ALT Annual Conference
29 to 31 March 2010
Clare College Cambridge

Legal Education:
Making a Difference
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Dear Colleague

A very warm welcome to the Association of Law Teachers’ 45th Annual Conference, and particularly to those of you who are attending the conference for the first time.

We are delighted to present a feast of a programme featuring over fifty papers by seventy presenters from three continents. Many of the papers are by well known names within the higher education sector and old friends of the ALT. Many more are by exciting new blood and international guests who we are delighted to welcome to Cambridge and with whom we look forward to developing lasting ties.

The conference is also about developing professional relationships, stimulating ideas and projects, catching up with old friends and meeting new ones. There can be few better settings to do so than the rarefied, medieval magnificence of Cambridge and of Clare College in particular. We hope you enjoy dining in the splendour of Clare’s Great Hall and continuing the evenings in the charming cellar bar below the Chapel in the Old Court. We have also arranged a reception at the renowned Cambridge Union before dinner on Monday evening and engaged Clare’s world famous all male voice choir, Over the Bridge, to entertain us during dinner on Tuesday evening.

We are very grateful to all our exhibitors for their support and in particular to LexisNexis and Routledge for their generous sponsorship.

We very much hope you enjoy the conference.

Chris Maguire
Chair, ALT
### ALT Annual Conference: Making a Difference

**Programme**

**Monday 29th March 2010**

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<td>Lunch</td>
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<td>Chris Maguire (BPP)</td>
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<td>Alison Bone (University of Brighton), Phil Harris (Sheffield Hallam University) Pat Leighton (University of Glamorgan)</td>
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**14.00 – 15.30 Parallel Sessions**

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<td>Bennet Room</td>
<td><strong>Constructing a Matrix for Integrating Economics, Law, and Ethics: A Rethinking of the Model for Teaching Corporate Governance</strong></td>
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<td>Daniel Herron &amp; Rebecca Luzadis (Miami University)</td>
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<td><strong>Pro Bono: A new vision – at no extra cost</strong></td>
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<td>Sarwan Singh. (City University, London)</td>
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<td>Bowring Room</td>
<td><strong>Three Difficult Cases of Discrimination</strong></td>
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<td>Michael Connolly (University of Surrey)</td>
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<td><strong>Discrimination Law to Equality Law</strong></td>
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<td>Michael Jefferson (Sheffield University)</td>
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<td>Elton Room</td>
<td><strong>Law in Context: Teaching Law Through the Lens of Extra-Legal Sources</strong></td>
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<td>Larry DiMatteo (University of Florida) &amp; Sandra K. Miller (Widener University)</td>
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<td><strong>Trials of Dissenters - A pedagogically innovative course and its assessment</strong></td>
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<td>Sarah Mercer &amp; Christopher Rogers (University of Northumbria)</td>
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<td>Riley Auditorium</td>
<td><strong>Blended delivery, VLEs and student engagement</strong></td>
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<td>Stephen Murray &amp; Peter F Scott (Glasgow Central College)</td>
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<td><strong>Blended Learning and On-line Assessment in the Learning of the Law: Reflections on the Student Experience</strong></td>
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<td>Caroline Strevens &amp; Roger Welch (University of Portsmouth)</td>
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1 The programme may be subject to change for reasons beyond the ALT's control.
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<td><strong>A study of the use of the “Streetlaw” project as pedagogy</strong>&lt;br&gt;María Angus (University of Hertfordshire)</td>
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<td><strong>The Role of a Bespoke Law Foundation Course in Widening Access</strong>&lt;br&gt;Beverley Steventon &amp; Jane Wood (Coventry University)</td>
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<td><strong>Transition management in a large law school - lessons from the first year.</strong>&lt;br&gt;John Hodgson (Nottingham Law School)</td>
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<td><strong>Peer interaction and engagement through online discussion forums</strong>&lt;br&gt;Sandra Clarke (University of Greenwich)</td>
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<td><strong>Personal development planning: its role and implementation in the law curriculum</strong>&lt;br&gt;Philip Roberts &amp; Ian Gardner (BPP)</td>
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<td>18.00 – 19.30</td>
<td><strong>Reception at the Cambridge Union</strong></td>
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<td>19.45</td>
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## Tuesday 30th March 2010

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<th>9.30 – 11.00 Parallel Sessions</th>
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| **Governmentality and the Ethical Reflection of Legal Educators: Assessment Practices as a Case Study**  
Matthew Ball (Queensland University of Technology.) |
| **Can first year law students use self awareness literature to help them adjust to University life?**  
Simon Brooman & Sue Darwent (Liverpool John Moores University)  
**The Pedagogy of the Deprived**  
Nicholas Johnson (University of Warwick) |
| **Using Proactive Law for Competitive Advantage: Implications for teaching and Law Practice**  
Helena Haapio, (Lexpert Ltd, Helsinki) & George Siedel (University of Michigan) |
| **Virtual Delivery: Profound Learning. The impact of new Technologies.**  
Glenn Robinson, John Clifford & Ben Hughes, Liz Giusanni (BPP)  
**Let’s play master and servant: the relative roles of skills and substance in legal education**  
Michael Doherty (University of Central Lancashire) |

### 11.00 – 11.30 Refreshments

### 11.30 – 13.00 Parallel Sessions

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| **Around the world in sixteen hours: Creating and Teaching an effective global business ethics course.**  
Lucien Dhooge (Georgia Institute of Technology)  
**Teaching Legal Ethics: the bank you build.**  
Nigel Duncan (City University London) |
| **Obeying the Fair(ey) use doctrine**  
Michael E Jones (University of Massachusetts)  
**Teaching public law and student confusion: the police, judges and jurisprudence to the rescue?**  
Michael Rodney (London South Bank University) |
| **Valid Outcomes, Authentic Assessment and Reasonable Adjustment for Students with Additional Needs.**  
Richard Sykes (Mills & Reeve LLP) Liz Mytton (Bournemouth University) & Chris Maguire (BPP)  
**How, where and to whom? Student Grievance Resolution in Australian Universities**  
Sally Varnham (University of Technology, Sydney) |
| **A full qualification law degree – re-casting the role of law schools in the provision of legal education and training**  
Kevin Kerrigan & Philip Plowden (University of Northumbria)  
**The Law student experience: innovation for broader minds and critical enquiry.**  
Grier Palmer. (University of Warwick) |

### 13.00 – 14.00 Publishers’ Lunch Kindly Sponsored by LexisNexis

Presentation by Justis 13.20-13.50 in the Elton Room
14.00 - 15.30   Keynote Plenary

The 2009 Australian and United Kingdom Law Teachers of the Year present:
Journeys, Journals and the Dynamics of Difference
Rick Snell (University of Tasmania) and Gary Watt (University of Warwick)

Access to the Bar
David Pittaway QC
Chairman of the Training for the Bar Committee, Bar Council.

15.30 – 16.00   Refreshments
16.00 – 17.00   Parallel Sessions

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<td>Susan Marsnik (University of St. Thomas) &amp; Robert Thomas (University of Florida)</td>
<td>Alison Bone (University of Brighton) &amp; Phil Harris (University of Sheffield) &amp; Pat Leighton (University of Glamorgan)</td>
<td>Dawn Watkins (University of Leicester)</td>
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19.00 Drinks Reception : JCR
19.45 Dinner with Entertainment from Clare College Choristers

The Great Hall, Old Court, Clare College

Kindly Sponsored by Routledge
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<td>9.30 – 11.00</td>
<td>Looking beyond the law school for legal education: Citizens Advice work – what’s in it for law students? Kumari Lane (Birkbeck College, London)</td>
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<td>9.30 – 11.00</td>
<td>The emerging use of the teaching methodology of storytelling to reinvigorate the law school curriculum Michael Blissenden (University of Western Sydney)</td>
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<td>Commons learning: open educational resources (OER) in legal education Paul Maharg (University of Northumbria) &amp; Patricia McKellar (UKCLE)</td>
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<td>9.30 – 11.00</td>
<td>Europe: a foreign land for the British? Challenges to the teaching of EU Law in the UK. Cherry James (London South Bank University)</td>
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<td>9.30 – 11.00</td>
<td>Teaching EU Law Rick Ball (UWE)</td>
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<td>9.30 – 11.00</td>
<td>Simulation and the affective domain Paul Maharg (University of Northumbria)</td>
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<td>Teaching Reasoning as an integrated part of the curriculum in university law schools Nicola Jackson (De Montfort University)</td>
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<td>“Show me the Law”: Legal Education in a semi-literate culture. Lars Mosesson (Southampton Solent University)</td>
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<td>Providing a law degree for the real world: perspectives of an Australian Law School. Amanda Stickley (Queensland University of Technology)</td>
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<td>The story of a phoenix, a chef and some raptors: Piecing together the company law jigsaw Marion Oswald (University of Winchester)</td>
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<td>11.30 – 12.30</td>
<td>Really Real Real Property The Third Reality: An empirical approach to abstraction in the law Louisa Dubery (University of Winchester)</td>
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<td>Law Student Understandings of Critical Thinking: A Phenomenographic Study Catherine Morse (Sheffield Hallam University)</td>
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<td>Great Expectations: Do we live up to them? Jacqueline Lane (University of Huddersfield)</td>
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<td>Enquiring Minds: Information Literacy in the Design &amp; Assessment of Student Research Tasks Keith Puttick, Alison Pope, Chris Harrison &amp; Geoff Walton (Staffordshire University)</td>
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**MONDAY: OPENING PLENARY: 13.00-14.00**

**NEW RESEARCH PROJECTS LAUNCH: THE 62 PROJECT**

Alison Bone (University of Brighton) Phil Harris (Sheffield Hallam University) & Pat Leighton (University of Glamorgan)

Part of this plenary session and the following workshop is intended to launch a new research project examining the nature of assessment and also the feedback provided on that assessment. It will build on the previous work done by Hanlon, Jefferson, Mitchell and Molan (see [http://www.ukcle.ac.uk/research/projects/mitchell.html](http://www.ukcle.ac.uk/research/projects/mitchell.html)) which demonstrated that marking is more of an art than a science and that even with clear marking criteria law staff could give the same piece of work a variety of marks, with the disparity occasionally being more than a classification.

It is intended that the session will launch the project by providing a forum for participants to discuss what they find are the key issues surrounding the use of marking criteria in undergraduate law assessment and how feedback to students can be improved. Depending on the enthusiasm of the participants, this session could launch a very valuable research project for which appropriate funding will be sought.

The project is divided into two parts. The first intends to examine past student assessments submitted by volunteers and thus to research how law lecturers arrive at the awarding of a low upper second class mark (62) using the law of contract (although this may be varied depending on the thoughts of participants) and thus to shed some light on such questions as:

- Is there consistency of marking across old and new universities?
- How do students interpret the marking criteria they are given?
- Are students given clear guidance on how to improve their mark?

This picks up on a recurrent theme in the National Student Survey [http://www.hefce.ac.uk/news/hefce/2009/nss.htm](http://www.hefce.ac.uk/news/hefce/2009/nss.htm) ie that students are least satisfied with the nature and timing of assessment and feedback.

The second part of the project which will form the basis of the workshop session on Tuesday 30 March revisits the marking exercise mentioned above. This will consist of a live session whereby participants will be invited to rank three separate pieces of work – one group will be given assessment criteria and the other will not. This exercise will help shape the methodology of the wider study.
Constructing a Matrix for Integrating Economics, Law, and Ethics: A Rethinking of the Model for Teaching Corporate Governance

Dan Herron & Rebecca Luzadis (Miami University)

Emerging in the literature in the early 1980’s, stakeholder theory has become accepted as the new “ethics” of 21st century business. The concept is both procedural and substantive in that it is the underpinning for creating a new decision-making process as well as inserting new substance and criteria into that process. Essentially, a stakeholder approach requires that various constituencies affected by the corporate business-making process have a “seat at the table” either literally or constructively and that that presence is weighed in the process. Substantively, stakeholder theory requires decision-makers to abandon the Friedman-esque model of maximization of shareholder wealth while acting within legal constraints for a pluralistic model encompassing a variety of interests.

While stakeholder theory is gaining wide acceptance as a theory, the devil, as they say, is in the details. What does an effective corporate decision-making “process” look like? How do we change a corporate culture so inculcated with a short-term market focused on immediate return on investment?

The paper discusses a variety of issues: 1) the justification of stakeholder theory vis a vis shareholder maximization as the theoretical basis for business decision-making; 2) a decision-making model than can be incorporated into the corporate board-room and management offices; 3) a pedagogical model to incorporate this theory and process into business education.

1) Justification of the primacy of stakeholder theory: the theoretical model here is based on the notion of reliance and cause-and-effect. When one acts or makes decisions which effect others, there is some degree of responsibility on the actor for that affect. When one acts and knows or should that that action creates reliance in others, then a degree of responsibility falls on that actor. These statements are more than just philosophical aspirations. We see these actually in play in the legal applications equitable and promissory estoppel.

2) From a structural perspective, the decision-making model appears to be a classic matrix illustrated something like this:
The empty cells represent the implications on each stakeholder from each of three perspectives.

To operationalize the as illustrated above, the practical process or flowchart would be as follows:

1) framing or identifying the question, problem or issue posed that requires a decision or course of action;
2) brainstorming for all possible solutions to the issue posed;
3) identifying the affected stakeholder(s) in light of the proposed solutions;
4) evaluating each effect on each stakeholder from first the financial, then legal, then ethical perspectives;
5) identifying complimentary and competing interests and beginning the balancing process.

There is nothing inherent in this model that compels the decision-maker from weighting anyone stakeholder more than another. The model does not compel the decision-maker to place owners’ at a disadvantage vis a vis other stakeholders. What the model minimally does is forces the decision-maker to consider all constituent interests in the decision-making dynamic.

However, the crux of the matter rests in the evaluation process. What weight is given each of the stakeholder considerations? How are the effects of proposed solutions to posed issues considered in relation with each other?

3) The final piece of this is the pedagogical challenge of incorporating the above into a curricular approach. Nearly every school of business has
what is called a “professional core.” The primary collegiate accrediting body, the Association of Collegiate School of Business International (AACSB), requires that specific learning objectives be met. The traditional manner in which such learning objectives are met is with discrete courses. Endemic to nearly all business professional cores are courses such as: principles of—finance, management, marketing, supply chain plus the foundational courses of micro and macro economics, business law, and the “tools” courses in accounting, statistics, and management information systems.

It is interesting to note that stand-alone ethics courses and even courses that would focus on decision-making are absent. Though, many business professional cores include a capstone strategy course to “tie-up” the curriculum. Introducing such concepts at that stage of collegiate education is much like the adage of closing the barn door once the horse has escaped! However, bookending this material at the point of matriculation and a capstone experience just before commencement may indeed be the most inclusive approach. A proposed model of how those courses may look is incorporated as appendices to the paper.

Daniel J. Herron received his undergraduate degree in English Literature from Miami University in Oxford, Ohio, cum laude. He then earned his Juris Doctor degree from the Case Western Reserve University School of Law in Cleveland, Ohio. A college professor since 1982, he is currently a full professor at his alma mater, Miami University, teaching courses in business legal studies. Miami University is a selective state-supported institution known as one of the “public ivy’s” in Oxford about 45 miles north of Cincinnati. Herron’s research areas are contract law, legal history and theory, and corporate ethics and social responsibility. Herron is also the executive secretary of the Academy of Legal Studies in Business, the U.S.-based association for business legal studies professors housed in schools of business. He has been married for 33 years to his wife Deborah and they have two children, Christopher and Elisabeth, and two grandsons, Jack and Nate.

Rebecca A. Luzadis is an Associate Professor in the Department of Management at Miami University, teaching courses in Cross-Cultural Management, Human Resources Management, and Business Ethics. In addition to teaching, Professor Luzadis conducts academic research in areas related to human resources and cross-cultural management. Recently her publications have appeared in the Journal of Managerial Issues and the Journal of Leadership and Organizational Studies. Professor Luzadis received a PhD from Cornell University’s School of Industrial and Labor Relations, with major areas of study in labor economics, econometrics and public finance. Her bachelor’s degree is in Economics from Binghamton University.
Parallel Session 1/Stream 1/Paper 2

PRO BONO: A NEW VISION – AT NO EXTRA COST

Sarwan Singh (City University, London)

The seminar will examine how Pro bono is presently offered at Law Schools across the country and how it has been delivered in the past in a traditional way; usually centred around advice clinics, national organisations and merely as an add on and separate adjunct to qualification programmes. At the same time most Pro bono programmes have traditionally require a high level of human and financial resources to maintain and support the programmes.

The session will explore a new way of looking at the provision of Pro Bono, which requires minimal financial and staff costs, is maintained through student support and involves a more radical and innovative approach to Pro Bono activities. It will also look at how partnerships can be built with external organisations, including the sharing of locations/premises and the writing of exclusivity agreements. The seminar will also examine how to internationalise Pro Bono programmes and how to make Pro Bono an integral part of the assessment process. Finally it will discuss the possibilities of making Pro Bono a multidisciplinary activity drawing on all professional disciplines and beyond the confines of a law school.

Sarwan Singh studied law at Warwick University and for his Masters at UCL. Having qualified as a Barrister in 1984 he began his professional career working as a Pro Bono lawyer. He started his employment at Southall Law Centre and then went on to set up Greenwich Law Centre, and work there on employment law cases. Having worked in law centres for 5 years he began employment with a London local authority and when he left after 8 years he was the Deputy Head of Legal Services at Greenwich Council. He completed a part time MBA in 1997. He joined City Law School in 1998 and has been Senior Lecturer teaching on the Bar Vocational Course. He has also trained the CPS for a number of years on their higher rights of audience course and a number of chambers on equal opportunities. He is an IATC advocacy trainer. He was external examiner at Belfast University on their BVC for 5 years. For 5 years he sat as a part time Employment Judge at Croydon Employment Tribunal. From 2005 - 2007 he was the elected President of City University UCU. For the last two years he has been the Director of Pro Bono at City Law School.
Parallel Session 1/Stream 2/Paper 1

THREE DIFFICULT CASES OF DISCRIMINATION

Showboat Entertainment Centre v Owens [1984] 1 All ER 836 (EAT)
Redfearn v Serco (t/a West Yorkshire Transport Service) [2006] EWCA 659
English v Sanderson [2008] EWCA 1421

Michael Connolly (University of Surrey, UK)

It has been received wisdom for some time that some statutory definitions of harassment and discrimination embrace treatment on the ground of a third party’s race, or sex, sexual orientation.

Thus, when a white manager is fired for disobeying a racist order to forbid black youths entry to an amusement arcade, he can sue for racial discrimination, even the racism was on the ground of a third party’s race. This theory was tested when a bus driver and exemplary worker was fired when the employer discovered he was standing for the BMP in local elections. He was fired on the basis that most of his passengers were Asian. His claim for racial discrimination on the ground of the third party passengers’ race was rejected by the Court of Appeal, a morally satisfactory, but technically difficult, decision. Finally, colleagues harassed a worker using sexual innuendo suggesting he was homosexual, even though he was not, and his tormenters knew this. The Court of Appeal found that the harassment was on grounds of sexual orientation, even though nobody’s (not even a third party’s) sexual orientation was in question.

This paper unravels these apparently contradictory decisions and analyses how the Equality Act 2010 tries to deal with them.

Parallel Session 1/Stream 2/Paper 2

DISCRIMINATION LAW INTO EQUALITY LAW

Michael Jefferson (University of Sheffield)

The Equality bill currently before the Commons is a once in a generation opportunity to reform anti-discrimination law. Among other things it
• restates current law;
• amends the law in an attempt to have the same definitions across what are now the six discrimination ‘strands’ and will be the nine ‘protected characteristics’;
• creates new proactive duties on organisations such as public authorities and employers.

The first aim alone would be worthwhile – the Explanatory Notes refer to nine statutes or sets of statutory instruments and six Directives and one Treaty article. However, not unexpectedly, the paper concentrates on the latter two
issues. The bill, for example, reverses *Malcolm* (2009, HL) on the definition of the comparator in disability discrimination, extends the current duties in respect of sex, race and disability across all protected characteristics, and imposes a new socio-economic duty on public authorities. There is a threat of mandatory equal pay audits from 2013 if employers do not put their houses in order. There are also provisions extending positive action, the width of recommendations as an employment tribunal remedy, and the extension of women-only Parliamentary shortlists to 2030. At the time of writing the bill has 205 sections and 27 schedules, so some selection of topics has to be made, but throughout emphasis will be laid on the shift from remedial to preventive behaviour.

**Parallel Session 1/Stream 3/Paper 1**

**LAW IN CONTEXT: TEACHING LAW THROUGH THE LENS OF EXTRA-LEGAL SOURCES**

Larry DiMatteo (University of Florida) & Sandra K. Miller (Widener University)

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The purpose of this paper is to encourage and to persuade law teachers of the benefits of using works from other disciplines to illustrate the rationales for law, the greater context in which the legal order operates, and the relationship between law and society. The tangential benefits of using works from other disciplines are the enhancement of the joy of teaching, improvement of the attention and imagination of students, and the broadening of the minds of students. Materials from the humanities and social sciences engage students in different ways and are well-suited to teaching students possessing a variety of individual learning styles. Teaching methodology should not remain stagnant as the breadth and depth of the law school curriculum continues to expand.

**Parallel Session 1/Stream 3/Paper 2**

**TRIALS OF DISSENTERS – A PEDAGOGICALLY INNOVATIVE COURSE AND ITS ASSESSMENT**

Christopher Rogers & Sarah Mercer (University of Northumbria)

We are this term teaching a new course that will require students to engage critically with the nature and role of trial procedure through the analysis of a number of famous trials for what can be characterized as dissent from prevailing norms, in relation to religious, political, gender and scientific orthodoxy.

The course requires students to critically assess a variety of extra legal sources, thus widening their engagement beyond the more narrowly focussed, pure legal
sources that are the bedrock of most law courses on an undergraduate degree. We are seeking to integrate the academic study of nine historical trials with an understanding of the tactics, procedure and forensic skills required for prosecuting and defending “dissenters”. The trials will be set within their historical, political and social contexts and will give students insights into those contexts, into the evaluation of non traditional sources as well as into trial advocacy, how effective it may be and how it has altered over time.

In the paper we will be considering the problems with teaching and assessing an innovative course to encourage deeper learning for the students. We will be referring to the research we are conducting among the student cohort on their knowledge of the substantive area and of their own methods of learning. We are both also involved in the supervision of postgraduate students and would be discussing how the teaching of an innovative undergraduate course can effectively enhance the supervision experience for postgraduates. We would like therefore to deliver a joint paper and would require a minimum of half an hour. No IT resources would be required and traditional seminar style room and organisation would be suitable.

Parallel Session 1/Stream 4/Paper 1

**Blended delivery, VLE’s and student engagement: What difference has it made? With apologies to The Smiths, 16 January 1984 (Johnny Marr/Morrissey)**

Stephen Murray & Peter F Scott (Glasgow Central College)

This paper follows on from published research into the design and delivery of the new paralegal qualification for Scotland. The economic downturn has meant that the compulsory registration scheme for paralegals in Scotland has been postponed and employment prospects are at an all time low in the sector. Nonetheless demand is strong and with radical changes in prospect for FE funding in Scotland it has been necessary to ingather robust data on performance and progression in this area of legal education.

For the first time there has been ingathered statistically significant data on progression in FE legal studies, analysed by gender, age, ethnicity and social deprivation. It has also been possible to compare student perceptions of students taking the new qualification with those who undertook the previous programme of study.

The paper also incorporates the most up to date data drawn from two University research projects on progression of College diplomates at University and post degree destinations. If education is truly to deliver a worthwhile experience then it is simply no longer sufficient to rely on anecdotal evidence and this paper sets out to provide meaningful data which can inform ongoing review.
At the end of the previous HND qualification structure, a survey was undertaken to determine the law student experience whilst studying at the Central College School of Law. Paramount of course is the secure embedding of employability skills and the survey – the largest of its kind ever undertaken and involving virtually an entire two year student cohort provided important information on perceptions of delivery and workplace value.

The paper will identify the perceptions of the cohort drawn from a similar survey which provides a telling comparator.

The FE White Paper – “Further Education: Raising Skills, Improving Life Chances” (March 2006) - recognises that when learners participate in decisions affecting their learning experience, they are likely to play a more active role in the provider’s quality improvement process and without meaningful data capture it is felt that there can be no effective measure of the impact of the new regime.

This paper will also, for the first time analyse and challenge the accuracy, or otherwise of available data, on post qualification progression.

On the eve of the creation of Scotland’s – and indeed Europe’s – largest ever super campus, this research could not be carried out at a more opportune time.

More choices – more chances!


BOUD, D. J. Assessment and the promotion of academic values, Studies in Higher Education, 15(1), 1990, p l01-111


HMIE REPORT. Central College Glasgow, 14 August 2009.


SCOTTISH PARLIAMENT EQUAL OPPORTUNITIES COMMITTEE. 'Removing Barriers and Creating Opportunities' (2nd Report, 2006, Session 2)

THE BEATTIE COMMITTEE REPORT. 'Implementing Inclusiveness, Realising Potential' (Scottish Executive, 1999)

Peter f Scott has been a lawyer for 45 years – and for 20 of those years has been at the cutting edge of innovative legal teaching. Despite (alleged) semi retirement he still publishes on teaching and learning. He has been a regular on the conference circuit for many years and is well known to Law Teachers throughout the UK and beyond.

Steven Murray, the principal author, is course leader and senior lecturer on the first ever paralegal qualification to be recognised in Scotland. A former student of his co-presenter he has led workshops on innovative learning and teaching for such as the Scottish Further Education Unit. Steven Murray is currently a Course Leader at Central College but he also teaches law at the sundry Glasgow Law Schools in his specialist areas. Primarily a Corporate Lawyer, he has published in several Journals and as an academic is at the forefront of Para-Legal Education. He serves on various professional Scottish standards committees concerned with law training.

Their first joint paper was for ALT in Oxford in 2008 but this has been followed by other collaborative works. Their most recent notable success was the development and launch in 2009 of the first Centre for Paralegal Education in Scotland.
Parallel Session 1/Stream 4/Paper 2

BLEND ED LEARNING AND ON-LINE ASSESSMENT IN THE LEARNING OF THE LAW: REFLECTIONS ON THE STUDENT EXPERIENCE

Caroline Strevens and Roger Welch, (University of Portsmouth)

This will be a joint presentation which connects with the central theme of the conference of ‘Legal Education: Making a Difference’ given the paper’s emphasis on evaluating innovations in pedagogy and student engagement with blended delivery and VLEs.

We have made presentations at three previous ALT conferences, in 2006, 2008 & 2009, on our use of VLEs (WebCT/Blackboard) in delivering law units to LLB and business students. We have argued that the use of multiple choice self tests can assist students in learning the law more deeply. Such tests also assist students in their preparation for coursework and revision for exams, as do use of the discussion board and the provision of video clips and downloadable audio podcasts that can be accessed on-line. As we demonstrated at the 2009 conference, our most innovative use of Blackboard, and one which draws together all of our previous experiences, is an on-line transactional assessment which involves students representing clients in presenting or responding to claims to employment tribunals.

Whilst our previous presentations have made some reference to student feedback, our focus has been on demonstrating what we have been doing and our own reflections, as law teachers, on its value to the legal education. This presentation will focus on the student experience and on what has generally been very positive student feedback derived from questionnaires and interviews. This feedback has indicated that many students regard features such as the discussion board and the provision of revision videos and audio podcasts as enabling them to improve their marks. Particular emphasis will be placed on student feedback on the on-line assessment, and some fine tuning that we have made in the light of that feedback. Overall, again, the feedback on this was largely positive. Students reported that they enjoyed doing something different to the norms of written coursework and exams, and, in particular, liked undertaking activities that were practical and vocationally relevant. Our presentation will consist of analysis of questionnaire responses and audio and video recordings of student interviews.

We will also be linking our use of forms of on-line delivery and assessment to changes to access to justice and the provision of legal services that are likely to take place as a result of the Legal Services Act 2007. This, in turn, will have implications for legal education, including clinical legal education, in developing a relevant curriculum for the 21st century.

Caroline Strevens is Head of School of Law at the University of Portsmouth. Until 2001 she was in practice as a solicitor in the Portsmouth area. She has developed innovative units for the LL.B degree pathways, whereby
undergraduates train and work as Generalist Advisers with the local Citizens Advice Bureau and with Trading Standards. Drawing on this experience, her principal research interests are the future of the legal profession and the development of assessment through reflection and learning through experience.

Roger Welch is a Principal Lecturer in the School of Law at the University of Portsmouth. He has published widely on Employment Law issues. He has an interest in elearning, and, in the last few years, has worked with Caroline Stevens in undertaking internally funded research projects to develop and assess a blended learning approach to delivering law units including the use of videos, Podcasts and an on-line transactional assessment.
MONDAY 16.00-17.00

Parallel Session 2/Stream 1/Paper 1

STREETLAW AS PEDAGOGY

Maria Angus (University of Hertfordshire)

Streetlaw is a very simple idea. Students approach school and community groups and ask whether they would benefit from information on any aspect of the law. On gaining a positive response the students will research the specified subject and construct a presentation tailored to that particular audience. Finally, the students deliver the presentation.

The benefits of Streetlaw for the recipients are obvious but I was interested in discovering whether this process resulted in a deeper learning experience for the students, as suggested by Dale’s ‘Cone of Experience’.1 Although this is something of an ancient model, it still informs educational practice and there appears to be a general presumption that the more active a learning experience is, the more valuable it is.2 However, a recent study suggests that law students still find traditional methods of teaching, notably lectures and seminars, extremely important to their education.3

I have been encouraging students to video one another’s self-reflection on the usefulness of Streetlaw as a learning tool. By this I hope to gain an insight into whether they perceive learning outside of the lecture theatre and seminar room as education at all and, regardless of these perceptions, whether they learn.

Interestingly, several of the students did not perceive Streetlaw as a learning experience at all and assumed I wanted them to offer their perceptions of the effect of the presentation on the audience. This would suggest that Streetlaw can work as ‘teaching by stealth’! However, I then drafted a set of questions for the students to consider during self-reflection, which helps them to focus on their own experience. These questions also ask students about their motivation in undertaking the project and their feelings about it in order to ascertain whether these are factors affect their ability to retain the information in the long term.

Of course this is, of necessity, a small sample of students and their responses are anecdotal. In addition their responses, like those in any student survey, may be contaminated by a desire to produce the response the lecturer wants to hear. I attempted to minimise this effect by not taking part in the filming but

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still, on being given the questions, one student earnestly asked if there were also some suggested answers.

I had no suggested answers, just a genuine curiosity as to whether Streetlaw is a useful pedagogical tool and if so, to what proportion of participating students. At the time of writing I am still collecting and collating the students’ responses; Streetlaw projects run until the end of March therefore the results of this research will be available for the first time at the ALT Conference 2010.

**Maria Angus** is a lecturer at the University of Hertfordshire and a Barrister of Gray’s Inn. Before joining the University of Hertfordshire She taught at Northumbria University and the University of Teesside. On arrival at Hertfordshire Maria became the co-ordinator of the Streetlaw project and became interested in the effect of participation in the project on learning. Maria has lectured in Constitutional & Administrative Law, Criminal Law, EU Law, Evidence, Legal Method & Skills and Medical Law but her main research interest is Asylum and Refugee Law.

**Parallel Session 2/Stream 2/Paper 1**

**THE ROLE OF A BESPOKE LAW FOUNDATION PROGRAMME IN WIDENING ACCESS**

**Beverley Steventon & Jane Wood (Coventry University)**

This paper will explore the experience of Coventry University Law School in the designing and running of a bespoke law foundation programme designed to widen access to legal education. It will include an analysis of the progression of the first cohort onto the LLB and forms part of a longer term study to monitor the progression of first two cohorts of the Foundation Programme through their studies to graduation.

In 2004 Coventry University Law School undertook a study of the entry grades of first year LLB students and the progression of these students from year 1 to year 2. Perhaps not surprisingly this study showed a very close correlation between entry grades and progression. As a consequence of this study and concern over progression and retention it was decided that entry grades to the LLB programmes should be raised quite significantly. By 2006 it was apparent that an increasing number of students wanted to study law at Coventry but did not meet the increased entry grades. Following discussion within the Law School it was agreed that there might be a market for a specialised law foundation programme which, on successful completion, would give automatic progression to the LLB.

There was a strong view within the Law School that the students on such a course, who would to-date have performed less well academically, needed to feel just as much part of the Law School as other undergraduate and postgraduate students. It was therefore decided that to fully integrate the
programme into the Law School’s existing provision full-time staff would teach on the foundation programme and act as personal tutors. In addition, the programme would very much be viewed as a four year programme with students successfully passing the foundation year automatically progressing onto year 1 of the LLB. With regard to the content of the programme the aim of the course team was to provide a programme of study that would develop the student’s study skills, both general and specifically legal, alongside introducing them to areas of substantive law, primarily those taught on year 1 of the LLB. The course team also felt that it was important to introduce the students to the idea of law in a philosophical and historical context and include a comparative element between English law and European Civil Law traditions. A student completing the foundation programme should therefore be well prepared for year 1 of the LLB enabling them to consolidate, and further develop, their knowledge during that year. With regard to assessment, although clearly this needed to be at foundation level, it was also felt important to ensure that the students were exposed to the type of assessment they would undertake on the LLB and as a result almost all modules contain an unseen examination element within the assessment.

The programme was validated during 2006/07 and September 2007 saw the first cohort enter the programme. Those successfully completing the programme progressed onto year 1 of the LLB in 2008/2009. The Law School has not previously run such a programme and it was therefore felt important to evaluate the role of the programme and, taking into account the resources required, determine whether there is value for both the students and the University. To this end the progression and performance of these students through their foundation programme and year 1 of the LLB has been examined. In addition, this data has also been compared with the performance in year 1 of students taken directly onto the LLB and with the progression of students holding other non A level qualifications, in particular students from Access courses and those with a BTEC. This initial analysis forms part of a longer term project to follow the first two cohorts of the foundation programme through to graduation.

**Beverley Steventon** Head of Law, Coventry University
Beverley has taught on the undergraduate and postgraduate programmes at Coventry University for nearly twenty years and during that time has been actively involved in curriculum development of both undergraduate and postgraduate programmes. This has posed new challenges as the educational environment and the students have changed and this current study is part of an ongoing interest in this area. In addition, Beverley has sought to combine her science and law background in more traditional research in the area of criminal evidence particularly forensic evidence and more specifically DNA evidence.

**Jane Wood** Senior Lecturer, Coventry University.
Jane has been teaching law at Coventry University for five years. Prior to teaching full time, Jane was in private practice for over twenty years as well as being an associate lecturer at Leeds Metropolitan University and the University of Angers, France. Jane’s primary research and teaching interests are in
property and equity related subjects. In addition Jane was the programme manager, course leader and taught on the Foundation Programme at Coventry from its inception. Jane also has previous experience in teaching on the undergraduate, CPE, LPC and Masters courses. Jane also undertakes consultancy work for Central Law Training and is involved with the Qualified Lawyers Transfer Test and distance learning provision for paralegals.

Parallel Session 2/Stream 2/Paper 2

TRANSITION MANAGEMENT IN A LARGE LAW SCHOOL - LESSONS FROM THE FIRST YEAR.

John Hodgson (Nottingham Trent University)

This paper considers the issues around transition management. Transition is the process by which students move from one stage of their studies to the next. In the UK, much of the emphasis in the past has been on social transition - moving to university has usually meant leaving home and starting independent adult life. In recent years there has been more emphasis on academic transition. The 'Learnhigher' CETL, partly based at Nottingham Trent has explored aspects of transition. In addition, student engagement and involvement are a key theme for research.

Nottingham Trent has explored mechanisms for embedding transition management in the first year experience, and the law School has sought to incorporate these into one of the level 1 modules. This presentation addresses three topics:

1. What should transition management focus on?
2. How Nottingham Law School tried to implement this
3. What the outcomes were.

This is work in progress - lessons will be learned from the student feedback on the first iteration, and from staff reflection.
Many university lecturers attend conferences and presentations in which results of large funded projects into teaching and learning are disseminated and discussed, and leave inspired to change their own courses. Having attended an excellent presentation by the REAP Project team (http://www.reap.ac.uk/index.html), the author attempted to introduce one of the strategies developed by that team into a first year course at a widening participation university. This paper is a case study into the results of that attempt over two academic years.

The strategy was based upon use of asynchronous discussion boards to improve retention and attainment in a large first year class. The students on the first year Legal Method course, a skills course taken by over 200 law and combined law students, were randomly divided into groups of between 8-12 students using the WebCT group function. Group discussion forums were provided for a series of graded activities, complementing the normal lecture pattern of 2 hours lecture plus one seminar each week. It was hoped that the discussion board tasks would encourage peer-to-peer learning, leading to deeper learning and critical thinking, which would then be reflected in seminar discussions. It was also intended that students should practise writing techniques in preparation for written assessments and examinations. A further aim was to encourage greater sociability between students outside of their seminar groups, and hence engagement on the course, as well as to develop the students’ team-working skills.

It did not prove possible to reproduce the success experienced in the REAP project. The students were very resistant to engaging with the WebCT exercises, and very demanding of lecturer time in dealing with technical problems, unfamiliarity with the system and lack of co-operation by other group members. The paper will attempt to unravel and reflect upon the various reasons for this, technical, pedagogical and practical, and to uncover lessons to be learned in attempting to implement the insights of pedagogical projects successfully into everyday learning situations. The paper will draw upon research into feedback from students currently on the course and those who completed it last year, a comparison with another course in which discussion boards are used successfully, and the existing discourse on the usefulness of asynchronous discussion boards, factors which influence student participation on such boards, and first year student experience of ICT in universities.

Sandra Clarke MA(Oxon), Barrister currently teaches Land Law and Legal Skills at the University of Greenwich, where she is the LLB programme leader. Three years ago, she was promoted to the post of Teaching Fellow within the university, mainly for her work using technology in teaching. She was an early adopter of WebCT, and is currently engaged in evaluating replacement VLE.
systems for the university. She has presented papers at two Greenwich e-
learning conferences, and is the co-author of *Directions in Land Law*, the second
edition of which will be published in May.

**Parallel Session 2/Stream 4/Paper 1**

**PERSONAL DEVELOPMENT PLANNING: ITS ROLE AND IMPLEMENTATION IN THE LAW CURRICULUM**

**Philip Roberts and Ian Gardner (BPP Law School)**

In 2007 BPP Law School was granted degree awarding powers, with the first
intake of undergraduate law students starting in September 2009. The
approach to admissions for the new LLB is flexible and is not tied to the usual
entry criteria for UK law schools. However, all applicants must participate in a
diagnostic procedure, which aims to determine their suitability for a law degree.

The admissions framework involves a series of checks and balances, which
includes an opportunity for new students to undertake a credit-weighted
module that is built around the concept of personal development planning. The
module is referred to as Skills in Practice (“SKIP”), and it runs in the first year
of the LLB programme. In the case of certain candidates (e.g. those who are
returning to education, completion of the module may be a recommendation or
even a requirement of acceptance onto the programme.

In addition to admissions, the rationale for incorporating SKIP into the
undergraduate degree links to elements of learning and teaching strategy.
These include factors such as career development for students within
programmes, student influence on course design and peer assisted learning.
The paper will briefly consider these before turning to the design of the SKIP
module.

SKIP aims to help students become more self-aware and reflective. Beginning
with a self-audit of their existing skills, the module encourages students to build
a portfolio of evidence as they pursue their studies and develop over the year.
The module requires them to complete a number of “milestone” sub-projects,
and in addition to personal reflection they critically evaluate and redesign a
session or larger element of the programme by re-aligning it with their learning
preferences. There are also milestones that require students to demonstrate an
understanding of current affairs and the legal profession.

The paper will describe how the SKIP module has been developed to take into
account recommendations from instructional design and learning theory. It
makes use of available learning technology and is intended to act as an
example of best practice for BPP’s online courses.

**Philip Roberts** is Research Director at BPP College of Professional Studies. He
has held lectureships in law at University College London and Northumbria
University. As a solicitor, he practised at several London firms, including Dechert and CMS Cameron McKenna. He was also head of the training department at Slaughter and May, and was responsible for property training and know-how at Osborne Clarke. Prior to taking up law, he took his first degree in philosophy (Durham University) and PhD in cognitive science (Edinburgh University). He also holds an LLM from University College London. His research interests and publications are in legal education, property law and legal theory.

**Ian Gardner** is BPP College of Professional Studies’ e-Learning Information Specialist. He oversees use of the College Virtual Learning Environment having been involved in its introduction in 2007. His work at BPP having been recognised through achievement of Certified Membership of the Association for Learning Technology (ALT) and Chartered membership of the Chartered Institute of Library and Information Professionals (CILIP). Before working for BPP he worked in FE and legal information services either side of completing a Masters in Librarianship at Sheffield. He is currently completing an MSc in e-Learning and Interactive Teaching Technologies, online, through the University of Ulster.
GOVERNMENTALITY AND THE ETHICAL REFLECTION OF LEGAL EDUCATORS: ASSESSMENT PRACTICES AS A CASE STUDY

Matthew Ball (Queensland University of Technology, Australia)

This paper presents a conceptual framework for ethically reflecting on the practice of legal education, which is informed by Foucault’s work on governmentality and draws widely from fields outside legal and pedagogical scholarship. This framework suggests that first, legal education can be understood as a form of government – that is, as an assemblage of practices in which problems are posed, solutions developed, and through which the legal personae or identities of teachers, students, and administrators are constructed and shaped.

Second, this conceptual framework highlights that such government relies on a rationalisation of practice, wherein the activity of educating is problematised and programmed. It then points to the technological nature of this government, by exploring the specific techniques and practices through which government is carried out, and the bodies of knowledge and ‘know-how’ that inform the activity of governing. Finally, this framework suggests how legal educators can more fully engage with the theoretical and philosophical background underpinning this conceptual approach, and how it can further inform legal education research and the reflection of legal educators.

The paper will use the practice of assessment as a case study to demonstrate the critical import of this framework. It will examine the way that assessment at three Australian law schools is rationalised and carried out in order to produce particular legal personae. It will also identify the way that students are encouraged to use assessment practices to fashion their own legal personae. In doing so, this case study will problematise the idea that assessment practices informed by the scholarship of teaching and learning are objectively better than other regimes of assessment. It will do so by demonstrating that pedagogically sound assessment techniques represent a shift in the organisation of power relations that govern students, and actually contribute to the extension of these relations. Reflecting on the practice of legal education in this manner is not to produce a better educator per se, but rather to problematise their practice and ensure that they are cognisant of the power effects of their actions.

Matthew Ball PhD. is a Lecturer in the School of Justice, Faculty of Law, at Queensland University of Technology, Australia. He recently completed his doctoral thesis, which used Foucault’s work on ‘governmentality’ to examine issues of social justice, student idealism, and the production of the legal identity throughout Australian legal education. He has published, presented on, and taught in the areas of legal education, social theory, sexuality, gender, and
identity. Matthew is currently extending his doctoral research to examine issues of depression, identity, and government within law students.

Session 3/Stream 1/Paper 2

DEVELOPING ETHICAL BEHAVIOUR

Patricia Pattison* (Texas State University)

For years legal educators have been trying to develop ethical behavior in their law and business students, but media reports indicate that it’s not working. The headline “Billionaire arrested in record insider trading case,” is just one of the countless examples of unethical behavior by lawyers and business executives.

Part I of this paper will review the various approaches taken by business law professors and textbook authors to motivate and educate business graduates. They generally discuss ethical theories, corporate social responsibility, ethical problem solving, and corporate codes of conduct, but unfortunately the current methods appear to have little success in actually developing ethical behavior. Many business schools require students to take introductory classes in philosophy. Typically those courses study the nature of ethics, ethical theories, environmental issues, biotech issues, poverty and hunger, euthanasia, sexuality, punishment, and war. These topics are interesting and valuable to the well educated person, but are not directly instrumental in developing and maintaining ethical conduct in business. It would be more valuable to require psychology courses that emphasize behavior modification for business students.

Part II asks and discusses the question, “Can we teach ethics?” The answer is probably not. We can teach about ethics; students can learn about terminology and read about ethical theories and corporate codes. Research has indicated that individuals’ concepts of right and wrong are established by age ten. Having university students learn about ethics is not likely to result in the development of ethical conduct.

In Part III this paper argues that additional components of ethical education need to be incorporated in order to impact the behaviors of students and graduates. The thesis of this paper is that lawyers and business people don’t commit unethical and illegal actions because they don’t understand ethics; they transgress because they don’t avoid temptation. Most professionals start their careers with the long term goal of gaining the trust and respect of society and their colleagues; they don’t plan to become cheats and criminals. The real issue is their inability to resist behaviors that satisfy short term gratification, i.e., money and power. Law and business students need more guidance in developing personal codes of conduct and strengthening their self-discipline to resist the temptation of easy money. An emphasis should be placed on virtue

* J.D., Professor of Business Law, Texas State University-San Marcos.
ethics where students are encouraged to development positive character traits such as justice and honesty. Students should be encouraged to develop virtues, mental habits that will last through out life, to positively affect their ethical behavior. Behavior modification techniques similar to those used in programs designed to help people lose weight and control addictions are might be incorporated to help students avoid undesirable ethical conduct.

Part IV will suggest a number of class projects and exercises designed to motivate students to reflect on their values, to create personal codes of conduct, and to help them refine behavioral techniques that encourage ethical conduct. Suggested projects include:

1. Review and examine the profiles of people around the world who have been trusted, respected, and honored. Identify their personal codes of conduct.
2. Reflect on what is personally real, true, and valuable.
3. Prioritize lists of concepts of what is good and of commonly held beliefs.
4. Prioritize lists of important value and characteristic practices.
5. Compose personal obituary notices for selves.
6. Based on the model prepared by Lawrence Kohlberg, determine your own level of morality.
7. Use behavioral modification techniques as modeled by self help groups such as Alcoholics Anonymous or Weight Watchers.

Patricia Pattison is currently a professor of business law at Texas State University-San Marcos in the U.S. where she teaches classes on the legal environment of business (including business ethics), employment law, commercial law and business organizations and government regulations. After graduating from the University of Wyoming law school she taught business law in the College of Business and contracts and consumer law in the College of Law. In 1989-1990 she was a visiting scholar at the University of California, Berkeley where she studied and researched business ethics. She has received a number of local and national teaching awards; the most recent was the Master Teacher Symposium at the annual meeting of the Academy of Legal Studies in Business in 2007. Her research interests include business ethics, employment law, property law, and pedagogy
Parallel Session 3/Stream 2/Paper 1

“Evidence suggests that previous performance accomplishments are the most powerful source of self-efficacy” (Bandura 1982). I thought of times when I had received a positive comment from a lecturer or during seminars had contributed well. This allowed me, I feel, to avoid totally giving up.’

CAN 1st YEAR LAW STUDENTS USE SELF AWARENESS LITERATURE TO HELP THEM ADJUST TO UNIVERSITY LIFE?

Simon Brooman & Sue Darwent (Liverpool John Moores University)

There is a great deal of published work regarding self awareness and personal qualities of students and how this affects their success in higher education. For example, it is now widely accepted that higher self-efficacy (a belief in an ability to successfully attempt a task) can affect a student’s willingness to continue on a degree program. It is also widely recognised that the recognition of stress and how to cope with it in a higher education context may aid the likelihood of some students completing the first year of a degree programme.

Knowledge of these studies, along with a recognition that our 1st year retention rates were under pressure, led us to postulate that reading articles normally aimed at academics might inform 1st year students as to how they might use such ‘self-awareness literature’ to adjust their own situation.

This paper will outline why we identified self-efficacy and stress as two primary factors upon which we might focus a segment of a front-loaded module on a first year LLB programme. We will then examine how we dealt with the practicalities of introducing students to the literature – how we chose which articles to use, where it was placed in the programme, guidance we gave and how we motivated students to engage in reflecting on their content in relation to their own experiences.

We will examine the common themes which emerged from a qualitative analysis of the assessments submitted by students in which they were asked to incorporate discussion arising from their reading of those articles. These include themes such as identifying and dealing with stress in the early part of the degree and recognising the importance of social networks.

Finally, we will highlight the common actions that many students took which appeared to be based upon ideas gained from reading the articles. The findings of this research appear to correlate with previous studies and indicate the need for students to take positive steps in relation to their studies. For many students, the articles appeared to have helped crystallise the need for such action including, for example, reflecting in writing on personal progress, forming programme-based alliances, becoming more actively involved in seminars and gaining more knowledge about their personal attributes. We conclude by suggesting that such a student-centred approach may be a useful addition for
strategies aimed at helping first years to adjust to university life and the demands of higher education.

Simon Brooman is the Learning Support Co-ordinator the School of Law, LJMU. His current research interests lie in the areas of retention of students, reflection and the development of the ‘student community’ through, for example, student mentoring and alternative approaches to induction. He has previously presented refereed papers in these areas at several conferences including the ALT Conference 2008, European Conference of the 1st Year Experience 2008, Socio-Legal Studies Conference 2004 and the UKCLE ‘Learning in Law’ Conference 2008. He was invited to present a paper on retention of law students to the Committee of the Heads of Law Schools in 2008. He is the co-author of Law Relating to Animals, Cavendish Publishing 1997.

Sue Darwent is a pedagogic researcher in the Faculty of Business and Law, having previously been employed in the NHS. As an Occupational Therapist, she worked primarily in mental health. She recently completed an MSc Health Psychology, the focus of which was a qualitative (IPA) study with kidney transplantation patients. In her current post, Sue works on faculty-wide projects, such as developing a Bluetooth-enabled attendance monitoring system, as well as school-based projects. Her current research interests concern student retention, the first year experience and particularly the effect of individual differences on attrition and success. She has presented refereed papers at conferences such as European Conference of the 1st Year Experience 2008, BMAF 2008, TAR Conference (Malaysia) 2008, UCL Transitions Conference 2009, and European Health Psychology (Pisa) 2009.

Session 3/Stream 2/Paper 2

THE PEDAGOGY OF THE DEPRIVED

Nick Johnson (University of Warwick)

The title deliberately reflects Paulo Freire’s seminal work “The Pedagogy of the Oppressed”. The paper aims to test the values and techniques of English liberal (and post-liberal) legal education in a wholly different context.

The setting for this exploration will be the capacity building programme run by Warwick Law School to assist the development of a cluster of new law schools in northern Ethiopian Universities. In the first stage of the project, law teachers in those Universities are being put through Warwick postgraduate degrees. The second stage is a joint Masters degree between the main northern University, Mekelle and Warwick and the third stage the development of a locally validated degree at Mekelle. Besides intellectual development, the project covers developmental assistance with University infrastructure including library, IT and QA.
I have been involved in the management of the project and am responsible for
the legal education component of the Masters degree in Ethiopia. I have also
taught a nation wide pedagogy programme for Ethiopian law teachers.

The paper will take as its starting point the arguments put forward by Burridge
and Webb in their seminal paper “The values of common law legal education”
Legal Ethics Vol 10, 1 and seek to apply them to the Ethiopian context. Among
the issues discussed will be:

1. that the notion of capacity building is itself problematic raising potential
issues of cultural and economic imperialism
2. that the values of legal education when transplanted to a different
context may produce new paradoxes and unintended consequences
3. that the conditions under which law teachers and students in Ethiopia
operate raise many questions about the best pedagogical means and
methods for achieving the necessary skills and intellectual emancipation
of post liberal legal education.
4. the broader context of other globalised schemes of legal education such
as the experiment of running a Chinese law clinic from an American Law
School.

Parallel Session 3/Stream 3

USING PROACTIVE LAW FOR COMPETITIVE ADVANTAGE: IMPLICATIONS FOR
TEACHING AND LAW PRACTICE

Helena Haapio, Lexpert Ltd, Helsinki, Finland
George Siedel, University of Michigan, Ann Arbor, Michigan

The goal of this interactive session is to introduce a new mindset—a proactive
approach to law—that has its origins in the work of the Nordic School of
Proactive Law and has been emphasized in the recent European Economic and
Social Committee’s (EESC) Opinion on better regulation. After introducing this
approach known as proactive law, the session will focus on two practical aspects
of applying this approach. The first is a new methodology that involves
visualizing contracts and legal information. The second is a process called the
Manager’s Legal Plan. Both the methodology and the process are useful in
teaching law and in interactions between lawyer and client. The outline for the
session follows.

A New Vision and Mindset: Proactive Law and Proactive Contracting

• What do we teach, research and practice today:
  o reaction to past failures – or proactive action to secure success?
  o preparing for failure – or establishing the framework for success?
• A new environment needs a new approach
  o proactive = preventive + promotive / positive
- Introduction to the EESC Opinion on the proactive law approach: a further step towards better regulation at EU level (published in the *Official Journal of the European Union*, C175, 28 July 2009, 26)
- Using the law and contracts to create new value and gain competitive advantage while preventing causes of problems
  - What is preventing the change?
    - We have the skills, knowledge and tools – we need to change attitudes
    - We need to make the law and contracts easily accessible, understandable, interesting, and even fun

**A New Methodology: Visualizing Contracts and Legal Information**
- How does it work? Preliminary results and examples (work in progress)
  - Visualization of legal information / legal information graphics
  - Contract visualizations / visual representations of contracts
  - Proving the point: "the comma that cost 1 Million Dollars"
- Webliography of tools and resources on the topic

**A New Process: The Manager's Legal Plan**
- The importance of law in gaining competitive advantage
- The failure of traditional "fight or flight" responses to legal problems
- Introduction to the Manager's Legal Plan
- An application of the Manager’s Legal Plan to Product Liability
- Using the Manager’s Legal Plan in the classroom

**George J. Siedel** is Williamson Family Professor of Business Administration and Thurnau Professor of Business Law at the University of Michigan. Professor Siedel has served as Visiting Professor of Business Law at Stanford University, Visiting Professor of Business Administration at Harvard University, and Parsons Fellow at the University of Sydney. He has been elected a Visiting Fellow at Cambridge University’s Wolfson College and has held a Fulbright Distinguished Chair in the Humanities and Social Sciences.

**Helena Haapio** works as International Contract Counsel for Lexpert Ltd in Finland. Before founding Lexpert she served for several years as in-house legal counsel. She holds a Diploma in Legal Studies (University of Cambridge), an LL.M. (Turku), and is a doctoral student (Vaasa) researching proactive contracting as a means to bridge business and law. She acted as Expert in European Economic and Social Committee’s Opinion on the Proactive Law Approach. She also acts as arbitrator.
Parallel Session 3/Stream 4/Paper 1


Glenn Robinson, John Clifford & Ben Hughes (BPP)

This session is based on the work of the presenters using new learning technologies at BPP Law School within, primarily, the Graduate Diploma in Law programme. The presenters will demonstrate how Camtasia and WIMBA work and how they can deliver a synchronous, live learning experience equal to and exceeding that of traditional notions of face to face, on ground tuition.

The presenters will then go on to explore the reactions of students to the application of these technologies, the effect on student learning, the particular value for distance and blended programme modes and the benefits to disabled students. In conclusion the presenters will argue that the sophisticated application of the innovative new and developing technologies now available, together with the cultural attitudes to communication and learning of Generation Y, question the continued legitimacy of traditional delivery models and demonstrate the distances that can be travelled practically and metaphorically by the new.

Parallel Session 3/Stream 4/Paper 2

‘LET’S PLAY MASTER AND SERVANT: THE RELATIVE ROLES OF SUBSTANCE AND SKILLS IN LEGAL EDUCATION’

Michael Doherty (University of Central Lancashire)

This paper argues that skills teaching plays a subservient role in UK legal education. It proposes that this position makes learning less effective than it could be and is unjustified in the context of both the employability agenda and the liberal legal education thesis.

The objective of skills teaching is often perceived to be (and indeed is often described in module aims) to allow students to function qua law students. That is, to be able to find and interpret sources so that they can undertake the tasks and assessments set in the substantive law subjects. The primary purpose of skills teaching, in this view, is to facilitate learning in substantive modules. Skills service substance and not vice-versa.

This subservient role is manifested in a number of ways. First, in the scheduling of skills within the law curriculum; most skills teaching is first year only, some is first term only and some is even more intensively crammed into the first few weeks. Second, kudos in academia normally comes from subject specialism rather than teaching ability and this translates into the substance/skills dichotomy. The staffing of skills modules is often seen as non-specialist and skills teaching allocations can be used simply as a way to balance workloads.
Third, students often perceive the skills elements of their programmes to be less important than the substantive modules. This is most pronounced in attempts to develop skills outside of traditional modules structures, such as PDP (Clegg and Bradley), but applies even to discreet assessed skills modules. The lack of reciprocity from substantive law teaching to skills teaching exacerbates this perception.

One interpretation is that students see the main purpose of legal education as being to learn about laws rather than to develop various skills (research, reasoning, communication etc) within a legal context. This view, often reinforced by the other factors outlined above, is not entirely consistent with a number of policy statements such as the Joint Statement and the HEFCE Law Benchmark, which give at least equal emphasis to both. It is in conflict with employability concerns (Dearing Report), and equally is unsupportive of the notion of a (post)-liberal legal education (as recently discussed by Burridge & Webb and with a slightly different emphasis by Bradney) or with those who stress the compatibility of these concerns (Duncan).

The aim ought not to be for the integration of skills development within substantive law provision. The dangers of submersion, fragmentation and inconsistency are too great. There is a need for standalone skills provision, but one that has a reciprocal relationship with substantive law provision. Skills teaching is ineffective if it is abstract or insufficiently connected to the rest of the syllabus. Good skills teaching asks students to think about how they apply and develop their skills in relation to the other elements of their programme of study: but substantive law teaching needs to give something back. If skills teaching justifies itself solely as training to be able to understand, for example, contract or crime or land law, whilst these subjects do not refer back to the skills teaching and justify themselves (at least in part) as testing grounds for the exercise and development of these skills, then the perceived hierarchy of importance will persist.

The paper concludes with an explanation of how this reciprocity may work in practice without overloading the crowded curriculum or impinging on (at least a non-absolutist conception of) academic freedom.

Sources
A. Bradney, ‘Elite values in twenty-first century United Kingdom law schools’ [2008] 42 Law Teach. 291-301
**Tuesday 11.30-13.00**

**Parallel Session 4/Stream 1/Paper 1**

**CREATING AND TEACHING AN EFFECTIVE GLOBAL BUSINESS ETHICS COURSE**

**Lucien J. Dhooge (Georgia Institute of Technology)**

This presentation examines the development and delivery of an effective mini-course in global business ethics for undergraduate and graduate business students. The presenter compiled and wrote his own materials for the course focusing on three primary themes. The first theme is an introduction to global business ethics, which focuses on normative and psychological foundations and cultural relativism. The second theme is corporate citizenship. The focal points of this theme are corporate social responsibility, corporate codes of conduct, and social reporting.

The final theme is ethical considerations and stakeholders. This theme focuses on the following groups: shareholders (risk minimization, corruption and bribery), employees (employment protection, privacy, equal employment opportunity, sweatshops, and occupational safety), customers (product safety and fair pricing), and the community (human rights and environmental protection).

Each of these topics is covered through a series of compiled and original readings and case studies. Sources of the compiled readings and case studies include academics, international organizations (such as the United Nations, the OECD, and the ILO), opinions issued by U.S. federal and state courts, and business organizations and non-profits (such as the U.S. Chamber of Commerce, the World Economic Forum, and Transparency International). The topics are also covered by eight original readings and nine original case studies. The readings and case studies are accompanied by discussion questions for in-class review. The case studies are accompanied by video materials where available and appropriate.

The course presents several challenges. The course is intended to be a comprehensive examination of global business ethics but is to be delivered in a relatively short period of time. The course is to be presented to relatively inexperienced undergraduate students in the United States as well as graduate students with several years of work experience and from a variety of locations, including the United States, Central and South American and Europe. The course is intended to be discussion-oriented, which is difficult to accomplish given enrollment that may exceed fifty students. Student evaluation is also difficult given the fact that the course is delivered in a shortened semester with grades due at the end of the sessions. This leaves little time for student mastery of the topic and instructor inquiry into student comprehension throughout essay-format examinations. The presenter will address how he attempts to overcome these challenges as well as solicit suggestions from attendees.
Lucien J. Dhooge is the Sue and John Staton Professor of Law at the College of Management at the Georgia Institute of Technology. He teaches international business law and ethics and serves as the director of the global executive MBA program and area coordinator in law and ethics. He received his law degrees from the University of Denver and Georgetown University. He has authored more than fifty scholarly articles and co-authored five books. Professor Dhooge is the recipient of numerous research awards given by the Academy of Legal Studies in Business, was designated the outstanding junior business law faculty member in 2002 and received the Kay Duffy Award for outstanding service in 2005. Professor Dhooge currently serves as ALSB President and is a past editor-in-chief of the American Business Law Journal and the Journal of Legal Studies Education.

Parallel Session 4/Stream 1/Paper 2

DEVELOPING ETHICAL LEGAL PROFESSIONALS.

Nigel Duncan (City University, London)

This workshop will demonstrate an innovative website which is designed to bring together academics and practitioners interested in developing ethical lawyers. It will provide resources and a forum for discussion of issues of concern. It will provide an opportunity for users to add their own contributions and to comment on the materials already there. The website was recently presented at the International Bar Association Annual Conference in Madrid, where it attracted the interest of teachers, practitioners, judges and professional regulators, and at LILAC 2010. Since then the site has undergone development. There will be opportunities to propose changes to the site so that it best meets law teachers’ needs and, should participants wish, to contribute material to it.

Although teaching ethics and promoting the development of professionalism are currently vibrant and important topics in both legal education and the legal profession, and though a considerable amount of information exists around the world about ways to teach legal ethics and promote professionalism, such information is typically targeted only to persons within discrete jurisdictions. Most of this information is available only in conventional print formats and the publications where it is found are again generally known and available only within particular jurisdictions. Actual examples of effective and innovative teaching methods are difficult to find and obtain; all too often they are only described in general terms in print-based media. Although there is a number of websites with information on legal education generally, and on ethics and professionalism specifically, there is no single, comprehensive, internationally-targeted internet portal to access what information does exist. Furthermore, there is no widely accessible website that has useful interactive features. This new international website will catalyse innovative teaching, especially by increasing the flow of information across national boundaries, and empower law
teachers (particularly in institutions with limited resources) to participate in a
global community of colleagues dedicated to effective teaching of ethics and
professionalism.

Nigel Duncan is Principal Lecturer at the City Law School, City University,
London, where he teaches on BVC and LLM courses and runs a live clinical
option. He edits the *Law Teacher*, and sits on the Advisory Board and Strategy
Committee of the UK Centre for Legal Education, the Committee of ALT and is
an Honorary Fellow of the Society of Advanced Legal Studies. He has recently
contributed to a Law Society report on the education of ethical solicitors, has
written widely on legal education and regularly contributes workshops and
papers at conferences. He has used his recent National Teaching Fellowship to
design the initiative presented here.

**Parallel Session 4/Stream 2/Paper 1**

**LEARNING LAW THROUGH ART**

**Michael E Jones (University of Massachusetts Lowell)**

*Professional Artist*

Street graffiti artist turned political activist, Shepard Fairey, sought to assist
Barak Obama’s campaign for president by creating a political poster. Using a
copyrighted Associated Press (A.P.) photograph of Obama found online Fairey
downloaded this image without permission onto a stenciled poster. Fairey
reworked the original photograph image of Obama by reversing and enlarging
it. He added three colors – red, white and blue – into the poster’s background.
The iconic word “HOPE” was splashed boldly onto the bottom of the poster.
Even the official Democratic Party’ circular trademarked logo (“O”) was added
without approval.

Initially, Fairey’s company, OBEYGIANT, printed and distributed thousands of
posters free to Obama campaign supporters. November 2008 Fairey’s website
began selling numbered and signed posters for $45. The A.P. complained.
Fairey sought a declaratory judgment. The A.P. sued for copyright violation.
Fairey responded arguing his poster was a transformative political poster
protected by fair use.

All along the A.P. maintained the photograph Fairey publicly claimed was
incorporated onto the poster was not the right one. Late in the discovery phase
Fairey admitted he lied. His counsel, one of the leading copyright attorneys in
the USA, immediately filed a motion to withdraw. Fairey posted a terse
explanation for his deceptive behavior on his OBEYGIANT website.

In keeping with the tenor and mission of the 2010 annual ALT conference, this
case in addition to my own experience creating official posters for the 2004 and
2008 Olympic Games, serves as a basis for helping law students understand
how art, common culture, and law all come together. In essence, the goal for
this presentation is to demonstrate how one can learn law through the visual arts.

According to published research the human brain has a visual cortex five times larger than the auditory cortex. Further research indicates students’ respond positively when they have opportunities to learn through the visual arts. Arts are a part of the human experience for our law students. Symbolic forms in the way of poster art permit us to preserve and pass along accumulated wisdom, and tell stories.

Shepard Fairey believes his poster is unique, original and even culturally and legally transformative. He admits relying upon the protected works of prior artists. So what, he responds, because “everybody” in the online digital world does the same. Is he right? Analyzing the law (fair use, derivative rights, free speech) from the perspective of viewing how Fairey actually created his poster I would argue results not only in improving understanding of content, but greatly enhances self-regulatory behavior.

The means by which the law is explained will start from viewing the original contested A.P photograph found on the Internet. An examination of the digital art technology of Photo Shop will follow. Step by step I will seek to demonstrate the various graphic words and symbols and artistic techniques Fairey pulled together to create his poster. An original copy of the final HOPE poster will be displayed to help the viewer make up his/her own mind. In a similar vein I’ll share both the artistic and legal development encompassing the commission, preparation and ultimately final printing of the 150 limited edition art poster protected by the Moral Rights provision of the Berne Convention.

Research by Professor Marian Diamond, University of California at Berkeley, tells us that the human brain can change structurally and functionally as a result of learning and experience. Traditional classroom lectures in which law students are passive recipients of information lack the brain stimulation that occurs when law students are exposed to stimulating, interactive learning. By fully engaging law students into personally discovering and viewing the artistic subject and tools available online and offline it is believed students learn, remember and problem-solve better. The expectation is that this form of learning can continue throughout life.

The literature suggests not only can the brain be transformed, but it is itself a transformer. For instance, the law student might view the sight of a London 2012 Summer Olympic poster incorporating trademarked Olympic related words and symbols, and the experience might emerge in the form of not merely considering the law, technology and ethics behind its creation, but motivate the student to begin personally expressing some form of art, music, dance or literature.

The director of the International Center for the Development of Learning Potential has conducted research demonstrating when humans are cut off from their cultural roots they may never fully develop their capacities to their fullest.
Popular street artist, Shepard Fairey, loved and despised online by countless bloggers is a significant player in the popular culture. It is imperative law students interact with artists and the world they inhabit. The Shepard Faireys of the world shape and change the way we view what copyright law in a digital environment means. In a larger context, artists and our interactions with them, alter how we mediate or resolve their disputes, and arguably help challenge and change us.

Parallel Session 4/Stream 2/Paper 2

Teaching public law and student confusion: the police, judges and jurisprudence to the rescue?

Michael Rodney (London South Bank University)

The lot of a first year student is a difficult one. She is faced with a variety of new challenges. Firstly she may be living away from home for the first time in a previously unknown location. Secondly, she may be confronted with a new educational institution and its associated expectations. Thirdly, she may have to forge relationships with a group of strangers who happen to be her fellow students and finally, she probably has to confront a multitude of demands relating to the subject she has chosen to study.

In the case of law, the diet of subjects taught on the first year frequently comprises three or four which may well include contract, tort, and public law. All three of these subjects possess their own challenges, conceptually and otherwise. However important elements initially explored, in contract law for example, can be illuminated by the use of cases and explanatory devices that relate in various ways to students’ concrete everyday life experiences. With regard to public law, however, consistent with the arrangement of most public law textbooks, students have to engage initially with a set of themes, many of which are rather abstract and ‘distant’. Frequently, students appear to find these particularly difficult to relate to, not least because their life experiences appear to them to bear little, if any, relationship to the topics under discussion. These include themes such as constitutional sources, parliamentary sovereignty, the rule of law and even considerations about what comprises a constitution and constitutionalism. In my experience as a teacher of public law for a number of years, this can lead to students complaining about the difficulty of the subject, of ‘not getting it’, resulting at times in them ‘turning off’.

In the light of the above, it will be argued that there is a compelling case for developing a different approach to the delivery of the subject which can replace or supplement the more traditional method of presenting it. The changes that will be suggested include a re-ordering of the way that public law is taught so that those areas involving a concrete articulation between state and individual, most obviously concerning police powers and human rights are brought forward while the more abstract elements of the syllabus are re-located. With such changes which would include adjusted presentation of relevant materials,
earlier parts of the syllabus may provide an effective illumination of the more abstract parts leading to students gaining a fuller and more securely fastened insight into the latter. It will be further argued, perhaps rather paradoxically, that certain jurisprudential insights relating to the nature and organisation of rules and legal systems should be introduced to illuminate a variety of aspects of the public law syllabus including its more abstract parts. It will be claimed that with such re-ordering and adjustment of the syllabus, public law may well stand a greater chance of being related to and engaged with by a larger number of students in a manner that increases their chances of developing a positive relationship with the subject and successfully completing it.

**Mike Rodney** is a Senior Lecturer in the Law Department at London South Bank University where he has been teaching since 1994 in the areas of public law, legal theory and civil litigation. Before that he was in practice as a solicitor specialising in civil litigation related to social welfare and human rights law. He is also an associate lecturer with the Open University where he teaches public and criminal law. He has a doctorate having undertaken his research thesis in the field of legal theory. His current areas of research are public law, legal theory and aspects of legal pedagogy and the student experience.

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**Parallel Session 4/Stream 3/Paper 1**

**HARMONISING DISCRIMINATION LAW: UNDERSTANDING ‘REASONABLE ADJUSTMENTS’ IN ASSESSING LAW STUDENTS.**

**Elizabeth Mytton (Bournemouth University), Richard Sykes (Mills and Reeve, LLP) Chris Maguire (BPP)**

This research seminar is the initial stage of a study designed to enable academics across the legal education sector to engage with an informed understanding of ensuring best professional practice as it relates to the provision of reasonable adjustments. It considers the work of Margaret Herrington and Dawn Simpson ‘Making Reasonable Adjustments with Disabled Students’ (University of Nottingham, June 2002). It also considers the current statutory requirements and proposals under the Equality Bill 2009.

You are invited to participate in this participative seminar at which a range of case studies can be reviewed. We welcome the opportunity to share with your experience and case studies in order to gain an appreciation of the extent of which practice varies across the sector.

The purpose of the seminar is to:

- Explore a range of responses and variation in the provision of reasonable adjustments
- Identify how responsibility is taken within institutions and the academic input in making the judgement.
Examine the extent to which providing reasonable adjustments shapes the learning environment for academics and students.

**Parallel Session 4/Stream 3/Paper 2**

**HOW, WHERE AND TO WHOM? STUDENT GRIEVANCE RESOLUTION IN AUSTRALIAN UNIVERSITIES**

Sally Varnham (University of Technology, Sydney)

In a perfect world, the internal regulations and processes of each university would provide for an efficient, fair and just resolution of all student grievances. In reality however this is not always the case and inevitably aggrieved students seek justice through a forum outside the university. There is some evidence that in Australia the numbers of disgruntled university students taking their actions to external courts and tribunals is increasing.\(^4\) Litigation constitutes a major distraction for affected students from their studies (many do not complete), and for the academics from their teaching and research. Almost universally students represent themselves, and they are almost always unsuccessful. In many cases their lack of success may be partly attributed to their lack of a legal knowledge in terms of the causes of action, pleadings and processes which are part and parcel of such proceedings. Even though the university may win, it loses also. Litigation carries with it a significant financial burden and considerable diversion in time and energy of university personnel. Often it attracts unfavourable media publicity. Students at public universities may also take their complaints to state ombudsmen\(^5\) and the statistics of those offices, particularly in New South Wales and Victoria, show an appreciable increase in such complaints in recent years.\(^6\) It is questionable whether it is inappropriate and burdensome for complaints in such a specialized area to be within the jurisdiction of the general watchdogs of public administration.

This presentation provides an overview of the findings of an Australian research project, “Student Grievances and Discipline Matters”, the report of which is due for publication.\(^7\) Against this background it considers the case for all

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\(^5\) ACT universities may use the Commonwealth Ombudsman.


\(^7\) Research project “Student Grievances and Discipline Matters” funded by the Australian Teaching and Learning Council, Principal Researchers: Professor Jim Jackson, Southern Cross University; Ms Patty Kamvounias, The University of Sydney and Associate Professor Sally Varnham, University of Technology, Sydney and Project Manager Helen Fleming, Southern Cross University. All team member are co-authors of the project report, which is published at [www.altc.edu.au](http://www.altc.edu.au), and this presentation.
universities to follow the example of some in Australia, and in comparative jurisdictions, and establish internal student ombudsmen. It also considers whether Australia should adopt the UK model of the Independent Adjudicator for Higher Education.

Sally Varnham is an Associate-Professor with the Faculty of Law at the University of Technology, Sydney. She was admitted to the New Zealand Bar and practised law in Wellington and in London before beginning her teaching career. She taught Business Law for the College of Business at Massey University in New Zealand before joining the Faculty of Law at UTS in 2007. Her main research interest is in legal issues arising in compulsory and higher education and her theses for LLM (VUW) and PhD (UNSW) are in this area. She is widely published in Australia, New Zealand and the UK and regularly presents at national and international conferences. Most recently she was a Principal Researcher in a research project entitled Student Grievances and Discipline Matters which was funded by the Australian Teaching and Learning Council. The report for that project was published in January 2010.

Parallel Session 4/Stream 4/Paper 1

A FULL QUALIFICATION LAW DEGREE – RE-CASTING THE ROLE OF LAW SCHOOLS IN THE PROVISION OF LEGAL EDUCATION AND TRAINING.

Kevin Kerrigan & Phillip Plowden (University of Northumbria)

“... most prestigious, is an institution which purports to be the practising profession’s House of Intellect, providing not only basic education and training, but also specialist training, continuing education, basic and applied research and high level consultancy and information service. The nearest analogy is the medical school attached to a teaching hospital which, inter alia, gives a high priority to clinical experience with live patients as part of an integrated process of professional formation and development. In no western country has this model been realised in law.”

William Twining’s description of a “teaching hospital” approach to legal education has never been seriously attempted in the United Kingdom for a variety of pedagogical, financial and structural reasons. However, the notion of integration as an educational imperative has remained a powerful driver and the desire to break down perceived artificial barriers between academic and professional stages still motivates reformers to push for change. In the UK, the Lord Chancellor’s Advisory Committee on Legal Education in 1996 made strong

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recommendations for integrating aspects of theoretical and practical education\(^9\) while in the USA the Carnegie Foundation report in 2007 echoed the demand for integration in the context of postgraduate law school education.\(^10\)

The most recent attempt to give tangible meaning to the principle of integrated legal education is the M Law (Solicitor) Degree at Northumbria University. This has been approved as a special pilot of the SRA’s Work Based Learning initiative. It is the first time a fully integrated approach to the professional journey has been attempted. Students commence as undergraduates and, assuming successful progression through 5 years of academic study, skills training, clinical legal education and placement, they graduate equipped to apply to the SRA for entry onto the Roll of Solicitors. The Law School not only provides academic and vocational education but is responsible for assessing whether students have achieved the work based learning outcomes required for entry to the solicitor’s profession.

The first intake was September 2009 and the pilot runs for 5 years. The intention is to explore with the SRA the viability of integrating legal training in an academic programme. Clearly such a model is not appropriate for all law schools but the pilot should provoke a rethink of the traditional institutional boundaries in legal educational and training. It may also raise questions about the future of the training contract and the role of professional law schools.

**Philip Plowden** is Professor of Law and Dean of the Northumbria Law School. Previously he was responsible for the Law School’s renowned clinical legal education programmes and was Editor of the International Journal of Clinical Legal Education. Philip is a National Teaching Fellow, and Senior Fellow of the Higher Education Academy. He is a solicitor and a practising barrister, and is a member of the Law Society’s Criminal Law Committee. His research interests centre on criminal litigation, human rights, and legal education.

**Kevin Kerrigan** is Associate Dean for Undergraduate and Clinical Programmes at Northumbria University School of Law. He is also a practising solicitor and Human Rights Act consultant with experience of conducting criminal and human rights cases in courts at all levels. His teaching and research interests are in the fields of legal education, human rights and criminal process. He is the editor of the International Journal of Clinical Legal Education and organises an annual international clinical conference. He runs the criminal appeal clinic at Northumbria’s Student Law Office and is a co-ordinator of the Clinical Legal Education Organisation.


Parallel Session 4/Stream 4/Paper 2

THE LAW STUDENT EXPERIENCE: INNOVATION FOR BROADER MINDS AND CRITICAL ENQUIRY.

Grier Palmer. (University of Warwick).

The debates on developments in Law undergraduate and professional education continue. The obligations on the student via Contracts, the provision by teachers of experiential learning opportunities following Dewey and Kolb, and the tensions between a wider liberal curriculum and competencies for employability are 3 examples of features of the context for this paper.

A longitudinal Action research programme relating to 3rd year Law students is reported, with a focus on pedagogic innovations and the impact on the students’ learning. The issues of the barriers and sensitivities in the paradigms, competencies and confidence of the Undergraduates are analysed and discussed. Links in this case between pedagogic research and practice are explored.

Quantitative, ethnographical and student perspectives help provide a rich portfolio to help review a Critical thinking module (‘Critical Issues in Law and Management’) where a series of innovations have been introduced to challenge and develop the students’ learning approaches. New different spaces and teacher-student relationships; performance and ‘presence’ coaching by members of a theatre ensemble; unconventional reading and media; and the experimental use of Postgraduate assistants as ‘facilitutors’. The impact of these innovations on the academic literacies and adult skills of the students will be examined, with the next steps in the programme open for discussion and improvements.

References:
Ward, I, (2009), Legal Education and the Democratic Imagination, Law and Humanities, Volume 3, Number 1, June 2009 , pp. 87-112(26)
Tuesday: Keynote Plenary: 14.00-15.30

The Australian and UK Law Teachers of the Year 2009 Present:

JOURNEYS, JOURNALS AND THE DYNAMICS OF DIFFERENCE

Rick Snell (University of Tasmania)
Gary Watt (University of Warwick)

The etymology of “education” implies a leading out (ex-ducere) and the etymology of “difference” implies something similar: “a carrying away” (dis-ferre). It is clear that legal educators must engage the educational dynamic of difference, but how can we achieve the necessary distance from the orthodox routines of legal education without being accused of getting carried away? The answer, we propose, is to cultivate reflection on the educational relevance of every step in the pedagogical process. In this presentation, we will provide successful examples from our own experience, including the use of physical movement and reflective records; and we will stress, above all, that no new practice will make any jot of difference unless it is led by a compatible ethos.

Rick Snell is a senior lecturer in law at the University of Tasmania. His research, ideas and teaching have been influential within Australia and internationally.

After joining the Law School he quickly built an international reputation in the area of Freedom of Information and within six years was awarded a Teaching Excellence Award and was profiled as one of the 48 Australian academics with exemplary or noteworthy approaches to teaching (Ballantyne et al Reflecting on University Teaching Academics’ Stories 1997). Since that time he has developed a growing reputation in the area of Ombudsman studies.

Rick loves to teach. Teaching and research are intertwin ed, or concomitant, elements of his professional life. He strives to link teaching and research, and build upon those links, to aim for what the former vice-chancellor of Wollongong University Ken McKinnon described as a spiral of quality – a continuous cycle of planning, acting, observing and reflecting. As a teacher he is inclusive, people orientated and has a passion to search out, test and pass on knowledge whether it be from a lectern, the pages of a journal or an on-line opinion piece. For students, experts and the community he tries to act as a bridge or conduit between research, ideas, public law values and the needs of citizens.

Rick Snell has recently been awarded the following teaching prizes:
• 2008 Australian National Citation for Excellence in Teaching and Learning
• 2009 UTAS Teaching Excellence Award
• 2009 Lexis Nexis Australasian Law Teacher of the Year for Excellence in Teaching and Innovation
Gary Watt is a Reader in law at the University of Warwick, and will take up a personal chair later this year. Since 2004 he has also been a Visiting Professor at the Université Paris V. He is the co-founder and joint general editor of the journal Law and Humanities.

Gary left legal practice to pursue his passion to teach and his first opportunity came at The Nottingham Trent University where he was a lecturer and senior lecturer (1993-1999). One of his earliest innovations was to introduce a moot-based skills exercise into every year of the undergraduate curriculum, developing from simple mooting in the first year, through advanced research and skeleton arguments in the second year to the drafting of moot problems and full moot scripts in the final year (Gary is the co-author of How to Moot: A Student Guide to Mooting (OUP)). Since moving to The University of Warwick in 1999, Gary has continued to experiment with script writing and this is now an optional assessment for all final year students of trusts law. Gary is the author of a number of texts in the law of trusts, including Trusts and Equity (OUP) and Equity and Trusts Directions (OUP). The latter employs photographs and extracts from such sources as literary fiction and film script to implement Gary’s belief that a mature appreciation of any legal subject requires the subject to be viewed by the lights of culture, arts and the humanities. With this in mind, Gary has introduced a module in Law and Literature which incorporates an element of assessment by creative writing. He has even co-written for Radio 3 on the basis that one should not ask others what one isn’t prepared to do oneself! For Gary, one of the chief delights of Warwick is its proximity to Stratford-upon-Avon, and all things Shakespeare. He was the joint organizer of a conference on “Shakespeare and the Law” held at Warwick in 2007, and co-editor of the book that arose out of it (Hart, 2008). Gary regularly delivers workshops on rhetoric to drama students at the Royal Shakespeare Company. His most recent book Equity Stirring: The Story of Justice Beyond Law (Hart, 2009) explores Gary’s hope that engagement with the humanities might stir up what law and legal education sets down.

Gary Watt has recently been awarded the following teaching prizes:
- 2009 UK “Law Teacher of the Year”
- 2009 Warwick Award for Teaching Excellence
**THE EXPERIENCE OF STUDENTS WORKING IN A LIVE LEGAL CLINIC SETTING**

Lydia Bleasdale-Hill (University of Leeds)

The University of Leeds Legal Advice Clinic opened in October 2009, and provides free legal advice to members of the community. Volunteering undergraduate Law students conduct interviews with clients and give them free written advice under the supervision of solicitors from local firms. Following their participation in the Clinic, and in line with existing research into the skills students gain from such participation, it is anticipated students will have enhanced their vocational and educational skills, and have improved their overall learning experience (primarily through the application of their legal knowledge to ‘real life’ legal problems).

This workshop will outline the development and maintenance of pro bono activities at the University of Leeds, before describing the establishment of the Legal Advice Clinic. A student volunteering within the Clinic will then discuss their reasons for becoming involved and skills gained from their involvement. This discussion will draw upon the student’s personal experiences, and upon feedback from his fellow volunteers. Delegates will spend the remainder of the workshop discussing (in small groups) their own experiences of establishing Clinics and/or other pro bono initiatives.

The emphasis throughout will be on delegates interacting with each other, and learning from the experiences of others. Delegates will have the opportunity to ask questions and contribute thoughts through the entire workshop. The intention is for the workshop to be beneficial to those delegates considering establishing a Clinic, delegates wishing to discuss how they might further develop an existing Clinic, and delegates interested in the student perspective on such Clinics.

Lydia Bleasdale-Hill has been a lecturer in Criminal Law and Criminal Justice at the University of Leeds since 2005. She oversees the School’s Widening Participation activities, including the implementation of the Sutton Trust/College of Law *Pathways to Law* programme, as well as the School’s Pro Bono activities. She is the Director of the University of Leeds Legal Advice Clinic, and the interim Director of the University of Leeds Innocence Project.
Parallel Session 5/Stream 2/Paper 2

TAMING SOFTWARE AND BUSINESS METHOD PATENTS: DOES EUROPE PROVIDE A WORKABLE SOLUTION?

Susan Marsnik, (University of St. Thomas, Minneapolis) Robert Thomas, (University of Florida).

The thorny issue of whether patent subject matter includes computer software has been grappled with on both sides of the Atlantic since the 1960’s. These useful “inventions” fall in the gray area between abstract ideas and patentable processes and differ from the products and processes for which the patent system was developed. In the United States, unable to draw a clear line between patent-worthy and unworthy inventions, the Court of Appeals for the Federal Circuit (CAFC) granted patent coverage to all software and business method inventions in 1998. However, the explosive growth in patent infringement litigation and the prevalent belief that too many weak and undeserving inventions were receiving patent protection may have motivated the CAFC to reinstate the Supreme Court’s “machine or physical” transformation test in In re Bilski, 545 F.3d 943 (2008). Although the CAFC and commentators assert that the test will not invalidate all software patents, the test will remove many previously patentable software inventions, and a large percentage of business methods from patent subject matter. Critics of Bilski assert that the test is unworkable. If courts apply the test loosely crafty patent lawyers will simply draft their claims to circumvent the test. However, some argue that if courts apply the test strictly then beneficial innovations will not receive patents because they include software or business methods. On November 9, 2009, the United States Supreme Court heard oral arguments on Bilski and is expected to publish its opinion in the spring of 2010.

The landscape for software patents in the European system in more complex and more fragmented, due to the structure of the patent landscape which includes both the European patent system, under the European Patent Convention (EPC) and the national systems in European Union member states. In the 1960s and 1970s, during the drafting of the EPC the issue of whether software and business method patents were “inventions” under Article 52 was hotly debated. In the end, Article 52 expressly excludes both business method and software patents “as such” from patentability. The exclusion does not mean EPO and national patent offices do not grant such patents. Rather, the European Patent Office (EPO) Technical Board of Appeal (TBA) has applied various tests to determine the scope of “as such” limitation within the context of its technical requirement for inventions in an attempt to delineate the relevant criteria for the patentability of computer programs. Despite the EPO’s extensive experience it has been unable to articulate clear rules that distinguish between patentable and non-patentable business methods and software. Further, the approaches have been inconsistently applied and have led to a lack of consistency and predictability in practice.
The landscape of legal decisions in national courts in the European Union has been evolving and varied. Although implementation of the EPC has harmonized national legislation, patent offices and courts interpret legal rules differently with different results. Not only do significant differences in EPO case law and decisions of national courts exist, but leading jurisdictions, such as the U.K. and Germany, substantial differences are apparent as well so that what might be patentable in Germany would not be in the U.K. Efforts to further harmonize, including a European Union Directive on software patents, have failed.

Differences in legal standards concerning patentability of software and business methods have causes distortion in Europe and world markets. In searching for a solution to this conundrum, we consider the most recent jurisprudence in the U.S., the EPO, and key European national jurisdictions concerning setting the boundaries for patentable subject matter to determine whether our varied experiences illuminate a way forward.

Parallel Session 5/Stream 2/Paper 2

DEFINING WHAT WE DO – DOCTRINAL LEGAL RESEARCH

Terry Hutchinson (Queensland University of Technology)
Nigel Duncan (City University, London)

‘Where does the doctrinal methodology ‘fit’ within the spectrum of scientific and social research methodologies?’ Where does legal research ‘fit’ in terms of the research undertaken in other disciplines? The doctrinal methodology has tended to be ‘under-theorised’.

The practitioner lawyer of the past had little time to reflect on process, and in any case, other methods were not considered relevant. The doctrinal method was the core legal research method, and it was not thought to require classification within any broader research framework. Richard Posner suggests that law is ‘not a field with a distinct methodology, but an amalgam of applied logic, rhetoric, economics and familiarity with a specialized vocabulary and a particular body of texts, practices, and institutions ..’.

This paper will examine the legal research doctrinal method and its place in recent research dialogue.

Terry Hutchinson is a Senior Lecturer within the Queensland University of Technology (QUT) Law School. Her specialist areas are postgraduate legal research training, criminal law and access to justice. Dr Hutchinson has been a pioneer in the development of legal research skills methodologies and training in Australian law faculties. Over the past 15 years, Terry has produced books and refereed articles on this topic. In 2010 she published the third edition of her

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text *Researching and Writing in Law*. Terry has researched and published refereed articles on refugee children’s rights, youth justice and equalising opportunities in the law. In 2004 and 2008 she visited the Faculty of Law at the University of Ottawa in Canada working on these research programs.

**Parallel Session 5/Stream 3/Paper 1**

**LEGAL EDUCATION RESEARCH: PART 2**

Alison Bone (University of Brighton) Phil Harris (Sheffield Hallam University) & Pat Leighton (University of Glamorgan)

This session is a continuation of the presentation and discussion in the opening plenary session (see the first abstract for Monday).

**Parallel Session 5/Stream 3/Paper 2**

**TELLING TALES OUT OF LAW SCHOOL: NARRATIVES IN LEGAL EDUCATION**

Dawn Watkins (University of Leicester)

This paper considers the role of narratives in legal education, with reference to both theory and practice. The starting point of this paper is the significance of narratives as a (or even ‘the’) primary form of human communication. As Barthes stated “narrative is present in every age, in every place, in every society; it begins with the very history of mankind...and there nowhere is nor has been a people without narrative...it is simply there, like life itself” (see ‘An Introduction to the Structural Analysis of Narrative’ (1975) New Literary History, Vol. 6, No.2 pp.237 -272, 237).

This paper proposes that the Law School represents a place without an awareness of narrative, or at least, a place where the significance of narrative has not been fully recognised. It goes on to suggest a means by which an awareness of narratives and their important place in human interaction, can be ‘taught’ to students in the form of an interactive story-telling seminar. Conference delegates will be asked to actively participate in an exercise that formed part of the ‘Narrative Research Project’ (funded by the New Teaching Initiatives Fund at the University of Leicester) in 2009. Their views on the merits of this approach will then be sought.

Having considered the role of narratives generally, the paper goes on to look at the way in which placing an appellate case report within a narrative structure can help law students to appreciate the significance of human actors in the outcome of legal proceedings. Students who participated in the Narrative Research Project were invited to create fictional, narrative accounts (in no prescribed form) from one of a number of case reports that they are required to read in any event in the course of their studies. They wrote from the
perspective of one of the characters in the case. This could be one of the parties but need not be. Students wrote *inter alia* fairy tales, poems and short stories. Examples of the students work will be read out (or, if the students can be persuaded, these will be pre-recorded by the students themselves and played at the conference) to demonstrate this aspect of the project. The feedback from the students will also be considered.

Then taking the project as a whole, it will be argued that this form of learning can be justified not only because of the vocational benefits that offers to its participants, such as developing public speaking and presentation skills, creative thinking and writing skills – nor even because of the educational benefits that it offers in the form of student engagement and student-centred learning (a matter discussed by Michael Blissenden in his paper) but, more broadly, because it provides a practical means by which Nussbaum’s arguments for the cultivation of humanity in liberal education can be achieved.

According to Nussbaum, the cultivation of humanity requires the development of three capacities. These are, firstly, the capacity for critical and reflective thinking. Secondly, the capacity to see oneself as a human bound to all other humans by common concerns and, thirdly, the capacity for empathy; the ability to put oneself in the place of another. Taking as its focus this third capacity (also called ‘narrative imagination’) the paper will argue that the elements of the narrative research project have created a means by which the narrative imagination of students can be activated (or perhaps re-activated).

These views of Nussbaum, expressed in (1997) *Cultivating Humanity A Classical Defense of Reform in Liberal Education* (Cambridge MA, Harvard University Press) and in (2003) ‘Cultivating Humanity in Legal Education’ 70 U.Chi. L.Rev. 265 will be discussed, together with those set out by Boyd White in (1999) *From Expectation to Experience Essays on Law and Legal Education* (Michigan, University of Michigan Press). Conference delegates will be asked to consider whether these views provide an adequate theoretical grounding for arguing for the incorporation of this form of teaching into the undergraduate law curriculum.

**Dawn Watkins** is a Lecturer in Law at the University of Leicester, where she teaches Equity and Trusts and Family Law. Dawn is also a qualified Solicitor. Dawn’s PhD thesis is entitled ‘the Protection of High Art in a Postmodern Age’ and her research interests remain in Law and the Humanities (especially Art Law, Law and Literature) and Legal History. More recently she has developed a research interest in the field Legal Education. In 2009, she received funding from the University of Leicester’s New Teaching Initiatives Fund for running a small-scale, practise-led research project called ‘the Narrative Research Project’. Aspects of this project will be discussed at the conference.
The learning and teaching strategy of law schools, particularly at the academic stage of legal education, concentrates primarily on instilling knowledge of the core legal subjects such as Obligations, Public Law, necessary for students to complete the academic stage of becoming a professional lawyer. The paper advocates looking beyond the law school to enable law students at the academic stage to receive practical legal and non-legal experience which will develop skills, qualities and attitudes which are useful not only in their career path to become professional lawyers but also, in the alternative, to enable them to pursue other legal and non-legal employment, including paid CAB work, after substantial experience of voluntary work in a CAB.

The author describes the training period and the advice giving process, gained through first-hand experience as a CAB trainee adviser. There is an outline of the various skills developed by trainee advisers such as interviewing, oral and written communication, negotiation, teamwork, interpersonal, problem-solving and analytical skills, research and a range of employability skills. Attention is drawn to the qualities, values and attitudes inculcated by the training and advice process such as learning to maintain confidentiality, making a contribution to the local community, campaigning in respect of social policy issues, developing a sense of justice, respecting diversity, challenging discrimination and gaining job satisfaction through voluntary work.

Finally, the author proposes integrating voluntary advice work as part of the law school curriculum, by means of validating a voluntary advice work module as a second/third year elective. The staff resources which will have to be devoted to such a module are minimal, in comparison with taught modules. Quality Assurance is maintained by highly experienced CAB staff who offer intense supervision to trainees and advisers. The assessment of such a module could consist of the ‘Records of Learning’ completed, checked and signed off by CAB guidance tutors and a reflective learning log kept by the student.

Kumari Lane, Sessional Lecturer in Law, Birkbeck University of London and Citizens Advice Bureau trainee adviser
There has been a shift in recent years in the teaching of law at higher education institutions from a teacher centred learning to a student centred learning environment. In particular there has been a move towards active learning rather than passive learning by the student. As part of that movement the concept of narrative and storytelling has emerged as a teaching methodology to assist law students to better understand the skills that a lawyer would need in practice. The central theme of this approach will be for students to appreciate that a lawyer; even though they are listeners and tellers of stories, are also constructors of stories for their clients to be used in solving their legal problems (Grose, 2009). In order to cultivate humanity in the teaching of law, it is vital that our law teachers make students aware of the human actors beneath the words of the appellate judgments that they read (Watkins, 2009).

By linking the teaching of law to human emotion students will be in a stronger position to become successful law graduates, as was identified by a University of Technology project (Vescio, 2005) where a survey of law graduates nominated capability items under the emotional intelligence scale as required for success in the legal profession. Although this is seen in a vocational sense, storytelling and narrative can still be of relevance where a law degree is undertaken as a creative liberal arts degree (Watkins).

The notion of storytelling as pedagogy is more easily associated with teacher education but it can still be applied to the teaching of law (Coulter and Michael, 2007; Blissenden, 2007). Storytelling in the classroom could come from the experiences of the teacher providing insight to law students as to the practical implications of acting like a lawyer. However this is still teacher focussed and provides for the teacher to determine what aspects will be raised with the class. Another approach that could be utilised requires students to write a story covering the basic principles from the content covered in the law unit (Crumbley and Smith, 2000). The context of this narrative approach is to stimulate student involvement and interest in the content of the unit of study.

There is however a deeper approach that could be taken with storytelling. For instance most law students are required to read important completed appellant case law. The case is normally read from the perspective of identifying the legal principle that can then used and applied to a new set of factual circumstances. By stepping back and acknowledging that the court judgment is itself a story, a story that is based on facts that the judges have accepted. There is rarely an acceptance that the reported factual account contained in the appellate judgment may have only a tenuous relationship to the events that led the parties to court (Lombardo, 2008).
This paper will explore the deeper approach that can be taken with storytelling and suggest that the teaching methodology could be applied across the law curriculum. I will report on the use of the “stories behind the cases” element of storytelling within the teaching of Revenue law, at the University of Western Sydney. The cases selected, both from a factual and legal perspective, are central to the topics and themes of the introductory Revenue law course. Instead of focussing just on the facts/evidence/legal argument, as told by the court, students are encouraged to investigate the stories behind the litigating parties and to see a broader story unfold. This is particularly useful today as the World Wide Web provides an immense resource bank. Students then can reconstruct the story behind the case and present their findings to the class (Blissenden, 2009). Students then see the litigation as the end result of the stories and the need for an independent judge to determine the result and form a perspective of the legal system lay down a relevant legal proposition.

The paper will then examine the potential for storytelling to be utilised throughout the law course, stimulating the emotional interest of students. For instance certain units of study, such as contract law and family law, lend themselves to the “stories behind the cases” approach, particularly where there is an emphasis on the common law. Other units of study, such as advocacy, would lend themselves to the use of the storytelling methodology from the perspective of having students use the stories told to them by clients to argue and persuade their case in a classroom or moot court room situation. In so doing storytelling and narrative can be utilised to teach the substantive content aspects of the unit of study. On that basis the storytelling approach satisfies one of the needs of a law school, namely the teaching of substantive law but also satisfies the needs of students in stimulating their emotional intelligence in their law studies, an area that research indicates will assist them in becoming successful graduates in the legal profession.

The underlying theme arising from the use of these exercises is that students will see themselves as storytellers and the creators of stories, particularly when dealing with their clients and their point of view (Grose, 2009). Analytical and critical thinking skills of a practising lawyer can then be developed.

The paper will evaluate the storytelling model and conclude that the methodology can be used to improve active learning of students and at the same time develop their skills for professional legal lives.

References


Michael Blissenden joined the University of Western Sydney in 2000. He has taught in the LLB program since 2002 and has been responsible for the delivery of a compulsory subject covering Revenue Law. He has extensively researched various teaching methods which attempt to stimulate student interest and engagement in a well recognised difficult area of the law. This has resulted in a number of refereed international publications in *The Law Teacher* (Volumes 40 and 41), *Legal Education Review* (Volume 16), *The International Journal of Learning* (Volumes 15 and 16) and *Ubiquitous Learning: An International Journal* (Volume 1). His research has been recognised with an Australian Learning and Teaching Council Teaching Citation in 2009 “For instilling in Tax Law students motivation for life long learning through the use of narrative and storytelling.”

**Parallel Session 6/Stream 2/Paper 1**

**COMMONS LEARNING: OPEN EDUCATIONAL RESOURCES (OER) IN LEGAL EDUCATION**

**Paul Maharg (University of Northumbria) & Patricia Keller (UKCLE)**

The term OER was first adopted at UNESCO’s 2002 Forum on the Impact of Open Courseware for Higher Education in Developing Countries, funded by the Hewlett Foundation. Open educational resources are materials and resources offered freely and openly for anyone to use and under some licenses to re-mix, improve and redistribute. They can include:

1. Learning content - full courses, course materials, content modules, learning objects, collections and journals.
2. Tools - software to support the creation, delivery, use and improvement of open learning content including searching and organisation of content, content and learning management systems, content development tools and online learning communities.
3. Implementation resources - intellectual property licenses to promote open publishing of materials, design principles and localisation of content.

There is of course an alignment between the aims of the open source software movement and OER (Wikipedia entry on OER; OECD, 2007).
High profile OER projects have included MIT’s OpenCourseWare Initiative and the Open University’s OpenLearn. There is a developing literature around these projects – see for instance Koohang & Harman (2007) and Hodgkinson-Williams & Gray (2007), and a developing strategic literature (Downes, 2007). But it could be argued that while major initiatives such as these are necessary to show the possibility, the use of and the ongoing viability of OER projects, there needs to be more of a ground up approach between staff in various institutions, and for specific pedagogic and disciplinary purposes. This is already happening in some areas of the world – see for instance the Japan OCW Consortium, but much more is needed.

**Simshare**, the UKCLE project funded by JISC and the Higher Education Academy, focuses on providing OER to facilitate the use of simulation and related approaches to learning. Simulation is a powerful and innovative form of teaching and learning. The benefits include situated learning, active learning, the embedding of professional work patterns and practices in academic programmes, the enhancement of professional programmes and the creation of more authentic tasks and deeper student understanding of symbolic thinking as well as of professional practice. A number of simulation techniques and engines exist that can be used in higher education (largely commercial, though there are open source versions), however the full scale development of a body of widely shareable and re-purposable educational content amongst simulation designers and users has been to date almost non-existent.

This has had serious consequences for the uptake of simulation as a form of situated learning; for whilst the power of simulation as a heuristic is widely recognised, so too is the effort required by staff to create and resource simulations. Building on the success of the recently completed SIMPLE project, and going beyond it, this project will perform a vital role in the higher education community by proving that an Academy subject centre can help its community to develop and share the resources required for the creation and use of simulations. The project will thus enable a community of practice to form around simulative approaches to learning by helping staff and users to create, use, evaluate and re-purpose simulations much more effectively than would have otherwise been the case. It will also enable the nucleus of research writings around simulation to develop further.

This session will examine the background and some of the highly complex issues surrounding the concept of OER, and will present the case for the development of OER with our discipline.

References:
- Hodgkinson-Williams C & Gray E (2007) Degrees of openness: the emergence of open educational resources at the University of Cape Town (PDF file)
Conventional methods of legal training in the UK are built upon the academic/vocational divide. The tensions of this gap are well-researched and documented. More modern approaches aim to bridge the divide by integrating the theory and practice of law. Methods include live clinic, work experience (placements) and simulation – the subject of this paper.

Recent external pressures require us to re-examine the notion of professionalism – lawyers’ poor public image, complaints about poor quality service, fragmentation, external regulation are only some of the pressures.

Professionalism combines cognitive and affective: ethics, values, attitudes, skills, propositional knowledge, experience, ways of seeing the world. However, the academic stage, grounded upon technical rationality, engineers out the affective. Do curricula which seek to integrate theory and practice, cognitive and affective at the academic/vocational stages offer a richer and more meaningful learning experience through experiencing and analysing situations where the rational and non-rational meet and where they come into conflict?

We hope to demonstrate that our simulation programmes offer this.

In our paper we shall define and exemplify simulation, define the critical role of authenticity and, in more detail, analyse the components of successful simulation approaches to learning, which include the following:

1. Experiential learning theory; pragmatic and phenomenological approaches;
2. Creating ‘human’ casework scenarios in which students experience the emotionality of situations (i.e. understanding that emotion is part and parcel of legal work; handling their own emotions and those of the other actors).
3. Creating tasks which involve consideration/discussion of the role of emotion in decision-making and consequences for the parties of decisions made.
4. Creating a safe, supportive and yet challenging environment for experimentation and discussion of eg, issues in 2 above, and providing support for negative emotional experiences.
5. Small classes to encourage more egalitarian staff-student relationships (though issues of power may make this impossible – and undesirable?)
7. Formative assessment.
8. Reflective writing.
EUROPE: A FOREIGN LAND FOR THE BRITISH? CHALLENGES IN THE TEACHING OF EU LAW IN THE UK.

Cherry James (London South Bank University)

EU law is now one of the core subjects for students wishing to obtain a qualifying law degree in the UK. At London South Bank University it is one of the subjects which students year after year appear to find most difficult. Anecdotally, it appears that the same may be true of students in other universities. It is accepted that, conceptually, EU law may not be a particularly easy subject, but to what extent are the difficulties encountered by our students inherent in the subject itself, and to what extent are they consequent upon the disengagement from/hostility towards the idea of Europe of much of the British public? Does the education delivered by many of our secondary schools contribute to this situation? What about the role of the media?

The idea for this paper came to me during the run up to the European Parliamentary elections in June 2009 when I was struck (not for the first time) by the lack of coverage of this sort of issue in the British press. This appears to contrast with a higher degree of engagement with the EU by the media in other Member States. I started to wonder how much our law students knew about the EU prior to commencing their studies of the subject, and what they thought about it. I therefore designed and administered a questionnaire to all our LLB students at the beginning of their first EU law lecture (which at LSBU is at the beginning of Year 2) and all our incoming CPE/GDL students. In all, 76 questionnaires were completed by LLB students and 38 by CPE students. The questions test knowledge of the EU and attitudes towards it, the latter questions being based upon the questions in the Eurobarometer.

This paper will report on the findings of this questionnaire and try to draw some conclusions about the knowledge of and attitude towards the EU of our law students. It will attempt to provide some suggestions for appropriate pedagogical approaches. Given that LSBU has many EU and other international students, the analysis of the returned questionnaires will also attempt to consider whether there are significant differences in the knowledge and attitudes towards the EU between British, EU and other international students. The questionnaire, with relevant modification, is also being completed by students commencing their EU law studies at a university in the Netherlands, and a comparison of the results from those students will be outlined in the presentation. The findings should therefore be seen as ‘work in progress’. It is hoped that the questionnaire may in future be completed by students in other universities elsewhere in the EU to broaden the comparative perspective.

Cherry James is a Senior Lecturer in the Law Department at London South Bank University. She teaches English Legal System, Legal Skills and EU law and runs the LLB Induction Programme. She is also involved with an Erasmus
programme on EU Criminal and Migration Law which is being run jointly with four other EU universities. She has taught law for the last ten years and has been teaching at London South Bank University since 2005. Cherry is a solicitor and spent eight years working in two large London solicitors’ firms, where she specialised in Litigation.

Parallel Session 6/Stream 3/Paper 2

EU LAW LEARNING AND TEACHING IN UK UNIVERSITIES SURVEY

Rick Ball and Christian Dadomo (The University of the West of England)

In 1993 two surveys of law teaching were conducted. The first by Harris and Bellerby\textsuperscript{13} concentrated on the new universities and colleges, and Wilson\textsuperscript{14} focused entirely on old universities. It is notable that these surveys were conducted before EU law became a core subject. Thus Wilson\textsuperscript{15} details the number of institutions providing EEC law as an optional course and then notes the growing importance of the European dimension\textsuperscript{16}. Harris and Bellerby\textsuperscript{17} consider how the European dimension of law is taught (discrete or integrated units for teaching European legal institutions and substantive law), the percentage of institutions that organise European visits and the percentage of institutions that organise student and teacher exchanges. In 2004 Harris and Beinart\textsuperscript{18} conducted a further survey of all law schools in the UK. The European dimension of this report was brief, concentrating on the mobility of students\textsuperscript{19}. A further survey was reported in 1986\textsuperscript{20} (but initiated in 1982) that considered the teaching of European law to lawyers in practice. A team from UWE, funded by UKCLE, have now conducted a further comprehensive survey of EU Law learning & teaching in UK universities and would like to present their findings with analysis of the impact of those findings.

Dr Richard Ball is Senior Lecturer in Law, Bristol Law School and Head of the Comparative and European Research Unit (CERU)

\textsuperscript{13} P Harris, S Bellerby, A Survey of Law Teaching 1993 (Sweet & Maxwell/Association of Law Teachers, London 1993)
\textsuperscript{14} J Wilson, ‘A Third Survey of University Legal Education in the United Kingdom’ (1993) 13 LS 143
\textsuperscript{15} Ibid. at 168.
\textsuperscript{16} Ibid. at 169.
\textsuperscript{17} Op. cit. n.38 at 31.
\textsuperscript{18} P Harris, S Beinart, ‘A Survey of Law Schools in the United Kingdom, 2004’ (2005) 39 Law Teacher 299
\textsuperscript{19} Ibid. at 330 & 337.
\textsuperscript{20} M Aitkenhead, N Burrows, R Jagtenberg, E Orucu, ‘Education in European Community Law in Scotland & the Netherlands’ (1986) 20 Law Teacher 79
Development of students’ skills is high on the agenda in universities. One important factor “in improving retention rates of ‘non-traditional’ students” is the development of skills.22 This also enhances a student’s employability, a mission for most universities.23 This paper identifies the issues and difficulties that surround the teaching of critical thinking and problem-solving skills within the law curriculum. Many law teachers seem dismayed by the modern student’s lack of ability to think critically and independently, and to solve legal problems. I suggest that one way forward lies in the concept of “approach to learning”,24 which looks at how a student relates to the content to be learned.25

If a student is adopting a “surface-atomised” approach to learning it is unlikely that s/he will acquire authentic thinking skills. This is where the student learns the subject content as facts to be memorised, e.g., for assessment purposes. Each fact is disrelated in their minds. The student does not attempt to understand the internal relations of the subject. All is atomised and put at the same level.26 If the facts of a case are learned alongside the ratio decidendi, the student may not have any appreciation whatsoever of the relation of materiality and of the necessary distinction between fact and rule. Thus, we see mistakes in rule selection (eg analogising from case facts only) and in distinguishing.27 The position is the same with regard to essay-writing and critical evaluation. A student adopting a surface approach will learn nothing of how to put forward evidence for a convincing argument. The way in which this is modelled to them is through reading articles etc in preparation for tutorials/seminars. If they adopt a surface-atomised approach to learning, they focus only on the “signs” of the article as facts, and not on “what is signified”, eg what the author uses as evidence for an argument and how it is used to prove a point. Thus “evidence” and “conclusion” are atomised, put at the same level, and learned as facts to be memorised for the exam.28 The idea of the logical relation between evidence and conclusion will not gain a foothold in their mind. It is only if the student adopts the deep approach, that “focus[es] on ‘what is signified’, e.g., the author’s argument, or the concepts applicable to solving the problem”,29 that a

21 The author is a lecturer in land law and trusts and the examples in the paper are drawn from this field.
23 Ibid.
27 The detailed skills required for legal reasoning are drawn from Schauer, Thinking Like a Lawyer (2009).
28 Ramsden, above, p.47.
29 Ibid, p.47.
student will gain a clear understanding of authentic legal problem solving and the role of evidence within an argument.  

The second part of this paper considers how to foster a learning environment within a module that encourages the deep approach to learning rather than a surface-atomised one: how to encourage students to look at the internal relations of a subject. I argue that authentic problem-solving/critical thinking skills are more readily acquired where the content of the curriculum, eg land law, is taught by revealing the subject to be the result of a process of reasoning and development of rules. The rules are learned as almost a by-product of showing how those rules were arrived at and what arguments may justify them. Based on theories of learning psychology, eg Jean Piaget, I have created a teaching method which suggests one possible way forward.

I identify the basic concepts and policy objectives of the topic: calling these “Building Blocks” because we use them to construct an argument about rules. We keep these on separate pages in pictures or diagrams as well as text. I may show the students how the rules have grown and developed from the Building Blocks, inviting them to look and reflect between their description of the rules and the Building Blocks, drawing links between them. We use the Building Blocks to construct an argument, using the basic question what evidence will justify me in accepting that this rule is good or bad, fair or unfair? I ask the students to use the Building Blocks as fields of evidence and to consider how far the particular rule supports or undermines those first principles.

I will develop this further in my presentation, drawing links with tutorials and student preparation, and showing how a similar method might be used to teach legal problem solving. I will give interactive illustrations of how Building Blocks is intended to work.

Nicola Jackson graduated with her law degree in 1999. She was a part-time student at the University of Derby, during which time she was undertaking a performing career as a professional classical guitarist. Her doctorate was on the subject of conveyancing issues with trusts of land and she has published articles on the topic in the Law Quarterly Review and the Modern Law Review. She is co-author of the fourth edition of “Pearce and Stevens, Land Law Textbook” (Sweet and Maxwell). For some time Nicola has had an interest in developing ways of teaching critical thinking as part of the law curriculum, and is currently writing a Land Law text for Sweet and Maxwell that employs her “Building Blocks” method of teaching thinking. She is currently a lecturer at De Montfort University, Leicester, having previously been a lecturer at the Universities of East Anglia, Lancaster, and Manchester.

30 Ibid.
31 For example, the Harvard Law School “Case Method”: R.Stevens, Law School – Legal Education in America from the 1850s to the 1980s (1983); Oliver Wendell Holmes, “The Use of Law Schools” in Collected Legal Papers (1921); also Ramsden, (above).
33 A.Fisher, The Logic of Real Arguments (the “assertability” question).
One of the challenges that face those of us who are engaged in Legal Education is that the culture from which the greatest proportion of our students come is increasingly a visual, oral and informal one - a semi-literate one - and we are trying to educate them in a literate discipline. I would like to open up a discussion about the particular challenges raised by this important issue, particularly in the newer universities, and the possible responses to it.

Over the years there have been several papers at the ALT conferences and articles in The Law Teacher which have addressed different issues of the “first-year experience”, which indicates that many of us encounter these problems in our different schools. The papers have focussed on the issues of engaging and motivating new Law students, adapting our teaching methods, widening participation, changing methods of assessment, and more; and they have offered many useful insights and practical suggestions. However, none of them has addressed directly the issue of the culture of reducing literateness of our young entrants; and this is what I wish to address in this paper.

It is undeniable that our 18-year-old students are growing up in a culture which is (again) increasingly dominated by semi-literate communication. One factor in this is the era of computers – with the internet, e-mail, Google, mobile telephones, texting, social networks, and the like – has enriched and empowered us in many ways. It has produced a remarkable change in the ways by which we can access information and communicate and the speed at which we can do such things. However, it has also changed the relationship we have with information, other people and the world. More information comes ready-processed for those with short attention-spans, and skills of literacy are not seen as necessary or important beyond the lowest functional level.

Non-literate experience is not a new phenomenon for youngsters – for example, widespread literacy in this country began only after 1870, and sport has been around for many years! – but its impact is ever-more marked. It may be seen even in schools in the practice of cutting and pasting from web-sites, making posters, a disregard of punctuation and spelling even in English classes, a lack of interest and competence in formal skills of expression, accepting shorter attention-spans, and the encouragement (or allowing) of other forms of expression which ignore literate skills: the “sort of” style of expression.

Although the skills and information potentially gained by use of these new media are socially valuable, they do not fit easily with Law. Students choosing to do an academic Law course – such as an LLB or GDL – are entering a discipline which involves developing their skills of literateness. They must be made aware that they will have to change and grow through the experience in specific ways: and we, as tutors, must help them in this. Law courses should
be suitably challenging, otherwise there will be no growth through the experience; and essential to the challenge is to develop their literate skills, for, simply, having these skills is fundamental to the discipline of Law and to being a lawyer. Legal discipline requires high-level competence in the skills of reading and writing (and of listening and speaking), beyond what is expected in most other subjects. This is one of the most valuable features of having succeeded on a Law course.

Without the discipline, all that our students would gain is some facts to learn, to trot out in assessments and to forget. This would fail the students, the outside world and ourselves as academics and educators. There is truth in the adage that education is what is left over when you have forgotten the information you learned: so, if there never was more than learning some information to repeat in assessments, there will be nothing left over to have empowered the students. Law is inevitably about the use of words, and the literate skills are a crucial part of the education that is to be ‘carried forward from Law.

There is pressure to make our Law courses accessible to a wide range of students, as well as to increase the pass-rates. These aims are entirely laudable – provided, of course, that they are compatible with the reality of what our students are willing and able to achieve, and with what is to be expected of Law graduates, including literateness. This is what gives us a special and growing challenge.

The themes I propose to raise in the interactive session include:

- Our views on the "semi-literate culture”;
- Law as a literate discipline;
- What we are trying to achieve through Legal Education;
- The problems we encounter from semi-literateness;
- The practical steps we can take as Law teachers to help these students.

**Lars Mosesson** has studied, taught or examined at more than a dozen law schools in England, the USA, Sweden and Germany since 1965. Has taught, researched and published mostly in the areas of Public Law, Human Rights, Legal Theory, Induction & skills, teaching and learning, and education management. Has run undergraduate and graduate courses, full-time and part-time, and supervised research at all levels. Is still committed to legal education that makes a real difference to the lives of the students.
Providing a Law Degree for the 'Real World': The Perspective of an Australian Law School

Amanda Stickley (Queensland University of Technology, Australia),

The Queensland University of Technology badges itself as 'a university for the real world'. For the last decade the Law Faculty has aimed to provide its students with a 'real world' degree, that is, a practical law degree. This has seen skills such as research, advocacy and negotiation incorporated into the undergraduate degree under a university Teaching & Learning grant, a project that gained international recognition and praise. In 2007-2008 the Law Faculty undertook another curriculum review of its undergraduate law degree.

In relation to curriculum, the objectives of the curriculum review included maintaining QUT’s strong reputation for producing graduates with a certain set of valued, practical skills and abilities; review of the law graduate capabilities in terms of their ongoing relevance to industry and the professions; assessment of whether an appropriate balance between imparting knowledge and teaching skills was being achieved; reflection on graduate destinations; and review of the adequacy of values and responsibilities of lawyers in the undergraduate degree. In terms of pedagogy issues considered included consideration of whether there was adequate transition to the workplace; identification and implementation of appropriate and innovative methods of work-integrated learning; and investigation of the use of differential teaching methods to reflect the needs of the students at each stage of the course.

As a result of the two year review, QUT’s undergraduate law degree has less core units, a focus on first year student transition, scaffolding of law graduate capabilities throughout the degree, work integrated learning and transition to the workplace. The revised degree commenced implementation in 2009. This paper focuses on the 'real world' approach to the degree achieved through the first year program, embedding and scaffolding law graduate capabilities through authentic and valid assessment and work integrated learning.

Amanda Stickley is a Senior Lecturer with the Law Faculty, Queensland University of Technology, Brisbane, Australia. She researches and teaches in the areas of torts, real property and consumer protection. Amanda serves on the Law Faculty’s Teaching & Learning Committee and has recently been involved in the implementation of the revised law undergraduate curriculum as the Project Manager. This role included designing a first year program, drafting and embedding law graduate capabilities and linking learning and assessment to real world practice.
Parallel Session 7/Stream 1/Paper 2

THE STORY OF A PHOENIX, A CHEF AND SOME RAPTORS:
PIECING TOGETHER THE COMPANY LAW JIGSAW

Marian Oswald (University of Winchester)

“...company law is much like a jigsaw puzzle made up of smaller pieces that fit together to form a larger picture. Unfortunately, unlike a jigsaw puzzle you don’t get a picture on the box to guide you.”34

The University of Winchester accepted its first LLB students in September 2008. Marion Oswald, a practising solicitor with experience in industry and central government and who is new to the academic teaching environment, will present a paper on the development, since September 2009, of the new level 2 company law module.

A succession of corporate scandals, the current economic downturn and the increasing emphasis on corporate social responsibility evidence the power and influence of the corporation and justify (if such were needed) the importance of company law.

However, company law has long been regarded as difficult to teach, let alone study. Many reasons have been cited for students’ poor performance or frustration with the subject: students may lack underlying skills or have limited practical or commercial experience; the curriculum may be overloaded or delivery methods focused purely on black letter law.

Various teaching approaches have been advocated to overcome these problems: narrative, company-life cycle, law in context, theoretical. Furthermore, company law can lend itself to the development of employability skills: communication, team-work, flexibility, cross-disciplinary awareness and an appreciation of the bigger picture as well as individual interests.

The paper will review examples of blended teaching methods used to date in the University’s company law module:

The story of a phoenix and a car group
Students explored the collapse of the Rover car group and the involvement of the so-called "Phoenix Four", a combined company life-cycle and law in context approach.

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**The story of a chef, his restaurant and some chickens**

A rolling case-study, combined with guest lectures from an expert corporate practitioner and a negotiation-based assessment, introduced an element of experiential learning.

**The story of debt-eating raptors and the law’s response**

In the context of corporate collapses such as Enron, students will consider the impact of “stakeholder” theory on current law.

The paper will comment on the challenges faced by taking the above approaches, including the constraints of a modular course, and the success (or otherwise) of the particular examples.

It has been said that “company law courses which have genuine intellectual coherence and curiosity, which cover law reform as well as “what the law is” (the traditional black-letter approach) and which place the law in the contextual setting of broader economic and political considerations as well as the “micro” context of the ever changing world of deals and transactions, will fit exactly the requirements of those firms which operate at the cutting edge of corporate law practice.”

The paper will conclude that the subject of company law presents an opportunity to combine the “micro” and the “macro”, thus catering for a range of learning styles and contributing towards the development of cross-spectrum skills and abilities that any successful lawyer needs. It can be argued that such an approach will serve not only those students who aspire to traditional corporate practice but also those who chose an alternative career. Many students may find themselves taking up an in-house legal position or becoming involved in the much-anticipated alternative business structures. A course which provides a broad and contextual understanding of company law, and which encourages in students a flexibility and adaptability of approach, can only assist in preparing students for the challenging legal, economic and social decisions that they will face in the future.

**Marion Oswald** is a practising solicitor and a Senior Lecturer in Law at the University of Winchester. With over fifteen years post-qualification experience in various roles within private practice, international companies and UK central government, she has worked extensively in the fields of data protection, freedom of information and information technology, advising on a number of data sharing projects and statutory reforms. Since joining the University of Winchester in September 2009, Marion has devised the new Company Law module and has a particular interest in data protection, freedom of information and employability within legal education.

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35 Comp. Law. 2002, 23(5), 133
Parallel Session 7/Stream 2/Paper 1

Really Real Real Property: The Third Reality

Louisa Dubery (The University of Winchester)

"Most students encountering real property law for the first time go through a period of almost total mystification. What they assumed to be a solid, immoveable asset speedily dissolves into abstract tenures and estates, stretched out over an infinity of time, susceptible to peculiar rules and altogether beyond the plane of normal human existence." 36

Recent student texts suggest that real property’s notorious reputation is diminished by recent legislative reform. This may place a confidence in statutory intervention belied by real property’s history, but more importantly it omits from consideration problems inherent in the subject itself. The “ugly duckling” 37 is not yet transformed. Although located in the context of real property, this paper has a wider reach in examining the notion of experiential connection, particularly its role where the nature of a legal subject is inimical to modern learning patterns.

Experiential connection refers to the connection that exists in a subject between its legal reality and its lay reality; specifically, any general consciousness of the subject that a student has before he comes to the legal study of it. It may be described as the link between the student’s own experience and the subject as it exists at law, for example that a contract is an agreement. Such lay perceptions are rapidly subsumed by legal study, but the idea of experiential connection itself remains important and deserves examination. It is important for accessibility and engagement. It creates a bridge, drawing the student into the subject and encouraging engagement by focusing the study on his own framework of reference. The objective in this paper is to discover whether the idea of experiential connection can effectively be developed into a model for revision in a subject whose reputation affirms the enduring elusiveness of accessibility and engagement.

The interest in experiential connection as a model arises from foundational research preceding this paper which concluded that real property law’s reputation is misplaced. 38 From a pedagogic perspective, proprietary legal relationships are normatively and conceptually less complex than personal ones. The difficulty may lie less with the law than with certain attributes which arise inevitably from its ancient and highly developed character. Examples are language, history and abstraction. If revision primarily addresses these “barriers to entry”, much of the traditional difficulty may be avoided.

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36 Goode RM Commercial Law Penguin (1982), 49
37 Green, K (1985) “There was Once an Ugly Duckling in Land Law 1985” 19 Law Teacher 65
38 Dubery, L (2008) “Restoring Real Property” 2 Web JCLI
A principal barrier was found to be lack of experiential connection. Property is atypical in that its legal idea bears no relation whatsoever to its lay idea. The legal idea exists in the abstract, and is the polar opposite. In consequence, students have been locked into this legal reality, forcing them at the outset to step backwards from lay ideas into an alien world of abstract jural entitlements which has no perceived relevance to them or to anything that they know.\textsuperscript{39} “Total mystification” is scarcely surprising.

The research suggests why this legal reality approach became so entrenched, and disputes that it is a necessary fact. Such autonomy has no modern justification and is at variance with property discourse in the courts. This paper asks the question: is creating an experiential connection between the legal and lay realities the key to real property understanding? If so, does this have particularly exciting potential for development in a subject where, despite the discrete realities, the entirety of the law can be seen all around us in our landscape and built environment? It is a curious truth that despite this wonderful fact about property law, the traditional approach has always been for the lecture hall to mirror, even exaggerate, legal abstraction.\textsuperscript{40}

The paper describes the creation and evaluation of a third reality, the pedagogic landscape, in which to locate learning. It is designed to fuse the legal and lay realities by enabling students to understand legal abstraction through the lay notion of physical representations, widely interpreted. It is intended to marginalise the problems arising from dereification by reconnecting the law with its empirical reality.

At the beginning of academic instruction, Blackstone said that the purpose of study was to enable his students to understand the world in which they lived so that they could relate fully to it.\textsuperscript{41} In keeping with Blackstone’s precept and with the theme of this conference, the pedagogic reality aims to make a difference by not only facilitating academic understanding, but by imparting an enduring sense of how the students’ environment has been shaped by the dynamic entity that is real property law.

This paper covers the following points: briefly, the foundational research and the importance of internalist analysis of a subject as the pre-requisite for its revision, outcomes as determined by the property phenomenon; more fully, dominant approaches to dereification and their defects,\textsuperscript{42} how the pedagogic landscape was built, its main features and evaluation.

\textsuperscript{39} See typically, the quotation at the head of the abstract.
\textsuperscript{40} Eg Lawson, FH (1951) \textit{The Rational Strength of English Law} (London: Stevens and Sons); Rudden, B (1980) “Notes Towards a Grammar of Property” \textit{The Conveyancer and Property Lawyer} 325
\textsuperscript{41} Blackstone, W (1794) \textit{Commentaries on the Laws of England} Vol 1 (Dublin: White, Jones and Rice 12\textsuperscript{th} ed.)
Louisa Dubery. I am a Senior Lecturer in Property Law at the University of Winchester. I joined Winchester when the Law Department opened in 2008. I was formerly at Bournemouth University, where I was Programme Leader of the LLB, and subsequently the CPE/GDL, in which I have a special pedagogic interest. My subject is real property law, and I am particularly interested in the property concept, third party rights, the history and literature of real property, and real property pedagogy.

Parallel Session 7/Stream 2/Paper 2

LAW STUDENT UNDERSTANDINGS OF CRITICAL THINKING: A PHENOMENOGRAPHIC STUDY

Catherine Morse (Sheffield Hallam University)

This paper will present some of the key issues relating to the methodology and content of my Ed. D. dissertation. The dissertation provided a phenomenographic analysis of perceptions of critical thinking in first-year Law students. The ability to develop and demonstrate critical thinking is a key element in higher education, being an important criterion for success in terms of assessment. Critical thinking is particularly significant in the context of the study of Law, as Law embraces both problem-solving in the 'technical' sense as well as the consideration and evaluation of argument, policy and jurisprudential questions. While definitions of critical thinking are problematic, they would include such notions of problem-solving and evaluation, so making legal education interestingly susceptible to such enquiry.

Phenomenography as a qualitative research method is well established, (although also contested) and has been used particularly in the field of educational research. It aims to give a 'second-order' account of perceptions of phenomena and so appeared to be an appropriate methodology in this instance, where the main investigation concerned students' own interpretation of what 'critical thinking' might connote.

I would aim to outline the approach taken by a phenomenographic analysis in the context of critical thinking, and to highlight some of the strengths and more problematic aspects of this form of investigation into the student experience.

Catherine Morse BA MA LLB MA PGCE Ed D originally read English and taught in further education before taking her Law degree. She has been lecturing in Law at Sheffield Hallam University since 1992, having previously worked at Leicester Polytechnic (De Montfort University) Her particular teaching interests have included Environmental Law, Public Law and aspects of legal theory and contemporary society. For several years she acted as the Law Group's Teaching, Learning and Assessment Co-ordinator, and has most recently obtained her Doctorate in Education, for work undertaken on ‘Law Student Understandings of Critical Thinking: A Phenomenographic Study’.
**Parallel Session 7/Stream 3/Paper 1**

**PGC in Higher Education Practice = Better Teacher? I don’t think so!**

Jessica Guth, (Bradford University)

This paper critically considers the author’s experience of completing a PGC in Higher Education Practice. The course was compulsory for all new lecturers at the author’s institution and was taught predominantly on Wednesday afternoons over an 18 month period. The paper examines the extent to which the courses helped the author become a more effective teacher and supported her in her very early stages of career development as an academic. It poses and then attempts to answer the question whether having completed the PGC, the author is now in a better position to make a difference to student learning. As well as drawing on the author’s own experience, the paper considers the wider debate concerning teaching standards in higher education, quality assurance and the increasing use of PGCs to ensure academic staff are appropriately qualified for their teaching duties.

**Jessica Guth** is a lecturer in Employment and European Law at the Bradford University Law School. She has an LLB degree from Leicester University, the LPC from Nottingham Trent Law School, an MA in Social Research from Leeds University and a PGC(HEP) from Bradford University. Before joining Bradford University Law School in August 2007 she was a researcher at the Centre for the Study of Law and Policy in Europe at Leeds University. Her research interests include equality law, European Free Movement of Persons Law, legal education and academic careers.

**Parallel Session 7/Stream 3/Paper 2**

**Do we deliver on Law Students’ expectations? If not, how can this be achieved?**

Jackie Lane (University of Huddersfield).

Students of higher education, and not just those on law courses, have certain expectations – pre-conceived ideas – about the experience they will have at University. Those expectations could have been the result of information gathered at Open Days, from prospectuses, friends, parents, teachers and many other sources. The question asked here is whether there is a mismatch between what students expect of us as teachers and of the course we provide, and what teachers expect of students or what we believe student expectations to be? If there is such a disparity, how can we try to ensure that reality meets expectation? Achieving this, I would argue, would increase student satisfaction and in turn possibly increase teacher satisfaction, knowing that we are meeting the expectations of our students.
This paper is an examination of some of the research conducted on student expectation on law and other courses, and a small study carried out at Huddersfield University to find out what student expectations of specific aspects of the “product” are, and whether they have been met, either fully, largely, partially or not at all.

Much research has been done on this and ideas have already been generated, some of which are examined here. One example is a paper which considers whether there a link between the level of expectation we have of our students and student achievement – in other words, if we expect more do we get more? Another examines whether self-assessment is a way of moderating student expectation of assessed work. The qualities of “good” feedback – that is, feedback that matches students’ expectations - is the subject of a further study.

This paper considers some of those ideas – and, although generated in the context of other disciplines, the principles remain the same for law courses. The paper also assesses the outcome of questionnaire-generated data, and data collected at a student focus group, to examine the expectations of students at the University of Huddersfield School of Law, and to what extent they are met. The questionnaire included questions on induction, teaching, resources and assessment and feedback. Starting with the hypothesis that student expectations are too high and therefore will not be met, the responses to the questionnaires reveal some interesting answers.

Finally, based on the review of previous studies and the outcome of my own research done with students, a remedial plan is posited which will address some of the problems associated with student expectations, and hopefully go some way to ensuring that student expectations are satisfied. In the long term, the desired outcome would be an improvement in the NSS scores as fewer students are disappointed with their experience in the sense that they received what they were led to expect – that their course “did what it said on the tin.” Provided the University accepts these ideas and is prepared to put them into practice, the author will revisit these issues over the next three years and assess whether there is an improvement in NSS scores.

**Jackie Lane.** I am a Senior Lecturer working for the University of Huddersfield, but mainly based at the University Campus in Oldham (UCO), which has been a part of the University for 4 years, though had already operated for four years as Oldham Business Management School. I have worked here for 7 years, previously working in the FE sector at a variety of colleges, largely on a part-time hourly paid basis. In all, I have been lecturing for 19 years and have probably seen every type of law student going!

An atypical student myself, I left school with two A levels, and then did another two A levels at evening classes. I came into law later than most, beginning an LLB course at the age of 30 as an external student with London University. I later completed the PGCE (FE) and then signed up to the LLM course, again as
an external student with London University. My most recent qualification was the Post Graduate Certificate in Social Research and Evaluation.

My research interests are Employment Law and Education.

**Parallel Session 7/Stream 4**

**ENQUIRING MINDS: INFORMATION LITERACY IN THE DESIGN & ASSESSMENT OF STUDENT RESEARCH TASKS**

Alison Pope, Keith Puttick, Chris Harrison, Geoff Walton (University of Staffordshire)

The session will provide a forum in which participants can debate and share ideas about Information Literacy (IL), and approaches to incorporating IL standards in enquiry-based learning and the design and assessment of students’ research tasks.

**Proposed Topic & Arguments**

An introductory presentation will consider Information Literacy, the Enquiring Minds project’s work and the contents of a commissioned book due to be published later in 2010. We will then consider the way IL is starting to feature in the Law curriculum and the formulation of learning outcomes. We will link this to the theory and practice of enquiry-based learning in academic and vocational stage law programmes.

Like other Law Schools, SULS has started to factor IL into research task-setting, and the assessment of learning outcomes. As a result of changes to the university’s statement on award outcomes (which as in most universities are generally aligned to NQF Level Descriptors) expectations are higher than ever. For honours-Level 3 students, IL is now explicitly built into outcomes. For related skills like Analysis and Communication the standards are equally demanding, and map on to formal Quality Assurance Agency requirements: ‘Graduates with a bachelor’s degree with honours will have developed an

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43 The US Association of College & Research Libraries defined this in 2000 as ‘An intellectual framework for understanding, finding, evaluating, and using information - activities which may be accomplished in part by fluency with information technology, in part by sound investigative methods, but most important, through critical discernment and reasoning’. 44 Full title: ‘Enquiring Minds: Strategies for the Design and Use of Enquiry Tasks that Promote the Law Teaching-Research Nexus, Cross-Disciplinary and Comparative Law Studies, and Effective Deployment and Assessment of Students’ Enquiry Skills at Level 3/H Level. The first pilot People, Diversity & Work was undertaken by a team of 3rd Year Law, Advice Studies, and Broadcast Journalism students, and results of their research were presented at the Empowerment, Work & Welfare conference in November 2007.


46 Including the programme for our blended learning version of the Legal Practice Course, validated November 2009.

47 Specifically, students must have the ability to ‘Deploy accurately established techniques of analysis and enquiry and initiate and carry out projects within Law (as their field of study) – and use and evaluate use of Information Literacy, including the ethical use of information’: Typology of Award Outcomes & Indicative Descriptions of Levels (SU, 2008), Table 1.

48 Among other things, they must be able to ‘Describe and comment upon current research, or equivalent advanced scholarship, and critically evaluate arguments, assumptions, abstract concepts and data (that may be incomplete), to make judgements’ (Table 1, p.1 of the Typology of Award Outcomes & Indicative Descriptions of Levels).
understanding of a complex body of knowledge, some of it at the current boundaries of an academic discipline...The graduate will be able to evaluate evidence, arguments and assumptions, to reach sound judgements, and to communicate effectively.' 49

As we shall consider, IL now features strongly in the way research and related skills are developed and assessed in American law schools. This has been given added impetus by a Presidential Proclamation by President Barack Obama. This exhorts universities and other institutions of learning to adjust to the new realities of the Information Age. It observes that:

'Every day we are inundated with vast amounts of information...Rather than merely possessing data we must learn the skills necessary to acquire, collate, and evaluate information... Our nation’s educators and institutions of learning must be aware of – and adjust to – these new realities...’ 50

Information Literacy & Assessment Issues

The EM team has been looking at this, and specific ways in which IL can be embedded in the Law curriculum. The step change that IL represents in this area of skills has been explained by one of the presenters, Alison Pope: 'IL is part of a much bigger picture, part of a jigsaw puzzle which includes other literacies (including academic, media and digital) 51; new ways of approaching learning through critical thinking, reflective practice, collaborative learning and the key skills agenda - all of which contribute to independent learning’. 52

In our session we will refer to some of the approaches we have been taking in EMs project work, and in relation to the discourses around enquiry-based learning. We argue that a priority is to respond to the issues highlighted by the Obama Proclamation, as well as the findings of the Independent Committee of Inquiry into the Impact on Higher Education of Students’ Widespread Use of Web 2.0 Technologies - particularly in relation to the potential for use and misuse of web-based sources of information. 53

Linking this to IL issues, one of the authors of the paper, Geoff Walton, will discuss dialogic approaches to teaching and research project work, including the development of online discourse, collaborative work and social network learning

53 Among the report’s ‘key findings’ they said: ‘Tackling information literacies from the student point of view means ensuring they possess the skills and understanding to search, authenticate and critically evaluate material from the range of appropriate sources, and attribute it as necessary. Allied to this is providing for the development of web-awareness so that students operate as informed users of web-based services, able to avoid unintended consequences. For staff, the requirement is to maintain the currency of skills in the face of the development of web-based information sources.’
– areas in which he has researched and published widely.\textsuperscript{54} We will also consider the relevance of IL principles in the context of vocational programmes like the Legal Practice Course, for example technology-supported teaching and approaches that utilise ‘communities of practice’; and the value of including inter-disciplinary and comparative law elements in student research tasks. Reference will be made to Enquiring Minds pilots, and recent studies – some of which have been undertaken in collaboration with EMs’ partner universities.

\textit{Format for the Session}

Following our presentation, the session will go into workshop mode, enabling participants in small groups to discuss points linked to core themes, including the role of IL in enhancing the research culture; design, ‘reward’, and delivery issues; the opportunities presented by introducing interdisciplinary and comparative law into student research tasks; and, of course, assessment.

Participants will then be able to feed their ideas back in a concluding plenary session.

\textbf{Alison Pope} is Senior Subject and Learning Support Librarian at Staffordshire University, supporting the Schools of Law and Business. As a Learning and Teaching Fellow at the University, Alison has been closely involved in the university’s Learning and Teaching strategy, initiatives to integrate information literacy elements in Law and other university programmes, and Enquiring Minds (EMs). She was co-editor (with Geoff Walton) of \textit{Information Literacy: Recognising the Need} (Oxford: Chandos, 2006) and other IL work. She is co-editor of \textit{Information Literacy: Infiltrating the Curriculum, Challenging Minds} (Oxford: Chandos, forthcoming later in 2010). In June 2007 she received the Chartered Institute of Library and Information Professionals (CILIP) University, College & Research (UC & R) Award for Innovation.

\textbf{Keith Puttick} lectures in employment, social welfare law and family welfare aspects of migration at SULS. He is a co-author of \textit{Employment Rights; Civil Appeals} (ed. Sir Michael Burton: Foreword Lord Woolf); Butterworths Family Law/SFLS (ed. John Fotheringham); and \textit{The Challenge of Asylum to Legal Systems} (ed. Prakash Shah). Other work has included \textit{Child Support Law: Parents, the CSA & the Courts} and articles in the Journal of Immigration, Asylum and Nationality Law and Industrial Law Journal. He has organised the bi-annual ‘Work & Welfare’ conference since 1997; and with support from the TUC, the Department of Business & Enterprise, Disability Alliance, and the East London Mosque and London Muslim Centre (some of the organisations

participating in the 2007 conference) he commissioned the student project *People Diversity & Work*, the pilot for Enquiring Minds.

**Chris Harrison** is E-Learning Facilitator at SULS. She has been closely involved in a number of recent Enquiring Minds-related initiatives, including web and on-line support for the bi-annual ‘Work & Welfare’ conference *Family Welfare & Migration* in 2009; and a ‘tool kit’ of technology-supported learning, teaching methods, and assessment for a Blended Learning version of the Legal Practice Course. This includes the use of Ning forums and technologies to facilitate student ‘communities of learning practice’, implement experiential approaches to learning, and opportunities to engage in online discussion, critique other group members’ work, and collaborate on law research projects and other tasks.

**Geoff Walton** is Research Informed Teaching Project Officer at Staffordshire University. He obtained his PhD after work on models for delivering e-learning, on-line discourse, and information literacy in on-line settings. In addition to the work referred to in the abstract, Geoff’s conference papers have included *Using Digital Video to Capture First Year Students’ Views of a Blended Information Literacy Programme* (with Mark Hepworth, Loughborough University) (LILAC 2007, Manchester Metropolitan University); and *Developing Study Skills in Higher Education* (2006, Wolverhampton University). He is co-author of *E-literacy for the Independent Learner: A Guide to Teaching and Learning E-literacy* (Oxford: Chandos, 2008); and *From Virtual to Reality in Relay*, the Journal of the University, College & Research Group, Library Association (48) 21–22 (1999) (with D. Roberts).