LAW TEACHERS

Exporting Australian legal education to India: a 'train-the-trainers' workshop for Indian law teachers
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9 *Legal Educ Rev* 1, 1998, pp 101–113

In 1987 the Australiasian Law Teachers Association (ALTA) Law Teaching Workshop celebrated its tenth anniversary. Although the workshop has evolved since its introduction into Australia, its main aim had remained the same – to professionalise the teaching of law in tertiary institutions in the Australiasian region. In 1994, the ALTA workshop was redesigned, so that its focus shifted from its original emphasis on 'teaching as performance' to 'teaching as facilitating student learning', in keeping with developments in our understanding of how students learn.

The workshop now focuses primarily on developing the abilities of law teachers to enhance student learning through effective teaching. However, its immediate aim had always been to assist *individual* academics improve how they teach law.

Until now the benefits that might flow from offering a workshop in which law teachers learn to train their colleagues have remained largely untapped. The authors tried to achieve this long-term and broader goal in a "Training the legal trainer" workshop held at the National Law School of India University in 1997. By marrying aspects of the ALTA instructional framework with a train-the-trainer model, the authors were able, first, to introduce Indian law teachers to ideas about effective teaching and learning in law and, then, to help them design training programs that they could offer to their colleagues in their home institutions and regions.

In 1995 the National Law School sponsored a three-week Clinical Legal Education Refresher course. Approximately 35 teachers from India and Pakistan attended, and six law teachers from three common law jurisdictions were invite to participate as resource persons. The objectives of the workshop were specified, learning outcomes stated and topics chosen to reflect developments and current issues in clinical legal education.

In 1996 the Australia—India Council and the International Legal Services Advisory Committee arranged a special Australia—India Legal Conference in Delhi. At the conference it became clear that legal educators in both countries had a great deal to learn about the range of facilities and the extent of scholarship in the other and indeed within their own countries.

The 1997 workshop was designed, in part, to bridge the gap between traditional teaching methods and clinical teaching methods. Participants' evaluations indicated that it succeeded in this goal. It addressed effective teaching methods. It provided participants with formal and informal opportunities to learn about and practise these methods in a variety of learning settings. It gave participants an opportunity to consider how such methods could be used in their home institutions. Finally, it provided participants with a theoretical and practical framework that they can use to improve the quality of law teaching in their home institutions.

The participants reported that the teaching and feedback sessions were the most successful parts of the workshop. Despite the unfamiliarity of the notion of giving direct feedback to colleagues and despite some reticence, most participants used the feedback model that had been presented and indicated in their written evaluations how useful they found the session overall.

Since the workshop was designed to draw on Indian and Australian expertise and since not all Indian law teachers could be available for every session, the authors developed a draft program that they could modify once in India and as the workshop progressed. This collaborative and flexible approach to curriculum development and to teaching proved fruitful and most successful for both teachers and participants.

The concept of learning and teaching that most participants held at the outset of the workshop was fairly traditional and teacher-centred. The constraints on legal education in India have led to the development of a rather circumscribed view of the nature of teaching and learning law. Law students in India are invariably taught by lectures and examined almost exclusively in formal, closed-book terminal examinations. As a result, the authors' greatest challenge was to introduce participants to the idea that, while both teacher and student have an important role to play in the learning process, research shows that effective learning is a student-centred, rather than a teacher-centred, process. Since students learn in different ways, the task of the teacher is to facilitate student learning.

As the workshop progressed, many of these ideas changed. Most, if not all, participants began to appreciate why, if learning is to be effective, students should become involved in their learning. They began to understand that this approach demanded work on the part of teachers, as well as a willingness to experiment and take risks by both teachers and students.

The feedback the authors received suggests that the participants' own encounters with experimental learning – learning by doing – convinced them of its value. On the basis of these evaluations of what occurred in the 1997 workshop, the authors believe that the participants will establish a network in India similar to that developed by participants of the ALTA Law Teaching Workshop in Australia. As a result of this

workshop, there is now a core of senior and influential Indian law teachers who know about the contribution that Australia is making, and continues to make, to excellence and innovation in legal education.

LEGAL ETHICS

Ethics and legal education
B Brooks
28 *Vict U Wellington L Rev,* 1998, pp 157–165

The present low standards of ethical behaviour and responsibility about which concerns have been and continue to be expressed are substantially due to the fact that the subject is an unrecognised and untreated casualty of the development of the full-time course of university study which is now the normal path to the law degree.

There is no part of the legal landscape which is not illuminated by ethics. That being so, it follows that ethics ought to be taught. If ethics can be taught, what is the desired outcome? What effect, if any, does formal education and training have on the ethical values and professional conduct of lawyers? A troubling answer is found in the Cotter/ Roper Report which found that: lawyers do not know the rules of professional responsibility; and/or lawyers know the rules but, when confronted with a situation, they are unable to recognise the ethical issues involved; and/or lawyers know the rules and can recognise issues but they do not have the ability to analyse the issues and come up with a satisfactory solution; and/or lawyers can do all these things, but they choose not to follow the ethical rules, because of external or internal pressures.

The formal rules of professional conduct can be learnt by rote but that is not true of the capacity to be sensitive to ethical dilemmas. To achieve this capacity requires training in ethics to have a broader focus beyond the formal rules covering a lawyer's professional duties. In other words, we expect that a lawyer will be able to identify and select and operate within a framework of professional, ethical and socially responsible behaviour and practice. What is not agreed is how lawyers, or those who aspire to be lawyers, are best encouraged to be ethical.

There are very real problems in introducing ethics into university level legal education. One powerful argument against a compulsory program is that any prescribed course would be a form of social indoctrination. Any prescription must be open-ended and flexible. The aim should be to provide a reasonable grounding in the principles of ethical professional practice, professional responsibility and etiquette. What is to be encouraged is a capacity to recognise when an ethical issue exists.

Another problem in introducing ethics into law school programs is that such programs are necessarily inter-disciplinary. Inter-disciplinary programs are resource intensive and are likely to be the most at risk when resources become scarce. Inter-disciplinary programs are vulnerable to academics becoming anxious to protect their own patch. Behind these issues lies the fact that there is a lack of teachers competent to present a program on ethics.

It is frequently asserted by legal academics that they teach ethics interstitially in each of the substantive law subjects, that they impart ethics by example, that ethics is all pervasive in the curriculum and that, therefore, there is no need for a stand-alone program on ethics. Even if the argument is conceded that a stand-alone program is desirable, the further hurdles are: the absence of research and information; the problems of designing a curriculum; the lack of materials; the need to train teachers; the resource burdens thereby imposed on the law schools; and the need for other providers of legal education to carry their share of responsibility in ensuring that lawyers are sensitive to ethical issues.

Law schools are one provider of legal education. Together with other providers they have a role to play in producing people trained in the law, who have the capacity to be able to recognise ethical problems when they arise, the practical know-how to resolve the problems and to avoid practising unprofessionally and an attitude to their work which makes ethical practice a daily habit in approaching and resolving dilemmas.

MANDATORY CLE

REVIEW ARTICLE

Comparison of the features of mandatory continuing legal education rules in effect as of July 1998
New York State Bar Association, 1998
107pp

This very useful publication, which appears annually, contains a very comprehensive analysis of the main features of the mandatory CLE (MCLE) schemes in operation throughout all jurisdictions in the United States, as well as a brief comparision with the MCLE requirements in other countries.

We learn, for example, that the current position is that 41 out of the 52 US states now have some form of MCLE prescription for practising attorneys, whereas there were 15 less only ten years ago. However, of the remaining 12 jurisdictions (including Washington DC), all but four have proposals for the introduction of MCLE under consideration and/ or specific requirements in place for new admittees.

The amount of data presented about the characteristics of the 41 current sets of MCLE requirements reveals a very complicated picture nationally, with significant variations between the states. The distinguishing features as reported