es connected to each other in disordered ways. How then do you integrate coherent knowledge with messy problems?

Integration can be achieved using 'problem generated design', a design strategy that focuses first and foremost on designing high quality problems within limits defined by the general objectives of the course. Since realistic problems have a life of their own, only after the problems are written and tried out, will a range of objectives in both knowledge and skills be precisely identified. The designers then fill in the curriculum with sufficient knowledge and skills prerequisites to guide students toward solutions without giving away the answers.

Problem solving should also be made explicit as the main course goal. Because the idea of solving problems is so straightforward, yet so all-inclusive of what a lawyer does, it is an easy concept to understand. This makes it an invaluable touchstone for designers as they strive for overall coherence. When designing its legal practice course the Nottingham University Law School interpreted the Law Society's goals and objectives as the production of graduates who could solve legal problems and who exhibited suitable professional attitudes. At Nottingham, the vocabulary of problem solving and related concepts facilitated the process of breaking legal practice down into teachable parts as well as selecting appropriate instructional methods for each part.

The second, attitudinal, goal fitted in with the first. At Nottingham, 'professional attitude' was reinterpreted to mean 'professional attitude toward learning', because designers determined that this particular attitudinal objective was both critical to competence — because lawyers need to be learners throughout their careers — and achievable inside the institution — because of the experiential learning methods that Nottingham would use to teach skills.

A vision or goals for the program expressed in simple language is a beacon that helps designers stay focused on where the program is going throughout the design process. At Nottingham and, later at the College of Law in London, problem solving and a professional attitude toward learning were the main program goals. These could be called the twin pillars of professional legal education. Once designers understand them and can communicate them clearly, they provide reference points for the design of all learning activities.

More concrete program features, attached to the design concepts, motivate and even excite students about learning. In establishing the Bar Vocational Course (BVC) at the College of Law, several essential program features were incorporated into the design. These were: coherent sequencing, feedback culture, training groups, guest instructors, programmed instruction and end-of-term assessment.

In curriculum sequence the BVC, like the PLTC, is skills-based. The sequencing of the curriculum is dictated largely by what makes the teaching of skills more coherent. The design is problem-generated, not topic-generated. Problems are strung together according to principles that the designers, from experience, thought would result in a coherent skills sequence. Great emphasis is placed on all aspects of feedback because it fosters openness to new learning and new ways of seeing things. The BVC adopted the training group as the principal group format for delivering instruction. The training group is the ideal vehicle for promoting the transfer of learning and the growth of a unifying theory of legal practice. Guest instructors from the practising profession and the Bench provide students with models of skill and conduct.

Real-life legal problems are messy, but the process of design is a deliberate, carefully plotted effort to make the accumulated experience of students working through these problems coherent and understandable. Most of the concepts and features, such as skills theories, unifying theory of legal practice, problem solving, problem-generated design, programmed instruction and program groups are all part of a strategy to construct this coherent world out of that experience.

## SKILLS

**Teaching negotiation: changing the focus from strategy to substance**
M Taylor
16 *J Prof L Educ* 1, 1998, pp 23–51

Negotiation in many professional skills courses, as well as much of the literature, focuses upon teaching trainees to understand the different strategies. This approach neglects the substance of the negotiation, particularly how students can convert the theoretical understanding into practice in the negotiation in order to achieve the best result for the client.

The Negotiation Course on the Bar Vocational Course (BVC) at the Inns of Court School of Law teaches what could be labelled an 'intellectual defensively collaborative' approach. It is collaborative in that it involves looking for common interests of the parties and, where possible, building on shared or compatible interest and expanding the pie. It is intellectual in that it focuses on the substance of the negotiation and seeks compromise through the use of the cognitive skills of persuasive argument and judgment rather than more emotive, behavioural methods. It is defensive in that it recognises that, in many negotiations, particularly those involving dispute resolution, the negotiators have to deal with conflicting interests of the parties and that this may involve division of resources and exchange of information which could be adverse to the client's interests.

This approach has been developed gradually over ten years of teaching and

assessing negotiation as part of the BVC, which is a year long course to prepare trainees for the Bar of England and Wales. There have been two main underlying changes in the teaching during this period. First, the emphasis of the teaching has been switched from strategy to substance. Secondly, there has been a move from exposing trainees to a variety of concepts, to setting out specific steps for them to follow so that they prepare in an organised way and are thus enabled to be in control of what they do in a negotiation, regardless of the strategies of the parties.

At the start of the BVC in 1989, the lecturers were anxious about being too prescriptive in their teaching. They felt that trainees would learn best if they were exposed to a broad range of civil and criminal contexts and to the different theories and practicalities of negotiation, and were made to appreciate the differences and learn through discovery what was best for them in any particular negotiation.

Staff, however, became concerned on two accounts. First, they felt that the teaching did not take into account the specific circumstances in which trainees would be negotiating in practice. In particular, it had not sufficiently been considered how the principled (as opposed to problem-solving) approach worked in the 'at the court door' context in which the trainees would be negotiating. Secondly, they were concerned that trainees did not seem to be learning how to prepare in such a way that they could use their case analysis effectively in the negotiation. While clear about what they wanted to get out of the negotiation, many trainees were far from clear about what they would actually do to achieve this. Overall, it was felt by lecturers that, while an understanding of strategy was important, they were not focusing enough on the actual substance/content of the negotiations trainees would conduct in practice, and the detailed and practical preparation that would be needed. This lack may have sent the message to trainees that the selection of a particular strategy was more important than thorough analysis of the case.

The gradual changes made to the course have been consolidated and it now focuses more expressly on the substance of the negotiation. This is taught through a conceptual paradigm which consists of basic steps to enable trainees to prepare in an organised way. The first of the main stages of preparation is the preliminary analysis which includes identifying and understanding the objectives of both parties, the issues underlying the dispute, the factual and legal basis of the issues and the need for any information exchange. The next stage is formulating and evaluating arguments and identifying a reasonable settlement standard. Planning what concessions to seek and make is the third step. The final stage is to consider the best way to structure the negotiation, taking into account the issues in dispute, the wants and needs of the parties and the court door context of the negotiation with the attendant limitations and time pressure. In line with these changes, the course materials have also been altered to make them more useful teaching vehicles.

Selectively focusing on the substance of the negotiation has enabled the course staff to concentrate on those aspects they think are the most helpful to trainees in developing practical tools to use in negotiations, whatever their or their opponent's personality or strategy. The author is convinced that, as teaching has become more explicit and has emphasised the need to develop the specific skills of analysis, persuasive argument and concession planning, the trainees have become more sophisticated negotiators.

One of the interesting aspects of the change in focus to more specific teaching about the substance of negotiation has been how it has highlighted, for the staff involved, the similarities and differences between 'court door' negotiation and court room advocacy, particularly the ability to use persuasive argument. An essential persuasive skill for a lawyer, there appears to be little express teaching about the formulation and evaluation of argument. Many lawyers lack a basic understanding of the structure and process of legal argumentation. The BVC team are currently developing their teaching to provide trainees with more precise guidance on the construction and use of argument.

**Teaching trial advocacy: inviting the thespian into Blackstone's tower**
L McCrimmon & I Maxwell
33 *Law Teacher* 1, 1999, pp 31–49

The trial process embodies three categories of skills and activities: foundation skills; preparation skills and presentation skills. Trial advocacy courses modelled on the National Institute for Trial Advocacy (NITA) simulation / critique model of advocacy training focus on the presentation skills, the trial itself. Within the context of the NITA model, preparation for performance tends to be confined to case analysis, the development of an effective case theory and the formulation of a case theme. Drama, as an integral part of the advocate's preparation for trial, is largely ignored. Further, an analysis of the trial / theatrical performance interface is not addressed in other courses in the traditional law curriculum. This neglect warrants attention and models of acting should be considered when modifying an existing advocacy course or when developing a new course.

In the course described by the authors, students participate in a two hour workshop designed by actor Ian Maxwell. The workshop starts with a few very simple exercises in proxemics and kinesics: the instructors get students to move through space, ask them to stop and talk to their classmates, and then instruct them to 'freeze' in order to analyse their body language with re-