ganisations, norms and practices, and how each of these arenas of professionalism is evolving to confront the demands of an increasingly globalised market for legal services. This research should form the basis for a whole new kind of pedagogy.

Students are hungry for information about their future careers. The regular curriculum offers them almost nothing to satisfy their hunger. As a result, students typically learn about potential career from three sources: legal recruiters, the legal press and each other. Each of these sources is seriously flawed.

Law schools have done no better in fulfilling their ethical duty to the profession. Law schools' failure to study and teach about the profession is an affront to the academy's ethical obligation to the public. The main ethical responsibility of law schools, of course, is neither to students nor to the profession. It is to the citizens who depend upon law, and therefore derivatively upon lawyers, to provide a fair, coherent and efficient framework within which to live their lives.

The first obstacle to any research or curricular innovation is, of course, money. Doing the kind of fieldwork that would allow legal academics to reach meaningful conclusions about what is going on in the profession – interviews, surveys, statistical analysis, case studies – is expensive. But almost everything worth doing costs money.

Although most law professors have no formal training in empirical methodologies, there are many who do. Many more have become consumers of empirical work in their substantive fields and therefore have more than a passing knowledge of what goes into producing a useful study or analysis. Moreover, it is disingenuous to suggest that only faculty with sophisticated training in empirical research can produce useful scholarship about the profession. Case studies of legal organisations or practices provide an invaluable window into particular problems.

The first step is to hire faculty who have a serious interest in, and experience with, legal practice. Law schools are faculty-driven institutions. If a school does not have faculty with a strong interest in writing and teaching about legal practice, then no amount of exhortation by deans or alumni will produce the work.

There is no reason why a school cannot start closing the knowledge gap by trying to understand a discrete organisation or practice. Both business and public policy schools routinely create in-depth case studies of companies, agencies and individuals. Producing such studies serves a dual purpose for these institutions. First, the studies themselves provide an excellent vehicle for teaching students about the many factors that influence whether a given business or policy decision is likely to be successful. Second, the act of creating the studies keeps faculty connected to the world of practice in the areas in which they teach.

Finally, every law school can begin to study its own graduates. Law schools collect an enormous amount of information on their students and alumni. Virtually none of the data are systemically stored, analysed, and made available to students, alumni and faculty. Consequently, students know almost nothing about what their careers are likely to look like five, ten or fifteen years after graduation.

**Fifty ways to promote scholarship**

J Lindgren
49 *J Legal Educ* 1, 1999, pp 126-142

The main duty of a law professor is to create and advance knowledge. This is done both by teaching, which spreads existing knowledge 30 or so students at a time, and by scholarship, which ultimately adds to the knowledge of a few people – or rarely, of thousands or millions. The author provides a list of 50 methods that might be adopted to promote scholarship within a law school, categorised under five headings.

First, he proposes 20 ways of creating the intellectual environment of scholarship: the faculty should want to get better at scholarship; establish institutionalised lunch conversations; hold faculty workshops for people beginning their research; hold public conferences every year; have a full faculty symposium in the home law review and invite all of the faculty to contribute; hold an annual session on scholarship for untenured faculty; praise scholars at each faculty meeting; write individual notes to scholars when they publish anything substantial; create an associate dean for research; have the dean attend workshops and read scholarship; create a supportive environment; run the school for the junior faculty; have the junior faculty serve as workshop moderators; put the offices of scholars together and put them close to new junior faculty; create honorary titles; distribute offprints of articles; distribute a card listing recent scholarship of the faculty; partially take over the faculty's own law review; and make the faculty lounge an attractive place to visit.

There are eight ways to arrange time for scholarship suggested: give generous study leave; give junior faculty pre-tenure leave; offer special temporary fellowships with a semester off every year for five years; allow banking of courses; reduce the teaching load; reduce required courses; equalise credits per course to three credits for each course; and reduce the credits required for graduation.

The author lists six ways to use money for scholarship: shift to expense accounts; retain the power to add research assistants to heavy publishers; allow students to get course credit for research assistant work and writing; pay salary increases for production; pay summer grants for recent production; summer pay should be 25 percent of total pay.

He suggests eleven ways to use hiring and retention to promote scholarship: hire and grow; hire laterals; give great weight to publications rather than recommendations in entry-level hiring; hire on the basis of intellectual needs; be a major player in at least one intellectual discipline; hire a dean openly committed to scholarship; have a small faculty hiring committee made up of scholars; do not put political restrictions on faculty hiring; persuade unproductive or counterproductive people to work; make tenure standards real and avoid tenure fights.

Finally, he proposes five ways to use teaching to promote scholarship: expand teaching awards; distribute summary statistics from student course evaluations; hold meetings on teaching for both teachers and students; teach seminars that are built around scholarship interests; and add theory courses to the curriculum.

Over two-thirds of these 50 suggestions cost essentially nothing in terms of money. Even adopting 48 of the 50 suggestions should cost only about $A200,000 to $A300,000 a year for most schools. While acknowledging that a broad faculty commitment to improving the law school's scholarship is most important because all the rest flows from it, the author nonetheless identifies the ten most crucial specific proposals from his list of 50. He concludes that the above reform proposals are designed to fill a need for schools that want to improve their intellectual environment and scholarly production but may not have noticed what steps others are taking or what seems to work at other universities.

## LEGAL ETHICS

**Ethics in legal education: high roads and low roads, mazes and motorways**
R Brownsword
33 *Law Teacher* 3, 1999, pp 270-283

A consensus is emerging that law schools should take ethics seriously. It is not a consensus arrived at by academics who have all travelled the same road. Four different positions that contribute to the consensus are legal idealism, intersectionism, contextualism and liberalism.

According to legal idealism, law is essentially a moral enterprise. Any discussion of legal validity, legal rights and duties, is to be understood as a discussion of legal-moral validity, legal-moral rights and duties and so on. It follows that legal education is a species of moral education. The ruling legal positivist view holds that a distinction is to be drawn between discourse directed at determining what the law is and discourse directed at assessing what the law (morally) ought to be. On this view, legal argumentation is not necessarily a species of moral argumentation.

If combined, the law would be taught at a certain distance; students would be instructed in the rules and principles that are treated as law within a particular group; but the moral questionmark would be ever-present. The conceptual framework of legal idealism would make a difference to the law school curriculum and practice but learning would not ground to a halt.

According to intersectionism, although we should conceive of law in legal positivist terms as a morally neutral enterprise, there are occasions when legal and moral concerns intersect. Intersectionists might find their path to ethics in several ways. They might take their lead from moral cues given in legal doctrine, explicit or implicit, or from what they see as the conspicuously moral nature of certain kinds of issues arising for legal determination. The more that one becomes aware of it, the more pervasive it seems; or, the more that ethics enters by implicit legal invitation, the less exceptional it becomes. Nevertheless, even at its broadest, intersectionism treats the connection between law and morals as contingent.

One of the changes apparent in the culture of modern legal education is that technical black-letterism has yielded ground to the view that the law is there to be understood in its context. Legal education must at least make students aware of the moral context for law. One version of contextualism is concerned with mapping the broader cultural landscape beyond the law and raising the consciousness of young lawyers. In another version, contextualism has more pronounced normative intents. The purpose of painting in the cultural backcloth is not simply to record that certain values are accepted or disputed, noting that legal doctrine reflects or does not reflect community values. If contextualists work inside out, they might start with legal doctrine that seems problematic, develop the puzzle in a larger ethical context and work towards a defensible critical position.

Student scepticism about the materiality of morality might be expressed in more than one way. From the idealist standpoint, the response is fairly straightforward. If legal reasoning is a species of moral reason, the nature of moral judgments will inevitably affect the nature of legal judgments. For liberals, the justification lies in a particulars conception of what it is be a university. Keeping the channels of inquiry open is of the essence of such an institution. As for contextualism, it depends whether it is the mapping or the nor-