

sense of integration and balance between technical proficiency and an ethically grounded sensitivity or application is needed. How this is achieved in legal education and training programs is vitally important.

Conceptions of professional responsibility need to be developed in ways that exceed, even disrupt, mainstream approaches to ethical instruction. Formal and conventional understanding of professional obligations around service delivery needs to be placed in a wider context, so as to enable close examination and criticism. Ethical development cannot take place except in an environment of discussion and questioning.

The limits of current conceptions of professional knowledge and the inescapable choices facing current and future generations of practising lawyers suggest the need, as well as the desirability, to move away from an essentially replicative model of professional preparation to one inherently more pluralistic and dialogical in nature — a transformative model. Inevitably, in a profession which reproduces uncritically, its notion of competence is essentially instrumental or operational in nature. Professional education purely or predominantly founded upon traditional notions of education and skills no longer fits contemporary circumstances and is therefore objectionable. The term 'transformative' is not used to suggest the virtue of ceaseless transformation for its own sake; rather, it points to the unavoidably imbricated nature of professional practice, rendering it vulnerable and responsible to a variety of social pressures.

Deep learning should be encouraged. If students are to actively consider the personal significance of acting ethically in legal practice, forms of instruction and assessment are required

that do not simply rely upon the regurgitation of information taken from lectures. Because ethical problems can often emerge from complex fact situations, be coloured by divergent, even incommensurable values, as well as by affective differences, a surface approach is ill-suited to fostering a deep appreciation of legal ethics.

Focal concerns suggest an activist, experientially oriented method of professional inquiry as the basis for ethically competent and responsible lawyering. There are some general structures for learning that might take particular forms at different stages of legal education and training. The first of these is a basic three-element framework for the analysis and interpretation of different legal strategies and tactics. It is designed to complement and contextualise both the doctrinal knowledge acquired in the classroom, and the technical skills of practice acquired in different settings. It is: social interests — legal action — social consequences. The second structure for learning is perspectival dialogue; it encourages perspectivalism with respect to legal practice, and allows different perspectives to form the basis of active dialogues among law students. The perspectivalism consists of two fundamental categories, with a number of different members in each. The bifurcation is between *insider* and *outsider* perspectives.

The establishment of these categories of insider and outsider allows the problematisation of differences and the recognition that differences of perspective go to the heart of many ethical dilemmas and shortcomings. The specification of such a range of legal practice interests suggests considerable shortcomings in many conceptions of professional responsibility.

A broader commitment by the legal profession to the substance of legal ethics in their daily practices is required if professional education courses and students are going to take these questions seriously. In arguing for an improved appreciation of the ethical dimensions of legal practice, it is not necessary that law students or practitioners should become legal philosophers. Instead, it is important that students have access to the different vantage points and perspectives on the law. As change in professional life is inevitable, professional educators need to be responsive to the altering environment.

PURPOSE

Globalisation and challenges for legal education

A Czarnota & S Veitch

14 J Prof L Educ 2, 1996, pp. 159–168

There is a need to change our thinking about legal education at the university level in terms of how it understands and teaches about national law. There is a need for a global lawyer in at least two senses: first, there is a need for a lawyer who is suitably equipped for dealing with legal material from different jurisdictions; and second, that, because being a good lawyer requires not merely being able to absorb and possess purely technical knowledge, global processes affecting the nature of national law must be addressed as an integral part of legal education.

Lawyers are coming to play a pivotal role in Australian society. They are not only involved in returning the balance between 'is' and 'ought', but, as a professional group, the legal profession is responsible, to a degree much higher than is usually accepted, for the creation of social and political reality. It is our hypothesis that lawyers

as a status group play a much more important role than they used to do in the past. This is in large part an outcome of globalisation processes and the increasingly complex and interdependent nature of contemporary societies. Another reason for the increasing importance of lawyers' roles in society is a changing reliance on law and legal institutions.

Generally speaking, it is the legal professions that are playing the role of the engine of expansion of law outside the borders of nation-states. The European Union provides a good example of this role that lawyers, and particularly judges, are playing in the deepening of the process of integration. Another example of the significant role of lawyers is their role in social, political and economic transformations in former Communist parts of the world. Active in this process are not only lawyers from particular nation-states but lawyers educated and shaped by other types of jurisdictions. They are in the forefront of a new type of global echelon of the legal profession. There is a clear need for lawyers to be familiar with the techniques and substantive frameworks of foreign jurisdictions if they seek to enter this arena.

It is possible to list more or less well documented examples of how the effects of legal and other developments occurring outside Australia are impacting on the operation of domestic law. Merely anecdotally, such cases include: the effects of international human rights directives on the legislatures of the States (such as on the issue of homosexuality in Tasmania), and thus on the balance between federal and state powers through interpretation of the foreign affairs powers; the pressures of both the interests of transnational mining corporations and international human rights on the settlement of lands rights issues; and

the impacts of foreign governmental and corporate policies and dictates on domestic drug laws.

Lawyers need to be open to and participate in a scholarly investigation of the role that processes outside the national borders play in the formation of social and political expectations within those borders. Legal education must somehow respond. We suggest it does so by aiming to strike a balance between teaching to think *within* law and *upon* law. Adequate perceptions of the social world by lawyers often occurs more slowly than it does by any other social scientists and / or professionals. One outcome of this is that legal education — in comparison to other social sciences — is always behind. It is partly an outcome of legal education's strong institutional connection to the powerful role of the nation-state. Since law is playing a new role in contemporary society, there is a need for a type of legal education which will address the new types of challenges faced by lawyers. Legal education has not yet arrived at the stage of self-consciousness of a new function of law in society.

Globalisation forces lawyers to be familiar with and operate smoothly in other jurisdictions. It needs a change in legal education beginning with not only the dominant but basically exclusive role of national jurisdiction in university curricula. But at the same time it is insufficient to claim that legal education is providing proper answers to the challenges resulting from globalisation by the simple introduction or augmentation of international law, foreign laws or comparative law subjects to or in the curriculum. Such an approach is too simplistic and tends merely to reduce globalisation to global economic relations.

It is still important that lawyers and law teachers continue to develop and

enhance what are considered to be more traditional legal skills: modes of analysis and reasoning, familiarity with texts and precedents. But this alone is insufficient. Given the pressures imposed by legal, political and economic interdependencies taking place as the result of the process of globalisation, lawyers need also to understand these processes themselves in order to begin to understand their own role within them.

Introducing a client-centred focus into the law school curriculum

R Handley & D Considine

7 *Legal Educ Rev* 2, 1996, pp. 193–224

There have been a number of recent research reports published drawing attention to levels of client dissatisfaction with the legal profession in New South Wales, Australia, together with other data showing a high level of client complaints and notifications of potential negligence claims.

Perhaps at least some of the blame lies with the nature of the legal education provided by our law schools. Do law schools give students a false impression of legal practice, suggesting that it is primarily about resolving complex issues of law? At law school, the focus of many subjects studied is the development of common law, relevant legislation and perhaps law reform. So where do clients fit in? Often they do not.

Many law schools have long used the problem method of learning, analysing a briefly stated hypothetical fact situation and then examining critically how the law applies to that situation, drawing on specially compiled subject materials and other resources. However, this form of problem solving is generally limited to a consideration of specific identifiable legal issues relevant to the particular