cation form the university through professional school. Rather than side stepping the issues, the students should be confronted with ethical and moral dilemmas at every turn. Those responsible for education and training are often uncomfortable with the messiness of the issues and prefer to foist them onto another. However, the result of the shifting of responsibility is that the future professionals are unprepared to recognise moral and ethical dilemmas or to exercise good professional judgment. We must all take responsibility for training the next generation of reflective practitioners.

Taking the plunge: integrating legal ethics in Australia

G Powles

33 *Law Teacher* 3, 1999, pp 315-321

Monash University Faculty of Law has decided to adopt in principle the pervasive approach to the teaching of skills and ethics, which are intended to be fully integrated into the 4-year LLB program over the next two years. As the project team begins its task of curriculum reform and faculty consultation, it is aware of the scepticism that surrounds an enterprise such as this – scepticism as to both objective and method. The most noble ambition must be to develop for students a learning environment which, by the time they graduate, will have made a difference to the way they see the law and its practice and perhaps even to their capacity to act as morally good lawyers.

Unfortunately, there is no evidence that a law school can succeed in providing its students with the wherewithal to cross the divide between knowing what is right and doing it. The methodological 'Achilles heel' of the enterprise is its dependence on the understanding and cooperation of faculty colleagues who will be called upon to include ethical elements within their subjects. Both of these perceived discrepancies between the ideal and the achievable need to be understood in light of what has been, in Australia, a rather barren landscape as far as the teaching of legal ethics is concerned.

Australia is slowly awakening to a commitment to the teaching of ethics. The legal profession, law schools and professional trainers share the blame for retarded development in this area. The profession has failed to ensure that a well-defined and rigorous legal ethics syllabus is adequately taught to all applicants for admission to practice and there is still no sufficiently specific requirement on that score.

We have seen two main shortcomings. First is the acceptance of the way in which legal ethics is characterised as a set of principles and rules intended to assist the lawyer to recognise and balance competing claims. Second, although mere rules are not enough, legal ethics education requires the study of the whole regime of rules through which lawyers seek to maintain behavioural standards for themselves. The profession has failed to produce a clear code or statement of principles and rules for Australian practitioners.

As far as the legal academy is concerned, recent initiative to introduce new approaches into the law degree curriculum have been both stimulated and rendered spasmodic by the remarkable expansion of the number of law schools. The single most depressing consequence for the majority of law faculties is that class numbers are high and rising, thereby rendering laughable any proposal which seriously suggest that the teaching of legal ethics will be facilitated across the curriculum through supervised small-group activities.

The challenge now is to integrate ethics into the substantive law subjects across the curriculum. While demonstrating to students that issues in legal ethics pervade all areas of law, this approach enables a range of pedagogic techniques and individual teaching styles to be employed here and there through the student's law school experience. It brings home the variety of circumstances in which such issues may arise but also the personal or subjective character of thinking which is brought to bear upon them. In order to enlist colleagues in the integration enterprise, a strategy is required which will convince them of its merit and also illustrate ways in which it may be done.

REVIEW ARTICLE

Ethical challenges to legal education and conduct

K Economides (ed)

Hart Publishing, 1998

366pp

Although Kim Economides, the editor of this substantial treatise (399 pages when both the preface by Lord Steyn and the editor's own introduction are included) does not make this claim, it would be hard to imagine that there has been any prior publication of this breadth of coverage on the foundations for the teaching of legal ethics. It is not so much that this book breaks significant new ground. With the use of a large scale it seeks to map out in detail the terrain for the role of ethical behaviour in the legal profession and the function of the law school in inculcating the principles that underpin it.

The book is comprised of a collection of essays, each of about 20-30 pages in length, submitted by well creden-tialled authors located in a range of jurisdictions. The contributions originate, not just from common law countries, specifically the United Kingdom, Australia, New Zealand, Canada and the United States, but also the Netherlands, Brazil and Italy. The 17 papers are arranged under three themes: rediscovering law's moral

foundations (5 chapters); introducing legal ethics into the curriculum (6 chapters); and making lawyers good (6 chapters).

In his introduction the editor makes out the argument that law has become *effectively separated from morality both jurisprudentially and pedagogically* (p. xvii). He contends that within the formal curriculum of the traditional law school the discussion of values tends to be confined to courses in jurisprudence and legal philosophy. This serves to perpetuate the prevailing view that values are not supposed to enter the realm of legal analysis if law is to retain its status as an intellectual and professional discipline.

However, he does detect a resurgence of interest in the teaching of ethics to the lawyers of the future. This trend can be traced to several distinct relatively recent phenomena. In particular, he identifies a widely held perception of critical deficiencies in the education of lawyers arising from the growing awareness that the mere mastery of technique is an inadequate preparation for practice. But it is one thing to acknowledge that this gap exists and an entirely different challenge to know how to respond to it. This is especially so when there exists a paucity of literature on the undergraduate legal ethics teaching and very few worth-while courses in law schools outside North America.

The first section of the collected essays addresses the theme of 'rediscovering law's moral foundations', and is designed to challenge the traditional outlook of a mere mechanistic and subjective approach to the study and practice of law. Gill takes us back to classical Greek and Roman thought to explain the philosophical substructure to our concept of how law and ethics intersect and Douzinas also draws upon classical texts to explain the relationship between law, justice and ethics from a post-modernist pers-pective.

Using as a model the lawyer Atticus Finch in Harper Lee's novel *To kill a mocking-bird*, Dare pinpoints a number of fundamental issues about the relationship between character, rules and principle and how they inform rigorous ethical debate. Rosen purports to unmask the ideological, economic and educational frameworks which circumscribe the current limited scope of ethical debate among lawyers. Posing the question whether it can effectively become the subject of academic teaching, Olgiati cautions that legal ethics could simultaneously jeopardise both scientific and legal professionalism through its tendency to relativise and problematise, rather than reinforce the validity of the professional model. Despite these concerns, it poses a challenge which academics must take up.

The second section of the book deals with the pivotal issue of how legal ethics can be meaningfully incorporated into the law school curriculum, such that the learning gained can be transferred into practice. Each of the six chapters here draws upon the status of legal ethics instruction in different countries. The Canadian academic, Arthurs, claims that it is impossible to offer students a rigorous intellectual experience in legal ethics, when they lack a contextual awareness of the application of ethical rules and the wider role of the legal profession in society. Goldsmith and Powles similarly lament the poor state of teaching in Australia where there has been a serious dereliction of duty both by the vast bulk of the law schools and the professional bodies.

O'Dair notes the deficiencies of the professional codes and the need for their reform with a strong emphasis on contextual awareness for future legal ethics courses. He points to the historical division between the legal academy and the practising profession in the United Kingdom as restricting the development and teaching of legal ethics at the undergraduate level. Junquiera examines the teaching of ethics in Brazilian law schools. Grimes, drawing on his teaching stint at the University of the South Pacific, notes the importance of contextual awareness and the need to develop professional codes of ethics attuned to the norms and values of the local culture and its customs. Finally in this section, Morawetz examines the educational resources, defects and remedies for undergraduate legal ethics teaching in the United States and proposes several reforms, including moving the standard course on ethics to the first year.

The concluding section of the book tackles the thorny question of how to assemble appropriate frameworks for *comprehending and transforming the structures which shape, and at times restrict, professional responsibility in order to promote the goal of the 'good lawyer' and more refined understandings of professionalism* (p.xxvii). De Groot-van Leeuwin presents the results of her research into how Dutch lawyers, working in a range of legal practices, handled the ethical dilemmas that arose for them. Rhode introduces the new dimensions presented by feminist legal ethics and the challenges it poses for the values embedded in the traditional law school and indeed in professional legal practice.

Looking at the teaching of ethics in the vocational legal education stage, rather than at law school, Webb considers the problem of knowing when and how to introduce students to a consideration of ethical conflicts. He concludes that, despite habitual student apathy or cynicism to ethical instruction, the solution lies in an approach based on the use of realistic problems originating in the actual

behaviour of practitioners. Sharing this concern about the need to bring the ethical element to life to combat student disinterest, Cranfield proposes a method for introducing the context of professional practice into the classroom without the risk of socia-lising students into too narrow a concept of professionalism, based upon the results of his own empirical research of a cohort of law students. This longitudinal research project which tracked the transition of a group of students through law school and into practice, with a view to gauging the impact of their legal ethics training on their actual workplace behaviour, is a fascinating study, replete with lessons for instructional designers.

Sampford and Blencowe argue that law schools should reverse the convention of divorcing the practice of law from law students' sense of morality by injecting ethics instruction in a pervasive fashion into the curriculum at all stages of the educational continuum. In the final chapter of the book, Sherr presents the results of his research into how the professional bodies in four European jurisdictions educate their members and regulate their professional conduct.

Although there is now overwhelming support for its importance in the preparation of the practising lawyer, there can be little doubt that the teaching of legal ethics both at law school and during practical legal training poses a difficult conundrum for those charged with this responsibility. This book examines the philosophical underpinning of the debate about the relationship between law and ethics and offers lessons from different jurisdictional experiences about how ethical instruction can be effectively incorporated into the curriculum. There is even a consideration of how a proper grounding in identifying and resolving ethical dilemmas delivered at law school can transform the graduate into a 'good' lawyer.

However, in this reviewer's opinion, were the contributors to this book truly to succeed in their laudable objective of enhancing ethical teaching and learning, then they would have had to take it one further step. What is critically missing from the book is the sort of practical guidance on how to design effective course materials, supported by worked up examples, which would be an invaluable resource to instructional designers. Perhaps, this should be the subject of a second volume, a guidebook to the design of materials for legal ethics instruction, which would be an indispensable companion to the main text.

Editor

LIBRARIES & INFORMATION

From the classroom to the library and from the library to the workstation – redefining roles on legal education

R Lee

30 *Law Librarian* 1, 1999, pp 37-41

The lawyer's laboratory, the place in which any hypothesis about the law must be tested and re-tested, is the law library. It is a rare institution which has seen the expansion of student numbers matched by equivalent increases in the information resource base which the students require. The law is a discipline which requires highly interactive forms of teaching, based as it is on the development of analytical skills and the capacity to argue points of law. Teaching methods have changed. Class sizes have grown. Much more independent learning is required. Teaching still goes on, but there has been a shift from formal to informal methods, with the law librarian becoming a more common first source of assistance than the law tutor.

Not all of this is bad but it does need to be acknowledged. The growth in numbers has been accompanied by a revolution in the provision of legal materials within the same timescale. The growth of the law school has coincided with the introduction of an assessment process for the research work of legal academics. These two developments are in inevitable tension. Legal academics have faced considerable pressures to carve out sufficient time and space to produce, within regular assessment cycles, published work for assessment. The point here is that not only are there many more students, but also that academics face additional and significant pressure on their time.

If much of the learning undertaken by law undergraduates takes place outside the classroom, then all of the learning processes and be subject to review and the assessment of students should be based on and aiming to measure, the learning which has gone on. If this is so, then potentially its impact is as profound on the law librarian as it is on the torts tutor. Both at undergraduate and postgraduate level, legal and research methods courses are increasingly common to support student learning. Again, library and information specialists play an increasing part in this delivery and, in so doing, become a vital part of the meeting of the law school objectives.

Law is a dynamic discipline. It derives from its sources in the legislature and courtroom. Moreover the explosion of legal information, the ability to retrieve previously unreported material and the use of information technology for instant access to other common law jurisdictions have profound effects upon the development of the law curriculum. It is no longer possible to prescribe the syllabus, beginning at offer and acceptance and ending at remedies. Attempts to do so are pointless.