a kind of moral neutrality regarding the means they will employ and the ends they will pursue on behalf of clients, and towards the choice of clients whom they will serve. Learning to 'think like a lawyer' can be emotionally and morally disabling. By teaching law students to put aside their emotional responses to the facts of cases and the circumstances of the parties and to focus their attention solely on the 'legal' implications of the facts, law teachers communicate to students the implicit message that as lawyers they should respond to human situations and experiences as 'lawyers', not as human beings.

Similarly, by teaching law students to separate the 'moral from the 'legal', to focus on the 'legal' aspects of a case and put aside its moral dimensions, law teachers communicate to students the implicit message that as lawyers they should not be concerned with the moral implications of their choices and actions as lawyers. The implicit message authoritatively conveyed by many law teachers is that idealism and a commitment to social justice are not part of 'thinking like a lawyer'. Instead of encouraging students to struggle with and think intelligently about feelings of empathy, compassion, moral indignation and unfairness, law teachers demand that students set aside such feelings and learn to construct and criticise arguments in a hard-headed, analytically rigorous manner.

A central goal of legal education should be to provide professional education in the public interest, not simply to train students to 'think like lawyers'.. Among a law school's pedagogical objectives should be teaching students to employ legal skills and legal theory to meet individual and social needs, to instil in students a professional commitment to public service and to challenge tendencies in the students toward opportunism and social irresponsibility.

We need to develop a new critical legal realism that not only incorporates legal practice into the law school curriculum, but exposes ways in which prevailing practices, and the distribution of legal services, fail to promote and even subvert public welfare and social justice. We need to propose and advocate systemic pro bono representation and other systemic reforms to ameliorate these conditions. Finally, we need to emphasise in our teaching and by our example, that lawyers have a professional and moral obligation to serve the poor, the vulnerable, the disempowered, and to democratise the legal system.

Legal education and the public interest

A Goldsmith

9 *Legal Educ Rev* 2,1998, pp 143–170

Law is both powerful and pervasive. It is also, for the most part, highly public in nature. Legal knowledge can therefore play both a protective and facilitative role. What should count as legal knowledge, and how access to legal knowledge is determined, are profoundly political questions. What gets taught at law schools and what is excluded from the curriculum are fundamental to the outlook of students and their ultimate professional and academic orientations.

The relationship between traditional legal education and legal knowledge has been, and continues to be, strangely perverse. This perversity clearly owes a lot to student conservatism. The conventional preference of students for a relatively arcane and limited form of legal knowledge does not sit empirically or responsibly with law's social location or significance. This is aided and abetted by the legal profession and, for the most part, law teachers, who are at least constructively complicitous.

The possibilities for challenging and transforming long-established conceptions of legal education are obviously not assisted by the current institutional configurations and range of interests represented in mainstream legal education. The traditional law school, with its focus upon teaching students to think like lawyers, continues largely unchanged by critical legal studies. A broader range of students and subjects, partly through an expanded range of law-related programs, is needed if the hegemony of the practice-oriented LLB is to be challenged. Law as it has been conceived over the last fifty years does not adequately address the public interest in legal education.

The legal profession has a long history of having to justify its privileged position both to the state and to the market. In relation to legal education, the need for careful justification stems from the power exercised by the profession in society and the fact of public expenditure on all forms of university education. The idea of a public sphere, however, points to a non-state or non-governmental view of the public interest in legal education. This would conceivably link closely to questions of citizenship, equality of opportunity and justice. Implicit in a public interest notion of legal education should be some conception of other-regardingness, a positive attempt to take into account others' perspectives, including a commitment to sensitively and effectively inquiring into the full range of views and interests at stake in legal education. The community of concern for legal education can be, and ought to be, defined quite broadly.

In Australia, there is little doubt that the core mission of law schools remains to provide primary legal education for those seeking to qualify for the right to practise in the private legal profession. These real world pressures place pressures upon legal education and inevitably constrain any reformist and public interest inclinations of students and their teachers.

Besides training for the legal profession, what else should legal education offer? Legal education has the po-

tential to offer much more and to more people than it does at present. Ways around the current mental and material constraints need to be found.

Affordability is merely one aspect of access to legal education. Another way of improving access would be for the barriers currently restricting movement of students between the study of law and other disciplines to be relaxed. Given the historical bias in law student selection processes, steps in this direction would facilitate greater exchange between students of different types. Greater student diversity becomes an obvious consequence. Legal education can be part of the education of a much wider and diverse group of students.

Another way of tackling the professional snob syndrome is to proliferate the range of courses and programs taught within legal education institutions. To some extent, this will have been begun through the integration of non-LLB or non-practice oriented students into mainstream law-related topics. The stigma attached by some students to such courses by comparison with the LLB law topics might indeed be reduced by shared teaching arrangements. A blending of functions within a particular university environment would offer a number of benefits. There are clear practical advantages, as this method avoids the artificial divisions that exist around areas of legal knowledge dictated by professional status and program, rather than knowledge or skill affinities.

By admitting a more diverse student body to an enhanced range of legal education programs, there is the promise of identifying a wide range of social problems in need of legal research and problem-solving. Until the strong grip of commercial law practice on legal education and the imagination of many law students is loosened, the value of research looking at social issues will remain diminished and largely irrelevant. In an integrated legal environment, there is even more reason and opportunity for acting imaginatively and doing things differently in the field of legal education. Only if we have the courage to do so will legal education cease to be simply training future professionals to think like lawyers, and expand to become thinking about law by a much wider group. Then perhaps, we will have moved closer toward legal education in the public interest.

SKILLS

Flexible paradigms and slim course design: initiating a professional approach to learning advocacy skills
M Soanes
5 *Clinical L Rev* 1 1998, pp 179–210

Professional training programs in England seek to prepare students for a lifelong journey of development in the world of practice. Many decisions have to be made about course content and the structure, form and method of the educational program. As part of the planning strategy the course designers have to ask themselves and others fundamental questions about the nature of the legal profession and the role of the lawyer in society.

The answers to two such fundamental questions have influenced the way in which the Inns of Court School of Law (ICSL) chose to teach the Bar Vocational Course (BVC)[1]. First, what does the recently qualified barrister do? Second, what does the student need to learn at this stage to begin the transition from student to professional? In designing a suitable educational program for its students the ICSL has had to address a third fundamental question: how do people learn legal skills?

The professional in the field needs to possess both the 'know how' and the 'do how'. Thus students need to learn substantive and anecdotal law — the 'know how'. But they also require performative and cognitive skills — the 'do how'. 'Do how' includes the intellectual skills of problem solving and decision making, as well as the ability to present the fruits of such labour orally or in a written form.

The aims of the BVC are tailored to realise these qualities in the students. It aspires to initiate the education of the professional. In just nine months students are taught to think, act and behave like a recently qualified barrister. Without doubt these are ambitious goals.

Lying behind the ICSL's advocacy course there is a two-fold didactic program: first, exposure to advocacy tasks as part of a general introduction to the work of the lawyer; second, individual performance to realise behavioural outcomes, which provides students with training or coaching in the sub-skills of advocacy.

After several years of experimentation the advocacy course has been divided into two parts that are distinct but not unrelated. The first term concentrates on the skill of addressing the court, whether in the context of chambers applications or trial speeches. Students receive a lecture on the set of papers that they will use in the tutorial. They are expected to prepare these Practical Training Exercises (PTXs) before attending the class where they will have an opportunity to perform. The second term uses witness handling PTXs both in chief and in cross. In the third term, witness handling continues to dominate with two full trials, one civil and one criminal. Each of the two sections has performance criteria, one for addressing the court and one for each of the types of witness handling.

Thus the ICSL's approach to advocacy education can be characterised as twofold: first, it seeks to introduce students to the tasks that they can expect

1 See Shapland & Sorsby, **Starting practice: work and training at the junior Bar** (digested in 5 *Legal Education Digest* 3 pp 14-15) for the results of a long-term research project designed to evaluate vocational training at the UK Bar.