

Australian legal education at a cross roads

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With globalising transnational corporate law firms, high rates of depression among law students and lawyers, and a changing role for lawyers in the world of dispute resolution, academics and professional bodies have been doing some soul searching. They are pondering just what is required in a law degree to train future lawyers adequately. This article discusses the current positioning of law degrees and draws together some of the diverse trains of thought arguing for the adoption of different directions. The article discusses adopting a collaborative rather than an adversarial emphasis as a particular path that could address some of the changes and dilemmas raised.

Keywords: law degrees, legal training, legal education, alternative dispute resolution, ADR

Introduction

Australian law degrees in the newly proposed deregulated market of higher education, are forecast to incur a \$100,000 student loan debt with a six per cent interest rate (Nelson, 2015a; Lewis, 2015; Pash, 2014). Therefore, the need to ensure the law degree provides graduates with the training needed to become gainfully employed has never been more important. After graduating from law to become a practitioner a further 15 weeks professional legal training (PLT), currently costing around \$8,500 (Law Council of Australia, 2015) is required, and to provide mediation services an additional qualification incurs further costs of over \$4000.

This is all in a climate of uncertainty for lawyers with employment rates at the lowest they have been for many years. Nelson (2015a, para 8) notes 'Unfortunately, law graduate employment is at a record low and one quarter of law grads who wanted a full-time job in 2014 could not find one within four months of finishing their degree'. Dodd and Tadros (2014, p. 7) found 'Graduate Careers

Australia highlights the challenging employment market for new university graduates ... just 71.3 per cent of bachelor degree graduates had jobs four months after leaving university in 2013, compared with 76.1 per cent in 2012. The decline was particularly acute among law, accounting and civil engineering graduates'.

The world of law practice and the nature of law firms are also rapidly changing under the influence of corporatisation and globalisation. Australia is experiencing the merger of law firms into some of the biggest transnational legal conglomerates, employing thousands of lawyers (Mezrani, 2015a). Reports show unhealthy cultures exist with allegations of high rates of bullying in legal practice (Baghust, 2014). The pressures on law students are also evident in alarming studies of the unusually high levels of mental stress in this cohort of students. A report by Kelk, Luscombe, Medlow and Hickie in 2009 was the first major study of depression and psychological distress in Australian law students and practising lawyers. The study, covering 741 law students in 13 universities, 924 solicitors and 756 barristers, indicated

levels of psychological distress and risk of depression at three times that of the general population and 17 per cent higher in law students compared with other tertiary student groups (Kelk *et al.*, 2009, pp. 1, 37, 42, 50). These studies, unfortunately, confirm the US experience exposed in the early 1970s (Boyer & Cramton, 1973-74; Taylor, 1975). Benjamin *et al.*, (1986, p. 228) disturbingly found that prior to starting a law degree, law students '... showed a parallel range of wellbeing as found in the general population. However, within six months of becoming a law student they were showing a very different result with symptoms of obsessive-compulsiveness, interpersonal sensitivity, paranoid ideation, hostility, depression, anxiety and loss of subjective well-being'.

There has been a growing body of literature by Australian legal educators seeking understanding of the causal factors and ways to address the issue (Field & Kift, 2010). The research by Kelk *et al.* (2009) did not attempt to uncover causes for their disturbing finding but the study did suggest a number of probable influences, including the competitive, adversarial nature of legal education and its culture.

In this changing climate the law degree content is coming under more scrutiny, including from the professional accreditation bodies in Australia. The Law Admissions Consultative Committee (LACC, 2014) comprised of representatives from the Law Admitting Authority in each Australian jurisdiction, requested law schools conduct a limited review of the core areas to be completed for acceptance into practice. A suggestion for including more statutory interpretation and removing core subjects such as company law, professional ethics, evidence and civil procedure has been mooted (LACC, 2014).

Amidst these pressures exist the professional law academic struggling in a competitive environment to keep the ever more demanding law student satisfied that the legal education they are providing will be relevant and useful to the student's life. Baron (2009, p. 28) challenges '[c]an we "humanise" legal education without considering the health and well-being of those who are responsible for it?' Yet still there is little research into the state of mental health of the legal academic. However, this is pertinent to consideration of any reform in the sector. Baron's (2009, p. 49) advice that the individual should consider their ability to thrive in an environment and if they can't then consider ways to change that environment for the better is relevant to all work environments.

While it is not all doom and gloom, university graduates earn more than non-graduates over their lifetime, having greater employment prospects than non-graduates, and

the life of a lawyer can have intrinsic rewards, the picture is one of legal education at the cross roads in Australia (Nelson, 2015a; Norton, 2014, p. 77). This article considers some of these pressures and the responses for future consideration by legal educators. It describes some of the consequences of corporatisation and the changes globalisation has demanded. A picture of the law degree and its place in the tertiary education sector in Australia, along with the students' experience is provided. Looking at some of the responses and possible directions for the law degree, and a changed focus in the curriculum the article suggests a possible future direction for change in approach that would accommodate a number of concerns and produce law graduates ready for future demands.

Corporatisation and globalisation

The neoliberal impact on legal education in Australia has been written about extensively by Thornton (2011, 2014a). More recently she has turned attention to the 'hyper masculinity' of the global corporate law firm suggesting the corporate world of global take overs and mergers is a highly competitive world in which many lawyers are embedded to the extent that global law firms inevitably '...now mirror the competitive business ethos of their clients, evincing similar market-orientated values...' (Thornton, 2014b, p. 153).

A recent example is Dentons and Dacheng (Beijing-based) merging to create the world's largest law firm with around 6,500 lawyers operating in over fifty countries in what has been described as '...the first phase of a whole reinvention of the legal landscape globally' (Mezrani, 2015a). In this competitive world law firms are also merging with non-legal professional businesses such as insurance (Mezrani, 2015b). Not only are there economic reasons to get big but a global world with transnational business clients requires servicing the clients across jurisdictions, even where they may be nationally based (Mezrani, 2015c).

In this transforming environment a key interest for Thornton (2014b, p.168) is the excessive focus on the positive bottom line of corporate profits with little concern for work/life balance '...when corporations and investors enjoyed robust growth, comparatively little media attention is devoted to the conditions under which lawyers work...Corporate firms rarely display the same loyalty to staff that was once the case...'.

A hyper competitive neoliberal climate sees work-life balance disappear from the reporting around lawyering (Hensel, 1997). This perhaps drives some of the claims

that the rate of bullying is reaching almost epidemic proportions with Australian workplaces ranking 6th out of 31 European countries (Dollard & Bailey, 2014; Schroder, 2014). In this world women are leaving the law after five years of practice in large numbers (Law Council of Australia, 2014). Part of the push back on corporatisation and the clamour to merge into ever larger transnational law firms finds some practitioners are choosing to leave 'large law to set up their own boutique practices' (Mezrani, 2015b, para 8).

Moving from the high end of practice there is still a strong need for lawyers to take up the small clients with 49 per cent of Australians seeking assistance with legal problems in 2014 and 22 per cent being involved in the legal system on three or more occasions (Nelson, 2015a, para. 5). However, government funding of legal aid has been in decline since 1997 affecting lower to middle income earners, family law, Community Legal Centres and Aboriginal and Torres Strait Islander communities in particular (Nelson, 2015b).

This pattern of change in law firms creates a volatile landscape of uncertainty in which obtaining employment for law graduates is declining and the kind of organisation they will work for is different from the past. The practice of law is also changing with fewer matters being resolved in an adversarial court system (Sourdin & Burstyn, 2013, p. 28). Many conflicts are now dealt with through various alternative dispute resolution processes and before diverse bodies such as tribunals and boards using inquisitorial style approaches, some even precluding lawyers from appearing before them (Creyke, 2006). Notwithstanding this, Australian law schools are graduating growing numbers of students versed in adversarial-style lawyering (Merritt, 2014). Between 2001 and 2012, the growth in student numbers was 31 per cent, with around 36,000 graduating in 2012 (Papadakis & Trados, 2015; Department of Education & Training, 2014).

These many changes coalesce to drive a call for a number of adaptations in legal education (LACC, 2010). The Law Admissions Consultative Committee (LACC, 2014, p.3) is concerned with the increasing demand for training to keep abreast of global developments with Australian lawyers having extra study burdens when seeking admission in overseas jurisdictions. Refocusing the curriculum to accommodate globalisation by internationalising the content of courses has been a train of thought advocated for some time and would increase employability for lawyers seeking admission in another jurisdiction (Mezrani, 2015a, p.3; Barker, 2011). This article advocates, at minimum, diversifying the legal curriculum

to incorporate understanding of communication, the core skill in a lawyer's toolbox, cultural awareness, and collaborative approaches such as those used in alternative dispute resolution, and training in different legal families, such as Sharia law. However, this change has to occur in a professional degree constrained by the higher education sector demands as well as those of the professional bodies.

University sector - law degrees

In 2011, the Tertiary Education Quality and Standards Agency (TEQSA) replaced the Australian Universities Quality Agency (AUQA) as the superintending body monitoring higher education delivery standards in the Higher Education Quality and Regulatory Framework. As part of this monitoring the Australian Qualifications Framework (AQF), has provided a statement of minimum learning outcomes for each level and type of qualification eg: bachelor's degree (level 7), honours degree (level 8), master's degree (level 9). These adjustments were implemented after the Bradley Review, (Bradley *et al.*, 2008, Recommendations 2 and 4) a significant motivator to increase student numbers aged 25-34 to 40 per cent by 2020, including encouraging students to engage from diverse backgrounds, regional and remote areas, Indigenous communities and low socio-economic groups who had not previously considered university education. In 2015, the current Government has yet again had reform on the agenda for higher education. This time concerned with the increasing burden of the costs of providing tertiary education, the government's desire to deregulate the industry is yet to be fulfilled (Lewis, 2015).

As a professional degree qualification a law degree must accommodate professional accreditation criteria. To practise the profession in Australia requires satisfactory completion of an Australian tertiary law degree covering academic requirements in 11 areas, (criminal law and procedure, torts, contracts, property, equity, company law, administrative law, federal and state constitutional law, civil procedure, evidence, ethics and professional responsibility). These are commonly referred to as the 'Priestley 11', named after Justice Priestley who headed the Law Admissions Consultative Committee that proposed these areas, and which was endorsed in 1994, by the Law Council of Australia. Over twenty years later, the Priestley 11 core areas of doctrinal content remain the standard. One addition to the Priestley 11 is a +1 requirement that candidates for the legal profession must also complete practical legal training, usually conducted over 15 weeks, after completion of their academic

qualification at an Australian university. Candidates must also establish their good character.

Reviews in England and Wales into legal education have been considered by the Law Admissions Consultative Committee in a discussions paper *Review of Academic Requirements for Admission* (2014). The influence of the England and Wales Legal Education and Training Review (LETR, 2013) has been apparent in the Law Admissions Consultative Committee (LACC, 2014, pp. 4-7) currently seeking a limited review of the core law curriculum stating:

Civil Procedure is not included in the *English Foundations of Legal Knowledge*, despite the fact that practitioners in 2012 rated it second only to Legal and Professional Ethics in importance to legal practice. There, intending solicitors must study Civil and Criminal Litigation as part of the 12-month full-time Legal Practice Course. Intending barristers must study Civil Litigation as a separate subject in the 12-month full-time Bar Professional Training Course. (p. 5)

This suggestion does not address the very different 15-week practical legal training requirement operating in Australia. The Law Admissions Consultative Committee (2014, p. 5) suggested review is limited to considering whether civil procedure, evidence, legal professional ethics and company law should remain as core areas, and whether statutory interpretation and perhaps some other areas, such as Alternative Dispute Resolution (ADR), be included. This approach is designed to avoid reopening the agreed core subjects in the Priestley 11 +1.

In 2014, the Productivity Commission's report, *Access to Justice Arrangements Report* (Recommendation 7.1) suggested that the Priestley was due for an overhaul, if not entire abandonment. The Law Admissions Consultative Committee (2014a, para 4.3), in its submission to the Productivity Commission noted the previous difficulties in obtaining consensus as to the core areas and was reluctant to open what perhaps is perceived as an 'old wound'. The Council of Australian Law Deans (CALD, 2008) has sought input from law schools on the Law Admissions Consultative Committee's suggestions. The outcome is uncertain with reluctance to the possibility of opening the Priestley up for reconsideration in line with the recommendations in the *Access to Justice Arrangements Report* (2014).

What the numerous reports have in common is pressure on the academy to ensure students are prepared for the future. The overall question remains - what is it that law graduates will require from education to fulfil the needs of the 21st century law firm? The Australian Law Reform Commission in the Managing Justice Report argued for

a move '...away from the dominant focus on mastering bodies of substantive law, and towards the development of high order professional and problem-solving skills (such as more effective oral and written communications, negotiation, advocacy, client interviewing, and conflict resolution)' (Australian Law Reform Commission, 1990, Recommendation 2). This report appreciated the totally transformed environment in which law is practised (Weisbrot, 2001, p. 24; Galloway & Jones, 2015).

This recommendation includes a recognition of the increasing move to collaborative dispute resolution. Acknowledging the changing world, both the National Barristers' Conduct Rules 2010 and the Australian Solicitor Conduct Rules 2012, include mediation, by defining 'court' to include 'arbitrations and mediations'. The Australian Bar Association acknowledges alternative dispute resolution as one of ten requirements for a good advocate. Further, the United Nations Commission on International Trade Law (UNCITRAL) model has been adopted for Australia's domestic commercial arbitration system. These reforms mean lawyers consider their roles to be much more than being litigators. Notwithstanding this the Law Admissions Consultative Committee (2014a, p.12) suggests, without supporting evidence, that the professional legal training changes introduced in 2003 requiring 'assessing the merits of a case and identifying dispute resolution options' is sufficient alternative dispute resolution knowledge for entry level lawyers. This leaves law graduates that have completed their practical legal training still requiring further costly training and education before they can adequately address the 95-97 per cent of matters they will deal with through non-adversarial methods. Litigants complain of the lack of awareness of alternative dispute resolution processes and the insufficient use of them by legal practitioners (Gutman, Fisher & Martens 2008).

The Law Admissions Consultative Committee's position fails to recognise that the court is no longer the only exemplar of 'skills of accessing, understanding and wielding legal knowledge' with the justice system now incorporating wider alternative dispute resolution processes (LACC, 2014a, pt 2.5.). Lawyers' many roles, include not only giving clients advice on the options for settlement of their disputes, and acting in negotiations but also participating in alternative processes as mediation practitioners or partisan advisors.

The coalescing of professional concern and the government vision of a deregulated market in a globalised world certainly bring all roads together at a crossing point. There have been suggestions that the law degree is becoming the new generalist arts degree, along with

calls for more work integrated learning approaches (Tadros, 2014). While the Government has failed to pass its legislation for deregulation of the university sector the discussion remains (Dawkins, 2015). Before choosing a road to travel down, mature rational consideration is required, taking stock of the nature of the law student and what will be expected of them in a globalised world. A holistic approach going beyond what it is a lawyer will need to do, to incorporate consideration of mental health and workplace balance issues for students, academics and the law professional is recommended.

Australian law students' demands

In a world where education is no longer free and students have to work part-time casualised jobs, or perhaps are seeking a career change while performing in high stress jobs, along with the usual family and other commitments, education has been required to 'fit in' around the student. This demands that students have more self-control over their learning process and flexibility in assessments and learning modes (McLoughlin & Lee, 2008, pp. 10-27). It is perhaps surprising in the current downturn in employment prospects and increasing costs in obtaining a degree that record numbers of students are still pursuing law degrees (Nelson, 2015a). Tani and Vines (2009) surveyed 2,528 students at the University of New South Wales in 2005 to ascertain why students at an on-campus city university chose the course they did and whether it met their expectations. The findings provide some interesting perspectives on the peculiarities of law students in the study:

Law students in contrast to all other students including those in medicine have the following characteristics:

- they are more likely to be doing their course for a reason external to themselves, such as because their parents wanted them to;

- they are less likely to find their studies intrinsically interesting;

- they are more likely to see employers as interested in their marks and not in other social characteristics such as their personal code of ethics or their social and leadership abilities, or ability to understand diversity;

- they dislike group work as a learning and grading method;

- they are more likely to value the reputation of their university;

- they are less likely to state that they are at university to learn;

- they are more likely to see their friendships in terms of networks which will advance their career;

and

they see their marks as the most important motivator and indicator of their success — far more so than other students — and they are less likely to see good grades as helping them to learn (Tani and Vines, 2009, p. 24).

This indicated that external factors drive law students more than internal, emphasising the significance of status over internal happiness. Tani and Vines (2009, pp. 25, 30) note that 'the focus on getting good grades as a motivator is perhaps the most significant factor differentiating law students from other students'. A prioritisation of grades over actual learning or gaining of knowledge and skills is tied to reputation and being judged by the employer, peers and family. The focus is given to individual aspirations over community in a competitive drive to reach a high status standing, important in conglomerate law firms when competing for distinction amongst thousands. Reliance on external acknowledgment, however, fails to link with the students' own desires and values, creating a feeling of lack of autonomy that can lead to depression.

Other stress-producing factors on students paying high fees for their qualifications include the need to fit their study around family and work. The reporting of the long hours that students work to maintain part-time or even full time employment while studying, carries across developed common law countries (Sagan, 2013). This in turn means an increased demand for distance education provision of online courses. The teaching academy is concerned with a decline in class attendance (Mascher & Skead, 2011). This in turn places a demand on the curriculum to fulfil appropriately the requirements of skills provision, such as team work and oral communication in online environments.

In this frenzy of change and innovation, supported by rapidly adapting technologies, teachers are encouraged by the student demand for flexibility to trial new and previously unheard of approaches to education (Collins, Brackin & Hart, 2010). It is likely the professional regulatory bodies may not be able to keep up with this pace of innovation. How many can explain what each of the following are and how and why they are relevant in the tertiary education environment: learning analytics, data dashboards, predictive algorithms, badges, certificates, specialisations, new forms of credentialing, personalisation, personal learning journeys, competency-based models, direct assessment, creative commons, open learning, cloud data storage, peer learning, work-place integrated learning, flipped class rooms, accelerated pathways, internships and the list can go on (Brill & Park,

2008; Mintz, 2014). While no doubt many have heard of at least some of these and can even explain or perhaps use these approaches, the real consideration is the plethora of choice facing not only students, but academics and the university sector. Universities operate in a global market with each institution seeking to distinguish itself from others in an environment competing for students that demand the quickest, but most highly respected, qualification that will make them work-ready.

This is a world described by some as the narcissistic neoliberal scramble in which consideration of work-life balance and the ethics of care and justice have to fight to create a space (Mann, 2014; Sommerlad, 2014). However, struggle for survival in the neoliberal world means the calls for something different are becoming louder.

Lawyers for the future – different directions

As arrival at the crossroad looms many proposals are being suggested. Underpinning the discussion and mounting reports is the overriding concern that graduate lawyers will be educated to face future demands on them. Some thought is going towards an elitist direction, reducing student intake and numbers, or placing restrictions on government supported student placements in an attempt to produce the 'best of the best' (Papadakis & Tadros, 2015). This approach feeds into the neoliberal demand for excellence; it may not however, consider the wellbeing of a student placed in such a high stakes competitive environment. While regulatory bodies are looking at changing core subjects, by removing subjects in ethics, civil procedure, company law, and evidence in a limited change to the curriculum (LACC, 2014), more radical proposals are to move towards a generalist law degree and abandon core areas altogether. The Access to Justice Arrangements Report (2014, p. 230) suggests 'given the increasingly generalist nature of the undergraduate law degree, a focus on elements that are specific to practising in the legal profession could be misplaced'.

Other proposals call for greater embedding of areas such as ethics, and statutory interpretation. Legal ethics, however, has four different schools of approach that lawyers can apply to ethical dilemmas and therefore is also internally divided in how lawyers should be prepared for their profession (Parker, 2004). These schools include the adversarial advocate, responsible lawyering, the moral activist and the relational lawyering or ethics of care (Parker, 2004, p. 56). In the latter, the lawyer's focus is '...on trying to serve the best interests of both clients and others in a holistic way that incorporates the moral,

emotional, and relational dimensions of a problem...' (Parker, 2004, p. 70). Such an approach has recently been sought by the President of the Australian Human Rights Commission, Professor Gillian Triggs (Nelson, 2015c, para. 5 & 6) suggesting in-house counsel need to '...play a strong and necessary independent role like a moral compass guiding the institution towards ethical behaviour along with ... a responsibility not only to determine whether an action is strictly legal, but whether it will lead to an ethical outcome in the wider community.'

Instead of focusing on numbers and declining employment opportunities some argue recognition of the changing environment means better considering the changed world in which law graduates will be operating into the future (Merritt, 2014). Menkel-Meadow, (2013, p. 134) for instance, has argued for a change in legal education to teach for humanity rather than for sovereignty: 'It is not that there are too many lawyers, or too many law school seats, or even that there are not enough jobs, it is that those who are trained by studying law could study different things and practise or work with more appropriate knowledge bases and skills sets'.

The *Access to Justice Arrangements Report* (2014) reinforces the fact that not all law graduates intend to practise law, and the evidence shows the growing number of female graduates that fail to remain in the profession (National Attrition and Re-engagement Study, 2014, p 54; LACC, 2014a, p.11). Menkel-Meadow (2014, p. 135). suggests '...modern legal education may need to address different types of problems in different ways...The classic case and doctrinal method of study may not be appropriate for all forms of legal problem solving. It is certainly not the only "sufficient" means of a modern legal education'. Kelk *et al.*, (2009, p. 49) urge legal academics to consider that: 'Law students and legal professionals need to be made aware of the importance of developing different skills for managing workplace issues and personal issues... styles of vigorous competition ... are not likely to have satisfactory outcomes in everyday life, or in a situation in which a person is struggling with psychological distress or mental illness.'

These proposals indicate only some of the suggested directions, out of the many possibilities that are surfacing, as legal education seeks to find a new identity.

Possible future direction

The critical importance of social connectedness and group cohesion in helping overcome competitiveness and thinking styles predominately associated with

individualism and the adversarial style of lawyering was emphasised by Kelk *et al.*, (2009, p. 47): 'The development and implementation of solutions to these problems will be facilitated by approaching these issues on a group or institutional basis, encouraging connectedness rather than isolation, autonomy rather than individualism and reducing social disintegration.'

This statement is important as it introduces many of the factors that teaching alternative dispute resolution addresses. For this reason, it is suggested alternative dispute resolution is a key to providing a way forward at the crossroads as it provides answers that serve many of the dilemmas currently presented (Collins, 2012). Alternative dispute resolution for instance, looks closely at communication – including non-verbal, conflict theories, and psychological, emotional, and cultural factors.

Governments have embraced alternative dispute resolution through legislation such as the *Civil Dispute Resolution Act 2011* (Cth) and there is a growing call for alternative dispute resolution to be a core part of the curriculum (Douglas, 2011). Legislation not only encourages early resolution of disputes through alternatives other than court, but aims to reduce barriers to accessing justice. Parties are encouraged to ensure they have taken 'genuine steps' to resolve their dispute before a matter proceeds in the Federal Courts. The use of alternatives to adversarial justice finds that around 97 per cent of matters are diverted from the courts to a growing system of tribunals and other conflict resolution mechanisms (Sourdin & Burstyn, 2013, p. 4).

Mediation and other forms of dispute management involve relational processes that seek dialogue and collaboration between parties looking to resolve their conflicts in good faith in order to satisfy the interests of all parties (Cloke, 2001, p. 164). The adversarial training of lawyers to act in a positional manner, winning for the client, does not always achieve the best result for clients. Alternative dispute resolution incorporates the ethics of care and ethics of justice schools of relational lawyering (Wald & Pearce, 2014). In the changing environment it would seem law schools can no longer provide teaching based only on a common law tradition taking the positive legal approach considering appellate case law.

In alternative dispute resolution subjects' students are encouraged to develop a more collaborative, facilitative thinking approach that can soften the blunt edge of competitiveness. Social cohesion is encouraged through the types of assessment and learning which often entail role plays and developing interpersonal skills. Students develop friendships through these techniques of teaching.

All of this is enabled in online environments through advanced technologies (Collins, 2010a).

Role playing, as an essential component of alternative dispute resolution teaching, enables students to practise the skills that develop learning non-verbal and interpersonal communication techniques. This encourages a meta-awareness of our primitive brain, including our emotional brain, and its responsiveness to non-verbal cues well before cognitive processes activate (Collins, 2010b). Communication, the most essential skill for lawyers, demands attention be paid to training students in all forms of communication: legal drafting, statutory interpretation, oral skills and the levels of subtlety practised by mediators (Weisbrot, 2001; Taylor, 1975).

An adversarial lawyer is not focused on the emotional costs, or the underlying human issues, the focus is on the endpoint and usually success is gauged in terms of financial outcomes. Not allowing a place for expression of empathy or emotion as occurs in positive case based legal training denies the intrinsic values of the individual. A learned behaviour by law students of emotional detachment should not include emotional dismissal or denial (Riskin & Westbrook, 1989). After all, the raw stuff of emotion and distinctly different personalities of humans will be the daily diet for law students in the workplace: '...the majority of people who need to go to a lawyer are in some form of crisis of some sort, and often in some sort of emotional state' (ABC Radio National, 2008).

Training in emotional awareness and empathy, as occurs in alternative dispute resolution teaching, can only assist in improving self-awareness around work/life balance and ethical behaviours. This is also likely to reduce activity such as bullying. The specific attributes attached to alternative dispute resolution teaching lend themselves to addressing many of the concerns presenting to professional accreditation bodies and legal educators when approaching this cross road in legal education.

Conclusion

This article suggests that the age of relational, mediational and collaborative lawyering has arrived and provides a distinct choice at the intersection of diverse proposals for legal education that provides a way forward and satisfies many needs. Such a direction is possibly inevitable with the prohibitive financial and personal costs incurred in an adversarial justice model.

Neoliberal privatisation has transformed the way business is done in a globalised world and the provision of justice has become part of that transformation with

governments struggling to fund access to public justice. It is suggested that lawyers of the future, whether working in transnational legal conglomerates or the local community, will need skills in: communication, including interpreting legislation, oral and interpersonal skills, cultural awareness (languages would be useful), knowledge of conflict theory, awareness of different legal families, some international relations and geopolitical awareness, and research and technology capabilities, all embraced by a professional ethics education.

This new form of law degree and training may be seen as a new arts degree or generalist degree by some but its value lies in that fact that all these skills would be focused around delivering lawyering and providing justice in a globalised environment. This approach brings in suggestions such as the ethics of care, relational and humanistic lawyering. Encouraging a collaborative approach is likely to also aid academics in their teaching environment. Students trained in these areas will be adaptable, they will have self-awareness, an ability to ensure work-life balance and hopefully a wellness that arises from a more holistic training that incorporates emotional sensitivity and respect for the individual. They will be legal graduates ready for the future.

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