

tralian law schools, the diversity of their approaches and the emerging trend for greater accountability, both through budgetary controls and the demands from students as consumers. Sampford analyses the outcry about the growth in student numbers and the perceived threat of a future glut of lawyers and the ensuing oversupply of legal services. He argues that if steps can be taken to ensure the quality of legal education and to avoid the focus on teaching a narrow traditional curriculum, the quantity of law graduates is unlikely to be a problem.

In chapter 6 within the section on designing legal education, Goldring investigates ways in which distance learning methods can be employed to deliver the same learning outcomes as traditional on-campus legal education.

Three essays (chapters 8–10), all contributed by Charles Sampford, explore the important design issues about how theoretical dimensions can be injected into the traditional rule-oriented curriculum and the purpose and size of the core curriculum. Chapter 8 examines the external and internal pressures on law schools and teachers which combine to encourage the teaching of legal rules and technical skills at the expense of underlying theory. He offers some tentative suggestions as to how the curriculum can be restructured to take account of theoretical elements. The implications of these proposals are teased out in chapter 9 in which Sampford describes one model for including a theoretical component in individual substantive law subjects as an integral part of their teaching. Finally, in chapter 10 Sampford identifies four critical mistakes commonly made in designing the core curriculum: the failure to distinguish between what should be compulsory for a university law degree and what is compulsory for practice; conceptualising subject matter as building blocks for later subjects; thinking of the core curriculum as fixed and unchanging; and thinking that the only issue for decision is what the subject matter of the compulsory

courses should be. He then sets out the general aims which should be served by the compulsory subjects and analyses how these objectives should be implemented in the design of the core, taking regard for the consequences for the optional curriculum of the nature and size of that core.

The third section consists of accounts by their foundation deans of the experiences of four new law schools, three in different Australian states and one in New Zealand. Understandably, they each exhibit a fair measure of pride in having met the challenges posed by the establishment of any new educational institution. However, despite their avowals of different missions and fresh approaches, what clearly emerges is that, whether because of limitations in resources or in the capacity to translate the rhetoric into practice, there is still a remarkable overlap between what these new law schools end up offering and the shape of the familiar law school curriculum.

The final section consists of several very short essays, each of four or five pages, by way of response from the profession to the recent developments in legal education. Chesterman discusses what is in fact new about the new law schools; Wolfe looks at the impact upon the courts of these changes; and Vickery describes the views of the practising legal profession about the emergence of the new law schools, observing that the associated opportunities and changes to traditional law teaching more than outweigh the concerns created by them.

This collection of essays submitted by the contributors to *New foundations of legal education* cover a very broad spectrum of the major challenges facing legal educators in Australia and, by natural extension, in other parts of the common law world. They highlight the fact that law schools must appreciate that the theoretical and practical questions emerging from these challenges are closely linked and need to be addressed in their totality, rather than individually,

in the design of the law school curriculum.

Unfortunately, there is a lack of cohesion, because, although updated for the purpose of this book, the majority of these essays originally appeared in other sources, stretching back over more than ten years. Moreover, two significant omissions which detract from the value of the book and its readability are an introductory chapter setting the scene and drawing together the major themes discussed by the authors and a concluding chapter analysing their combined contributions and pointing the way ahead. As a result of this surprising oversight on behalf of the three editors, there is a perception of disjointedness about the entire book.

Editor

LEGAL ETHICS

The values priority in quality legal education: developing a values/skills link through clinical experience

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Lawyers' behaviour in facilitating or retarding access to justice depends upon their core personal values. These are affected by the quality of legal education and in particular the development of appropriate motivation and values in law students. In an age when law schools are often asked, with fewer resources, to increase both the quantity and quality of their graduates, this can be achieved through harnessing the learning energy generated by a motivated student. 'Motivation' is used here to describe the willingness of a student to explore issues of injustice confronting clients in poverty. Students whose values are appropriately motivated by the quality of their legal education to act ethically and to seek justice, which remain essential justifications for a legal profession, are also likely to improve their technical proficiency. This is so because, for most of them, an ener-

getic ethical consciousness begets a desire for excellence.

It is not always recognised that the teaching of values/ethics and of technical skills, are inseparable. Commentators regularly decry the apparent lack of ethical conduct in today's lawyers. Belief in the essential sacredness of each human life, however, is still the core idea which underlies the notion of all personal values, and remains to inspire students. To integrate this sort of consciousness into legal education is a task for the intensive experience of client practice, preferably within the managed environment of a law school clinical program. Student placements with local community organisations can provide a low cost opportunity for law schools in their quest to develop students' values and their motivation to learn.

The issues for investigation include the definition of 'values', the contribution of law students' pre-existing value bases to their subsequent professional behaviour and the impact of the first year or so of professional life. This last factor is closely emulated by the experience of 'live-client' clinical process and is therefore accessible to law schools. It does seem plausible that early workplace experiences are crucial to the relationship between values and behaviour, although the profession usually identifies the context as one of 'ethics' and behaviour.

The popular hypothesis is that the conversion for economic reasons of many legal practices from a professional to a business orientation has cut across attempts by governments and, ironically, the organised profession to improve practitioner behaviour, and with it access to justice. It is suggested that this situation will not change appreciably unless and until there is a reawakening of personal and professional 'values' amongst lawyers.

An emphasis upon values as distinct from ethics seems straightforward. Values are said to underlie our behaviour and are assumed to have great influence;

but they are rarely discussed with any precision. Ethics, while also intended to govern behaviour, have been discussed *ad nauseam* to the point that they are now regrettably confused with specific rules of conduct. While ethics in the pure sense have always been understood as a positive, they are now more often associated with a negative 'do not' and may be losing their ability to improve lawyers' behaviour.

There is no consistency in the use of the terms 'values' and 'ethics' in legal academic literature. In much of it the need for lawyers' values is seen as limited to the professional arena. The author suggests that it is only by personalising 'values' and appreciating that they operate at several levels, that they will retain their potency and avoid the fate of the notion of 'ethics' which have been reduced to a set of rules.

The great regret about popular perceptions of lawyers at present is that there are lawyers who have clearly passed beyond the need to satisfy basic and everyday needs — they are in conventional terms successful — yet they have not developed significant aspirational values. Without ethics, it is speculated, lawyers may become 'semi-skilled tradespersons'. If that is so, quality legal education can not be defined only in terms of technical competence.

Anecdotal evidence suggests that law school graduates with clinical experience, i.e. those who have had contact with clients in poverty with genuine problems and who are enabled to reflect upon that experience, enter legal practice with attitudes that are different in some way to those who do not choose this option within their undergraduate studies. The probability is that for those students whose first significant workplace experience is a 'live client' clinical program, better values, social awareness and motivations are inculcated because students are under the control of legal educators rather than 'the market'.

There are a number of examples internationally of law school/community

legal centre connections that have instinctively sought to develop student motivation. Each of these law centres places students in morally responsible (as distinct from legally responsible) relationships with their clients. Students understand that they have the obligation to empathise, to gather facts carefully, to research and to advocate on behalf of their clients. They know that if they do not accept these responsibilities their clients will suffer.

Law schools with diminished resources can improve the quality of their students' values, motivation and hence their legal education by initiating partnerships with law centres, Citizens Advice Bureaux and a range of local community organisations. Together the opportunity exists to ensure that the first workplace experience is focused upon the justice priority of these organisations. These partnerships are at relatively little cost to the law school. Providing local organisations can be encouraged to supervise with skilled and committed staff, partnerships of this nature are energetic contributors, not just to quality legal education, but also therefore to justice and the Rule of Law.

International experience of 'live client' clinical process suggests that, providing the reflective element of supervision is addressed in their first 'workplace', students' motivation to act subsequently in the interests of justice is enhanced. If quality in legal education is intended to include increased student proficiency and a commitment to justice, reflective student placements in a clinical environment are an invaluable tool.

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