

SKILLS

Synergistic literacies: fostering critical and technological literacies in teaching a legal research methods course

P Havemann & J Mackinnon

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Nowadays, new law courses are not approved unless both the ‘needs analysis’ is convincing and the ‘consumer demand’ is certain. Needs and demands today are driven by new pressures for technological literacy accelerated by globalisation and the current revolution in information and communication technologies (ICTs). The popular logic is that new global ‘knowledge economies’ need ‘knowledge workers’ or ‘wired workers’ to labour in the new e-markets for goods and services and to use the burgeoning number and high quality of electronic information databases now essential to legal research. Students are acutely aware of these developments, as well as of the highly competitive nature of the contemporary labour market for law graduates. Consequently, students are demanding more ‘how to’ research skills training.

This article puts in context the reasons why at the University of Waikato, New Zealand the authors regard creating synergy between critical and technological literacy as essential for teaching and learning law-in-context research methods and then describes the curriculum designed for a legal research methods course in order to trial this approach.

Despite years in which market fundamentalism has been hegemonic, universities in OECD countries are still admitting students in greater numbers and these students are increasingly from ‘non-traditional’ backgrounds. However, while the 21st century student body is heterogeneous as to qualifications, motivations, expectations and career aspirations, most these days come to university to get ahead, to

become the ‘clever people’ and ‘wired workers’ of the information age. Consequently, promoting critical thinking and working for the public good will be difficult unless and until access to information technology (IT) and the understanding of its workings are actively promoted and the synergy between critical and technological literacy accepted as the operating norm. For legal educators committed to legal, critical and technological literacy the implications of the multi-disciplinary law firm and borderless market in higher education are multi-layered and complex.

The case for stressing the need for both critical and technological literacy for law-in-context research stems from the appreciation that our students are living in revolutionary times. They must develop into legal knowledge workers able to compete and to survive as players in the ‘knowledge economy’; to participate as intelligent citizens in a globalising polity; and to serve as ethical professionals in the changing and uncertain world of globalised practice.

The aim has been to design a course to meet students’ ever present (though not always conscious or articulated) need for critical literacy as well as a new and almost overpowering demand for technological literacy. There appears to be a profound tension between the deep learning reflected in contextualism and critical knowledge-building, and the potentially shallow learning often associated with acquiring techniques, including those for using new technology.

At Waikato it is compulsory for all students to study Law and Societies in the first year and Jurisprudence in the second year of the LLB program. All students other than graduates must also study non-law subjects in the first two years. Within each law subject students are exposed to societal, economic and other contexts within which law operates and develops. The ever present pressure from students and

some employers for immediate relevance and transferable skills makes it tempting to bias the curriculum in the direction of ‘technological literacy’ alone.

Employers want law graduates who have good research writing skills. Most often, what is meant by research skills is that law graduates ought to be able to ‘handle’ it and know their way around the legal databases. Legal research methods texts seem to perpetuate this conception of research. Most identify primary and secondary sources of law and both print and electronic resources for finding the law.

If the rhetoric is that a conceptual approach to all law study ought to be taken, then research students require assistance from their law schools with the specialist languages of research and of particular disciplines and with training in finding discipline-specific literature (print, electronic or World Wide Web based). They need to be able to take context seriously and to be introduced to a range of methodologies, both qualitative and quantitative. Students need to be sensitised repeatedly to the necessity that research findings must be presented in a way that is appropriate to the audiences for whom the research is conducted.

How law schools tackle the teaching and learning of research methods varies. One school of thought argues that, ideally, such knowledge and skills can be acquired as part of the undergraduate LLB program, through research tasks related to subject assessment. Others argue that such knowledge and skills may be taught explicitly or may be implicit in the research tasks set within skilling components of the curriculum. A third model is to treat research as a discrete subject. The third model was chosen at Waikato to assist students wishing to engage more knowledgeably in a law-in-context approach to research, thereby freeing teachers from time

constraints that would be imposed by having to cover law subject content.

Critical literacy is obviously basic to the 'total picture' approach explicit in doing law-in-context research. This form of literacy relates directly to the way in which one becomes aware of the underlying structure of conceptions. To promote the synergy of technological and critical literacy the aim is to model the goal of the course on the self-determining law-in-context researcher. The technique has been to use a weekly two-hour seminar to workshop with students how they can go about the task of framing their topic in terms of the relevant dimensions of the five 'Cs': change, concepts, critique, comparison and context.

The approach to assessment is also designed to promote a critical/technological literacy synergy. Each student must submit for assessment a research topic proposal and preliminary literature review, a paper identifying, evaluating and selecting appropriate research methodologies and a research paper on a topic of the student's choosing. Students must indicate who the intended user(s) of the research are likely to be. The approach is to stress the obvious importance of being explicit about which voice you write in and which audience(s) you aim to reach. In the critical literature review that must accompany the research topic proposal, annotation to the literature listed must identify the relevance of the items to the topic statement and argument supporting or contrary to that topic statement.

Andragogy for the knowledge society requires teachers to investigate methods that provide functional skills and conceptual tools in an explicitly synergistic way. The "Five Cs" approach to critical literacy cannot stand alone as a technique for planning and guiding law-in-context research. To be a contribution to holistic law-in-context education, it must be embedded in a curriculum that continuously promotes the synergy of

technology and critical literacies. Our aim must be to try to animate the students' capacity for analysis and social reflexivity, while at the same time explicitly skilling them to be knowledge workers in a world largely governed by the new technological paradigm.

To be denied the chance to be critically literate, or the knowledge and skills for technological literacy that now constitute fundamental components of the global and informational mode of production and governance, is to be denied keys to self-actualising reflexivity and hence to be dehumanised, disenfranchised as a citizen and de-skilled as a knowledge worker.

STUDENTS

Institutional denial about the dark side of law school, and fresh empirical guidance for constructively breaking the silence

L S Krieger

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There is a wealth of what should be alarming information about the collective distress and unhappiness of our students and the lawyers they become. We appear to be practising a sort of organisational denial because, given this information, it is remarkable that we are not openly addressing these problems among ourselves at faculty meetings and in committees, and with our students in the context of courses and extracurricular programs.

The anecdotal and observational basis for concern is obvious. The tales of law student and lawyer depression, overwork, dissatisfaction, alcohol abuse and general distress are legion, and many of us see the undoing of our students' collective energy, enthusiasm, and engagement after only a few months of law school.

In studies by teams of psychologists at the University of Arizona, law

students were found to arrive with essentially normal psychological markers but to shift quickly to major psychological distress in the first year. These negative changes persisted throughout law school and into the students' early careers, making it clear that the negative findings in law students do not represent a brief 'adjustment' problem at the beginning of law school. Research on lawyers is equally negative. We might like to believe that future lawyers arrive at law school with these predispositions to psychological distress, but research and our own eyes tell us otherwise.

Something distinctly bad is happening to the students in our law schools. Why isn't this a common topic of discussion at our faculty meetings, in our committees and in our classes? Why are none — or very little — of our resources devoted to trying to understand the sources and then prevent the problems? Certainly many law teachers and deans are aware of the health and distress issues of our students and graduates and are concerned about them. Nonetheless, we maintain the status quo, at times by ignoring the problems outright, and at other times by deflecting concern in ways that avoid any constructive approach to them.

Beyond immediate reasons for avoiding the distress problems, the pervasiveness and persistence of the problems and of the institutional denial around them in American law schools suggest that core attitudes and beliefs at the foundation of our educational culture would be threatened by an open look at what is going wrong. The suspect constructs include, first, the top-ten-percent tenet: the belief that success in law school is exclusively demonstrated by high grades, appointment to a law review, and similar academic honours. Second, the contingent-worth paradigm: the corollary sense that personal worth, the opinions of one's teachers and potential employers, and therefore one's