

practitioner students would be expected to identify, analyse and present solutions to actual legal problems and to participate in the lawyer/client relationship.

It was envisaged that the focus for the establishment of the Centre was student involvement and it was important, therefore, that the operations of the Centre should reflect this aim. Obviously expenses for office administration and casework assistance would be reduced because of the voluntary assistance given by the students.

Currently most of the volunteers are UTS law students, all of whom have undertaken a volunteer training program conducted by an academic member of the professional program staff. These student volunteers undertake initial client interviews and observe the client/solicitor consultations, besides carrying out some administrative and legal research. Those student volunteers studying within the UTS LLB program also have the opportunity to undertake an elective subject, Community Legal Research.

It is claimed that this particular course is unique to UTS. It is designed to illustrate the connections between, and impact of, the operation of law in various communities. The course emphasises and examines the potent impact of certain laws with specific connections, and the important role that legal practitioners can play in engaging in socio-legal debate and law reform.

When the Centre was established, it was envisaged that its principal function would be the provision of free legal services to UTS staff and students. However, it was soon realised that many of the problems about which advice was being sought impacted on the wider community and gave rise to the need for their origins to be investigated. The development of a research infrastructure by the Centre has resulted in a number of research

initiatives, which were unforeseen when the decision was originally made.

The Centre has also developed a profile for active participation in law reform, particularly within the area of criminal justice. This normally takes the form of submissions to various government bodies and joint press conferences with involved community organisations. Another development, which was unforeseen at the time of the Centre's inception, is the way in which the Centre has enhanced the law faculty's research strengths and increased the community's awareness of the university's value and relevance as a service provider.

#### **The five habits: building cross-cultural competence in lawyers**

S Bryant

8 *Clinical L Rev*, 2001, pp 33–111

Many clinical teachers have recognised the importance of teaching diversity issues in the clinic. A number of presentations at Association of American Law Schools (AALS) Clinical Teachers Conferences have been devoted to exploring ways in which diversity can be taught in the clinic and classroom. In deciding how to teach cross-cultural lawyering, clinical teachers need to identify how to integrate it into the overall goals of their clinics and to set specific goals for student competence in this area.

On the micro level, a clinic may teach cross-cultural lawyering to improve representation of clients and to introduce students to cross-cultural theory that they will be able to apply to practice in an ever increasingly diverse legal profession. On the macro level, a clinic may teach cross-cultural perspectives and skills to enable students to help build a more just legal system. Often, the priority given to these micro- and macro- objectives will influence teachers to structure the learning to give greater weight to one goal over the other.

To become good cross-cultural lawyers, students must first become

aware of the significance of culture on themselves.

By teaching students cross-cultural lawyering skills and perspectives, we make the invisible more visible and thus help students understand the reactions that they and the legal system may have towards clients and that clients may have towards them. By teaching the students about the influence of culture on their practice of law, we give them a framework for analysing the changes that have resulted in their thinking and values as a result of their legal education. The law, as well as the legal system within which it operates, is a culture with strong professional norms that gives meaning to and reinforces behaviour. In teaching about the importance of culture to lawyering, we want to avoid reinforcing stereotypes. By using a broad definition of culture, we hope to teach students that no single characteristic will completely define the lawyer's or client's culture.

A starting point for faculty who are designing cross-cultural learning curricula is to ask what students already know and what we want students to learn. Cross-cultural learning takes place in three different spheres: the cognitive, behavioural, and emotional. In planning a class, teachers need to set goals for each of these spheres. The teaching choices to be made to accomplish change in each of these spheres depends in large part on the assessments we make about our students, about our capacity to teach these perspectives and skills, and about the connection of these skills to our vision of good lawyering. In addition, we need an explicit theory about what we mean by cross-cultural lawyering competence and an explicit pedagogical theory about how students can learn to be competent.

There are four guiding principles that express some underlying assumptions about good lawyering and learning: all lawyering is cross cultural; a non-judgmental approach towards yourself and your client promotes

learning and good lawyering; remaining present with the individual client is an essential part of cross-cultural competence; and knowing yourself as a cultural being is an ongoing and necessary process for cross-cultural competence.

In addition to awareness and knowledge, students need analytical and communication skills to allow them to engage in cross-cultural interactions competently. Intercultural communication skills include deep listening skills and capacities to focus on content rather than style, the ability to read verbal and non-verbal behaviour, and the ability to adapt conversation management behaviours and styles.

Cross-cultural analytical skills require capacities to identify assumptions and to make judgments based on facts, rather than stereotypes and bias. Most importantly, non-judgmental thinking is required to develop connection to and understanding of clients. Finally, in addition to identifying the cognitive and skill goals, teachers need to take into account the emotional needs of cross-cultural learners. Students need motivation to learn cross-cultural competence, capacity to live with conflict, and coping skills to manage the stress that comes from intercultural interactions.

How much time should a teacher allocate to the skills and knowledge of cross-cultural competence? Each teacher will answer this question differently depending on the overall goals of that teacher's specific clinic. Cross-cultural trainers are clear that a one-class session may raise awareness of cultural differences, but that true cultural sensitivity can only take place with practice and reflection over time.

In planning a cross-cultural class, a teacher should strive to develop awareness, knowledge, skill and motivation for learning in her students. Habits are a way to gain greater knowledge and awareness as well as develop skills essential to cross-

cultural lawyering. They raise our awareness by causing us to pay attention to the significance of differences and similarities and increase knowledge by gathering culture-specific information.

## CURRICULUM

### **The happy charade: an empirical examination of the third year of law school**

M Gulati, R Sander & R Sockloskie  
51 *J Legal Educ* 2, 2001, pp 235–266

Three decades ago a coalition of academics and practitioners mounted a serious effort to do away with — or at least substantially modify — the third year of law school. The tide swelled for a time, but crested and fell on that immovable rock of opposition — the deans of American law schools. A full three years of legal education it was, and so it would remain.

Yet the rumbles of discontent have never really subsided. Students routinely complain about the vapidness of the final year of law school. Many schools have introduced externships — placing students in real-world, though unpaid, trainee positions — to allow a partial escape from conventional legal education. Most have introduced some measure of clinical education, diversifying the traditional curriculum. And scores of scholars, judges, and practitioners have written withering critiques of law school, usually focusing on the latter half of school and usually suggesting fairly fundamental changes.

The first year almost always focuses on key traditions of common law: torts, property, criminal law and contracts. The second and third years usually do not require but strongly encourage students to study another eight to ten areas of statutory and procedural law: corporations, family law, constitutional law, evidence, criminal procedure, and so on. Without a third year, students would not only

be unable to complete these cornerstone courses; they would be unable to pursue particular subjects of interest through electives.

According to the Official Story, throughout the twentieth century law schools assumed that their mission was to produce attorneys with a broad understanding of the law. Defenders of the status quo can point to many signs that the system is working. Law schools and the legal profession have expanded rapidly over the past forty years; incomes have risen at the higher echelon of the law (and the stagnation or decline at the lower echelons has been relatively invisible); the number of law school applicants has generally risen (and so, consequently has the academic quality of those admitted); law school alumni are giving to their schools more generously than ever before, a pattern which some view as testimony to practitioners' high regard for the schools.

Under the Bleak Story, law school education is excessively theoretical and bears little relation to the real-world practice of law. Students enter law school full of enthusiasm and bright with hopes of bringing about changes in society. As their education proceeds, they are disillusioned by what they are taught in school and inexorably shift their hopes from social ideals toward jobs in the corporate sector. Resigned to working in corporate law firms, they find the prospect of those jobs — money aside — discouraging. The third year of law school is a brief reprieve before the sentence begins.

In the Signal Story, legal education serves a mostly symbolic and sorting function. Because the number of slots in law schools is limited, the requirement that students attend law school caps the potential number of new attorneys. Law schools are ranked, both informally and in the media. The single matter of school prestige is, for most students, the determining factor in choosing among offers of admission. The law school one enters