also from the data, four cardinal professional values were extracted.

Following upon the Task Force Report the ABA Coordinating Committee on Legal Education is encouraging State Bars to bring law schools, the bar and judicial regulators together to explore the roles each can play in the legal education continuum of professional development. Planning must take into account the available educational resources, the different educational missions of the individual law schools, the professional needs of law students and new lawyers, the educational value of work experience and the availability of continuing legal education.

The MacCrate Report's restatement of legal education: the need for reflection and horse sense

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Legal education has evolved to meet changing needs and visions and hence its objectives have been multiple and even ambiguous. There is general agreement on the substantive and problem-solving aspects of legal education, yet the lawyering skills debate continues to rage.

The ABA's MacCrate Report found that greater emphasis should be placed on skills training. This stems from the Report's general theme that graduate lawyers are inadequately prepared to handle lawyering tasks and that they need more instruction in fundamental lawyering skills and professional values. The Report envisages a law school with a strong focus on skills. Implementing the recommendations of the Report would be costly and require critical educational tradeoffs.

The heart of the Report is the Statement of Fundamental Lawyering Skills and Professional Values (SSV) which sets out ten fundamental lawyering skills and four fundamental professional values. Whilst the Report often refers to "skills instruction", it does not really discuss what effective skills instruction means. Skills instruction should involve the traditional analytical instruction offered by law schools, as well as additional skills used by lawyers in the representation of clients.

The Report's most significant contribution is to publicise the common enterprise of legal education and the professional development of lawyers. Other significant contributions are the fact that it was the impetus for the collation of a lot of up-to-date information and statistical data and that it dispelled the conventional notion of a gap between law school and development thereafter by emphasising the continuum of professional development.

However, the Report never actually answers the fundamental question of what can reasonably and appropriately be expected of new graduates by way of lawyering skills and professional values. Nor does

the Report attempt to rank the ten nominated skills in order of importance and specify when each of them should separately be acquired. Furthermore, the Report is concerned with the maintenance of the "unitary profession", on the assumption that it is a realistic and appropriate objective when there are many varieties of practice settings and highly differentiated legal work for beginning lawyers. The Report does not address the question of whether there is a core of skills that all lawyers need for practice and should largely have when they graduate from law school.

In its discussion of the fundamental skills the Report overlooked several vital problems: (1) Can the existing model of legal education accomplish the desired result? The Report fails to realise that law schools cannot produce mastery without some help from the bar. (2) Is the law school the place for skills instruction or should it also take place in the post-law school transition period? (3) What will be the cost and what education tradeoffs will have to be made? The Report regards the resources debates as non-problematic when skills instruction is labour-intensive and expensive, requiring more materials than for most law classes.

Although the Report focuses on an important issue, it provides the wrong answers, or at least ones that require much more evaluation and reflection. It does a better job at raising issues than offering solutions.

LEGAL ETHICS

[no material in this edition]