

Chapter 4 looks at the potential of electronic learning resources to add a new dimension to teaching and assessment and student learning. Paul Maharg and Abdul Paliwala emphasise that the value of these electronic resources is dependant on the pedagogic context in which they are used. Dependence on the stored knowledge of faculty and programmed navigation of the syllabus can be replaced by the relative freedom of resource-based learning, leading to the cultivation of the desired attributes in students of the independent self-directed learner.

The challenge of introducing ethical responsibility into a vocational law program is the theme of chapter 5. Nigel Duncan draws upon examples from the Inns of Court Law School to illustrate how it is possible to embed ethical concerns within the course as a whole without reducing the acquisition of ethical awareness to a sterile and simplistic exercise in the black-and-white application of the rules of professional conduct.

In chapter 6 Andrew Williams appraises the teaching of human rights in the undergraduate law curriculum. He suggests that it is more than a framework for apportioning responsibility or restraining the oppressive exercise of power. Therefore, although there will be a choice to be made whether human rights should occupy a place in the law curriculum as a discrete topic or as a pervasive value system, it also demands a fundamental rethinking of the approach to the teaching of law and the experience of students in the education system. Williams proposes a pedagogy reflecting a human rights ethos and describes his efforts to inculcate this approach into his own law school students.

Addressing a significant dimension to law teaching that is frequently neglected by law schools, Linda Byles and Ruth Soetendorp examine the special issues that arise in teaching law to students from other disciplines. They point out that the expectations,

abilities and purposes of these students are often at odds with those of mainstream law students and offer strategies for developing appropriate syllabus content and teaching and assessment methods.

In chapter 8 Julie Macfarlane draws upon her experience of teaching mediation in Canada to underscore the pervasive impact that the profession's obsession with adversarial dispute resolution has on the nature of the legal education provided to law students.

In the final chapter Abdul Paliwala deals with response to change in legal education, in particular the processes of transformation of relationships between students, academics and institutions, both in physical and virtual spaces and in learning times. He suggests that this transformation is influenced by changes in the ideologies of learning and wider environmental factors, such as 'commodification, globalisation and digitisation'. He concludes that possibilities exist for change that can be either constructive or destructive of educational values and suggests ways in which creative teaching/ learning strategies can protect and promote values in legal education, offering concrete advice to academics involved in the negotiation of change.

The commentary contained in this book will provide valuable food for thought for many legal educators. The editors claim that it will have served its purpose if a few readers are provoked to experiment with the suggestions proposed within its covers. However, they further assert that, if, after reflection, some readers develop their own personal responses and solutions to their own teaching and their students' learning, then its success will be even more significant in their eyes. *Effective learning & teaching in law* is worthy of careful consideration by all thoughtful legal academics who are keen to identify new ways to enhance their own practices.

Editor

LEGAL ETHICS

Teaching legal ethics to first year law students

D Henriss-Anderssen

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Teaching legal ethics in law schools is a subject that has generated renewed interest in recent years. In 2000, the Council of Australian Law Deans endorsed the recommendation of the Australian Law Reform Commission (ALRC), that the development of a deep appreciation of ethical standards and professional responsibility be one of the main aims of university legal education in Australia. There is little discussion by the ALRC in its report as to what is meant by ethical standards and how this deep appreciation of ethical standards and professional responsibility should be taught.

The term 'legal ethics' has for some time been synonymous with the professional rules of conduct governing members of the legal profession. A review of recent published literature reveals a concept of legal ethics that includes the values underpinning the legal system and the role of the lawyer in the legal system, including professional rules and personal values. This definition, while encompassing the rules governing professional behaviour, is both broader and deeper than the traditional definition.

The main arguments for teaching ethics at an undergraduate level can be categorised broadly under four main headings. The first is the promotion of justice, according to which argument, the link between the law, the legal system, the legal profession and justice necessitates the ethical education of lawyers. The second main argument is that law can never be value-free. The third category argues that teaching can never be value-free. The fourth argument focuses on the changing role of the legal profession in society. The general perception of lawyers as self-interested and

otherwise ‘ethically incompetent’, changes in the nature of legal practice, consumer pressure for greater accountability, economic rationalism and competition reform, have all increased the pressure on educators of the legal profession to produce ethical lawyers.

Incorporation of the teaching of legal ethics into the undergraduate law degree requires a consideration of the aims and objectives for ethics teaching. Drawing on the broad definition of legal ethics outlined above, objectives for teaching legal ethics could be designed as follows: cognitive (intellectual); affective (values) and skills.

There are two major methods of teaching ethics. The first is the discrete method where it is taught in one (or more) discrete subject(s) on legal ethics. The second is the pervasive method where ethical teaching is incorporated into substantive law subjects throughout the curriculum. The traditional means of teaching legal ethics has been by way of a single subject, often offered in the final year of university study. This method, while widely accepted, has attracted criticism from advocates of the broader approach to ethics teaching. The criticisms cover a number of grounds, the most common being that the teaching focuses too narrowly on codes of conduct and rules governing behaviour. Another criticism is that it gives students the message that ethics is relatively unimportant. By contrast, teaching legal ethics by the pervasive method means that ethical issues are explored as they arise in substantive law subjects and skills-based subjects, such as mooting and drafting.

If one accepts the broader definition of legal ethics, then the pervasive method of teaching it is ideal. A critical understanding of the values underpinning the legal system, the role of the lawyer in that system, the development of ethical judgment from understanding and developing the

students’ own individual values can only be taught developmentally.

The experience of teaching legal ethics by the pervasive method at the Notre Dame Law School in the United States is described by Link. There the pervasive method is supplemented by three compulsory ethics subjects — a first year legal ethics subject, a jurisprudence subject and a third year applied-ethics subject. The content of the first year subject includes the study of the various roles of the lawyer (principally as protector of justice), explores notions of justice, and introduces ethical theories and practical aspects of ethical decision-making. In this model, in their first year students are introduced to professional conduct rules within the context described above, which is taken up and developed in the later year applied ethics subject.

If legal ethics is taught by the pervasive method, there needs to be some introduction to ethical issues at first year level. Even in the absence of pervasive teaching of ethical issues in later years, the introduction of some of the groundwork for ethical awareness at first year level would be an improvement on the current absence of broader ethical teaching.

Any discussion of the ideal methods of teaching assumes the resources to implement these methods. In the absence of extra resources, however, the integration of ethics teaching into mainstream law subjects can be achieved where teachers are committed to the ideals of ethics teaching. It is in this way that the introductory elements of legal ethics have been incorporated into the redesign of a first year Legal Studies subject at James Cook University, Queensland, Australia.

The first of three modules in the subject consists of an introduction to the role played by the legal institutions, such as the judiciary, the jury system, the legal profession and the courts, within the jurisprudential and constitutional framework of the Australian

legal system. The second module examines the impact of the Australian legal system and law on cross-sections of the Australian community. The content of this module addresses the cognitive objectives of understanding the role of law in society, knowledge of concepts of justice, and understanding the relationship between the legal system and justice. The third and final module introduces a range of philosophical perspectives on the law. It begins with a study of Liberalism and then outlines Critical Legal Studies and Feminist Legal Theory. This component is introduced at the end of the course, so that the students are less likely to be disconcerted or threatened by the theoretical material. By the time the theories are introduced, the students have already become familiar with the process of critique in the less theoretical content of the first two modules.

The legal ethics instruction in the Legal Studies subject is directed primarily at the cognitive and affective objectives. Occasionally the skills objective of recognition of ethical dilemmas is targeted. The ultimate ethical objective, the ability to exercise ethical judgment, can only be achieved after many of the cognitive and affective objectives have been developed. To the extent that it can be measured, the assessment and feedback from students indicates that this has been achieved.

The meaning of ethical standards and professional responsibility is more than the mere study of professional rules of conduct. It involves the critical study of the values underpinning the legal system and the role of the lawyer in that system. It includes professional rules and personal values, and the ability to exercise ethical judgment. This can only be taught developmentally, and should ideally be introduced at first year level.