education policy which has made the expansion of law very attractive to the universities.

Academic lawyers in the late 1980s had begun to value teaching as an activity in its own right. This provided further momentum to those law teachers in the newer law faculties who had reacted against the trade school orientation of older faculties and had begun to see the study of law as based on liberal, scholarly values traditionally associated with university education generally. Almost all students now do their law degree as a joint degree or as a second degree rather than purely as a professional training course.

In the short to medium term, the state of public funding for law schools is likely only to get worse. Those law schools with relative prestige and a pragmatic approach to worries about access equity will be inclined to move in the direction of full-fee paying positions for local students. For the most part, this will merely allow some of the sandstone universities (plus a few second generation schools) to entrench further their relative resources advantages.

When the reasons for the current popularity of law degrees are acknowledged (in particular, the relative employability of law graduates) and the advantage that students assume more of the costs of legal education, one can easily predict the likely growth of student preference for highly skills-oriented, minimalist forms of legal education. The fact that a growing proportion of students will be unable or elect not to enter legal practice is likely to prove of little consequence, as anecdotal as well as survey evidence suggests that students want the capacity to be able to practise, even if it is never exercised. Without a clear commitment by law schools, backed by resources, to the aims of the liberal law degree, its significance seems likely to fade further.

Australian law schools now exist between the demands and opportunities of the profession, state, and market. While it is tempting to place much of the blame at the feet of the economic rationalists, we must also recognise our own contribution. We link the recurrent despondency to our law school's fundamental ambivalence about the function of the university law degree and tension between vocationalism and the responsibilities of scholarship and higher learning. This ambiguity is encouraged by the current market in which it benefits us to appear to be all things to all people.

Australian law schools should maintain a distinctive vision in the face of difficult circumstances by embracing the contradictory position they inhabit and the tensions within the knowledge they are asked to pass on. Prescriptions include de-emphasising formal approaches to legal reasoning and the obsessive focus upon black-letter law, as well as taking legal practice seriously. However, it is also necessary to see as part of practice the values and techniques of self-examination and critique, to see practice as grounded in social responsibilities beyond the immediate paying client and to look beyond the traditions of private professionalism in the practice of law-school graduates. The liberal law degree should not abandon but should not be bounded by legal practice concerns; its future must lie in the pursuit of a transformative rather than replicative view of legal education.

SKILLS

Counselling skills for the lawyer: can lawyers learn anything from counsellors?

H Brayne
32 *Law Teacher* 2, pp 137-156

Few law schools could nowadays claim that building lawyering skills is irrelevant to their students. The legal professions demand a basic level of interviewing or conference competence at the vocational stage of training. Even at undergraduate level participation in the client interviewing competition or a clinical program requires students of law and their teachers to consider the question of how to relate to the client.

There has been a great deal of debate about whether this is a proper activity for the law school. It is a fact that a lot of law teachers are engaged in the teaching of interviewing skills. By and large this teaching is informed by the practitioner experience of the teacher, supplemented by reading in the legal skills literature.

There are signs that the professions are recognising lawyer-client relationships as important. However, the minimum standards in client interviewing laid down by the Law Society for trainee solicitors, although self-evidently worthy and clearly going deeper than simply preaching good manners, could fairly be described as bland. Could different observers reliably measure a student's achievements of the precribed outcomes?

The legal interview seems to be content and action driven; whereas the counselling approach seems to be relationship driven. Nevertheless, the quality of the relationship is itself a means to the end of solving a

problem for both disciplines. All writers on legal interviewing talk about the needs for empathy in the exercise of listening skills but there is little guidance on empathy for lawyers beyond the superficial. What message are we sending to the next generation of lawyers by purporting to measure empathy on a vocational course at the same time as measuring quality of legal advice, all in the space of a 20-minute assessed mock interview, and without finding out how it was for the client?

In legal interviewing counselling does not take place. It has not been requested or contracted for. But can counselling skills nevertheless play a part in the legal interview?

Carl Rogers suggests that effective counselling results in self-actualisation — the client becoming whole. A relationship with a counsellor who demonstrates the three core conditions of genuineness, unconditional positive regard and empathy will cause the client to become a more integrated person. However, it is not the explicit goal of legal interviewing to change the client. The contract with the lawyer is for fixing external problems. Of all the core conditions, the challenge of genuineness remains the greatest, because it cannot be taught through reading or acquired merely through understanding. Part of the work involved in learning the skill involves personal growth and learning to understand habitual behaviours and to acknowledge past personal pain, so as to be free from inappropriate behaviours and the neurotic game playing involved in playing the role of a lawyer.

A client may come to the lawyer with an external locus of evaluation, a massive blind spot or a refusal to accept responsibility for his or her own actions. Going to a lawyer may be a backward step in dealing with their personal problems, or an avoidance of the real issue. Nonetheless, a lawyer does, unless ethical conflicts arise, what the client instructs and can afford. The lawyer can, and should, take responsibility for the client's problem, if that is what the client wants. The counsellor will refuse to act in this way, accepting responsibility towards but not for the client.

The author describes his experience in conducting two client interviews which were recorded. Following a one year counselling course, he conducted a third recorded client interview, which was observed by a counselling psychologist. He describes at length the lessons he learned about his own interviewing through self observation guided by critical observation from the counsellor and the third client. He concludes that the counselling model of constant supervision from others to discuss the quality of his work with the client is a way of ensuring that he will not fall into the trap of thinking that he has learned client interviewing.

When we ask a new recruit to teach an interpersonal skill, where is his knowledge base, his theoretical framework? He has been in practice, he has interviewed clients, so he can teach interviewing. But his teaching is informed at best by a range of experiences of what works or what does not — for him. He can only be described as an amateur in this field. Skills teaching should be informed by knowledge and technique which goes deeper and wider than our experiences as lawyers. We should be wary of the amateur lurking within ourselves, and not purport to teach beyond our real expertise. There are plenty of professionals from related disciplines out there able and willing to help us when we reach our limits.

STUDENTS

Australian law graduates' career destinations

S Vignaendra
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128pp

Editor's Note

This book reports the results of a highly significant *first* in the history of Australian legal education, a study in which the Centre for Legal Education surveyed two separate cohort groups of law graduates about various features of their career destinations. It builds upon earlier research performed by the Centre on the career intentions of law students[1], so that these studies in combination canvass both the wish and its fulfilment in the workplace.

The stated aim of this government funded research project was not to be a definitive study of law graduates but 'to shed enough light on this group to be of use to law school, universities, practical legal training institutions, professional associations, current and future employers of law graduates, government, and to the law graduates themselves, many of whom rely on anecdotal evidence to determine what competition they face for desired jobs.' The research questions addressed by this study are three-fold: Where do law graduates go? What do

1 Roper, C (1995) *Career intentions of Australian law students*, AGPS: Canberra
Armytage, L & Vignaendra, S (1996) *The career intentions of Australian law students*, Centre for Legal Education: Sydney.