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21ST CENTURY CLIMATE FOR CHANGE: CURRICULUM DESIGN FOR QUALITY LEARNING ENGAGEMENT IN LAW*

SALLY KIFT**

I INTRODUCTION

[T]here is a great deal of evidence about what constitutes good teaching in higher education. Almost every aspect of that evidence is at odds with the traditional model of legal education.¹

The 2008 Australasian Law Teachers Association (ALTA) conference theme, ‘The Law, the Environment, Indigenous Peoples: Climate for Change?’, provided focused food for contemporary pedagogical thought about the purpose and effect of the 21st century law degree (and our concomitant role as legal educators) by forcing a consideration of legal education’s ‘climate change’ challenges. This article attempts to identify and address those challenges and suggests that a truly integrative approach to law curriculum renewal may deliver a viable way forward in a time of dynamic change for both the legal and higher education sectors. In so doing, it suggests that arguments for an integrative approach have much in common with those advanced on behalf of liberal legal education, particularly the latter’s emphasis on transformative pedagogy, the inculcation of ethical values in preparation for a lifetime of personal and professional citizenship, and a genuine commitment to developing robust intellectual capacities that extend beyond mere technical knowledge and narrow vocational training.

* This paper was presented as a keynote address in July 2008 at the Australasian Law Teachers Association (ALTA) Conference 2008, James Cook University, Australia, and draws on an earlier paper presented as a keynote address in January 2008 at the Learning in the Law Annual Conference, University of Warwick, United Kingdom. Support for the earlier presentation was provided by the United Kingdom Centre for Legal Education (UKCLE) and support for the ALTA presentation and this paper has been provided by the Australian Learning and Teaching Council (ALTC), an initiative of the Commonwealth Department of Education, Employment and Workplace Relations. The views expressed in this publication do not necessarily reflect the views of ALTC.

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¹ Mary Keyes and Richard Johnstone, ‘Changing Legal Education: Rhetoric, Reality, and Prospects for the Future’ (2004) 26 *Sydney Law Review* 537, 547.

Part II provides an environmental scan of legal education internationally, before proceeding to consider the challenges inherent in educating our graduates to take their place, personally and professionally, as global citizens in 21st century legal practice. In Part III, some ideas are offered as to how we might go about curriculum redesign to support new learners in the discipline and to meet the imperatives of teaching, learning and assessing for the new learning objectives that need to be embraced.

II ENVIRONMENTAL SCAN — WHY ARE WE (STILL) TALKING ABOUT LAW CURRICULUM RENEWAL?

Recent decades have witnessed dynamic change in the working environment of 21st century lawyers: legal practice has been transformed by external drivers such as globalisation, competitiveness and competition reform, information and communications technology, and by a determined move away from the adversarial system as the primary dispute resolution method. Similarly, the higher education sector has been subjected to relentless change from a range of (remarkably comparable) external drivers, and particularly by the demand that our students now graduate with a profile of knowledge, skills and attitudes that include, but go beyond, the disciplinary expertise or technical knowledge that traditionally formed the core of most university courses. The latter has been driven by the imperative to prepare our students more effectively for the changing, challenging and diverse globalised work environments into which they will enter as professionals and citizens.²

While the practice of law and the context of higher education have changed radically, curriculum renewal in legal education still struggles to keep pace. Legal educators face significant conceptual challenges in meeting persistent demands for curriculum innovation within new quality assurance frameworks. Further, at a time when higher education has renewed its focus on learning and teaching professionalism and the quality of the student experience, the current fraught reality for all — academics and students alike — is that we need to be more effective and efficient in our daily practices and educational engagements.³

² See, eg, Sally Kift, 'For Better or For Worse?: 21st Century Legal Education' (Paper presented at LAWASIA Downunder 2005, Gold Coast, March 2005) <<http://eprints.qut.edu.au/archive/00007439/>> at 8 December 2008; Sally Kift, 'A Tale of Two Sectors: Dynamic Curriculum Change for a Dynamically Changing Profession' (Paper presented at 13th Commonwealth Law Conference 2003, Melbourne, March 2003) <<http://eprints.qut.edu.au/archive/00007468/>> at 8 December 2008.

³ Rachael Field and Sally Kift, 'Learning on the Move: Reconciling the Needs of Students and Academics in the Fast Lane of Tertiary Education in 2006' (Paper presented at Online Learning and Teaching Conference 2006: Learning on the Move, Brisbane, September 2006) <https://olt.qut.edu.au/udf/OLTCONFERENCEPAPERS/gen/static/papers/Field_OLT2006_paper.pdf>

Two particular points are worth immediately highlighting in this context: the changing nature of student engagement and the liberal ideal of education for lifelong learning.

The changing patterns of student engagement or, perhaps more accurately, the effects of widening participation and the potential for student *disengagement*, have been subjected to considerable sector-wide investigation and reflection. Much international research has been conducted around (what is generically termed) the ‘first year experience’ (FYE) of commencing undergraduate students and the reasons behind instances of higher education non-completion.⁴ Most recently, in the United Kingdom, Mantz Yorke and Bernard Longden,⁵ reporting for the Higher Education Academy (HEA), found that, while a number of issues affecting student engagement and retention remain outside our institutional control, major factors are discernible as:

- the quality and organisation of teaching;
- program difficulty and students’ lack of preparedness to cope with it;
- poor choice of program, including lack of vocational relevance (specifically, it was found that 40 per cent of students who had little or no prior knowledge of their program considered withdrawal, whereas only 25 per cent of their better informed peers did so); and
- student worry over financing of their studies. Particularly, [p]edagogy is an area of the student experience that is likely to become more salient in terms of student satisfaction (and the consequences of its absence), given an increased appreciation by students of the costs of their higher education.⁶

Yorke and Longden found broad similarities between the United Kingdom experience and the FYE of Australian students. The most recent Australian FYE data suggests that students will consider withdrawing because of a ‘complex interrelationship between course

at 8 December 2008; Sally Kift, ‘My Law School — Then and Now’ (2005–2006) 9 *Newcastle Law Review* 1.

⁴ See, eg, Sally Kift, ‘Organising First Year Engagement Around Learning: Formal and Informal Curriculum Intervention’ (Paper presented at Eighth International First Year in Higher Education Conference, Melbourne, July 2004) 4 <http://www.fyhe.qut.edu.au/past_papers/Papers04/Sally%20Kift_paper.doc> at 8 December 2008.

⁵ Mantz Yorke and Bernard Longden, *The First-year Experience in Higher Education in the UK: Report on Phase 1 of a Project Funded by the Higher Education Academy* (2007) Higher Education Academy <<http://www.heacademy.ac.uk/assets/York/documents/ourwork/research/FYE/FirstYearExperienceRevised.pdf>> at 8 December 2008; Mantz Yorke and Bernard Longden, *The First-year Experience of Higher Education in the UK: Final Report* (2008) Higher Education Academy <<http://www.heacademy.ac.uk/assets/York/documents/resources/publications/FYEFinalReport.pdf>> at 8 December 2008; see also Mantz Yorke, *Leaving Early: Undergraduate Non-completion in Higher Education* (1999).

⁶ Yorke and Longden, *Report on Phase 1*, above n 5, 43.

dissatisfaction, course preference, limited engagement, and student perceptions of academic staff and of the quality of teaching'.⁷ A 2007 Australian study on student finances has further identified that:

During 2006, many Australian university students reported they were in stressful financial situations and many found it difficult to support themselves week-to-week. A large proportion of students reported they lacked adequate financial support and many were highly anxious about 'making ends meet' and the debts they were accumulating.⁸

These research findings raise issues of concern for current pedagogical practice, whatever the discipline of study.

Further, today's students, who pay for their higher education and are 'highly anxious about ... the debts they are accumulating', will routinely go through several changes of career in their working lives, while research has consistently shown that only 50 to 60 per cent of law graduates will remain in longer term legal practice.⁹ As long as a decade ago, Sumitra Vignaendra¹⁰ identified that the most frequently used skills by law graduates in any type of law-related employment were those of communication (both oral and written), time management, document management and computer skills. Legally specific skills, while important to private professional practice, were not the most frequently used.

If law schools are to produce globally portable citizens, able to engage effectively with knowledge generation and management in increasingly diverse and globalised workplaces, then their curriculum design and pedagogy must intentionally equip graduates with the knowledge, skills and attitudes required to self-manage learning for an unknowable future. To prepare them morally for endemic complexity and ambiguity, in accord with the goals of a liberal curriculum, students also require assistance to appreciate that their 'actions are politically and ethically charged'¹¹ and that their

⁷ Kerri-Lee Krause, Robyn Hartley, Richard James and Craig McInnis, *The First Year Experience in Australian Universities: Findings From a Decade of National Studies* (2005) Centre for the Study of Higher Education, 64 <<http://www.cshe.unimelb.edu.au/pdfs/FYEReport05KLLK.pdf>> at 8 December 2008.

⁸ Richard James, Emmaline Bexley, Marcia Devlin and Simon Marginson, *Australian University Student Finances 2006: Final Report of a National Survey of Students in Public Universities* (2007) Centre for the Study of Higher Education, 1 <<http://www.cshe.unimelb.edu.au/pdfs/StudentFinances2006Final%20.pdf>> at 8 December 2008.

⁹ See, eg, *Scottish Legal Education in the Twenty-First Century: A Report to the Joint Standing Committee on Legal Education in Scotland* (April 2000) [4] as cited in The Steering Committee on the Review of Legal Education and Training in Hong Kong, *Legal Education and Training in Hong Kong: Preliminary Review* (2001) 27 ('*Hong Kong Report*'); Maria Karras and Christopher Roper, *The Career Destination of Australian Law Graduates* (2000): 58 per cent of those who completed their legal education in 1997 in Australia were still working in private legal practice three years later.

¹⁰ Sumitra Vignaendra, *Australian Law Graduates' Career Destinations* (1998) 39.

¹¹ Anthony Bradney, *Conversations, Choices and Chances: The Liberal Law School in the Twenty-First Century* (2003) 43.

formation as educated citizens carries with it a social responsibility to the public good. The imperative to identify and inculcate ethical values and attitudes in core curriculum, which has been explored more recently in liberal education scholarship (and is discussed in detail below), is assuming critical status in modern legal education.¹²

A further impetus to reconsider the validity of any heavy doctrinal emphasis in law curricula is the inexorable push, coming variously from government, employers, professional associations, students and, in Australia, from universities themselves, to equip students with 'graduate attributes'. Graduate attributes have been defined as 'the qualities, skills and understandings a university community expects its students to develop during their time at the institution and, consequently, shape the contribution they are able to make to their profession and *as a citizen*' [emphasis added].¹³ This broad definition answers any possible accusation that embedding graduate attributes in the core curriculum has the potential to be anti-intellectual or narrowly vocational. Even Anthony Bradney's comprehensive theory of a liberal legal education accepts that universities must prepare graduates for employment, *providing* there is a concomitant focus on how graduates 'would be better citizens or better persons'.¹⁴

In the decade since the *West Review* in Australia in 1998,¹⁵ almost every Australian university has defined these attributes and sought to integrate them into core curriculum in various ways.¹⁶ In the Australian context, it has recently been observed that:

An analysis of graduate attributes from a significant number of universities shows that employability skills ... may reasonably be seen as a subset of graduate attributes. Therefore graduate attributes provide an appropriate starting point from which to further explore any future work on employability skills ... Some employers believe that universities are providing students with a strong knowledge base but without the ability to intelligently apply that knowledge in the work setting. This is backed up by international research.¹⁷

¹² Ibid 54–56.

¹³ John Bowden, Gail Hart, Bruce King, Keith Trigwell and Owen Watts, *Generic Capabilities of ATN University Graduates* (2000) Centre for Learning and Teaching <<http://www.clt.uts.edu.au/ATN.grad.cap.project.index.html>> at 8 December 2008.

¹⁴ Bradney, above n 11, 66.

¹⁵ Higher Education Financing and Policy Reviewing Committee, Department of Education, Science, Training and Youth Affairs, *Learning for Life: Review of Higher Education Financing and Policy* (1998) (the 'West Review').

¹⁶ The author's own university's statement of graduate attributes may be found at: Queensland University of Technology, *Manual of Policies and Procedures*, C/1.4 Graduate Capabilities <http://www.mopp.qut.edu.au/C/C_01_04.jsp> at 8 December 2008.

¹⁷ Precision Consultancy, *Graduate Employability Skills* (2007) 2 <http://www.dest.gov.au/sectors/higher_education/publications_resources/profiles/graduate_employability_skills.htm> at 8 December 2008.

The push for higher education institutions to play their part in the development of students' employability skills in a liberal educational continuum of lifelong learning is not only relentless, as the recent *Leitch Review of Skills*¹⁸ makes clear in the United Kingdom, but is also indisputably valid in terms of defensible pedagogy (for example, by embracing active versus passive learning, harnessing authenticity, and in its accommodation of diverse learning styles). Effective integration of skills and attitudes into learning and teaching design delivers higher quality learning outcomes for students (by explicitly equipping them with the intellectual rigour to use their technical knowledge to do what the modern workplace demands of them). It further secures a robust foundation for future careers and citizenship in the knowledge economy, where graduates will be continually challenged to learn and engage with new ideas that extend beyond the content of their university courses.

One of the striking aspects of this discourse is the degree of consensus expressed, and similarity of language used, to identify present and future skill requirements. While the most recent examination, the United Kingdom *Leitch Review of Skills*, chose not to settle on a specific skill set, there are many conceptualisations available from which to choose. For example, the United States Partnership for 21st Century Skills asserts that workers need 'critical thinking, problem solving, team work and decision-making skills'.¹⁹ The Australian Chamber of Commerce and Industry and the Business Council of Australia have developed an 'Employability Skills Framework', identifying eight employability skills — communication, teamwork, problem-solving, self-management, planning and organising, technology, lifelong learning, and initiative and enterprise.²⁰ As mentioned above, most Australian universities have adopted statements of graduate attributes that largely replicate these lists with conspicuous conformity. Such institutional statements have forced discipline action around their contextual articulation and embedding, though usually in conjunction with other desirable curriculum perspectives such as Indigenisation, internationalisation

¹⁸ *Leitch Review of Skills, Prosperity For All in the Global Economy — World Class Skill* (2006) HM Treasury <http://www.hm-treasury.gov.uk/d/leitch_finalreport051206.pdf> at 8 December 2008.

¹⁹ United States Partnership for 21st Century Skills, *Learning for the 21st Century — A Report and Mile Guide for 21st Century Skills* (2002) 12 <http://www.21stcenturyskills.org/index.php?option=com_content&task=view&id=29&Itemid=42> at 8 December 2008.

²⁰ See Precision Consultancy, above n 17, 2. See also Christopher Ryan and Louise Watson, *Skills at Work: Lifelong Learning and Changes in the Labour Market*, EIP 03/14 (2003) <http://www.dest.gov.au/NR/rdonlyres/E6CB3542-84AA-4186-BB0F-D2861ECB60DA/806/03_14.pdf> at 8 December 2008; Evaluation and Investigations Programme, Department of Education, Training and Youth Affairs (EIP, DETYA), *Employer Satisfaction With Graduate Skills: Research Report* (2000) 99–7 <<http://www.dest.gov.au/highered/eippubs1999.htm>> at 8 December 2008.

and work-integrated learning. If these skills sets sound strangely familiar to United Kingdom legal educators, it may be because they are also largely replicated in the *Benchmark Statement for Law*, the current consultation draft of which refers to ‘subject-specific abilities’ (of knowledge, application and problem-solving, and sources and research), ‘general transferable intellectual skills’ (of analysis, synthesis, critical judgement and evaluation, and autonomy and ability to learn), and ‘key skills’ (of communication and literacy, numeracy, information technology and teamwork).²¹ The United Kingdom *Law Student Employability Profile Template* further extrapolates these generic employability competencies.²²

Against this background, the question must be asked whether legal education has kept pace with the climate that has changed so dynamically around it — the constitution and engagement of student cohorts, the globalised world of work and the growth of the knowledge economy, and movements in higher education thinking and practice.

It should be noted that there has been no shortage of advice and examination of these issues in the legal context. From as early as the 1970s, a plethora of reports has been produced across

²¹ Quality Assurance Agency for Higher Education, *Subject Benchmark Statements: Law Draft for Consultation* (August 2006) <<http://www.qaa.ac.uk/academicinfrastructure/benchmark/statements/drafts/lawdraft06.asp#p1>> at 8 December 2008.

²² The Quality Assurance Agency for Higher Education, *Student Employability Profile Template — Law Generic Employability Competencies* <http://www.heacademy.ac.uk/assets/York/documents/ourwork/tla/employability_enterprise/web0356_employability_profile_template_law.doc> at 8 December 2008.

²³ See most recently, William Sullivan, Anne Colby, Judith Wegner, Lloyd Bond and Lee Shulman, *Educating Lawyers: Preparation of the Profession of Law* (2007) (*the ‘Carnegie Report’*); Roy Stuckey and Others, *Best Practices for Legal Education: A Vision and A Road Map* (2007) Clinical Legal Education Association (CLEA) <<http://www.cleaweb.org/resources/bp.html>> at 8 December 2008. But see Paul D Carrington, *Training for the Public Professions of the Law* in Herbert Packer and Thomas Ehrlich, *New Directions in Legal Education* (1972) Appendix A: *Carrington Report* (1971); American Bar Association, Section on Legal Education and Admissions to the Bar, *Lawyer Competency: The Role of the Law Schools. Report and Recommendations of the Task Force on Lawyer Competency* (1979) (*‘Cramton Report on Lawyer Competency’*); American Bar Association, *Law Schools and Professional Education: Report and Recommendations of the Special Committee for a Study of Legal Education of the American Bar Association* (1980) (*‘Foulis Report on Legal Education’*); American Bar Association, Section on Legal Education and Admissions to the Bar, *Legal Education and Professional Development — An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap* (1992) (*‘MacCrate Report’*); American Bar Association, Section on Legal Education and Admissions to the Bar, *Teaching and Learning Professionalism: Report of the Professionalism Committee* (1996) (*‘American Bar Association Report on Teaching and Learning Professionalism’*).

²⁴ Committee on Legal Education, *Report of the Committee on Legal Education, Cmnd 4595* (1971) (*‘Ormrod Report’*); General Council of the Bar and The Law Society, *Report of the Committee on the Future of the Legal Profession, a Time for Change* (1988) (*‘Maree Committee’*); Royal Commission on Legal Service, *Final*

many jurisdictions (for example, the United States,²³ England,²⁴ Australia,²⁵ Scotland,²⁶ Canada,²⁷ Hong Kong²⁸), most of which have exhorted a reorientation of the traditional approaches to legal education, essentially *from* a content focus and *towards* skills and values acquisition and training. With the exception of some interesting developments in the area of transnational legal curricula,²⁹ by and large the international academy has paid scant regard to this building clamour for curriculum transformation (though the Australian response has probably been the most positive). As a result, the more recent analyses have started to criticise the academy's reluctance to embrace change. In particular, two 2007 reports out of the United States — one by the Carnegie Foundation for the Advancement of Teaching, in its professional education series, entitled *Educating Lawyers: Preparation for the Profession of Law* (the 'Carnegie Report')³⁰ and the other by the United States Clinical Legal Education Association entitled *Best Practices for Legal Education: A Vision and a Road Map* (the *Best Practices Report*)³¹ — have focused a great deal of international attention on desirable approaches to curriculum and course design in legal education, particularly in the United States

Report, Cmnd 7648 (1979) ('Benson Report'); The Lord Chancellor's Advisory Committee on Legal Education and Conduct (ACLEC), *First Report on Legal Education and Training* (1996) ('ACLEC Report').

²⁵ Dennis Pearce, Enid Campbell and Don Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (1987) ('Pearce Report'); Craig McInnis and Simon Marginson, *Australian Law Schools After the 1987 Pearce Report* (1994) ('McInnis and Marginson'); Australian Law Reform Commission, *Managing Justice: A Review of the Federal Civil Justice System* (2000) Report No 89; Richard Johnstone and Sumitra Vignaendra, *Learning Outcomes and Curriculum Development in Law: A Report Commissioned by the Australian Universities Teaching Committee (AUTC)* (2003) <<http://admin.carrickinstitute.edu.au/dspace/handle/10096/3492>> at 8 December 2008. See also Australian Law Reform Commission, *Review of the Adversarial System of Litigation: Rethinking Legal Education and Training*, Issues Paper No 21 (1997); Australian Law Reform Commission, *Review of the Federal Civil Justice System*, Discussion Paper No 62 (1999).

²⁶ *Scottish Legal Education in the Twenty-First Century: A Report to the Joint Standing Committee on Legal Education in Scotland* (2000).

²⁷ Consultative Group on Research and Education in Law, *Law and Learning: Report to the Social Sciences and Humanities Research Council of Canada* (1983); Canadian Bar Association Systems of Civil Justice Task Force, *Final Report* (1996); see also Committee Responding to Recommendation 49 of the Systems of Civil Justice Task Force Report *Attitudes-Skills-Knowledge: Proposals for Legal Education to Assist in Implementing a Multi-option Civil Justice System in the 21st Century*, Discussion Paper (1999).

²⁸ *Hong Kong Report*, above n 9.

²⁹ See, eg, Association of American Law Schools (AALS) Conference, *Educating Lawyers for Translational Challenges* (2004) <<http://www.aals.org/international2004/>> at 8 December 2008; Commonwealth Legal Education Association, *Islamic Law Curriculum Development Project* <<https://olt.qut.edu.au/law/clea/gen/index.cfm?fa=displayPage&rNum=3385809>> at 8 December 2008: regarding modelling curricula and courses on transnational crime and Islamic law.

³⁰ Sullivan et al, above n 23.

³¹ Stuckey et al, above n 23.

context, but with an accompanying analysis that is easily transferable to other jurisdictions. Finally, a number of reviews are current even at the time of writing,³² perhaps most significantly in the Australian context, the Council of Australian Law Deans' (CALD) initiative around the setting of Law School Standards for quality assurance and benchmarking purposes, and the associated formation of a Law Schools Standards Committee.³³

The tenor of these 20-something reports into legal education across the decades is remarkably consistent. In 2000, the Australian Law Reform Commission (ALRC) described the 'dynamically changing working environment of Australian lawyers ... [and] was critical of the relative stasis in legal education, which appeared frozen in time'.³⁴ Echoing liberal legal education scholarship, the 2007 US *Carnegie Report* found that

today's law school experience is severely unbalanced. The difficulty ... lies in the relentless focus ... on the procedural and formal qualities of legal thinking. This focus is sometimes to the deliberate exclusion of the moral and social dimensions and often abstracted from the fuller contexts of actual legal practice.³⁵

³² For example, in Australia: Australian Learning and Teaching Council (ALTC) funded Council of Australian Law Deans (CALD) *Learning and Teaching in the Discipline of Law: Achieving and Sustaining Excellence in a Changed and Changing Environment* (2006 pilot project); see general description in ALTC (previously the Carrick Institute), *Discipline Based Initiatives: 2007 Report* <http://carrickinstitute.edu.au/carrick/webdav/site/carricksite/users/siteadmin/public/dbi_report_2007.pdf> at 8 December 2008. In Scotland: Law Society of Scotland, *The Way Forward: A Consultation on the Future of Legal Education and Training for Solicitors in Scotland* <<http://www.lawsocot.org.uk/training/consult/>> at 8 December 2008. In Britain: *Subject Benchmark Statements, Law: Draft for Consultation, August 2006* <<http://www.qaa.ac.uk/academicinfrastructure/benchmark/statements/drafts/lawdraft06.asp>> at 8 December 2008; The Law Society (UK), *Legal Practice Course — Proposals for Changes* <<http://www.lawsociety.org.uk/secure/meeting/168790/168790.doc>> at 8 December 2008. In the United States: American Bar Association Section of Legal Education and Admissions to the Bar, *Interim Report of the Outcome Measures Committee* (2008) <<http://www.abanet.org/legaled/committees/OutcomeMeasures.doc>> at 8 December 2008.

³³ Michael Coper, 'Council of Australian Law Deans: From the Chair...' (2008) Summer Edition *ALTA Newsletter* 32, 33–34: 'The standards will cover not only the traditional issues of curriculum and pedagogy but also much broader matters such as physical and human resources, strategic directions, governance arrangements, and quality assurance processes ... The CALD standards project is much broader than, but is connected to, the issue of how law schools are accredited in Australia.'; Michael Pelly, 'Law Schools Set Standards to Raise Legal Bar', *The Australian* (Sydney), 18 July 2008 <<http://www.theaustralian.news.com.au/story/0,25197,24037847-17044,00.html>> at 8 December 2008.

³⁴ David Weisbrot, 'What Lawyers Need To Know, What Lawyers Need To Be Able To Do: An Australian Experience' (Paper presented at *Erasing Lines: Integrating the Law School Curriculum*, Minneapolis, 26–28 July 2001) 15, citing *ALRC Report No 89*, above n 25 <<http://www.alrc.gov.au/events/speeches/DW/20010727.htm>> at 8 December 2008.

³⁵ Sullivan et al, above n 23, 145.

The premise on which the Law Society of Scotland's current review is proceeding is that

[t]he structure of education for professional legal practice has changed and developed markedly over the past 30 years (including the introduction of the Diploma and of mandatory CPD). However the Society has been conscious for some time that a radical consideration of the principles which underlie that area has not recently been undertaken.³⁶

Broad, recurrent themes evident in the discipline reviews of law include:

- Emphasising that what lawyers need to do is at least as important as what lawyers need to know — a rebalancing from traditional content focus to skills and values acquisition — and that legal education should be underpinned by a pervasive approach to legal professionalism that facilitates, inter alia, reflection on 'the values of the [legal] culture';³⁷
- Discussion of whether there should be a more focused core to the law degree;
- Recognition of the effects of changing patterns of student engagement and the diversity of commencing cohorts;
- Reference to deeper understandings of the nature of student learning and the facilitation of active learning, which have demanded a more professional approach to university teaching;
- Exhortation of the need for a greater emphasis on assessment 'for' and 'as' (compared with 'of') learning;
- Recognition of the impact of internationalisation and globalisation on legal education;
- Encouragement towards a more liberal education that embeds contextual, interdisciplinary and theoretical approaches in core curriculum;
- Acknowledgement of attempts to harness technology, but an urging of more sophisticated approaches in this regard;
- Concern at the absence of curriculum approaches designed to inculcate professionalism and an ethical stance;
- Alarm at the widening disjunct between the academy and practice and calls for their re-integration; and
- Concern at the lack of attention paid to the continuum of legal education and its staged articulation — from law school, through the Legal Practice Course (LPC), and into Continuing Legal Education (CLE) — as a lifelong and life-wide process. This last theme has particular implications for how the recent push for work-integrated learning should be conceptualised in Australian legal education.³⁸

³⁶ Law Society of Scotland, above n 32.

³⁷ Anthony Bradney, 'Liberalising Legal Education' in Fiona Cownie (ed), *The Law School — Global Issues, Local Questions* (1999) 18.

³⁸ Sally Kift, 'Australian Academy of Law Launch' (Paper presented at Symposium 2007: Fragmentation or Consolidation? Fostering a Coherent Professional Identity

A constant refrain, hinted at in many of the above, is the perpetually uneasy relationship between the study and the practice of law: at one level, the aspirational balance to be struck between a liberal education and the knowing, the doing, and the practice — between the academic and the vocational — and, at another, more practical, level, how the ‘contexts of actual legal practice’ might more efficaciously be enacted in contemporary curriculum design. As early as 1971, the English Ormrod Committee called for a ‘desirable mix of university and apprenticeship elements in legal education’.³⁹ In 2008, in the face of decades of international reviews calling for the adoption of a more integrative strategy for legal education,⁴⁰ the majority in the common law academy have persisted in obfuscating on this front. Too many schools rest easy with the status quo and have declined to embark on an informed and principled reconsideration of the law degree’s program objectives, its contemporary role in the formation of professional identity, and how it prepares students for global citizenship and the modern world of work.

An interesting recent attempt to engage seriously with this challenge may be seen in the Law Society of Scotland’s current work:

The debate on the purpose of the law degree — general ‘liberal arts’ degree preparing for a variety of careers, or vocational course as part of a lawyer’s training — is likely to continue to run. We believe that it is possible to combine academic excellence with an outstanding preparation for practice. The Education and Training Committee favours more emphasis on a comparative dimension in the teaching and assessment of law, firmly rooting the Scottish position within the UK/EU/international law setting. We also believe that greater integration of the strands of law is desirable, relating the teaching more closely to how a client problem may present in a real life situation. The committee supports a more focused core to legal education, a core that will act as building blocks, with less focus on individual subjects and more emphasis on, for example, areas of law which pervade a range of practice.⁴¹

This notion of a truly integrative approach is inviting, but can it work in practice? The next part addresses this question and examines the possibilities for the 21st century law curriculum.

for Lawyers, Brisbane, 17 July 2007) 5 <<http://www.academyoflaw.org.au/events/skift.pdf>> at 8 December 2008.

³⁹ *Ormrod Report* (1971), above n 24, [100].

⁴⁰ See most recently, Sullivan et al, above n 23, 191.

⁴¹ Liz Campbell, Neil Stevenson and Christine McLintock, ‘Vision 20:20’ (2007) June *The Journal* 26 <<http://www.journalonline.co.uk/Magazine/52-6/1004243.aspx>> at 8 December 2008.

III INTEGRATION OR DISINTEGRATION IN A CHANGING CLIMATE

Most law schools give only casual attention to teaching students how to use legal thinking in the complexity of actual law practice. Unlike other professional education, most notably medical school, legal education typically pays relatively little attention to direct training in professional practice. The result is to prolong and reinforce the habits of thinking like a student rather than an apprentice practitioner.⁴²

Picking up on the ALTA 2008 conference theme of ‘Climate for Change?’, there can be little argument that, as legal educators, we now find ourselves in a ‘climate of readiness for change’⁴³ — a veritable ‘perfect storm’, it might be suggested. This part proposes and examines five key challenges for 21st century curriculum development in legal education, namely:

1. Articulation of the purpose of the modern law degree and the contribution it might then make to educating graduates as citizens and for the 21st century workforce;
2. Intentional law curriculum design — the role of whole-of-program curriculum mapping and the harnessing of integrative curriculum approaches;
3. Transformative learning, teaching and assessment approaches in law — an integrative pedagogy;
4. Enhancing the student experience to facilitate student engagement; and
5. The necessity to inculcate pervasive professionalism and an ethical stance throughout the law degree.

These key challenges are considered in turn below.

A The Purpose of the 21st Century Law Degree

Across the otherwise disparate-seeming educational experiences of seminary, medical school, nursing school, engineering school and law school, we identified a common goal: professional education aims to initiate novice practitioners to think, to perform, and to conduct themselves (that is, to act morally and ethically) like professionals.⁴⁴

As suggested above, and as recently articulated by the Law Society of Scotland, the debate around the purpose of the law degree does not have to be an either/or dichotomy between unswerving

⁴² Sullivan et al, above n 23, 188.

⁴³ Deborah Southwell, Deanne Gannaway, Janice Orrell, Denise Chalmers and Catherine Abraham, *Strategies For Effective Dissemination of Project Outcomes* (2005) The University of Queensland and Flinders University for the Carrick Institute for Learning and Teaching in Higher Education <http://www.altc.edu.au/carrick/webdav/site/carricksite/users/siteadmin/public/dissemination_uqandflinders_strategieseffectivedissemination_2005.pdf> at 8 December 2008.

⁴⁴ Sullivan et al, above n 23, 22.

allegiance to *either* professional preparation *or* liberal academic education. It is entirely possible to ‘combine academic excellence with an outstanding preparation for practice’ by adopting a truly integrative approach to law curriculum design. The 2007 United States *Carnegie Report* provides considerable guidance in this regard and suggests that any professional education involves six tasks:⁴⁵

1. Developing in students fundamental knowledge and skills, especially an academic knowledge base and research;
2. Providing students with the capacity to engage in complex practice;
3. Enabling students to learn to make judgements under conditions of uncertainty;
4. Teaching students how to learn from experience;
5. Introducing students to the disciplines of creating and participating in a responsible and effective professional community; and
6. Forming students able and willing to join an enterprise of public service.

Since the late 1990s and pre-dating *Carnegie*, the curriculum commitment of this author’s law school, Queensland University of Technology (QUT), and now that of most other law schools in Australia, has been to the intentional integration and incremental sequencing of knowledge, skills and attitudes (including professionalism) for progressive development and acquisition over the course of the degree program.⁴⁶ In the main, this has been achieved through embracing holistic curriculum design approaches and by way of a calculated ‘letting go’ of the traditional adherence to an exclusively discipline-content focus.⁴⁷ In 2003, Richard Johnstone and Sumitra Vignaendra usefully catalogued many of these efforts in the Australian context.⁴⁸ More recently, a UK project being run out of the University of Edinburgh — *Enhancing Teaching-Learning Environments in Undergraduate Courses*⁴⁹ — provides an alternate basis for conceptualising this type of curriculum integration by

⁴⁵ Ibid.

⁴⁶ Sally Kift, ‘Integrating the Knowing, the Doing and the Practice: An Early Australian Case Study of Curriculum Renewal’ (Paper presented at International Conference on the Future of Legal Education, Atlanta, USA, 20–23 February 2008) <<http://law.gsu.edu/FutureOfLegalEducationConference/Papers/Kift-SS.pdf>> at 8 December 2008. Bond University Law School was another early leader in this work: see Weisbrot, above n 34.

⁴⁷ Johnstone and Vignaendra, above n 25, 134–161. For a more detailed description of this approach, see Sally Kift, ‘Harnessing Assessment and Feedback to Assure Quality Outcomes For Graduate Capability Development: A Legal Education Case Study’ (Paper presented at Australian Association for Research in Education (AARE) Conference, Brisbane, 2002) <<http://www.aare.edu.au/02pap/kif02151.htm>> at 8 December 2008.

⁴⁸ Johnstone and Vignaendra, above n 25, 134–161.

⁴⁹ ETL Project, *Enhancing Teaching-Learning Environments in Undergraduate Courses*, University of Edinburgh Centre for Teaching, Learning and Assessment <<http://www.tla.ed.ac.uk/etl/project.html>> at 8 December 2008.

suggesting a discipline concentration on ‘threshold concepts’⁵⁰ that often prove to be ‘troublesome knowledge’ for undergraduate students; that is, ‘knowledge that is conceptually difficult, counter-intuitive or ‘alien’.⁵¹ A further approach is that now suggested by the Law Society of Scotland in its support for a ‘more focused core to legal education, a core that will act as building blocks, with less focus on individual subjects and more emphasis on, for example, areas of law which pervade a range of practice’.⁵²

In these various ways, the law curriculum might be reconceptualised as a broad-based liberal (legal) education that will prepare students for the 21st century workplace and practice, and as ‘intellectually and morally responsible citizens’.⁵³ Such curriculum approaches move beyond limiting and artificial dichotomies that set up the theory (knowing) as irreconcilable with the practice (doing), that posit abstract doctrine as superior to the practical skills necessary to deploy that knowledge effectively, and that are premised on the belief that an understanding of professional responsibility can somehow be divorced from professional experience. Integrative curriculum approaches suggest that when we claim to inculcate our students with the cognitive habits of ‘thinking like a lawyer’, such an outcome is not to the exclusion of ‘thinking like a lawyer in practice settings’⁵⁴ nor alien to a concomitant interrogation of what it is to assume the lawyering role and deploy lawyering capabilities responsibly. As the ALRC stated in 2000,

it is important to make clear that, properly conceived and executed, professional skills training should not be a narrow technical or vocational exercise. Rather, it should be fully informed by theory, devoted to the refinement of the high order intellectual skills of students, and calculated to inculcate a sense of ethical propriety, and professional and social responsibility. The Commission agrees with the view of the Lord Chancellor’s Advisory Committee on Legal Education and Conduct in the United Kingdom that an undergraduate law degree course ‘should stand as an independent liberal education in the discipline of law, not

⁵⁰ Jan Meyer and Ray Land, *Threshold Concepts and Troublesome Knowledge: Linkages to Ways of Thinking and Practising within the Disciplines*, Occasional Report 4 (2003) University of Edinburgh Centre for Teaching, Learning and Assessment <<http://www.tla.ed.ac.uk/etl/docs/ETLreport4.pdf>> at 8 December 2008: ‘A threshold concept can be considered as akin to a portal, opening up a new and previously inaccessible way of thinking about something ... It represents a transformed way of understanding, or interpreting, or viewing something without which the learner cannot progress’. Examples of threshold concepts in law that might be considered transformative could include, for example, the notion of equitable title, the skill of legal analysis and attribute of ‘thinking like a lawyer’.

⁵¹ Ibid 2, citing David Perkins, ‘The Many Faces of Constructivism’ (1999) 57(3) *Educational Leadership* 6.

⁵² Campbell et al, above n 41, 26.

⁵³ Margaret Davies, ‘University Culture or Intellectual Culture?’ in Bob Brecher, Otakar Fleischmann and Jo Halliday (eds), *The University in a Liberal State* (1996) 24.

⁵⁴ Sullivan et al, above n 23, 195.

tied to any specific vocation’, and its warning that a good legal education should not be ‘highly instrumental’ or ‘anti-intellectual’.⁵⁵

Consonant with these ideals, the *Carnegie Report* has now suggested a three-part model for legal curriculum development, which harnesses the ‘three apprenticeships of professional education’ and whose parts interact with and influence the others as follows:

1. ‘The teaching of legal doctrine and analysis, which provides the basis for professional growth’ (the ‘cognitive apprenticeship’ with which we are all familiar);
2. ‘Introduction to the several facets of practice included under the rubric of lawyering, leading [optimally] to acting with responsibility for clients’ (the ‘practical apprenticeship’ where students learn by taking part in simulated practice situations, case studies, pro bono work, or in actual clinical experience with real clients); and
3. ‘A theoretical and practical emphasis on inculcation of identity, values, and dispositions consonant with the fundamental purposes of the legal profession’ (the ‘ethical-social/formative apprenticeship’ which ‘shares aspects of a liberal academic education in attempting to provide a wide, ethically sensitive perspective on the technical knowledge and skill the practice of law requires’⁵⁶).⁵⁷

As hinted at in the second of the above, these types of integrative curriculum approaches must be supported by pedagogies appropriate to the new learning outcomes being embraced (the third challenge I have identified). A particular constraint discussed below is the dominance of law’s ‘signature pedagogies’⁵⁸ and its signature assessment practices — the traditional teaching, learning and assessment approaches that have focused on ‘what the student is’⁵⁹ through a one-way transmission of vast amounts of information, allegedly certified by written assignment or closed book, end-of-course examination. Legal educators need assistance to conceptualise an expansion of these signature approaches to include, for example, problem- or enquiry-based learning approaches, innovative blended learning environments,⁶⁰ simulations and clinical training (the

⁵⁵ *ALRC Report No 89*, above n 25, [2.85].

⁵⁶ Sullivan et al, above n 23, 28.

⁵⁷ Sullivan et al, above n 23, 194. See also Johnstone and Vignaendra, above n 25, 134–161, identifying the four models developed in Australia for skills integration into curriculum, noting that most Australian law schools at that time (2003) were within the first two models identified by them as follows: (1) Minimalist (largely ad hoc, general, implicit); (2) More explicit (more systematic and structured — some stand-alone units, some clinical, some electives); (3) Integrated (where skills are built up incrementally and in a co-ordinated manner); and (4) Integrated Legal Practice Course into the LLB.

⁵⁸ *Ibid* 23–24.

⁵⁹ John Biggs, *Teaching for Quality Learning at University* (2nd ed, 2003) 22: compare ‘what the teacher does’ and ‘what the student does’ at 22–25.

⁶⁰ See, eg, Rhona Sharpe, Greg Benfield, George Roberts and Richard Francis, *The Undergraduate Experience of Blended e-Learning: A Review of UK Literature*

latter being ‘the underdeveloped area of legal pedagogy’⁶¹), the use of standardised clients to evaluate lawyer performance and, quite generally, a pervasive harnessing of the *Carnegie Report* apprenticeships to enable the learner to become gradually expert. The *Carnegie Report* suggests that the last happens best ‘when an expert is able to model performance in such a way that the learner can imitate the performance while the expert provides feedback to guide the learner in making the activity his or her own’.⁶² This opens up interesting possibilities for revitalising the practising profession’s involvement in the delivery of law curricula.

B *Intentional Law Curriculum Design — Whole-of-Program Curriculum Mapping*

Faculty attention to the overall purposes and effects of a school’s educational efforts is surprisingly rare.⁶³

If we can agree that the purpose of the law degree is to embed knowledge, skills and attributes (underpinned by pervasive professionalism) for student whole-of-program development and acquisition, then it is trite but true to require that the curriculum response must be systematic, coherent and comprehensive.

Efforts to improve legal education have been more piecemeal than comprehensive. Few schools have made the overall practices and effects of their educational effort a subject for serious study. Too few have attempted to address these inadequacies on a systemic basis.⁶⁴

As QUT found when it embarked on this type of major curriculum renewal in the late 1990s,⁶⁵ it was necessary to map the integration of knowledge, skills and attitudes in an incremental way across the entire degree program and then turn to assuring the valid alignment between what was being taught, how it was taught and how that learning was assessed. As we quickly found, this required an initial and fundamental reconceptualisation of the first-year curriculum given, firstly, the diversity in preparedness of our entering cohort and, secondly, the necessity to attend to the foundational role of the first year in the developmental sense. The first year bears the heavy burden of providing the solid curriculum foundation on which to build the whole-of-program profile.

and Practice (2006) The Higher Education Academy <http://www.heacademy.ac.uk/assets/York/documents/ourwork/research/literature_reviews/blended_elearning_full_review.pdf> at 8 December 2008; The Higher Education Academy, *SIMPLE: Innovative Learning Across the Profession* <<http://www.ukcle.ac.uk/research/projects/tle.html>> at 8 December 2008.

⁶¹ Sullivan et al, above n 23, 24; see also Kift, above n 38, 5.

⁶² Sullivan et al, above n 23, 26.

⁶³ Ibid 89.

⁶⁴ Ibid 190.

⁶⁵ Kift, above n 46.

This whole-of-program mapping is now a process upon which almost every law school in Australia (and certainly most disciplines in the sector) has either embarked or is currently implementing. Broadly, this curriculum approach starts with a whole program matrix onto which the discipline's desirable knowledge, skills and attitudes are carefully mapped for multiple learning opportunities and contexts, which increase in complexity over the course of the degree program. After this, each individual subject of study ('subject') within the program is assessed for its contribution to holistic curriculum development, having particular regard to:

- whether the learning objective is taught, practised and/or assessed in the subject and, consequently, whether constructive alignment in the Biggs sense⁶⁶ is assured between the teaching, learning and assessment;
- the level of skills progression or intellectual development to be achieved in the subject (for example, novice, intermediate, advanced);⁶⁷
- how the subject builds on relevant existing expertise and prior learning;
- how the subject complements concurrent subjects;
- how the subject prepares students for higher order outcomes as they progress through the degree;
- the explicit communication of career/employability relevance to students; and
- the gradual formation of professional identity.

Once the whole program exercise has been initially completed, the first pass is reviewed to look for gaps and/or over-emphases. The process is an iterative one and should be subject to ongoing monitoring, evaluation and renewal. For example, in 2003, QUT identified the necessity to revisit the validity of assessment approaches as a particular area that required further attention and curriculum refinement.

In describing the process in this way, it is not intended to suggest at all that it is a simple undertaking or one that can be achieved by application of a mechanistic formula. Curriculum renewal of this magnitude is complex and a significant culture shift for staff, students and employers alike, pockets of whom may be resistant for various reasons that require careful change management. Particularly, the coherence and relevance of these approaches need to be made explicit

⁶⁶ Biggs, above n 59.

⁶⁷ See, eg, Hubert Dreyfus and Stuart Dreyfus, *Mind over Machine: The Power of Human Intuition and Expertise in the Era of the Computer* (1986), referring to development of expertise over time within discernable stages: from novice, to advanced beginner, then competent, proficient, and finally expert. Bowden et al, above n 13, in the Australian Technology Network (ATN) Graduate Attributes Project, identified four inclusive, hierarchical levels of attribute attainment: the scoping level; the enabling level; the training level; and the relating level.

to students. We need also to engage with employers to explain the benefits of an integrative approach beyond the short-term content gain of traditional, technical, transmission models. Academic workloads in a research-intensive environment, where scholarly teaching and the scholarship of teaching are still not necessarily well understood or valued, is a major constraint, the amelioration of which requires significant ‘learning leadership’.⁶⁸ At a more functional level, in the face of constant change, many otherwise-engaged staff currently feel overwhelmed and change-weary, while other colleagues may have little interest in, or understanding of, educational theory, particularly learning theory, and are oblivious to the possibilities of the alternate approaches here described.

Whole-of-program curriculum design takes time, dedicated resourcing and a discipline commitment to transformative practice. A useful strategy is to use integrating devices across the law degree, including, for example: teaching teams working across years to ensure incremental development for increasing complexity; the provision of multiple opportunities and contexts across the program for students to develop and enhance their acquisition of learning objectives; the harnessing of learning, teaching and assessment approaches for integration;⁶⁹ and the engagement of relevant stakeholders in the process, including the profession, sessional teaching staff, graduates and students. Particularly, to ensure clarity around the revised curriculum’s intention, to prevent slippage, and for quality assurance purposes, these changes must be explicitly embedded in robust subject and program documentation.

Reflecting on several years of this type of curriculum renewal at QUT, some valuable lessons have been learnt which are set out briefly below in the hope that they might be of assistance to others wishing to pursue a similar course. If we had our time over, we could be even more explicit than we were in our communications with students about the rationale for change, and would also present them with a clear (and constantly reiterated) road map of their degree progression. Leveraging the criticism that ‘the traditional legal education model has been preoccupied with the study of narrow legal rules ... [and] taught the same thing — analysis of legal rules — repeatedly, with little evident recognition of students’ intellectual development’,⁷⁰ we could try for more ‘cross-integration’ at the higher levels and make greater use of the opportunity to ‘refresh’ teaching delivery, the latter especially to deliver more sophisticated and efficient blended learning

⁶⁸ Geoff Scott, Hamish Coates and Michelle Anderson, *Learning Leaders in Times of Change: Academic Leadership Capabilities for Australian Higher Education* (2008) Australian Council for Educational Research <http://www.acer.edu.au/documents/UWSACER_CarrickLeadershipReport.pdf> at 8 December 2008.

⁶⁹ See, eg, the work of the Scottish Higher Education Enhancement Committee (SHEEC), *Integrative Assessment, Enhancement Themes* <<http://www.enhancementthemes.ac.uk/themes/IntegrativeAssessment/>> at 8 December 2008.

⁷⁰ Keyes and Johnstone, above n 1, 558.

environments and to scaffold the student experience of the law degree purposefully from the first year to a capstone experience and then out to LPC and/or the world of work. The trap of over-assessing is one easily fallen into, even with the best intentions of striving to assure validity in assessment practices. This is primarily what led to our revisiting the assessment aspects of the new curriculum in 2003. With the benefit of hindsight, also, I think we were overly ambitious in our program objectives: it would have been preferable to try not to embed everything and make (better) informed decisions about what to omit, at least for the first iteration.

More recently, some newer curriculum imperatives have also presented; specifically, the articulation and enactment of the teaching/research nexus, and the desirability of building in more opportunities for both peer-to-peer interaction, and the harnessing of the ePortfolio — akin to the United Kingdom’s Personal Development Planning (PDP).⁷¹ Given continuing massification and the diversity of the entering cohort, it is also incumbent upon us to pay greater attention to the early and intentional development of our students ‘tertiary literacies’ (in the legal context especially, the academic literacies of skills in reading, referencing, listening, writing, and presenting orally — though information and computer literacies are also relevant — and, increasingly, cultural literacy).⁷²

In the modern age, it would be further remiss not to refer to one final area deserving of our consideration: creativity. Business literature and economic policy now make frequent calls for enhanced ‘creativity’ in the workplace, while innovating on the basis of creative ideas is a key aspect of recent knowledge economy discourse. While no definitive definition of ‘creativity’ has yet emerged, it has been suggested that ‘creativity embodies generic attributes including communication, team-work, problem solving, cultural understanding, and decision making skills’.⁷³ How creativity might be captured in the law curriculum presents us with some interesting challenges, and I note the UKCLE’s ‘Creativity and the Law Curriculum’ event, held in June 2008, which explored the development of creativity

⁷¹ See, eg, Queensland University of Technology, *Student ePortfolio* <<http://www.studentportfolio.qut.edu.au>> at 8 December 2008: an electronic tool for students to record, catalogue, reflect on, retrieve and present activities and experiences about skills acquisition for ultimate release to employers. See further, United Kingdom Centre for Legal Education (UKCLE), *Evaluating e-Portfolios in Law: 2006–07* (2007) <<http://www.ukcle.ac.uk/research/projects/eportfolios2.html>> at 8 December 2008.

⁷² See, eg, University of Wollongong, *Tertiary Literacy Policy and Procedures* (2003) <http://www.uow.edu.au/about/policy/tertiary_literacy_policy.pdf> at 8 December 2008.

⁷³ Australian Research Council (ARC), Centre for Excellence for Creative Industries and Innovation, *Educating or the Creative Workforce: Rethinking Arts and Education* (2007) 5.

in teaching practice.⁷⁴ Creative teaching practice aside, how we nurture a creative stance in our students and foster the development of desirable creative dispositions and cognitive habits through our learning, teaching and assessment practices is another question again.⁷⁵ In this regard, it is important for us not to conflate critical thinking and problem-solving skills (with which legal educators claim familiarity) with creative thinking; though it may well be that the higher order, abstract ranges of the former skills stretch towards the creative capability.⁷⁶

In addition to those last aspects, ‘creativity also involves the capacity to generate and connect ideas and create frameworks to judge the worth of ideas and potential solutions. Many academics would see these as higher order academic skills and capabilities that they seek to develop in their disciplines’.⁷⁷ In the legal context, Carrie Menkel-Meadow expresses this notion of generating and connecting ideas to produce unique and useful new solutions as ‘[using] tried and true methods when they are appropriate, but not to fear new and category-smashing ideas or solutions’.⁷⁸ In closing on this aspect, it is salutary to note that the legal profession into which many of our graduates enter is similarly challenged on the creativity front:

[T]he business of law in Australia is heading towards a crisis. ... The reason? A lack of genuine innovation and entrepreneurship will make aspects of their services uncompetitive and increasingly redundant. ... in recent decades less than a handful of Australian law firms have made serious inroads offshore or introduced major innovations in their product, service delivery or price.⁷⁹

⁷⁴ *Creativity and the Law Curriculum* (Aston University, Birmingham, 23 June 2008) UK Centre for Legal Education <<http://www.ukcle.ac.uk/newsevents/ukcleevent.html?event=492>> at 8 December 2008.

⁷⁵ See, eg, Marilyn Fryer, *Facilitating Creativity in Higher Education — The Views of National Teaching Fellows* (2006) The Higher Education Academy <http://www.heacademy.ac.uk/assets/York/documents/resources/resourcedatabase/id589_facilitating_creativity_in_he_nmf_views.rtf> at 8 December 2008; Marilyn Fryer, ‘Facilitating Creativity in Higher Education: A Brief Account of National Teaching Fellows’ Views’ in Norman Jackson, Martin Oliver, Malcolm Shaw and James Wisdom (eds), *Developing Creativity in Higher Education: an Imaginative Curriculum* (2006) 74–88.

⁷⁶ See, eg, John Biggs, *Aligning Teaching and Assessment to Curriculum* (2003) Learning and Teaching Support Network <<http://www.palatine.ac.uk/files/1030.pdf>> at 8 December 2008.

⁷⁷ Norman Jackson, *Making Higher Education a More Creative Place* (2006) Surrey Centre for Excellence in Professional Training and Education, 7 <<http://www.surrey.ac.uk/sceptre/documents/MAKINGHIGHEREDUCATIONMORECREATIVEPLACEOCTOBER2006.doc>> at 8 December 2008.

⁷⁸ Carrie Menkel-Meadow, ‘Taking Problem Solving Pedagogy Seriously: A Response to the Attorney-General’ (1999) 49 *Journal of Legal Education* 14, 14.

⁷⁹ ‘We’ll All Be Rooned, But Not Just Yet’ *Legal Affairs, The Australian* (Sydney), 14 December 2007, 33.

C Transformative Learning, Teaching and Assessment Approaches

[Most legal educators] uncritically replicate the learning experiences that they had when students.⁸⁰

This next challenge has already been touched on above in the context of its potential harnessing as an integrative device. In essence, the issue here is that we need to look beyond the familiar and signature pedagogies of our discipline (for example, large-group lecturing and assessment by examination and assignment). Preparing our graduates for modern citizenship and the 21st century workplace requires significant qualitative, if not transformative, change to our current learning, teaching and assessment practices. A teacher-centred pedagogical model, with its focus on ‘what the student is’⁸¹ and a one-way transmission of vast amounts of information, will simply not produce the complex new learning outcomes (integrated knowledge, skills and attitudes) our students now require. It is what the student *does* (as opposed to *is*)⁸² with the various resources and inputs they are given — how they construct their own understandings and new knowledge, ways of doing and professional identity — that is critical. For example, as Bradney suggests, a

liberal legal education should always involve giving the student those materials that are necessary to help them reflect upon the values of the culture.⁸³

In this paradigm, the teaching role is conceptualised more as designer of learning environments with a learning-centred focus. Rather than ‘sage on the stage’, teachers may be ‘guides-on-the-side’ or, as QUT Professor Erica McWilliam has more provocatively put it, ‘meddler in the middle’:

[T]he idea of teacher and student as co-creators of value is compelling. Rather than teachers delivering an information product to be consumed by the student, co-creating value would see the teacher and student *mutually involved in assembling and disassembling* cultural products. In colloquial terms, this would frame the teacher as neither sage on the stage nor guide on the side but *meddler in the middle*. The teacher is *in there doing and failing* alongside students, rather than moving like Florence Nightingale from desk to desk or chat room to chat room, watching over her flock, encouraging and monitoring.⁸⁴

⁸⁰ Keyes and Johnstone, above n 1, 539.

⁸¹ Biggs, above n 59, 22–25: compare ‘what the teacher does’ and ‘what the student does’.

⁸² Ibid.

⁸³ Bradney, above n 37, 18.

⁸⁴ Erica McWilliam, ‘Unlearning Pedagogy’ (Invited Keynote Paper presented at ICE2: Ideas in Cyberspace Education Symposium, Lake District, 23–25 February 2005) 10.

Legal educators will need to be newly skilful in their design of these learning-centred approaches and embrace the understanding that '[l]earning takes place through the active behaviour of the student; it is what [they] do that [they] learn, not what the teacher does'.⁸⁵ As *Carnegie* has suggested, there is much we can learn from the approaches of other disciplines, particularly in conceptualising how we might (and, in turn, might assist our students also to) theorise from practice in aid of student engagement with the three professional apprenticeships.⁸⁶

Critical to the efficacy of any pedagogical approach adopted is how we frame our assessment practices. 'What teachers value — what they deem important and essential for students to learn — can be ascertained most directly by what they assess — what they require students to know and be able to do'.⁸⁷ Most recently, albeit in the context of United States legal education, both *Carnegie* and the Clinical Legal Education Association (CLEA) *Best Practices Report* have examined law assessment practices and found them to be wanting, variously, on the grounds that they are 'entirely summative', bereft of feedback, perceived by students to be 'unfair, counterproductive, demoralizing, and arbitrary' and 'intensely competitive', not criterion-referenced but graded 'on the curve', and concerned primarily, if not solely, with assessing conceptual knowledge (and not practical skills or professional responsibility).⁸⁸ Concluding that, with the possible exception of legal writing and research courses, 'the current assessment practices used by most law teachers [in the United States] are abominable',⁸⁹ the academy's continued reliance on examinations to assess student performance was particularly censured as none of valid, reliable or fair:

On its face, the [law] exam appears to be a valid test of skill. If however, students must take the test in a closed book setting or without sufficient time to review the relevant authorities while taking the exam, students who have developed the ability to apply and distinguish cases, but possess poor memorization skills, would likely perform poorly. Thus the exam would not be valid.⁹⁰

While it is probable that Australian assessment practices have improved and are now generally sounder in a number of respects than their United States counterparts, this recent analysis is nevertheless

⁸⁵ Ralph W Tyler, *Basic Principles of Curriculum and Instruction* (1949) cited in John Biggs, above n 59, 25.

⁸⁶ Sullivan et al, above n 23, 163.

⁸⁷ *Ibid.* See also Kerri-Lee Harris and Richard James, 'Facilitating Reflection on Assessment Policies and Practices: A Planning Framework for Educative Review of Assessment' (2006) 3(2) *Studies in Learning, Evaluation, Innovation and Development* 23.

⁸⁸ Sullivan et al, above n 23, 164–170.

⁸⁹ Stuckey et al, above n 23, 178.

⁹⁰ *Ibid* 179–180. See also a similar critique in Johnstone and Vignaendra, above n 25, 363.

salutary, particularly given the longstanding generic feedback received from students via the Australian Course Experience Questionnaire (CEQ) consistently requesting relevant and integrated assessment and prompt, constructive feedback.⁹¹

Once we settle, finally, the objectives and purpose of the law degree, the alignment question for us to address is — what do we really expect our students to learn, to do and to value and how do we best assess for that? The academy would do well to revisit the multiple purposes of assessment⁹² and be mindful of various identified assessment ‘hotspots’,⁹³ such as:⁹⁴

- supporting new students in the discipline to make the transition to tertiary and discipline assessment practices;
- providing students with timely formative feedback on progress in aid of their learning;
- being clear, explicit and consistent about Law’s assessment goals, criteria and performance standards;
- assuring constructive alignment and ensuring that our assessment approaches are also valid for increasing complexity of learning outcomes over the course of the degree;⁹⁵
- authenticity in assessment;
- assessing teamwork;
- harnessing the possibilities of online assessment; and
- designing out plagiarism.

⁹¹ Geoff Scott, *Accessing the Student Voice: Using CEQuery to Identify What Retains Students and Promotes Engagement in Productive Learning in Australian Higher Education* (2006) Department of Education, Employment and Workplace Relations <http://www.dest.gov.au/sectors/higher_education/publications_resources/profiles/access_student_voice.htm> at 8 December 2008.

⁹² See, eg, Kerri-Lee Harris, *Guide for Reviewing Assessment* (2005) University of Melbourne, Centre for the Study of Higher Education (CSHE) <<http://www.cshe.unimelb.edu.au/pdfs/GRA.pdf>> at 8 December 2008.

⁹³ See, eg, Centre for the Study of Higher Education (CSHE), *Assessing Learning in Australian Universities: Ideas, Strategies and Resources for Quality in Student Assessment* (2002) <<http://www.cshe.unimelb.edu.au/assessinglearning/docs/AssessingLearning.pdf>> at 8 December 2008: there identifying assessment ‘hot spots’ as assessing group work, quality and standards, academic honesty, online assessment, assessing large classes and assisting international students.

⁹⁴ Ibid. See also Sally Kift, ‘The Next, Great First Year Challenge: Sustaining, Coordinating and Embedding Coherent Institution-wide Approaches to Enact the FYE as “Everybody’s Business”’ (Paper presented at 11th Pacific Rim First Year in Higher Education Conference — An Apple for the Learner: Celebrating the First Year Experience, Hobart, 30 June to 2 July 2008) 17 <http://www.fyhe.qut.edu.au/past_papers/papers08/FYHE2008/content/pdfs/Keynote%20-%20Kift.pdf> at 8 December 2008.

⁹⁵ Biggs, above n 59.

D *Enhancing the Student Experience to Facilitate Student Engagement*

[D]efining the curriculum as an organising device is probably the key to universities shaping the future of the effective undergraduate experience.⁹⁶

In adopting the various integrative approaches suggested here, an underpinning philosophy should be an intention to manage the entirety of the student experience proactively for engagement, satisfaction and learning success. As Craig McNinnis suggests above, the curriculum can be harnessed as an ‘organising device’ to achieve this purpose. McNinnis goes on to explain that

[e]ngagement occurs where students feel they are part of a group of students and academics committed to learning, where learning outside of the classroom is considered as important as the timetabled and structured experience, and where students actively connect to the subject matter.⁹⁷

The possibilities around these ideas for harnessing and linking curricula and co-curricula domains to inspire, motivate and engage law students is currently an underdeveloped area of legal education. Similarly, learning framed as an active and collaborative social experience with other students and teachers could and should be exploited with greater intentionality. The pedagogical justification for such approaches is longstanding and, in Australia, we are now fortunate to have recently been presented with the results of the *Australasian Survey of Student Engagement (AUSSE)*,⁹⁸ which has leveraged a decade of United States experience using the *National Survey of Student Engagement (NSSE)*.⁹⁹ ‘Student engagement’ in *AUSSE* is defined as students’ involvement with ‘activities and conditions likely to generate high quality learning’.¹⁰⁰ For the first time in Australia, *AUSSE* has interrogated what students do that

⁹⁶ Craig McNinnis, *Signs of Disengagement? The Changing Undergraduate Experience in Australian Universities* (2001) Inaugural Professorial Lecture, CSHE, University of Melbourne. <http://eprints.unimelb.edu.au/archive/00000094/01/InaugLec23_8_01.pdf> at 8 December 2008.

⁹⁷ Craig McNinnis, ‘New Realities of the Student Experience: How Should Universities Respond?’ (Paper presented at 25th Annual Conference European Association for Institutional Research, Limerick, August 2003) 9.

⁹⁸ Australian Council for Educational Research (ACER), *Attracting, Engaging and Retaining: New Conversations about Learning, Australasian Student Engagement Report: Australasian Survey of Student Engagement* (2008) ACER <http://www.acer.edu.au/documents/AUSSE_ASER-Report.pdf> at 8 December 2008 (*AUSSE*).

⁹⁹ George Kuh, ‘What Matters to Student Success in the First Year of University’ (Paper presented at 10th International First Year Experience in Higher Education Conference: Regenerate, Engage, Experiment, Brisbane, July 2007) <http://www.fyhe.qut.edu.au/past_papers/papers07/abstracts/george_kuh.html> at 8 December 2008.

¹⁰⁰ ACER, above n 98, vi.

engages them in their learning using six engagement-focused scales: academic challenge, active learning, student and staff interactions, enriching educational experiences, supportive learning environments and work-integrated learning — the last an *AUSSE* only (rather than *NSSE*) scale.

More narrowly, in the context of legal education specifically, *Carnegie* refers to the whole of the student experience as a ‘formative experience — a time of apprenticeship during which the novice starts on the road toward assuming the identity of a competent and dedicated professional’.¹⁰¹ The imperative to mediate diversity and engagement in our near-mass sector, together with the need to think through the continuum and staged articulation of legal education — from law school, through LPC and into CLE — give us good reason to attend to the quality of the student experience in holistic, rather than atomistic, terms.

I have referred above to the desire at QUT to scaffold the student experience of the law degree purposefully from the first year to the last, and then out into LPC and the world of work. We have focused particularly on the first year as a foundational and orienting year for new discipline learners; one that mediates (inter alia) their diversity, expectations and preparedness.¹⁰² Managing other learning transitions in the law degree — for example, from subject to subject, from first to second year, to capstone year and, especially, the transition out — is a fertile area for further curriculum enhancement and improvement, especially given that recent *AUSSE* data records that 98.8 per cent of students across all disciplines report no participation in a culminating final-year experience.¹⁰³ A recent audit of Australian legal education programs indicates that this *AUSSE* finding is reflective of our own (law discipline) students’ experience.¹⁰⁴

In the United States, John Gardner has urged a focus on reflection, integration and closure as a mechanism to improve the ‘senior year experience’ to support student success and transition to life after graduation.¹⁰⁵ Gardner suggests that students should engage in ‘analysis, self-assessment, and reflection about the meaning of their total undergraduate experience’ and that they might ‘consider holistically a variety of issues to be faced in the process of leaving

¹⁰¹ Sullivan et al, above n 23, 30.

¹⁰² See also, generally, regarding the first-year experience, Kift, above n 4.

¹⁰³ ACER, above n 98, 16.

¹⁰⁴ Ian Wells, Sally Kift and Rachael Field, ‘FYE2: Recognising and Acting on the Synergies Between the First and Final Year Experiences in Legal Education’ (Paper presented at 11th Pacific Rim First Year in Higher Education Conference — An Apple for the Learner: Celebrating the First Year Experience, Hobart, 30 June to 2 July 2008) <http://www.fyhe.qut.edu.au/past_papers/papers08/FYHE2008/content/pdfs/6E.pdf> at 8 December 2008.

¹⁰⁵ John Gardner, ‘The Senior Year Experience’ (1999) March-April *About Campus* 5, 8. See also Wells et al, above n 104.

[university]’, one of which, interestingly, might be around notions of leadership.¹⁰⁶ *Carnegie* contextualises this thinking to legal education by advocating the provision of a capstone opportunity, in the final law year, for students to ‘develop specialized knowledge, engage in advanced clinical training, and work with faculty and peers in serious, comprehensive reflection on their educational experience and their strategies for career and future professional growth’.¹⁰⁷ The power of utilising the integrating device of ePortfolio (the United Kingdom’s PDP) as a mechanism to capture these culminating activities again presents as compelling. Integrative learning and assessment approaches of (and for) learning across subject areas, over time and as a link between campus and community engagement, such as those being explored under the Scottish *Integrative Assessment Enhancement Theme*,¹⁰⁸ also provide useful conceptualisations for how we might better integrate the whole of our students’ degree experiences for more effectual learning engagement, satisfaction and success.

E *Ethics and Professionalism*

Professional education is ... inherently ethical education in the deep and broad sense. ... Ethics in a professional curriculum ought to provide a context in which students and faculty alike can grasp and discuss, as well as practice, the core commitments that define the profession. ... Ethics rightly includes not just understanding and practicing a chosen identity and behaviour but, very importantly, a grasp of the social contexts and cultural expectations that shape practice and careers in the law. ... There is evidence that law school typically blares a set of salient, if unintentional, messages that undercut the likely success of efforts to make students more attentive to ethical matters.¹⁰⁹

This quote emphasises quite nicely how liberal notions of ethics and professionalism might be conceptualised more broadly and efficaciously than traditional, one-off ethics courses have done to date, with their limited consideration of normative ethical rules and standards. Almost every discipline review in recent decades devotes attention to ethical formation and, from *MacCrate* (1992) to *Carnegie* (2007), suggests that it is at least as important as the acquisition of substantive knowledge. In the United Kingdom in 1996, for example, the Lord Chancellor’s Advisory Committee (ACLEC) demanded that ‘students must be made aware of the values that legal solutions carry, and of the ethical and humanitarian dimensions of law as an

¹⁰⁶ Gardner, above n 105.

¹⁰⁷ Sullivan et al, above n 23, 195. See also Stuckey et al, above n 23, ch 9.

¹⁰⁸ See, eg, SHEEC, above n 69.

¹⁰⁹ Sullivan et al, above n 23, 30–31.

¹¹⁰ ACLEC, above n 24, 19.

instrument which affects the quality of life'.¹¹⁰ ACLEC went on to say specifically:

This requires more than familiarisation with professional codes of conduct but includes advertence to the wider social and political obligations of the profession to society as a whole, its obligation to protect the rights of minorities within society and the welfare of the disadvantaged.¹¹¹

In Australia, in 2000, the ALRC referred to the necessity for the profession to develop a 'healthy legal culture', which was considered characterised by its:

- honest, open and self-critical nature;
- respect for, and effective communication among, stakeholders;
- willingness to adapt and to experiment (or, put another way, one that is not resistant to change); and
- commitment to lifelong learning as an aspect of professionalism; and deep ethical sense and commitment to professional responsibility.¹¹²

Our intentional curriculum approaches to, and educational emphases on, developing this broader ethical stance require dedicated attention and present us with a final legal education challenge. Ideally, pervasive professionalism should be another element in the curriculum mix that is developed progressively and incrementally over the course of the degree program as one of the professional apprenticeships, starting with the first year. Even absent dedicated, pervasive effort in this regard, *Carnegie* warns us of the consequences of inaction on this front. The discipline's 'salient, if unintentional, messages [will] ... undercut the likely success of efforts to make students more attentive to ethical matters'.¹¹³ Those messages were identified as: the competitive, high-stakes, zero-sum game of law school; the ostensible privileging of rational, objective analysis to the exclusion of other desirable lawyering qualities; and the 'values neutral stance' of much lawyering activity as presently conveyed to students.¹¹⁴ As BurrIDGE and Webb have recently clarified, even a 'values neutral' stance does not need to connote a 'values free' professional approach.¹¹⁵

A not unrelated issue in this context is the state of our profession's mental health (a nice juxtaposition to cultivating the ALRC's 'healthy legal culture'), starting with student wellbeing at law school. As *Best Practices* recorded, it is well-known that lawyers

suffer higher rates of depression, anxiety and other mental illness, suicide, divorce, alcoholism and drug abuse, and poor physical health than the

¹¹¹ Ibid 32.

¹¹² Weisbrot, above n 34.

¹¹³ Sullivan et al, above n 23, 31.

¹¹⁴ Ibid 185–189, and see generally ch 4.

¹¹⁵ Roger BurrIDGE and Julian Webb, 'The Values of Common Law Legal Education: Rethinking Rules, Responsibilities, Relationships and Roles in the Law School' (2008) 10(1) *Legal Ethics* 72.

general population or other occupations. These problems are attributed to the stress of law practice, working long hours, and seeking extrinsic rather than intrinsic rewards in legal practice.

It is less well-known that these problems begin in law school. Although law students enter law school healthier and happier than other students, they leave law school in much worse shape. 'It is clear that law students become candidates for emotional dysfunction immediately upon entry into law school and face continued risks throughout law school and subsequent practice'.¹¹⁶

It is easy to speculate that many of the subtle messages about what counts for professional success, first inculcated in law school and then replicated in professional practice, might have something to answer for here. Most students enter law school naturally idealistic and positive about their legal future and with a degree of altruistic intent regarding the potential value and meaning of their prospective lawyering work. Most expect to be imbued with a moral imperative for public good. Unfortunately, the tradition has been for law school to quickly instil an ethos of lawyering replete with the negative messages *Carnegie* has identified, leading many students to conclude that they must set aside their values, compassion, and moral and social consciousness as aspects more likely to hinder than help 'successful' lawyering or, at best, as secondary to it.¹¹⁷ The CALD has further conjectured that the low government contribution to legal education in Australia (and the high student contribution) of itself sends an unfortunate message to many prospective lawyers; that is, that the profession is more about individual material and financial gain than it is about contributing to the public good and that 'being a lawyer is about looking inward rather than outward, and dampens the aspirations of law schools to harness the natural idealism of many beginning law students and to educate them not only for selfish but also for altruistic ends'.¹¹⁸

There are many models available for guidance as to a more principled and developed approach to the learning and teaching of ethics across the curriculum, and even a larger number of good ideas: the UKCLE has participated in a Learning and Teaching Support Network (now Higher Education Academy) project entitled,

¹¹⁶ Stuckey et al, above n 23, 22, references omitted. See also Kift, above n 38, 7–8. The current ALTC funded project, above n 32, aims to collect Australian data on this issue under the auspices of the CALD.

¹¹⁷ See further, Sullivan et al, above n 23, 187.

¹¹⁸ CALD, *Review of The Impact of the Higher Education Support Act 2003: Funding Cluster Mechanism* (26 February 2007) 1 <<http://www.cald.org.au/docs/CALD%20submission%20on%20DEST%20review%20of%20HESA%20-%20final.pdf>> at 8 December 2008.

¹¹⁹ See UKCLE, *Ethics Teaching Highlighted In Contextualised Scenarios (ETHICS)* <<http://www.ukcle.ac.uk/research/ukcle/ethics.html>> at 8 December 2008: project based at the Subject Centre for Philosophical and Religious Studies.

Ethics Teaching Highlighted In Contextualised Scenarios (ETHICS) project;¹¹⁹ English academics Sara Chandler and Nigel Duncan are presently conducting an international survey on the teaching of ethics;¹²⁰ interactive scenarios have been developed to engage both students and practitioners cognitively and attitudinally in authentic simulations;¹²¹ ethics might be embedded across the curriculum in specialised contexts (for example, the ethics of family law, taxation law, mediation, criminal law, etc), with the opportunity for practitioner involvement and discussion); a law school blog might be utilised to enact and disseminate a continuous discipline dialogue around current ethical issues; podcasts of senior practitioners' ethical reflections might be made available for student downloading and structured reflection; and so forth. It is of interest that the 2006 United States *Law School Survey of Student Engagement (LSSSE)* found that 'student-faculty interaction is the single most influential factor linked to students developing a code of professional ethics'.¹²²

The onus on us to discuss the development of professional identity with our students is urgent. Clearly, our moral, if not ethical, obligation as legal educators is to

complement the focus on skill in legal analyses with effective support for developing the ethical and social dimensions of the profession [to provide opportunities for students] to learn about, reflect on, and practice the responsibilities of legal professionals.¹²³

Carnegie makes a telling observation about legal education on which to conclude this aspect of the discussion. Other professional disciplines (seminaries, medicine, business, engineering and the like) use well-elaborated case studies of professional work as a means of authentically explicating ethical issues and dilemmas for student examination. Law, which 'pioneered' the use of case study, albeit

¹²⁰ Sara Chandler and Nigel Duncan, 'International Survey on the Teaching of Ethics' (Paper presented at *LILAC 2008*, University of Warwick, 3-4 January 2008). United Kingdom Centre for Legal Education <<http://www.ukcle.ac.uk/newsevents/lilac/2008/values.html>> at 8 December 2008.

¹²¹ See, eg, Legal Services Commission, Queensland University of Technology, and University of Queensland, *A Week in the Life of a Queensland Suburban Lawyer* <http://scenarios.pblinteractive.org/law/intro/pbl_legal.html> at 8 December 2008.

¹²² Center for Postsecondary Research, Indiana University, *LSSSE 2006 Annual Survey Results, Engaging Legal Education: Moving Beyond the Status Quo* <http://lssse.iub.edu/2006_Annual_Report/index.cfm> at 8 December 2008; see also Indiana University, 'Interaction With Faculty, Practice-based Learning Benefit Law Students' (Press Release, 5 January 2007) <<http://newsinfo.iu.edu/news/page/normal/4616.html>> at 8 December 2008. For 2007 material, see Center for Postsecondary Research, Indiana University, *LSSSE 2007 Annual Survey Results, Student Engagement in Law School: Knowing Our Students* <http://lssse.iub.edu/2007_Annual_Report/> at 8 December 2008.

¹²³ Sullivan et al, above n 23, 188.

¹²⁴ Ibid. See the *Summary of the Findings and Recommendations* (2007) The Carnegie Foundation for the Advancement of Teaching, 6 <http://www.carnegiefoundation.org/files/elibrary/EducatingLawyers_summary.pdf> at 8 December 2008.

originating in a different form and context, rarely uses it in this way. It is time we brought the case study back home to law in aid of our students' ethical development!¹²⁴

IV CONCLUSION

The ALTA conference theme directed attention to the impact of climate change on our designs for the law curriculum. In so doing, it replicated the 'well reasoned pleas'¹²⁵ that have been made internationally over decades of discipline reports to improve our systemic approaches to legal education, particularly around a curriculum reorientation towards lawyering skills and professionalism. A confluence of external drivers similarly has demanded our attention in this regard. These 'stern messages'¹²⁶ have largely fallen on the academy's deaf ears to date, though, as the ALTA conference demonstrated, a significant and growing minority of law teachers understand the need for change and wish to respond to the challenges presented.

This article has sought to identify and validate those change imperatives and provide a considered response for a way forward. It has advocated the integrative and incremental development of what *Carnegie* has named the three apprenticeships, or what my law school (for example) previously articulated as the knowing, the doing and the practice of knowledge, skills and attitudes, underpinned by pervasive professionalism. Implementing a new vision for a liberal legal education that will better prepare students as professionals and citizens for the modern (legal) world will require leadership and moral courage from us all. But the choice is either leadership for responsive integration or the perpetuation of disengagement for contemporary professional irrelevance into which we will sink in the face of a perfect legal education storm.

¹²⁵ Sullivan et al, above n 23, 190.

¹²⁶ Ibid 189.