to perform and observe in the early years of practice; second, it coaches students in the performance and mental skills that will assist them in the execution of those transactions.

It is during the tutorial that all of the elements that are designed to make the skill clear to the student come together. Not surprisingly for a course that is based on experiential learning, students are helped to scale the sharp learning curve by being given numerous opportunities to perform. After each performance they receive feedback from the tutor and there is often time for peer appraisal as well.

The how-to-do-it guides that appear in the Advocacy Manual mix skills and tasks to provide the student with a practical outline of the transactions a junior barrister can expect to have to perform. The danger of mere mimicking and bland repetitive performance is alleviated in two ways: first, the guides are deliberately general rather than prescriptive; and second, students are encouraged to remain imaginative and experimental and to adapt or even depart from the guides.

In many tutorials the same or similar errors occur. One common mistake is that the student fails to detect the qualitative difference between the evidence stages and the submission stages. So, for example, a performance for the plaintiff will concentrate on the mere facts that have led to the application without any reasons in favour of the merits of the application and very little if any answer to the defendant's evidence. This will be the case, despite a clear indication by the judge that he or she has read the papers and is familiar with the evidence in the case.

In contrast, what appears to be a strength of the simple outline approach is that the majority of students can apply the guide to the PTX that contains the problem. The very fact that only a bare outline is given forces the student to use his or her critical and cognitive faculties to apply and adapt it to the case at hand.

Students in a practicum, such as the ICSL's BVC, experience the paradox of learning. They must take a leap in the dark that is no doubt intimidating. BVC students initially are hungry to put into practice what they are learning, but they fear that there is a right way and a wrong way. These apprehensions and preconceptions can lead to stilted or superficial performances or even an unwillingness to participate until the model has been given. Students frequently demand model answers and how-to-do-it guides. Although these are easy enough to produce, they tend to give rise to a culture of dependency. There have been various attempts over the years to find a happy balance between providing students with the level of support they clearly want and maintaining a spirit of experimentation and freedom.

A question remains: whether courses such as the ICLS's BVC could be more successfully taught if the theories were pulled together into a more coherent and consistent basis. Educational institutions that teach legal skills benefit from explicitly identifying their educational theories and articulating them to the outside world. Staff and students alike will gain if the theoretical basis of a course is articulated, not only explicitly but also in a practical way. A more theoretical and methodical outlook assists strategic planning. Knowing precisely what we are doing now helps us make sense of what we have done in the past and to plan for what we hope to achieve in the future.

Re/writing skills training in law schools — legal literacy revisited
D Bell & P Pether
9 *Legal Educ Rev* 2, 1998, pp 113–141

The so-called 'third wave' of legal education in Australia holds that differentiating between skills and knowledge is trite and misleading. The issue of whether any skill should be taught necessarily raises questions about the mission and role of a law school as part of a university. Unfortunately, attempts to define that mission too often rest upon a dichotomy postulated between the university as a scholarly institution with intellectual educational goals and as an institution the purpose of which is to equip students with skills for the workplace.

There are ways in which legal writing, as it is currently practised in law schools, is not meeting the needs of legal graduates or their potential employers. Nor is it adequately theorised to account for its role in university education. To be a lawyer is to write. To participate meaningfully within a legal community requires legal literacy. Expertise in law is not just knowledge of the law — it requires competence in the norms, conventions and contexts of writing that constitute legal literacy. Literacy in law entails learning the particular conventions and mores that distinguish legal writing. Writing cannot be divorced from the knowledge it expresses. Law is not reducible to written authorities, although this is often how it is taught in law schools.

To learn the language of the law and of the legal cultures in which the law exists requires a teaching environment that is critical and reflective, as well as instrumental. The model of legal writing advocated here is consistent both with models of contemporary best practice in legal education found in places such as the MacCrate Report and with the educational mission statements typical of the handbooks of law schools in Australia and North America.

The challenge of facilitating student critique of legal discourse — whilst equipping those same students to be competent practitioners within the generic and discursive practices of the law — is a very real one. However, developing instrumental and critical forms of knowledge need not be inconsistent objectives. Indeed, recent research suggests that disciplinary expertise in is fact

correlative with a perspective that is deep, complex and critical.

Basic skills, such as identifying and applying legal principles to facts or analogising the application of legal principles in different cases, do not necessarily come naturally to students. At the level of teaching methodology, there is a need for the integrated teaching of writing skills and critical consciousness. The research suggests that expert reading and writing skills are acquired only by close interaction with expert texts of the kind students are expected to emulate in an environment which fully utilises the complex communicative functionality of those texts. Because becoming expert in the language of a discipline is one and the same thing as acquiring knowledge of its content, integrated teaching in writing skills is vital. This kind of approach to legal pedagogy provides a perfect context for reconceiving the teaching of inter-subjective and professional ethics in law.

A number of writers have suggested that, because of the elaborate linguistic strategies of writing and reading inherent in expertise, and because of the broader linguistic elements of purpose, audience and context, writing skills cannot be taught in universities. More significantly, it has been argued that attempts to teach writing skills, especially in a professional discipline like law, in the decontextualised environment of a university, can lead to alienated and counter-productive educational practices.

Quality in any writing and especially in the expert writing of professional communities, is literacy, where literacy is understood as expertise rather than competence. What are the possibilities for teaching writing? Genre and discourse theory, while questioning the nexus between understanding generic and discursive forms and being able to reproduce them, nonetheless seems to accept, not only the importance of teaching writing, but also that written skills should be taught within a pedagogical relationship by a professional who is differentiated from students and whose status in the learning process is authoritative.

A great deal of recent scholarship on teaching writing has highlighted the need for writing to be taught as a process rather than a product. The process of writing and editing should be incorporated into the teaching. This can take numerous forms, including: encouraging students to keep a journal in which to record thoughts, observations, concerns; requiring students to submit an outline or first draft of work; and requiring students to submit short writing exercises.

Written legal skills should be identified as part of the overall educational objectives of the law school curriculum. Their location within law subjects ought to be strategically selected to ensure that the writing tasks and structures are as appropriate as possible.

A major resource issue is who delivers legal writing skills tuition. In the United States, two main models have emerged. In the first, where legal writing skills is a separate course, the teaching is increasingly frequently done by specialist teachers. The second involves members of the doctrinal faculty who may have an interest or specialisation in legal writing and legal skills more generally.

Under an integrated model of teaching, there are essentially two options as to how allocation of teaching could occur. First, teachers of substantive law subjects can incorporate legal writing into their regular classes. The advantage of this approach is that teachers have an opportunity to incorporate the importance of writing and discourse issues into all of their teaching. The main disadvantage is that, for reasons of institutional history and pedagogical culture, some law teachers are disinclined to teach legal writing skills. The second option involves specialist teachers teaching stand-alone classes on legal writing. The main advantage of this approach is that quality and consistency in writing teaching is ensured. But such an approach runs the risk of reproducing the problems of the separation of legal content from legal writing, usually leading to the devaluing of the matter as an intellectual activity.

A major problem with the traditional casebook is that it presents the law as objective, decontextualised and autonomous. Students need exposure to a wider range of legal materials in order to be able to write in different genres and learn the different voices required of legal writing.

It is clear from the experience of the University of Sydney Law School and law faculties elsewhere that equipping students with the language competencies they need to complete their studies successfully and function effectively in professional workplaces is an equity issue, and one that is critical if faculties are to respond to an increasingly culturally diverse clientele. An awareness of this issue will also need to inform curriculum design and assessment to a far greater extent than it does at present.

TEACHERS

Professional training, diversity in legal education and cost control: selection, training and peer review for adjunct professors
M Gelpe
25 *Wm. Mitchell L Rev* 1999, p 193

Adjunct faculty make a unique and valuable contribution to legal education. Law is best taught by a combination of full-time and adjunct faculty members. Serious consideration should be given to the issues of how best to divide teaching between full-time faculty and adjuncts. Adjunct faculty can teach courses that no full-time faculty member is qualified to or interested in teaching.