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There are at least four broad trends affecting American higher education today that in many ways have significant potential to redefine it as an industry in the years ahead. These trends include an increasing demand for accountability, greater financial efficiency, increased use of technology, and changes in the organisation and governance of institutions of higher learning. The changes that are likely to occur as a result of these trends will affect all of higher education and how it operates, including legal education in both independent law schools and law schools in university settings. Most of these new trends are not being generated from within the academy but rather are coming from outside critics in the public and private sectors, and many of the recommended changes are being resisted by higher education institutions. In an age of increasing consumerism, one thing is certain: higher education will be closely watched, evaluated and criticised by more people and from more quarters in the future than at any other time in its history.

The relationship between law schools and their parent universities has often been strained over the fair and reasonable distribution of law-school-generated revenues. As universities are increasingly under the gun to operate more efficiently, make do with reduced public subsidies and keep tuition as low as possible, central administrations will likely have strained relationships with all of their constituent schools.

On a positive note, law schools in general do operate very efficiently and they are in a much better position than many other schools and colleges to justify their costs. Law schools can also serve as fiscally responsible models for other, less efficient parts of the university.

As fiscal efficiencies become more difficult to effectuate, law schools will look for additional revenues. Fundraising and research grants are two logical sources. Although law schools historically have raised funds from their graduates, they will have to expand upon this base as well as explore new sources of private giving. Unlike other parts of a university, law schools traditionally have not relied heavily upon research-grant funding. But the possibility for interdisciplinary collaboration with other university units, or even other law schools, may open doors to new research-grant possibilities.

Law schools are not exempt from the growth of commercial activity in higher education to raise revenues, increase support and provide better customer service. In an era of strained resources, law schools can be expected to explore the possibility of generating revenue from the sale of educational products. The transition from text to online materials may facilitate the creation of made-to-order training materials. The efficient management and aggressive marketing of continuing legal education programs may also generate greater income than in the past. Consulting work and dispute resolution or mediation services are other possibilities.

More and more college courses, programs, and degrees are being offered today partially or even completely through the use of technology. These methods include courses taught on computers, distribution of materials over the Internet, programs broadcast on television and with satellite hookups, and various other technologies such as videocassettes and CD-ROM.

With increased use of technology come many difficult questions and challenges that now confront universities and law schools. For example, the cost of buying and maintaining state-of-the-art computer and technological infrastructures on campus, especially for small colleges and universities, is enormous. The financial burden could easily result in the elimination of many smaller institutions that will not have sufficient capital to remain competitive. Will increased use of technologies result in financial savings, particularly through the reduction of faculty and staff? While most businesses and industries use technology as one means of reducing costs and product prices, this concept will not be embraced easily by college and university administrators or their faculties, senates and unions.

As a sign of the impact this trend is already having in legal education, the American Bar Association has begun a review of its accreditation standards with the new technologies in mind. In terms of the relationship between the law school and the university, technology will, in the short run, be more of a financial issue.

Using technology to improve teaching and learning will expand as more law faculty become adept in technology applications. The heightened anxieties of technology use today will diminish as technology instruction increases.

There are two important trends in the area of organisational governance that could have profound implications for higher education: the growth of for-profit institutions of higher learning and the declining role of the faculty in the governance of colleges and universities. Both of these trends are also very visible in legal education. The for-profit sector of higher education is a rapidly growing part

of the higher education marketplace, particularly in the area of professional and continuing education. With respect to the changing role of faculty, today the faculty's role in governance is being challenged and diminished at many colleges and universities. Rising competition and consumerism in higher education necessitate greater risk taking. But shared governance, with its emphasis on consensus building before new initiatives are launched, may discourage entrepreneurial activity and hinder a university's ability to take advantage of competitive opportunities as they arise.

As we move toward more of a corporate model in higher education, more and more people outside the traditional academy will want to know why professors need tenure, or the equivalent of life employment, in some cases with little or no post-tenure evaluation or accountability. Others will want to know whether some of the more esoteric research produced, and sometimes exclusively consumed, within the academy is absolutely necessary. And still others will wonder whether devoting six or nine credit hours per week for nine months of the year is really enough of a teaching load for the current levels of full-time faculty compensation. They also will speculate whether the use of technology in teaching can reduce the number of full-time faculty, just as it has reduced personnel in many sectors of the business world. These questions will have to be answered not only within the academy but also to critics and consumers in the world outside the walls of academia. Legal educators will have to answer these same questions as applied to law schools and address many of the same pressures that their parent universities face across the board.

### **Developing student self-reflection skills through interviewing and negotiation exercises in legal education SKILLS**

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Increasingly over the past decade or more, educators have recognised the importance of providing students with the ability to monitor their own progress, both during the time they are taking part in formal training and afterwards when it is hoped they will become life-long learners. In legal education in Australia, there is a growing literature on the teaching of skills, as part of wider research on methods to improve student learning. Also, law schools are increasingly focusing attention on students graduating with generic skills and attributes. In the US as well as in Australia, there has been significant emphasis on a particular model of experiential learning, especially of legal skills, which incorporates an element of reflection.

However, while experiential learning has become a more frequent feature of legal education, there has been little written on specific steps that should be taken in order to enable students to learn from their professional and personal experiences, and to develop self-reflection as an essential learning and professional skill.

The curricular structure developed at Flinders University Law School, Australia, introduces students to skills in the first year, then integrates skills teaching with substantive law topics, with more elaborate and demanding skills programs in later year topics. In the first year topic, Lawyering: Procedures and Ethics, exercises in listening, interviewing, drafting, negotiation and oral advocacy are conducted informally as part of regular tutorial groups. In the second year, students undertake a more elaborate exercise in oral advocacy or mooted as part of the Contracts topic. In the second or third year, students undertake a more elaborate exercise in legal interviewing. A drafting exercise is part of Corporate Law in the third year. In the final or penultimate year, students do a further exercise in legal negotiation in Resolving Civil Disputes.

The preparation phase includes several components aimed at introducing the specific skill of interviewing or negotiation and the metacognitive skills of reflection. First, students are assigned readings which include material about experiential skills learning generally, as well as specific information about the particular skills of interviewing or negotiation, including planning and evaluation. Next, there is a lecture which includes a video of a simulated interview or negotiation. Students then prepare a written plan for the activity, in the form of a brief outline.

All the interview and negotiation exercises are conducted as simulations at the law school, with the students acting in role as legal practitioners. The interview exercises involve other students playing the role of clients to be interviewed. Negotiations are conducted one on one, with a student acting as the legal representative for each party. The first year Lawyering students conduct their interviews and negotiations in the classroom as part of their tutorial classes. The negotiation exercise for the final year students in Resolving Civil Disputes are conducted in specially designed premises in the law school, which enable observation and video recording of the negotiation.

The reflective aspect of the exercise involves several components. After the interview or negotiation, each student provides short written responses to two sets of questions: 'Self-Assessment Guide' and