

the connections between theory, practice, and values.

It has been said that legal education lacks clarity and focus, that the curriculum tends to reflect the concerns of the time or, more accurately, the problems of yesterday. Skills teaching established its support because of its possibilities: to develop connections between theory and practice; to develop a model of reflective practice; and to build an awareness of the lawyer's responsibility for promoting justice. History and politics have conspired to deprive students of the potential that skills offer of a solid foundation for legal practice or life-long learning. What legal education provides is an often incomplete and idiosyncratic foundation for the next stage.

Without some intervention, the prospects of a more integrated or rational system are remote. This means that a common preparation in skills will remain isolated at the vocational stage. The lack of solid theoretical foundation for skills teaching and the university preoccupation with research, rather than teaching, provides little incentive to change. Academic and vocational course teachers will remain aloof, thus proving that their concepts of education and research are incompatible. The vital areas between theory, substantive law, and practice will continue to be relatively unexplored.

The gaps can only be filled by a holistic approach, in relation to structure, content and methodology. The vision remains elusive and, as suggested at the outset, could only be realised by an unprecedented level of cooperation between the academy and the profession. The lesson of history is that this will not occur.

SKILLS

Group development: the integration of skills into law

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The need for higher education to provide graduates with transferable skills, including teamwork, has been widely advocated by employers. A change in the conception of the role of higher education, towards graduates who are better equipped for the workplace, is of international concern. However, creating graduates who are best fitted for employment may not generally be agreed as a primary aim of an undergraduate degree, especially in the field of law.

Exeter University in the United Kingdom is committed to incorporating a personal transferable skills strategy into academic learning. Specific educational objectives include encouraging independent learning, the development of a range of skills of particular importance to law and the ability of students to recognise and analyse legal issues through the use of substantive law. Emphasis is on understanding and interpretation of the law, combined with academic progression through each stage of the degree course.

To improve the quality of the learning environment and move away, in part, from didactic approaches, the law department introduced a program of workshops. These address techniques and skills necessary for a foundational cognition of the law, while facilitating the development of both legal and interpersonal skills within the context of different areas of substantive law. In the process it is hoped that the false dichotomy between 'academic knowledge teachers' and 'skills trainers' is reduced, since students are encouraged to articulate their knowledge and un-

derstanding of the law through the integration of skills.

A 'management style' Program in Team Development introduces first year law students to the benefits of working together in groups. They are divided into groups of ten to prepare and attend two or three workshops per term in each of their core legal subjects. Within the supportive environment of these organised groups, students can practise skills and test out exploratory ideas with their peers, in numbers which are not as intimidating as in lectures or seminars. Within a well-organised group, ties of mutual support and respect are likely to be created, thereby encouraging independence from teachers.

A one-year trial of the workshop system suggested that it was effective, because student responses were positive and continued exposure to and practice of the required skills had made them more confident and more willing to appreciate and take on future challenges. However, tutors felt a need for further development and decided to introduce a day's training in team development, undertaken within the group which would later be the workshop group for legal studies. The Exeter program had three explicit aims: to emphasise the benefits of effective teamwork; to give students a framework and process for purposefully tackling group projects; and to help build an identity for each group. However, expectations were limited. This could serve only as an introduction to a structure and to processes which could be applied, and more importantly transferred, to legal academic education.

As a follow up to the team development day, each workshop group was allocated one of five different tasks to be undertaken as a group, requiring research and analysis of a general legal theme. The aim was to determine

whether the students could transfer the skills gained from the program to a legal exercise. Across groups, there was evidence of deliberate organisation to make the best use of a team, to assess what was practical or possible given the time constraints, to make use of individual strengths and weaknesses, to assess knowledge or lack of knowledge of individuals, to divide the task into manageable units, to undertake peer tutoring where appropriate, and so on. In reviewing how their team had operated, there was evidence of taking seriously messages from the group skills training.

The challenge for tutors is to create the circumstances and the ethos wherein individual students feel they can contribute fully towards meeting the group's learning objectives. Throughout this process, the group needs to be supported by the tutors, many of whom are used to more didactic teaching methods, rather than facilitative, interactive and student-centred ways of working. Such a change in role is not easy to achieve effectively, even when tutors are enthusiastic. However, a major hurdle remains in persuading academics across the university that this is an appropriate way of working with students.

Personal transferable skills are inherently difficult to assess in that processes of learning are difficult to monitor and outcomes, especially of individuals within teams, are difficult to judge. Students will be asked to discuss, at regular intervals, the entries in their log books with their personal tutors, in order to monitor success in meeting their aims. This system has the potential benefit of improving communication between staff and students and of increasing the student's responsibility for learning and progress.

Although the feedback from the initial program was very positive, it is necessary to continue emphasising the benefits of teamwork, since transfer of such learning cannot be assumed. Much is dependent on whether the ethos of the department sufficiently encompasses experiential learning methods and whether the students are motivated by assessment of groupwork abilities. It is likely, however, that formal assessment of group skills will reinforce their importance, since students make it clear that they value most, and tend to put most effort into, what is assessed.

There was no attempt to turn law lecturers and tutors into 'skills trainers'. The aim was to suggest how incorporating systems developed in industry can help to enhance the learning experience in order to enlighten and make exciting traditional educational methods. Personal transferable skills now play a vital part in management and employment training and recruitment. Thought needs to be given to how to support and encourage industrial initiatives such as this, so that employers are attracted towards financing, and providing motivation and impetus for, similar educational projects in the future.

Mainstream courses and workshops for the year following on from the team development course had not been re-planned or re-developed, since it was not possible to predict the outcomes of the program and hence know what would need to be adapted. What became evident, however, was that changes in teaching did take place. It was easier for tutors to require students to work together, and for students to achieve this, since groups developed their own ways of working. They had, for example, appointed co-ordinators who could liaise with staff as group representatives. The major hurdle of asking students to work together,

rather than merely come together as a group of individuals, had been overcome.

Confronting adversarial attitudes to negotiation: what the red/blue exercise can teach us and our students
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Interest in the processes of negotiation has developed in the last 20 years or so in a number of disciplines, including law. Although writers on negotiation differ in their descriptions and terminology, from these it is possible to identify four negotiating outcomes: win/win, win/lose, win some/lose some, and lose/lose.

Law students find the win/win orientation problematic in practice. The lose/lose outcome arises as the unintended and unexpected result of a win/lose orientation. Both sides come out significantly worse off than they might have done because of an unwillingness to concede or compromise. Our experience of the Red/Blue exercise demonstrates that students will often adopt this orientation in the mistaken belief that it represents a low risk strategy for them. Although the lose/lose outcome is unintended, the strategy which leads to it is conscious and deliberate.

Red/Blue is used not as a model of how to do negotiations but rather as a means of analysing behaviour in negotiating situations. For the last four years the authors have used it at a later stage in the program, after students have had the opportunity to internalise the fundamental elements of negotiation theory through simulated negotiation exercises. Running the exercise at this later point has demonstrated that the majority of students take a win/lose approach to the negotiation and that this approach can be so deeply ingrained that many are not aware of it and so more often than not it leads to a lose/lose outcome.