ADMINISTRATION

The modern law dean
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Law school deans have an enviable job. They lead, in a loose sense, a distinguished institution and are well paid for the privilege. It is a hard job, but doubtless there are harder ones. The law deanship requires the ability to play many roles. One role is beginning to overshadow the others. We have entered an era when increasingly the law dean is first and foremost public envoy, professional fundraiser and alumni booster. The law dean is 'the rainmaker'. Of course law deans have always been rainmakers to some extent, especially in the private schools. But today the external role is becoming paramount throughout legal academia and forcing a reallocation of the dean's time and energies.

Powerful forces that cannot be deterred or safely disregarded are contributing to the rise of the rainmaker. Obviously, the financial needs of our schools are driving the trend. Most private schools are pressing the limits of what they can charge their students. The public schools are being asked to raise more of their budgets with tuition and private funds. At the same time the costs of libraries, technology, buildings, salaries and other capital costs and operating expenses continue to rise. As a result private giving is an indispensable component of the overall financial picture of legal education and the dean is uniquely situated to maximise this private giving through her personal efforts.

But, just as fundamentally, our marketing sophistication is increasing. We know the opportunity is there. We know we can do it. Big time fundraising is not just for the Ivy League anymore. Today public law schools and lesser-known private schools are into it as well.

Part of the pressure we feel to become more aggressive in our approach to the market for legal education arises from changes in the legal profession and changes in its attitude toward us. The MacCrate Report signalled this latter change most clearly. The profession is demanding from the law schools a more finished product.

Why must it be the dean? Can't someone else meet and greet the alumni? The dean's presence not only shows proper respect for the external audiences, it also commands respect from them. The dean is also best placed, if not always best suited, to view the larger scene and represent the interests of his institution to the outside world and vice versa. The dean can and should work with others in the law school to communicate with external audiences in appropriate circumstances. But in the end it is the dean who is designated to speak for the institution.

To be fully effective the dean must remain engaged with the school's day-to-day life. One of the real advantages of the rainmaker model is that it emphasises the dean's obligation and opportunity to lead rather than simply manage the school. The rainmaker dean is in frequent contact with the forces external to the law school that are shaping its future. Moreover, the rainmaker is unhampered by some of the routine management chores that often consume the traditional dean.

The dean is the key intermediary between the central administration and the professoriat. Many universities also depend on the deans for strategic planning, policy making, and related matters such as service on university committees and searches.

The relationship between dean and faculty is crucial and delicate. There are tensions inherent in it since the dean serves as advocate for the faculty and also as supervisor. The dean should be, and usually is, a colleague. Moreover, the faculty and its committees share authority with the dean on many key issues such as hiring and curriculum.

The rainmaker less resembles a law professor than does the traditional dean. Instead, the rainmaker may seem more like the chief executive officer of a business, and the rise of the rainmaker may be seen as a threat to the present balance of power between deans and faculties. Relatively few law deans regularly teach a substantial load any more. For most deans there simply is not time. For this reason, it is possible that students will feel little direct impact from the rainmaker dean's changed role. Indeed, the rainmaker dean may be more visible to the students than the hybrid dean, since successful external efforts often involve students.

Obviously the external constituents of the law school receive increased attention from the rainmaker dean. A key purpose of the rainmaker model is to increase the visibility and value of the law school in their eyes. The success of the rainmaker is measured, in part, by private gifts, goodwill, and favourable publicity gained for the school and, in the case of public schools, by triumph or failure in the legislative area.

There is a significant difference in the way we perceive the deanship once we accept the idea that the dominant role is rainmaking. Traits such as charisma and personal warmth take on greater importance than we might otherwise accord them. Outside connections may become more important than traditional academic achievements.

Though the rainmaker dean, like the traditional dean, is properly judged by the quality of her leadership, we tend to measure that quality in different ways than in the past. The ability to develop and articulate a vision for the school becomes vital because of the vision-bearer role.

Each law dean travels a different path and bears different burdens. Each school has unique needs, challenges and opportunities for the dean to address. But even so, the rise of the rainmaker model will touch every school and every dean.

ADMISSION TO PRACTICE

Desiderata: what lawyers want from their recruits
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35 *Law Teacher* 1, 2001, pp 1-32

One of the central questions to be addressed in examining the skills and qualities which different groups of recruits bring into the legal profession is why graduates of the Common Professional Examination/ Postgraduate Diploma in Law (CPE/PGDL) in the United Kingdom are apparently more attractive to employers than law graduates. There appears to be a widely held belief

by both barristers and solicitors that non-law graduates have something extra to offer when entering the profession.

The argument that, as a basic requirement, a lawyer must have a law degree has been made by those who express grave concerns about the bias in favour of CPE/PGDL applicants. Non-law graduates take a conversion course in law, which in most cases is completed in a year, and as the result of this there is a danger of an under-qualified profession being unable to match competition from Germany and elsewhere. In recruiting such high proportions of non-law graduates into the legal profession, there is injustice and waste involved when graduates who have studied law for three years are shouldered out of the profession by the non-lawyers.

On the score of social justice in the matter of access to the profession, admission to undergraduate legal education may not be in every respect beyond criticism. But it is arguably more open and fair than the inscrutable processes by which non-lawyers find a foothold on a career in the law. Those successful at the school leaving stage are now being squeezed out of the profession by those who could not or did not compete for a law school place.

The tendency of the legal profession to favour applicants who have taken a CPE rather than a law degree can be viewed from an alternative perspective. It can be argued that instead of attacking CPE, some of its critics should be asking why their law graduates, who have had so much longer an exposure to the study of law, are not streets ahead of the CPE students in getting into the profession. On the matter of social justice and access to the legal profession, CPE courses have a lower representation of ethnic minority students taking them than do law degree courses. But CPE courses are run in universities which have in their mission statements a commitment to widening access and which in many cases have a good record in that respect. Looking at recruitment decisions within the context of entry to practice, along with examining the skills and qualities possessed by different groups, the extent to which patterns of under-representation and discrimination continue to act as barriers needs to be considered.

The Law Society states that progress is being made towards equal opportunities in the profession. However, the Society also draws attention to their research, which shows that women, mothers and people from ethnic minority groups continue to face difficulties when entering the law. The questionnaire survey, which contained quantitative and qualitative elements, was designed to be completed by a person with responsibility for recruitment decisions or who was familiar with the set of chambers'/firm's recruitment policies.

One aspect of potential employers' preferences relates to the type of institution attended by law graduates and the type of course studied. The institution proved to be an important consideration, although the low numbers giving it the highest priority may mean that the preference is for a type of institution rather than a specific university. Solicitors seem to give a slightly higher importance to this factor.

In order to obtain information on the attributes which employers are seeking, a substantial quantity of recruitment literature was received. It is noteworthy that the emphasis in the literature is almost entirely on the general personality of the preferred recruit.

The researchers attempted to obtain a clearer idea of the attitude of potential employers to specific study by asking them to rank as essential, desirable or non-essential a number of common optional subjects. They also identified which subjects were of differential importance to the two branches of the profession. There is no strong desire to see additional subjects incorporated into the legal core. The student assumption that they must study 'professionally desirable' options is not borne out. However, solicitors were much more likely than barristers to indicate subjects to be essential or desirable. There is a very strong interest in humanities graduates, although other disciplines clearly are of some interest. This appears to confirm the general impression of conservatism noticeable in preferences for institutions and types of degree.

In order to seek an explanation for the apparent bias to CPE students, respondents were asked to rank a number of general personal attributes and also a longer list of more specific professional attributes or skills. In addition to ranking the items, respondents were asked to indicate the extent to which law graduates and CPE entrants respectively possessed these attributes. The results do not support a hypothesis that CPE students, who are generally perceived to be more au fait with current affairs, are attractive for that reason, although they do perhaps indicate why students from a business background are not more sought after.

There is a clear emphasis on general attributes. Respondents were asked to indicate how frequently these skills were found in the two categories of entrant. There is a relatively small but consistent difference, to the advantage of CPE, across the board. It may be the case that CPE entrants are seen as better all-rounders and they are certainly not seen on balance as being at a disadvantage in relations to specifically legal attributes.

If, as they claim, employers are seeking students with the best intellectual and personality attributes, it is not all that surprising that they look where they do, although they may be accused of conservatism of thought, and in particular of failing to recognise the ability of those students who have developed strongly during their education at a less good university. If, of course, the preferred universities recruit disproportionately from the privately educated, white, middle class students on offer, this will inevitably give this group a privileged entrée to the legal profession, irrespective of whether the seemingly lax equal opportunities policies still apparently in place fail to do their job. Working class and ethnic minority students will simply not get past initial hurdles based on degree class and (more importantly) university of origin.

Nothing was seen to account for a prejudice in favour of CPE students. They seem, on balance, to have more of the required qualities than law graduates do, but only slightly, and the respondents seemed

to value a 'full' legal education. The conclusion must be that law graduates with lower seconds and/or from unfavoured universities are seen as less eligible for those reasons.

CONTEXT, CRITICISM & THEORY

Theory in legal education
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Legal education both reflects, and is being reconstituted by, the forces of standardisation, diversification and fragmentation. Regulatory and quality monitoring structures appear to push towards the standardisation of the legal education process in different higher education providers, whilst internal pressures and staff difference have provided an opposite impetus. The contradictory position of law schools, with respect to the legal profession and the tradition of liberal university education, has been accentuated as the political economy of legal education has been reconfigured by the 'hollowing out' of the state, the new economy, the reconstitution of the relationship between professions, the state and civil society, Europeanisation, and (inevitably) globalisation. Longstanding conflicts over values, interests, and resources co-exist alongside battles over access to higher education, class, race and gender. The relatively unitary subdisciplines of the legal field – contract law, torts, and criminal law, etc – are increasingly characterised by a plethora of different systems of regulation which have developed largely independently of each other and yet are closely articulated both with each other and with other power structures.

In fact, the existence of these different legalities, or 'co-regulation' is longstanding. However, it has tended to be repressed in legal scholarship and education as the intellectual boundaries and character of the law created in the late nineteenth and early twentieth centuries (the classical period) sought to accommodate them within a singular conception of insular subject areas (contract law, torts, and criminal law, etc) which, in turn, was premised upon a unitary, state-centred conception of 'law' within liberal political thought. Since the 1960s it has become increasingly difficult to contain this complex set of legal fields within monolithic concepts of 'law'. Because these different centres of law are to some extent based upon different values and roles, their co-existence may result in contradictory applications of the law and, therefore, anomalies. From this perspective, the legal field has become a less well bounded and a less unified whole. Its centre has been displaced by a plurality of centres. Insofar as fields, such as contract law, tort and criminal law, hold together at all, it is not because they are unified but because their differing elements can be, in certain circumstances, articulated together, albeit always partially. Thus, they are constantly being 'decentred' by forces outside themselves, which opens up the possibility of new articulations and the forging of new centres of identity.

This pluralisation, diversification, and fragmentation of the legal subject discipline is also evidenced in legal education and legal theory. The enlargement and fragmentation of law, legal education, and legal theory within and beyond the legal academy raise important questions about the distinctiveness of law, legal theory and legal education and the extent to which there is still a 'core' or canon within and between the substantive subject areas of law, legal theory, and legal education. Trends in legal education and legal theory suggest that non-legal insights and methodologies have become of increasing interest and value to legal scholars and lawyers alike. For example, there has been an increasing concern of late with legal ethics and the extent to which an 'ethical' dimension could and should be incorporated within legal education. While legal theory has strengthened its contacts with social theory, feminism and philosophy, legal education has also become more interdisciplinary, as it has begun to engage with economics, philosophy, psychology, management, skills training, clinical education, and ethics. Traditional legal educational methods and assumptions have been critiqued by those involved in legal ethics, socio-legal studies, critical legal studies, and skills education. The choice of methods of learning and assessment has been considerably extended and, in part, inspired by new theories of education and the new opportunities afforded by the revolution of information and communications technology. Yet the gulf between theory, the specific field of law and legal education is still large.

Theory takes many forms and operates at diverse levels. Legal theory and legal theorisation can be viewed through sets of different lenses. While the diversity is welcome, the role of theory within the human sciences continues to be a matter of controversy. There is a well-founded concern that theorisation can obscure or overly simplify more than it illuminates. While some have perceived a return to a grand theory within human sciences, there has also been a reaction against the totalising and reductive tendencies of grand theory.

What, then, of the proper role of theory? One way of understanding the importance and ubiquitousness of theory is to treat it as an indispensable tool (or a tool kit) for questioning, clarifying and understanding. Such an approach recognises the complex interplay between the particular and the general, the importance of theory at a more general level of analysis, and the utility of a variety of perspectives. While there is a legitimate concern about the overly abstract character of some theorisation, it is also the case that any generalisation inevitably involves conceptualisation and hence a degree of abstraction. In short, the critique of theory is often largely directed at the use of abstraction in the service of the obfuscation, elitism, and over-arching system building, rather than an antipathy to theory as such. And the test of 'good' theory will be the extent to which it aids understanding of the particular topic under consideration.