The teaching of law to non-lawyers

An exploration of some curriculum design challenges

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Abstract

Purpose – The paper aims to explore the role of outcome-based education, criteria-referenced assessment, and work-integrated education in the teaching of law to non-law students. The difficulties inherent in the use of such techniques in this particular context have not yet been thoroughly articulated or theorized because it is not clear what we want of our students: to think like lawyers, to do like lawyers, to be like lawyers – or none of the above. The paper proposes some answers.

Design/methodology/approach – Discussion within the paper draws on theories articulated within the established literature relating to the issues under consideration.

Findings – The paper reveals several gaps that need to be addressed by proposed empirical and longitudinal research projects to answer specific research questions.

Originality/value – The paper contributes to the developing theory of teaching law to non-law students.

Keywords Curriculum development, Knowledge management, Teaching, Law

Paper type Viewpoint

Introduction

If we think of “lawyer” as a verb form (as in “She lawyers in Hong Kong,” “knowing how to lawyer,” and “lawyering is difficult”), it is common knowledge that the traditional law school did not do much to teach its graduates what to do (Morris, 2003, 2005, 2007). The old law school was designed solely to teach students how to “think like a lawyer” rather than to acquire the practice skills they would need to become a lawyer – to act like a lawyer, to do lawyering, to conduct the daily work of “lawyering” – skills that usually come through practice, apprenticeship, and clerking – on-the-job-training (OJT) (Gold, 1991; Wong, 2006; Chow et al., 2006). Overwhelmingly, the model for the desired outcome of legal education was for the trainee to be able to demonstrate in a written examination that the student could manipulate the legal vocabulary, symbols, and thought processes that demonstrated this one skill (Vickers, 2005). So long as that was the “outcome” of outcome-based education (OBE), or the “criterion” of criterion-referenced assessment (CRA), then legal education succeeded well enough, with some students measuring up so well as to join the law review, get their license to practise, and work in a top firm or government office where they would learn “doing like a lawyer.” Clearly this is not enough in the modern world, and it is not the direction of modern education – legal or otherwise. Globalization in the post-World Trade Organization world compels the conclusion that every student in every professional track (doctors, dentists, broadcasters, astrophysicists, pilots, bankers, mechanics) must study the law relevant to that profession. Doing this
would reduce malpractice, malpractice lawsuits, and the costs of malpractice insurance. The law-for-non-law-students has adapted to include “practica” and laboratory courses beyond theory (Ontario Professional Engineers, 2010; Cownie, 2000). The capability of graduates in such programme can be stated, measured, and quantified comparatively easily (Wu et al., 2004; Chan and Yung, 2004).

This follows the trend in the law schools themselves. Recently, there is greater and greater emphasis not only on in-school practica, but also on student learning outside the school (Schwartz, 2001), and on new theories and paradigms (Chynoweth, 2000a, b). And now some innovative non-law schools combine their professional degrees with a law degree in double-degree programmes. This is at once a syllabus of the programme and its mission statement. But double-degree programmes presume a law component in which students know and want legal knowledge. What if anything becomes of these desiderata when the students in question are in other disciplines alone – are not students in the law school or in combined degrees, are not on the law track to graduation, and do not intend to become practicing lawyers after graduation? (Tyler, 1995) – when, in other words, we teach “specialisms to non-specialists”? (Ward and Salter, 1990) Do the goals, paradigms, and tools change? (Allen, 2005b; Soetendorp and Byles, 2000). Ward and Salter (1990, p. 226, original emphasis) have argued:

[In general where specialist subject matter is “translated” into a version designed for non-specialist consumption, then the translated version should be regarded as something sui generis, to be critically assessed on its own merits. This exercise will often testify [...] that something (albeit of a detrimental nature) may be gained as well as lost in the translation process.

If such a version of legal studies is sui generis, and if OBE and CRA include practical skills beyond “mere” knowledge and understanding (Allen, 2005a), how can the academy demonstrate that it is achieving any such skills? (Quality Assurance Council of the HKSAR University Grants Committee (UGC), 2009). Do any such skills even exist? Does the study of law retain any inherent importance in or out of the law school? If we carefully adapt the educational taxonomy of Bloom (1956) that learning has three domains (cognitive, affective, and psychomotor), how do these apply if at all in law-school and non-law-school legal education? (Kennedy, 2005; Munro, 2000; Lo, 2006) The proliferation of courses and programmes in law for non-law students attests to a growing consensus that they are important – even necessary (Christudason, 2006). Even so, their proponents have not always clearly articulated why they are important or necessary. They have not always clearly articulated their mission – the first and fundamental step that underlies all the rest. Nor have they always clearly articulated what bearing such courses have, or must take, from the law-school curriculum, if at all (Chan et al., 2002; Morris, 2008). Hence, faculties and curricula committees are not always sure what to do with non-law school law courses. Because law and legal thinking remain a form of “higher-order thinking” (Tan, 2005), whether taught in the legal academy or another academy, these concerns are fundamental to our understanding of the pedagogy involved and the tools required (Jarvis et al., 1998).

Law in the law school: the point of departure
At the outset it is important to note some things about in-school, pedagogical, doctrinal law that are ever and always true but that may nevertheless be insufficient or misplaced in the new paradigms. The subject of law, of taught law, is not wholly a
creature of, nor is it altogether malleable by, the academy or the profession. In common-law systems, “law” is what the courts and the legislatures do, or rather what they create (Morris et al., 2000). It comes to the academy and the profession in this sense pre-packaged (Wesley-Smith, 1998). This fact substantially limits what the law school and the profession can do with it, and it is something less than what they can do with many other subjects and disciplines. We comment on the law and argue about it in law reviews and books, and we sometimes have input regarding it in the legislatures and the courts, but we do not make the law. In the classroom we must teach it as it is at the moment. If there is any room for creativity or autonomy, it is in our pedagogical methods, not our subject (Josephson, 1984). These realities have certain implications for any a priori determination of criteria and outcomes, as well as for the scope of possibilities for curriculum revision. In sum, we are not as much at liberty to engage in any of these activities as many other disciplines may be. And even this generalization may be in the process of becoming less true as other disciplines come more and more to be controlled themselves by positive law and case decisions.

Law school has its own built-in rationale and motivation: its graduates intend to become some sort of legal practitioners. They must learn to be lawyers: to think like lawyers, and to do like lawyers. This is true whether the law school is a traditional “one-dimensional approach to legal education” or has modernized its curriculum to include such things as practica, clinics, symposia, and so on (Solomon, 1992). It is even true where the law school no longer has a physical campus but exists in cyberspace (Rosen, 2001). Thus, in the law school, OBE and the concomitant CRA are obvious and easy to state, measure, and quantify – even though they may differ from school to school. They are driven and defined by the actual end-game necessity for the student to graduate, pass some form of professional qualifying examination, and practise some form of law. Teaching, learning, and doing are conceived of as a loop.

Law in the non-law school
What of the graduate who is not set to become a legal professional but who is required to study a large cohort of legal subjects as part of professional schooling? Do the above analyses and criteria apply? For students not in law school whose curriculum is some other subject to which law is merely another component, these ideas are far from obvious. Such students do not intend to graduate as law students, pass any law-related examinations, or practise law. Their degrees are in medicine, business, construction, surveying, media broadcasting, cooking – anything other than law per se. Furthermore, we do not want them attempting in any way to practise law as if they were mini-solicitors. All jurisdictions rightly have laws that prohibit the “unauthorized practice of law” – a concern that is especially salient in the globalized cross-jurisdictional world (the Hong Kong Barristers (Qualification) Rules)[1]. What role then, if any, do work-integrated education (WIE), OBE, and CRA have in their educational programme? What simulation are they to undertake? Munro (2000, p. 7) points out:

It is common in undergraduate education for students to perform a variety of tasks, each of which might in some way be evaluated. For example, students in a business course may take weekly quizzes, make a classroom presentation, work with a partner to formulate a business

[1] Hong Kong Ordinances Cap. 159E.
plan, write a report, and take a final exam. An architecture student may submit multiple drawings, design and build models, make a classroom presentation, and take a final exam. In those cases, the students’ final grades in the course represent a synthesis of the multiple evaluations of their performance.

If both the business student and the architecture student are required to study the law of their professions (Corbin, 2002; Woodcock, 1989; Ridley, 1994), what will they do to show a “synthesis of the multiple evaluations of their performance”? Where will their respective faculty’s mission statements reflect this, and how will it be included in the assessment loop? For example, a typical course description in “contract administration” for non-law students may give its “subject aim” as follows: “Introduce students to the legal aspects of construction contracts and provide them with the ability to critically apply the practices and procedures involved.” Another in construction-contract law states: “Provide a practical knowledge of modern development in construction contract law and application of laws and procedures relating to construction contracts and their administration.” A third in property law states: “Evaluate and apply property law to factual situations.” These statements raise what I call the what questions: to what do you “apply” these things — what is the direct object of the verb apply? These relate in turn to a series of why questions. Mission statements for most classes typically state that the goal is for the students to “possess” the requisite knowledge and intellectual skills, both theoretical and practical, in order to think properly about legal issues and evaluate them. Some mission statements combine the questions: consolidate knowledge, identify legal problems, build up a firm foundation for advancing further legal studies, and use legal knowledge and research skills to respond appropriately to construction-related issues. All of these are fairly typical examples, and all of them bear the same kinds of questions: what? and why?

Both OBE and CRA stress that “mere” knowledge of a subject is not enough — the student must have learning experiences in learning environments that facilitate the solving of complex, real-world problems by providing opportunities for hands-on work. The stress is on practice which is aligned with pedagogy, the learning of abilities, attributes, and skills (all transferable) plus ideas and knowledge in courses and experiences that are interrelated. Indeed, such stress often goes beyond the immediate curriculum to include global outlook, social and national responsibility, cultural appreciate, entrepreneurship, and life-long learning — all things that are not fully measurable while the student is at the university (Hong Kong Polytechnic University Working Group on Curriculum Revision, 2004). This latter point is crucial because it is necessary to distinguish ultimate outcomes (the profession itself) from the immediate outcomes (this class). The former remain hypothetical until the student graduates and enters the profession (Lau, 2005). But here is the problem with regard to all the desiderata in the stated course outcomes given above: there is as yet no praxis by which the student can demonstrate a “knowledge” of the law of surveying (or other non-law subjects) and the ability to “apply” it. Such requirements are still classroom bound and theoretical. The “application” being talked about is application on an examination in a classroom. Even if we hypothetically excise from the learning experience all written examinations, how else can the teacher assess the student’s knowledge? Even labs, practica, case studies, and the like are ultimately reduced to forms that can be returned to and reported in the classroom — and therefore, remain essentially doctrinal. Even written examinations do not totally simulate real-life problems because the student faced with an examination
paper makes the ineluctable assumption that “there is a problem here, and all I have to do is find it and analyze it properly in my written answer.” In real life the situation from moment to moment may or may not be pregnant with real problems. A “true” written examination might conceivably present the student with a non-problem, but what could she/he write except “There is no problem here?” How could the professor assign marks for such an answer?

There is a danger lurking in problem-based educational experience, however, that must be addressed as well. It is the temptation to allow students to teach themselves and each other where the teacher abdicates the role of master and director of the learning process. If students are free to “make mistakes in a controlled, safe environment” (the purported desideratum of a recent two-year study in Hong Kong; Clem, 2006; Quality Education Fund, 2006), then at some point those mistakes must be unlearned by remedial teaching. This can be a fatally flawed process in the teaching of law where what seems to be “common sensical” or logical to the untrained mind is often wrong. There is good reason in legal studies why the traditional paradigm of “sitting at the feet of the master” has been successful and should be retained.

The careful reader will have noted that the subjects of the previous two paragraphs share a common bias: students must have certain learning experiences that facilitate certain learning outcomes, and there is a danger in allowing students to teach themselves. The logic and reasoning of the law are not coextensive with the logical and reasoning of philosophy or any other branch of learning. And legal reasoning and analysis are not rote memorisation – in fact, they are just the opposite. What Sir Edward Coke (1608, emphasis added) said to the King of England in 1608 is still true today:

[Then the King said, that he thought the law was founded upon reason, and that he and others had reason, as well as the judges: to which it was answered by me, that true it was, that God had endowed his Majesty with excellent science, and great endowments of nature; but His Majesty was not learned in the laws of his realm of England, and causes which concern the life, or inheritance, or goods, or fortunes of his subjects, are not to be decided by natural reason but by the artificial reason and judgment of law, which law is an act which requires long study and experience, before that a man can attain to the cognizance of it: and that the law was the [...] measure to try the causes of the subjects; and which protected his Majesty in safety and peace [...]]

In this regard, we can say that the law is a discipline by itself. It is different from any other discipline. It is not what the average person calls “common sense.” It cannot be intuited or absorbed by osmosis. As Holmes taught, the common law is not some “brooding omnipresence in the sky”[2]. Law touches and concerns everything, but it is not any other thing but itself. Other subjects and areas of life are the islands, while the law is the sea that touches them all. It requires “long study and experience.”

Two cross-over problems
A recent article suggests that some progressive law-school programmes are now attempting to “require or allow its law students to read a certain number of non-law subjects” (Tan et al., 2006). They add that this integrative or conjunctive study is alleged

to “broaden the perspective of law students in the belief that such an education will ultimately lead to a better legal professional,” all because of the perceived interaction and interdependence of law and society. Students may read law and non-law subjects together in a single law curriculum, or they may pursue another degree in conjunction with, and at the same time as, their law degree. However, after summarizing these various efforts at integration, Tan et al. (2006, p. 11, original emphasis) then present this disturbing finding:

Although there are good reasons for exposing law students to other disciplines, it is unclear to what extent students benefit from such exposure in practice. While it is reasonable to assume that they acquire a better understanding of, say, economics, sociology and history, and this is valuable in itself, the extent to which this leads to a deeper understanding of how the law has developed and evolved (and therefore a deeper understanding of the law itself) is unclear. There is a danger that their law studies and their study of other disciplines will be kept in separate and distinct compartments [...] Students have great difficulty integrating other non-legal perspectives with their study and understanding of law [...] The outcome was mixed. Many students did not feel that they benefited much from being required to read a certain number of non-law subjects. It could also not be said that their study of non-law subjects in any way materially enhanced their understanding and appreciation of their legal studies.

If these matters are “unclear,” and if the integration and mutual “understanding and appreciation” of law and non-law subjects cannot be demonstrated for law students in law school, then any counterpart assumptions about teaching law to non-law students in other major subjects (i.e. the construction industry, aeronautics, banking) must a fortiori also be called into question. It would seem that the problem situations are mirror images of each other. Compartmentalization will still be the rule. If the “good reasons” cannot be empirically stated or demonstrated other than the assumption that they are somehow valuable in and of themselves, then more thought is needed in curriculum design on all fronts. Students, teachers, and institutions pressed on all sides for time and resources cannot be expected to take such unsupported assertions at face value without demonstrative evidence of their validity.

There may be a perception that law departments in non-traditional universities, such as (poly)technical and vocational schools, may not be first-rate schools, may have forsaken the “learning for learning’s sake” ideal, and may lack the best students and teachers required for preparation in the legal profession. These concerns would be potentiated in such settings that teach law to students who are not intending to become lawyers and who are seeking to enter a technical profession. On the other hand, does the association of non-law-track programmes with existing law schools somehow make them, or imply that they are, a cut above counterpart programmes which are not associated with existing law schools? Is the intention to produce a kind of general “legal literacy” (Schimmel and Militello, 2007) (as one might speak of computer literacy or media literacy) without producing a full-blown professionalism? What and how much, then, constitutes “literacy”? WIE provides a promising source of answers to some of these kinds of questions.

Work-integrated education
Closely supervised WIE is ideally a form of situational learning where the business, office, or factory becomes one of the classrooms – or an extension of the classrooms, and the student’s work there is monitored and graded by the academy. WIE has,
if anything, the potential to make all legal training more salient for students and faculty as well. Traditional law students usually do this when they work summers and part-time as clerks in law firms – they observe actual solicitors at work and participate with them to a limited extent in that work. But the difference is that non-law students in WIE are not primarily, if at all, in solicitors’ chambers nor dealing with legal matters in the businesses, offices, or factories where they work. Any exposure to legal matters will likely be tangential to the main purposes for which they are working (Kuh et al., 2005), and it may be on a doctrinally incorrect basis. What, then, would be an acceptable intended learning outcome for a non-law student studying law and going into a WIE experience (or even actual employment), and by what criteria would it be assessed?

Conscientious students often ask whether their WIE experience will be subject specific to their studies or merely a general exposure to the work environment such as they could obtain in any “summer job.” The student really has a double question here:

1. will the WIE experience be subject specific to my primary area of study; and
2. will it be relevant yet limited specifically to my needs as a non-law student studying law? These are legitimate and difficult questions.

True, WIE is supposed to be subject specific to the intended profession. However, the extent to which the curriculum which provides that exposure partakes of the traditional law-school methods, it will reflect the traditional law-school weaknesses. As Gold (1991, p. 54) observes: “A profession whose members have almost all been tested only by unseen, closed-book examination cannot realistically be asked to visualize another system.” All sources supported by empirical research have long agreed that the traditional lecture-tutorial system, assessed by a final written essay examination, is not appropriate to the task (Woodcock, 1988), yet those methods stubbornly remain, not least because the lawyers who teach the courses to the non-law students are wary of any methodology or assessment that may lower the “high hurdles that they themselves had to jump when they entered the profession” (Ridley, 1994, p. 288). Without requirements and motives for innovation, what, then, are students supposed to do in their WIE OJT that would demonstrate their acquisition of abilities, attributes, and skills as a result of their having studied the law of their discipline, and how would the academy measure and demonstrate such acquisition?

Yet even here we find problems in the realm of doing, because doing is often defined as formulating, analyzing, or “demonstrating an understanding of” – all skills that are really not doing in the real of work but are instead reported from the realm of work back to the professor in the office or the classroom – as an anthropologist brings a report back from the field. But just as the map is not the territory, the report is not the field. Students in WIE programmes will report to their academic supervisors, but the reports are, in other words, statements about work, not the work itself (Griffiths, 2004). And since it it is the student’s report that the academy evaluates, it is not really evaluating the work itself beyond the report. The evaluation will inevitably be second-hand. Perhaps, the employer or supervisor of the work in the field has also written an assessment or report of the student’s work, but again the professors are evaluating that report. They were not there to observe the work in person. Some of the students may have worked overseas. Suppose the supervisor’s report and the student’s report substantially disagree? As a cross-examination question would ask, “Which one
is lying?” In either case, to quote the law of evidence, the reports are hearsay[3]. Is it appropriate to ground the assessment of outcomes and criteria on these bases? The proposition seems questionable.

This may be inescapable since the classroom is not the office, and the teacher is not the boss. The “deliverables” of the two arenas are not coextensive (Hutchinson, 2005). In the classroom, the student is essentially a knower and a demonstrator of knowledge, while in the office the future employee is a worker of skills in a role. The latter are the realities that lie behind the classroom report. At the most, the classroom can only simulate the professional or industrial office. In professions that are largely cognitive, the simulation-to-practice ratio may be very close – people sitting at desks producing thought-work look pretty much the same whether they are in the classroom or the office. However, in professions that are largely practical (construction, building management, surveying, engineering), the disjunctions grow larger.

As we saw earlier, typically the syllabi for non-law school law courses state that students are expected to learn the law of the subject (for example, property law), and to “evaluate and apply” such knowledge to “factual situations” in order to “solve legal problems.” But these terms do not refer to practice in the professional field. They refer to the doctrinal manipulation of knowledge and abstract theorizing in response to in-class discussions and final examination questions – in other words, the traditional approach of the traditional law school. Labs, case studies, and seminars all still remain classroom bound. Calls for “curriculum revision” demand that we develop “all-round students” with “professional competencies” rife with OBE and CRA, yet we have difficulty stating just what those things might involve when it comes to non-law school law in the WIE context. Once the students have acquired such knowledge, what are they supposed to do with it – other than have it run like a software programme in the back of their “real” professional activities (the general “legal literacy” approach)? Is WIE supposed to be a form of empirical research? We have difficulty articulating the mission statement on either side of these questions. If we cannot answer these questions satisfactorily, then the justification for the study of law in non-law track curricula remains remote, abstract, and theoretical. As Munro notes (2000, p. 86), “An assessment programme must have its roots in the mission of the law school.” This applies a fortiori to the non-law-track law curriculum. Hence, the initial question remains: what is the mission of the non-law school teaching law to non-law students? I suggest that it is an integral part of universal legal literacy within the purview of civic education – universal because the law, like the sea, touches all the other islands. Fairbrother (2005, p. 298, emphasis added) sees civic education as fulfilling this pervasive role:

Politically, citizenship education would foster democratic development, preserve and strengthen Hong Kong’s democratic way of life, cultivate politically mature citizens, prepare young people to vote and actively participate in political discussions and government affairs, protect human rights, and ensure that future leaders would strive to maintain Hong Kong’s

[3] Hearsay is a “statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Rule 801(c), Federal Rules of Evidence (US). In Hong Kong, hearsay is a “statement made otherwise than by a person while giving oral evidence in the proceedings which is tendered as evidence of the matters stated.” Evidence Ordinance, Cap. 8, Sec 46, Part IV.
autonomy, way of life, stability, prosperity, and rule of law. It would assist Hong Kong’s decolonization and equip youth with knowledge, values, and skills to manage the transition and take up their future roles as citizens under Chinese sovereignty.

While OBE and CRA have been well imagined, thought through, and in some places implemented, WIE needs further theorization – and all three need further integration. As Munro (2000, p. 83) observes, the assessment movement generally has been afoot for at least the past 15 years, and it is “knocking at the door” of legal education. It is knocking at the door of legal education outside the law school as well, but there it has not been so well articulated. Particularly with regard to WIE, what could we imagine might be the consequences if such matters were neglected? What if a WIE programme were to make no provision for the integration or assessment of legal education in the programme? This would be unfortunate from a simple economic standpoint since a non-law programme that requires all its students to undertake a substantial number of law classes as a requirement for graduation would remain pedagogical law, classroom law, alone without the subsequent practicum in industry. Hence, if there is no concrete provision specifically for the law component to be integrated within the scheme, or to be reported and evaluated, the student’s legal training will be largely wasted. WIE is supposed to give the students the opportunity to “apply and practise” the theory they have learned in class. What, then, is the mechanism for doing that with regard to their law classes in the professional workplace where they will encounter real legal situations? (Winder et al., 2000) Who there will supervise them, and how with they be evaluated on their legal knowledge and practice? What mechanism in the WIE programme will guarantee that students will be exposed to the legal situations, problems, and concerns of their industry when they are involved in their WIE exercise? At the very least, it seems that their WIE experience should include interaction with a company’s legal secretary and/or legal counsel. Without any consideration of the law in the WIE scheme, at least some of the implicit messages to the students will be:

- Your study of law is actually irrelevant to your professional practice.
- It cannot be truly intergrated with your work; there is no real nexus, but rather a disjunction.
- It is, therefore, really not valuable in your profession.
- Nobody in your profession actually practises what they were required to learn in their law classes.
- Your study of law will remain theoretical only – the actual real-life problems you encounter in the profession and the industry will really have nothing to do with the law.
- Your study will be measured only in traditional in-school examinations – not by performative criteria in WIE.
- Hence, you can forget what you learn in the law as soon as you pass the final examination and leave those courses.
- There is nothing for you to write about regarding the law in your reflective journal.
- There will not be, and cannot be, any intended learning outcomes for workplace learning in the law because none have been stated.
The skills you learned in your law classes are not transferable.
• For all these reasons, there is no role for your academic law supervisor in WIE, and the academic supervisor in your major subject cannot evaluate anything you might glean regarding the law.

If these realities are correct, they violate one of the basic tenets of WIE, namely, that WIE should be purposefully designed to provide intentional learning aimed at the attainment of the intended outcomes, that is, learning should not be left to occur incidentally as a side effect of work. Without this, the legal component of their study will be sidelined as incidental and trivial, if not completely erased. Furthermore, if the student is required to keep some sort of diary, portfolio, or reflective journal of the WIE experience, the situation of WIE with no legal content violates a fundamental criterion of that exercise: “Express your idea on the association between academic studies in the University and industry.” In a WIE programme, there must be such “association” between their academic study of the law in the University and industry. Otherwise, none of them will have anything to “express” with regard to their law classes. In the name “WIE,” integrated is the operative word linking, and to some extent dissolving, the boundaries between, work on the one hand and education on the other. One might wish for a more active verb form in the middle position: integrating, because WIE is not a “machine that will go of itself.” It requires “riding herd” by all involved, and all involved are partners.

A partial solution: tort spotting and contract reviewing
Students who enter WIE programmes in non-law subjects can be involved in the legal issues of their respective workplaces. In connection with their basic classes in torts (and in some ways related to contracts, as well (Li, 2006), they can be assigned to look for potential “accidents waiting to happen” and tortious breaches of contracts on the premises of their employers (Gross, 2005). This can be an extension of the same kinds of “clinical” and mooting assignments they should already have received in their classes. This adds real value because it can reduce the likelihood of liability on the part of employers. The students can also participate knowingly in their contractual obligations with their university, their employer, and other stakeholders such as the community in general, and even help to improve those contracts. They can also be made aware, during the course of their WIE experience, of such matters as privacy, proprietary knowledge and documents, intellectual property rights, workplace health and safety, harassment and discrimination, and insurance – to name a few. All of these subjects impact upon them directly, are part and parcel of the larger subject they are pursuing, and do not involve them in the unauthorized practice of law. All of them do involve Bloom’s three domains of learning: cognitive, affective, and psychomotor.

Additional research
The foregoing discussion suggests the need for two major empirical studies that are needed to fill the gaps in our theoretical knowledge. The first is an exit poll of all non-law-school students graduating from non-law programmes in which they were mandated to take a law component – property and construction, for example. The study would seek to learn their attitudes toward the programme – was it useful, do they contemplate using this knowledge in their professions, do the feel it is relevant?
This will be followed up by a longitudinal study of the same students for the next five or ten years to learn whether in actuality they remember what they learned and apply it in their work. The second study is a survey of all teachers involved in such courses.

Conclusion

If the academy requires non-law students to study the law of their professions, it stands to reason and is only fair that that study be fully integrated into their experiences of OBE, CRA, and WIE. Otherwise, it seems, the institution is merely giving lip service to these criteria and is cheating itself of all they might potentially deliver in a true modern education. Students have a right to know at the outset what the requirements are and how they will be fulfilled. Those who advocate “curriculum revision,” and demand that the academy develop “all-round students” with globalized “professional competencies” rife with OBE and CRA, must overcome their difficulty stating just what those things might involve when it comes to a non-law school law. They must articulate exactly what “doing law” in that context contemplates. CRA, OBE, and WIE are all term-limited, i.e. their value as pedagogico-metric tools ends with the end of that particular class, semester, school year, or programme. After that, they measure nothing, return no information. We assume that teaching law to non-law students is a common good, but we do not know it – and that is a huge gap in our knowledge of these subject. We need longitudinal studies of:

• graduating students to find out how well their “legal” education “took”; and
• of law teachers themselves for their perceptions of the same question.

But even more than this, the academy must find ways, through civic education, to address the distressing findings of Tan et al. (2006, p. 11):

Many students did not feel that they benefited much from being required to read a certain number of non-law subjects. It could also not be said that their study of non-law subjects in any way materially enhanced their understanding and appreciation of their legal studies.

The same must be said for non-law students who are required to study a certain number of law subjects.

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