

Directions

in legal education • Autumn 2008

What do lawyers do?

If as legal educators we are supposed to teach people about law and especially if we are to teach some how to be actual lawyers, it would be very good to know exactly what it is that lawyers do

by Avrom Sherr

It could be said that if we did not know what lawyers do we must be failing in our efforts to teach others both about law and how to be lawyers.

But unfortunately, despite many exhortations in the academic literature and brave attempts at socio-legal research into the legal profession, we still know very little and what we do know could well be dated. In the last two decades there has been a geometric progression in change in the legal profession, driven, among other things, by industrialisation, globalisation, growth of law and regulation, and the information technology revolution. We did not know enough twenty years ago and we have not been able to keep up at all with such changes since.

Two models of legal education in the USA for 1978 and 2010 show some reaction to the notion of necessary change and to the different cultures of two periods. In 1978 Roger Cramton, Dean of Cornell Law School, described "The Ordinary Religion of the Law School Classroom" as:

"a sceptical attitude towards generalisations; an instrumental approach to law and lawyering; a 'tough minded' and analytical attitude towards legal tasks and professional roles; and a faith that man, by the application of his reason and the use of democratic processes, can make the world a better place".



Moliterno (1996) predicted that, by 2010

As the law became more complex ... the final remnants of the mid20th century notion that Law Schools could somehow teach in three
years all the law a lawyer would need to know were reduced to ash.
The emphasis of legal education...has finally and fully shifted to
teaching fundamental legal principles and philosophies, perspectives on
law's place in society and the thought processes and judgements
inherent to lawyering. The intent is to graduate lawyers who will
be capable and flexible learners and practitioners in a remarkably
wide variety of settings.

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The 2010 vision represents some of the pressures on legal education to cope with the massive growth of law and regulation in every jurisdiction as well as the need to educate lawyers for a fast changing set of environments. And this may be an effective way to handle our lack of knowledge of the future. But wouldn't it be nice at least to know the present?

Professor Carrie Menkel-Meadow (1980) talks about macro and micro theories of lawyering. There could be a more grand approach with macro theories of purposes, power, structure and substance of the legal profession and the lawyers' role in society. Or it can be analysed as micro theories in relation to the different tasks and skills which lawyers carry out and the amount of time they spend on such different tasks and skill sets.

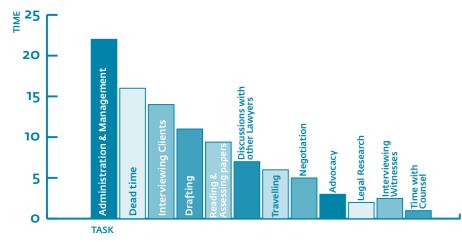
In England and Wales, prior to setting out the foundations of the then new Legal Practice Course for solicitors, two pieces of research were funded by the Law Society in order to determine first of all what solicitors were actually doing (Sherr, 1991) and what approaches should be used in terms of teaching (Economides and Smallcombe, 1991). In terms of the analysis of skills and tasks and the percentage of time which lawyers were spending on these, my work showed the average proportions of solicitor time as follows:

A team of researchers followed a set of lawyers, working in different forms of legal practice and at different levels of experience over a period of one week and noted the amount of time spent on each of approximately a hundred task subsets which were brought together into the following headings: administration and management, dead time, time spent with clients. drafting, reading and assessing papers, discussions with other lawyers, travelling, negotiation, advocacy, legal research, interviewing witnesses and time with counsel.

It was thought to be crucial to carry out some form of research along these lines in order to understand how the profession does its work and to determine the preponderance or proportion of particular tasks. It was also thought necessary to carry out this research before deciding the method of education and training. Even the most senior legal practitioners tend to assume that they know what they do and perhaps, even worse, that they know what everyone else does in legal practice. We found that such assumptions were not always correct.

An important overview of practice did emerge from this research. In general. the balance of time spent on the different main task headings shown in the chart was fairly constant. The type of work being carried out, whether

Overall Percentages Observed Solicitor Time



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transactional or litigious, or even the different level of the lawyers working on these tasks seemed to matter little. So, for example, the proportion of time spent in client handling tended to be more than the time spent in drafting, negotiation etc. whatever the type of work or the level at which it was performed. When the Law Society put together its Legal Practice Course it was then able to take a common approach to the training of tasks and skills in whatever type of work the students were going to practice. Some seventeen years after this research it would certainly be interesting to see whether these proportions are still the same; and also fascinating to know whether it would be the same or different in other countries with mature legal work

This form of research into the nature of legal work is a very small part of what we need to know even to begin to understand the world of the law, let alone teach about the law and teach others how to practice. Much more understanding has come recently from more qualitative approaches looking at particular specialisms of legal work and hopefully there will be more coming out of current work on what lawyers understand as professional competence. But we should not continue to assume that we know what lawvers do. or that we can continue to teach about this, without knowing more.

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"Impressive standards" at the Attorney-General's Student and Law School Pro Bono Awards 2008

Over a hundred people gathered at the House of Lords in April for the announcement of the winners of the third Attorney General's Pro Bono Awards, presented this year by the Attorney's Pro Bono Envoy, Michael Napier CBE QC, pictured here with Professor Philip Plowden of Northumbria Law School, who collected the award for Best Contribution by a Law School. In the last year Northumbria's Student Law Office handled over 1000 enquiries resulting in 700 live cases, across a wide range of matters, and encompassing for a from local courts and tribunals to the European Court of Human Rights. The work of three other law schools, at the Universities of Manchester and Warwick, and the College of Law was also highly commended by the judges.

The other prize winners were:

- Best Contribution by an Individual Student -Taymour Keen (University of Kent)
- Best Contribution by Team of Students - the Chinese Information and Advice Service (College of Law)
- Best New Pro Bono Activity - Queen Mary Legal Advice Centre

Congratulations to the winners, and to all those shortlisted.



Further information on the awards can be found on the LawWorks website at: www.lawworks.org.uk/index.php?id=352

Law projects in Wales succeed in HEAT3 funding round

The JISC TechDis Service exists to stimulate innovation and provide expert advice and quidance on disability and technology in higher education. Since 2006 it has worked with the Higher Education Academy Subject Centres to run the Higher Education Assistive Technology (HEAT) programme. This provides individuals with small grants to enable the purchase of assistive technology to support accessibility and inclusive practice projects within their own subject communities or Centres.

To date JISC TechDis has funded 46 projects over the course of the first two rounds of HEAT funding. Results of the third round of funding were announced in August. Competition for funding was fierce, and out of 132 applications, only 30 were funded.

Two law-related projects, both based in Wales, are among those to have received funding. At the University of Wales, Newport, Dr Jo Smedley will use equipment provided by the fund to produce and evaluate podcasts and vodcasts, providing formative feedback in some modules in Economics and Law in Newport Business School. At the University of Glamorgan, Karen Counsell will use equipment provided by TechDis to support and evaluate the learning of students with disabilities using Glamorgan's SIMPLE learning environment (see the feature on SIMPLE in Directions, Spring 2007, pp.8-9). The project will include developing a video 'think aloud' protocol with students using SIMPLE, and the evaluation of five student audio learning diaries.

For further information on earlier projects funded under the HEAT initiative, see: http://www.techdis.ac.uk/ index.php?p=2_1_7

New guide on reforms to the 14-19 curriculum published

Action on Access has published a new edition of its Summary Guide to 14-19 Reform, focussing on changes to 14-19 education following from the 2004 Tomlinson Report. With the first of the new 14-19 Diplomas due to commence this year, alongside existing GCSE and A level provision, the guide will be of interest to any higher education staff wanting to

understand the rapidly changing terrain of 14-19 education, and particularly those involved in widening participation initiatives, university-school liaison, or working with Aimhigher partnerships. The guide can be downloaded from the Action on Access website at www.actiononaccess.org/?p=2_5_4_3_1

Cambridge University and the Institute of Paralegals launch legal qualifications for law firm support staff

Cambridge University, in partnership with the Institute of Paralegals, is launching two new legal qualifications this October. Both qualifications - the Certificate in Legal Practice, and the Certificate in Legal Skills - are practically orientated qualifications which were created with the Institute's assistance to meet the needs of paralegals and law firm support staff. Both courses will be delivered primarily online, though students will have to attend a weekend induction day at a Cambridge college. Successful completion of either course will become one of the routes to Institute Fellowship, and thus Certified Paralegal status. Students can choose from over 27 modules, all of which can be taken as individual stand- alone courses.

James O'Connell, Chief Executive of the Institute of Paralegals said, "These courses will appeal to employers looking for a way to develop, reward, motivate and retain their key support staff." Sharon Collins, Director of Professional Studies at Cambridge University added that the courses provide "a flexible approach that will enable paralegals and other law firm staff to gain a qualification that has been specially designed to meet their

The Institute of Paralegals is a notfor-profit professional body, and was granted institute status by the UK government in 2005, with the support of, amongst others, the Law Society of England & Wales, the Bar Council and the Crown Prosecution Service. The Cambridge qualifications are part of the Institute's project to build a comprehensive National Training Framework for legal support staff. The Institute already offers BTEC qualifications in schools and FE colleges, in partnership with Edexcel, and the Legal Professional Qualification (LPQ), which was created in partnership with BPP Law School to provide law graduates with a fast-track route to Certified Paralegal status.

Further details about the Cambridge courses can be found on the Institute's website at: www.InstituteofParalegals.org/cambridge.htm.

Details of the LPQ Foundation Certificate may be found at: www.instituteofparalegals.org/index.jsp

UKCLE Director joins Project Group for proposed Diploma in Humanities and Social Sciences.

Julian Webb, UKCLE's Director has been appointed to the Higher Education Group established to advise on the design and development of a proposed national Diploma in Humanities and Social Sciences.

The Diploma is one of a number being developed as an alternative to A levels in the government's controversial reform of the 14-19 curriculum. Creative and Cultural Skills. the Sector Skills Council for the creative and cultural industries has been commissioned to lead development work for the Diploma by the UK Commission for Employment and Skills, in partnership with the Qualifications and Curriculum Authority and the Department for Children, Skills and Families. The potential curriculum for the Diploma is wide, drawing on a range of humanities and social science disciplines, including law. Extensive consultations are planned, and one of Julian's roles will be to disseminate information and support consultation within the law subject community. The Diploma is intended to come on-stream in 2011.



Ministry of Justice announces membership of the new Legal Services Board

Following the announcement in May that David Edmonds, a recent Legal Services Commissioner, is to be Chair of the new Legal Services Board (LSB), the Lord Chancellor has appointed the Board's first-ever members for a three year term from 1 September 2008.

Four of the nine appointees are lawyers. They are:
Rosemary Martin, Chief Executive of the Practical Law
Company and former General Counsel at Reuters,
Michael Napier QC, senior partner at Irwin Mitchell;
Financial Services Authority general counsel Andrew
Whittaker, and David Wolfe, a founder member of
Matrix Chambers.

They are joined by:

- Barbara Saunders OBE, an independent consumer consultant;
- Stephen Green, the recently-retired chief constable of Nottinghamshire Police
- Terence Connor, Financial Services Compensation Scheme non-executive director, and
- Bill Moyes, executive chairman of Monitor, the independent regulator of the NHS Foundation Trusts.

The Board, which will act as oversight regulator of the legal services market, including the Solicitors' Regulation Authority and the Bar Standards Board, is expected to cost £3.9m to set up and is due to be fully operational by Spring 2010.

The Legal Services Act 2007 anticipates that the Board's remit will include matters of professional education and training, though the detail of what this means in practice has yet to be worked out. There are already concerns within the academic community that the new Board may lack sufficient current knowledge and understanding of legal education and training. Ashley Wilton, Chair of the Committee of Heads of University Law Schools told Directions,

"in the context of ongoing reviews of professional training, and a need to examine the role of the Joint Academic Stage Board within this new regulatory environment, it is important that the Legal Services Board has an informed and, I hope, moderating voice."

Lewis Elton 'retires' from UKCLE

We must finally say farewell to Lewis Elton, Honorary Professor of Higher Education at University College London, who has resigned as a UKCLE external evaluator and member of the Centre's Advisory Board, a role he has held since the days of the National Centre for Legal Education.

"I have been on the Board for a long time," says Lewis, "and I hope that I have made some useful contributions, but the time has come for someone else to take over."

Lewis Elton's contributions have indeed been useful, many and varied. Attendees at UKCLE conferences will particularly recall Lewis's presentations for their clear-sightedness and directness, tempered by a sense of humour, and an unerring ability to find an apposite phrase. (One that comes to mind is his warning, from 2000, that in failing to match teaching and assessment strategies we risk "doing the right thing wronger"!) These are qualities that Lewis has brought to all his work with and for the Centre; they – and he will be much missed.

HEA calls for greater recognition for university teaching



Paul Ramsden, Chief Executive of the Higher Education Academy has called for greater recognition for teaching in UK universities. The call comes as the Academy launches its new strategic plan for 2008-13. The plan was drafted chiefly by a team of senior academics from the Academy Subject Centres, based

on extensive consultation with the sector. It focuses on transforming the student experience through five aims: evidence-informed practice, brokering knowledge, strategic change, influencing policy, and raising the status of teaching.

For further information see: www.heacademy.ac.uk/news/detail/academy_2008_13_strategicplan_24Julo8

In this issue we are delighted to celebrate the work of four colleagues whose contributions to the learning and teaching of legal studies have received significant external recognition.

Israel and Maharg make it two!

Mark Israel and Paul Maharg have both been made Senior Fellows of the Higher Education Academy (SFHEA), claiming two out of the six awards conferred by the Academy in May 2008 for the legal education community. The Senior Fellowship is the highest level of recognition granted by the Academy and is awarded for outstanding achievement in teaching and enhancing the student learning experience, combined with scholarship and academic leadership.



Mark Israel is a Professor of Law and Criminology in the Law School at Flinders University, Australia. Mark's citation for the Senior Fellowship emphasises his outstanding achievements in learning and teaching, including work on collaborative learning, and building ethical awareness and qualitative research skills among his students. Mark is a research prize-winner in the UK, Australia and the United States, and already a recipient of Australia's premier teaching award. From 2006 to 2008, he was also a UKCLE Associate.

Mark sees the SFHEA as an important step to developing new working relationships with colleagues in the UK who are outside his immediate discipline of criminology:

"I think that there is much that the higher education sectors in Australia and the UK can learn from each other. Both countries have invested in support infrastructure for learning and teaching but in different ways - we have nothing like the Subject Centres here. That's why I've valued watching and contributing to UKCLE's progress and would love to create a similar relationship with C-SAP, [the HEA Centre for Sociology, Anthropology and Politics] given that my areas of criminology and sociolegal studies cut across the work of the two Centres. A lot of what I do crosses boundaries."

This sense of bridging disciplinary divides applies also to **Paul Maharg's** aspirations as a Senior Fellow of the Academy. For Paul, the Senior Fellowship provides yet another bridge between his work, the Centre, and the wider learning community represented by the Academy. It is a linkage which he hopes may lead to opportunities to work more closely with other Subject Centres on interdisciplinary projects, particularly in the area of web technologies.

For further information on the Academy's Professional Recognition Scheme, including the Senior Fellowship, go to http://www.heacademy.ac.uk/ourwork/professional/recognition/scheme



Paul, who is a professor in the Glasgow Graduate School of Law, and Director of Strathclyde Law School's Learning Technologies Development Unit, requires little introduction

to readers of **Directions**. His work on transactional learning and simulation, including the JISC/UKCLE co-funded SIMPLE (Simulated Professional Legal Education) project, was described by the Academy as simply "ground-breaking... putting Law at the forefront of information and communications technology."

"This award means Academy recognition for the teamwork of all of us at the Glasgow Graduate School of Law, the innovative educational practices carried out by participants in the SIMPLE project, and the collaborative projects I've been involved with over the past few decades", said Paul. "More personally, I've always believed that legal education is a valid form of jurisprudential thinking and activity, one of many that characterize law's presence in the academy. I've tried to embody that approach in my work, and I hope the award is a mark of that."

Law Teacher of the Year becomes National Teaching Fellow 2008

Congratulations to **Professor** Alastair Hudson of Queen Mary, University of London, who has achieved his own "double". Named as joint winner of Law Teacher of the Year at the Learning in Law Annual Conference in January, Alastair has rounded off his success by also collecting an individual award under the National Teaching Fellowship Scheme (NTFS) administered by the Higher Education Academy. The award citation emphasizes his enthusiasm for his subject, and ability to marry research in "frontier" areas of the law with new courses in those fields, making research and teaching mutually reinforcing. Alastair's ability and commitment to connect with his students, is also apparent. As one student put it: "He cares. He cares about what he's doing. Not only about the subject but about the students." Using online technology, including his own web-site and a large number of podcasts to support his published research, has also worked well with both undergraduate and postgraduate students in his faculty.

The NTFS Individual Awards are funded by the Higher Education Funding Council for England (HEFCE) and the Department for Employment and Learning in Northern Ireland (DELNI). Fifty awards of £10,000 each are made annually, with the money to be used for personal development in learning and teaching.

National recognition for OSCOLA learning resources

Congratulations also go to **Cathie Jackson**, of Cardiff Law School, who has received the Wallace Breem Memorial Award of the British and Irish Association of Law Librarians (BIALL) for her work on Citing the Law. The award was presented to Cathie by Barbara Tearle, President of BIALL, at the Association's Annual Dinner at Mansion House, Dublin on Friday 13th June 2008. The Award is presented biennially in memory of Wallace Breem who died in 1990. Wallace was a distinguished member of the legal information profession who was Librarian and Keeper of the Manuscripts to the Honourable Society of The Inner Temple, and a founder member of BIALL.

Citing the Law, which was funded by UKCLE, is a suite of e-learning resources to guide users in how to cite using the Oxford Standard for Citation of Legal Authorities (OSCOLA). It comprises a short standalone tutorial, which can be embedded whole within webpages or a virtual learning environment, and a set of 'bite-sized learning objects' (such as exercises, quizzes and diagrams). These can be repurposed by others within their web guides, e-learning materials and handouts. Citing the Law was launched in October 2007, and by February 2007, 20 UK university law libraries were linking to or teaching with the tutorial. The layout, design and overall style of the OSCOLA tutorial has also been used by Dennis Warren, Law Librarian at La Trobe University, to develop a tutorial for the Australian Guide to Legal Citation. This can be viewed at http://www.lib.latrobe.edu.au/help/subject-res/law/aglc/index.html. The full report on Cathie's project is available at http://www.ukcle.ac.uk/research/projects/oscola.html



8 • Feature Feature

When science doesn't meet the law:

addressing the absence of forensic skills in law degrees

In 2005 the House of Commons Select Committee on Science and Technology voiced its concerns at the lack of training for lawyers in forensic science. In the first of our feature articles Carole McCartney and John Cassella look at the scale of the problem and explore an innovative approach to teaching forensic science to law students. one that could enhance not just their understanding of forensics in the legal process, but their intellectual and transferable skills too.

The perceived 'scientific illiteracy' among the public can be seen to extend its reach into the legal profession. This is not surprising when looking at the

science education of law students. most of whom have not studied any scientific discipline post-16. Of the 214 students given an unconditional offer to study the LLB at Leeds in 2007, just 39 (18.3%) had at least one science A-level (ie Biology, chemistry, physics or human biology). The traditional law degree does nothing to reduce the gap, since it routinely fails to introduce law students to basic scientific concepts, or provide even a rudimentary grounding in the work of forensic scientists. A survey of law schools in England and Wales finds that just four – Huddersfield, Leeds, Sussex and West of England - advertise any 'forensic' modules within their LLB scheme (though it is possible that courses may exist elsewhere as free electives within other departments). So not only do a minority of students enter their law degree with any scientific

background, very few will leave having come into contact with 'science' during their degree. This is compounded by

the LPC or BVC, neither of which incorporates any aspect of forensic science in its training.

Such omissions should be of concern when the legal system has recourse to science with increasing frequency. In 2005 the House of Commons Science and Technology Select Committee

stated that:

"Forensic science is now central to the detection and deterrence of crime, conviction of the guilty and exculpation of the innocent. Moreover, the significance of forensic science to the criminal justice system can be expected to intensify in vears to come".

Forensic Science on Trial (2005) (HC96-1) p.81

As the Committee concluded (p.79):

"it is of great concern that there is currently no mandatory training for lawyers in this area."

This shortfall in legal training can be contrasted with the situation in forensic science departments, where emphasis is placed on students not only learning the science, but also the legal context. A forensic graduate without a grounding in the law would be rightly considered lacking. Forensic science students learn about courtroom etiquette and present their scientific findings as expert witnesses having investigated a crime scene scenario. They give evidence-in-chief and are robustly cross-examined by lecturers who themselves have acted as experts at court. The corollary of this for some parity in legal education should be that law students would attend a crime scene investigation and then subsequently be examined on their science-based findings in a legal context.

Introducing forensic science to law students

A project, funded by the White Rose CETL in Enterprise at Leeds University, is developing an existing module – Forensic Process and the Law - from a purely theoretical, lecture-based module, to incorporate a more practical problem-solving approach. This undergraduate module (with a postgraduate variant) is worth 10 credits, and is delivered to a cohort of 60 students. The module descriptor states that students will acquire the following subject specific skills:

- Comprehend and amass data about forensic process and the law
- Make well-grounded, well-structured and wellreferenced oral and written presentations about the subject
- Analyse and criticise the data using policy goals and also normative standards such as human rights
- Plan, develop and produce research of an appropriate level, from the information supplied and recovered.

The result of the project will be a web-based resource that provides a realistic forensic case study. Working in conjunction with experts in forensic science education and web-designers, the project is developing a series of innovative web-based exercises and assessments. The "Crime Scene House", which is used to teach forensic science skills on the Staffordshire University campus has been utilised, with actors and a professional forensic

photographer, to enact and record a crime scene, for use in the simulated exercise. This has provided a resource of nearly 1000 high resolution photographs which can be used by the project leaders for current and future development of the course.

Students will be expected to work through the forensic processes that would occur in the actual investigation of a criminal case and present their findings in both written and oral form. The aim is to enable the development of a range of skills thereby, notably:

- Critical thinking and analysis:
- Problem solving; creative/lateral thinking; use of different disciplines outside of law; constructing logical, coherent and cogent arguments; critical reading and manipulation of complex materials.
- Information and fact finding:
 utilising variety of resources;
 application of law to the facts;
 use of information technology to
 retrieve resources; understanding
 and working with both scientific
 and legal rules and procedure.

Students will take on the decision making roles of the Forensic Scientist, police investigator, legal representatives and ultimately, the judge. They should develop thereby an appreciation not just of the role of the forensic scientist within a criminal investigation, but of the intersections of different roles and agencies involved in a complex criminal investigation, as well as an awareness of the decision making processes and constraints that

govern the use of the science within the justice system.

The 'problems' with forensic science and mistakes made by experts are rehearsed in the media on an increasingly regular basis. Often absent from such criticisms is any examination of why it was that no lawyer was able to spot a potential issue or had drawn attention to errors before damage was done. As this short paper has demonstrated, lawyers can avoid any scientific training throughout their education and professional development; indeed, this appears to be the norm. Questions are already being raised as to whether legal education is 'fit for purpose' in this regard. There needs to be a wider debate about the place of forensic skills within law degrees and ways in which they might best be developed. This innovative project begins to address the scientific shortfall in legal training, and may demonstrate one way in which forensic science can meet the law in a complimentary fashion rather than simply head-on in the courts.



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10 • Feature Feature

'Threshold concepts': A new tool for learning law?

One of the most rewarding, but sometimes most challenging, aspects of being a teacher is finding a better way to enable students to really understand a subject. In this introduction to "threshold concepts" **Julian Webb** explores their potential to provide a new access to deeper learning in law.

What is it that generates those "eureka" moments when suddenly, or sometimes after a long struggle, our students come to a deep understanding of a new problem or concept? This is one of the questions that underlies a growing body of work on "threshold concepts".

In educational theory a threshold concept is a "portal", or gateway to a new understanding of a subject (Meyer and Land, 2003). Threshold concepts are not the same as the traditional core concepts of a subject. While core concepts (like consideration in contract) are the building blocks of the curriculum, things that have to be

understood to progress knowledge and understanding of the subject, they do not necessarily create a qualitative shift in the student's perspective on the subject. They are not necessarily transformative for the learner. Threshold concepts, by contrast, are transformative. According to Meyer and Land they are also (i) integrative, in that they uncover previously hidden connections between phenomena; (ii) potentially irreversible, so that, once acquired, they are likely to change the student's perspective once and for all, and (iii) also likely to constitute, or lead to what David Perkins (1999) calls "troublesome knowledge" - knowledge that is counter-intuitive, strange, or just prima facie wrong, and which, for that reason, is both challenging and ultimately enriching (see Meyer and Land, 2003, and Meyer, Land and Davies, 2006).

Threshold concepts can be best understood as tacit constructs that often sit behind the explicit domain knowledge, and may therefore operate as unrecognized, or at least unacknowledged, assumptions in the tutor's teaching. Critically, however, if Meyer and Land are correct,

it is these threshold concepts that are the real drivers for the core concepts and discourses within a discipline,

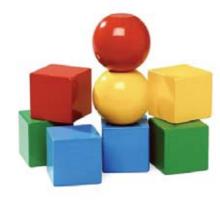
and things that must be made explicit to students if they are to think effectively in the ways of that discipline.

Looked at in this light it is easy to see why the work on threshold concepts is generating a lot of interest in higher education. The notion of a threshold concept serves to turn our attention to aspects of the hidden curriculum which we know exists in every discipline. It offers a construct for re-examining the building blocks around which we design our curricula. But it also encourages us to think about how we teach, and how we can use the classroom itself as a space in which students can engage with and reflect on what Meyer and Land call liminality – the actual process and experience of crossing a threshold, through which transformative learning happens.

The explicit use of threshold concepts may thus help us achieve three things. First, it may provide a counterbalance to the tendency to overload the curriculum with substantive legal rules. This has often served to restrict students' learning to a ritualized use of formal knowledge, at the expense of a deeper, more personalized, understanding of the law. Secondly, it may also help us provide students with greater opportunities to acquire independence in using legal concepts, since abstract knowledge is more likely to become personalized and transformative through use. Thirdly, it follows that a focus on threshold concepts also holds out perhaps greater potential for moving students beyond their established ways of thinking and problem-solving.

The idea of threshold concepts could - and should - provide fertile ground for legal educationalists. It has to be acknowledged that our understanding of threshold concepts is at a relatively early stage, and the construct itself is still contested within educational theory and practice (see, eg, Rowbottom, 2007). Although quite a lot of work has been done to identify threshold concepts in a number of fields, notably economics, Meyer and Land's own discipline, there is still relatively little research into their application and development in other social science and humanities disciplines, including law.

There are thus a number of key questions that require answers:



- To what extent are threshold concepts subject specific so that, for example, the key threshold concepts for tort will differ from those in contract?
- Is it plausible that there is a network of legal threshold concepts that are disciplinewide and fundamental to making sense of the discipline? (Davies and Mangan (2007) have argued that this is the case for economics)
- If so what are these concepts?

So far, I am not aware of any published work examining legal threshold concepts in any depth, but I suggest, intuitively, that some potential examples of the latter could include constructs such as analogy, materiality, responsibility, allocation of risk, and the like. These are, in most cases, quite big, relatively abstract (but also highly practical) concepts. If these are plausible options, we can certainly begin to see how a stronger focus on such concepts could open up some very different ways of organizing and conceptualizing the undergraduate curriculum, particularly in the first year, when so much of our students' way of knowing and learning becomes established.

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12 • In practice Resources • 13

Producing sound recording with Audacity

by Caroline Coles

Many tutors are experimenting with making sound recording of lectures. UKCLE has provided some interesting resources on podcasting from the 2007-8 e-learning seminars (at www.ukcle.ac.uk/newsevents/ elearningseminar2007) and on the use of Articulate (recording sound within a Powerpoint presentation) in Directions, Spring 2008. Sound recording can free-up valuable contact time for higher level activities and brings substantial advantages of portability and repeatability; the largest number of my students report listening to my sound files 3 or 4 times. However one of the challenges for producing recorded lectures is the ever changing nature of law. For a law lecturer, being able to edit a sound recording over the months and years as the law changes is vital. Sound files of MP3 type as used in the above systems cannot be edited and thus can only be updated by re-recording. Therefore I have experimented with recording using free Audacity software (http://audacity. sourceforge.net) that records in its own format and can convert easily to WAV and, via cheap additional software, into

Using Audacity

The benefits of using Audacity are

- Audacity is very easy to use. It automatically opens to a blank file and by simply pressing a yellow on-screen button you can record your sound.
- Your sound file appears as a sound wave on your computer and thus gives you a visible representation of your file contents.
- Editing an existing sound file, by deleting recording fluffs, adding an update to the law, adding a sound track for interest, is simply a matter of cut and paste.

Audacity records sound directly onto your computer in a format that is easily accessible without the use of a proprietary library such as Windows Media Player. Proprietary libraries often prohibit conversion of formats and will store the sound as an MP3 format which cannot then be edited.

Once produced, sound files should be converted to the smaller MP3 format, via the additional software accessed through the Audacity site. This will save space on your virtual learning environment (VLE) and allows your students to download onto their iPods or other MP3 players.

Practical tips

Here are some practical tips that I have found from my use of Audacity.

- Create a folder for your Audacity files, whether purchased as pre-recorded sound or your own, on the hard drive of your own computer. Using a central server can cause delays in retrieving the sound and a memory stick may be too small. This will also avoid having to use the proprietary libraries where conversion to MP3 may be blocked and your VLE cannot access.
- Use a headset plugged into your computer for the best reproduction and minimising unwanted ambient noise.
- Add additional interest to your speaking voice via some low cost, royalty free sounds or music e.g. a courtroom gavel. Files cost typically £5 for unlimited subsequent use and are available from a range of royalty free music web sites.
- Use http://audacityteam.org as your tutorial as it is a free to use, reader-friendly wiki.



Conclusion

Sound files allow the student the ultimate flexibility to listen to a lecture when and where convenient for them. They allow the student to gain a greater understanding of the subject and thus prepare more effectively for the contact time. Virtual attendance, and understanding, can be checked by the addition of sets of online multiple choice questions via a VLE. Some tutors also run discussion boards or wikis to provide a forum for discussion of issues raised by the lecture.

Caroline Coles is Principal Lecturer on the Legal Practice Course, GDL and LLM in Legal Practice and e-learning co-ordinator at De Montfort University.

New resources on the UKCLE website

Since the last issue of Directions we have added a host of new resources to the site - see: www.ukcle.ac.uk/resources/new.html for the full list.

How do I...?

Our 'Introduction to assessment' by Karen Clegg, an old friend of the Centre, puts the latest thinking on assessment into context, focusing on issues such as giving feedback and the concept of 'assessment for learning'. Links to tools for use in the classroom are also included.

Building on our e-portfolio project, Patricia McKellar and Karen Barton have put together some comprehensive advice on 'Getting started with e-portfolios'. They look at the benefits for learners as well as what you need to know, and also present three case studies of the use of e-portfolios in law.

Case studies

On the subject of case studies, a very recent addition to the resource bank looks at how colleagues at Plymouth are integrating sustainability literacy into the curriculum. Four case studies cover different stages of study - all law students are exposed to sustainability in an introductory module on legal system and method, which they can then build on in electives on company or environmental law.

We are on the look-out for further case studies, on sustainability as well as any other area of practice – contact us on e-mail: ukcle@warwick.ac.uk if you would like to contribute.

Resources from events

UKCLE's events programme continues to generate a rich flow of resources. Our e-learning seminar series has produced a range of nuggets to help you get up to date with new technologies, and to get a flavour of being a recipient, the keynote address from the mobile learning seminar is available via Digital Directions as a videocast.

The LILAC conference has a new home – visit www.ukcle.ac.uk/newsevents/lilac for all the reports and papers from LILAC 2008 and LILAC 2007, as well as the latest information on LILAC 2009.

Research roundup

The Intellectual property rights whorl, developed as part of the Law and engineers project funded by UKCLE and the Engineering Subject Centre, is well worth a visit – not least to admire the whorl itself! The site includes not

just resources for teaching intellectual property, which you might expect, but also advice on topics ranging from enterprise education to integrating a non-core subject into the curriculum.

Draft materials are also available from the Islamic law curriculum development project, including five teaching manuals, a detailed bibliography and a glossary of key terms. Final versions will be published during 2008-09.

What's related?

Finally, a reminder of a handy website feature: on many pages you will find a keywords box with a 'what's related' button – simply click on the button for a list of other pages on the site keyworded with the same term/s. It's a very powerful tool for finding resources you never knew were there.

You can browse the full list of keywords at: http://www.ukcle. ac.uk/keywords.html - revealing that our case studies collection is nearly up to three figures!



Don't let the Internet dumb your students down

Students may well be savvy with new technologies, but they still need advice and guidance on using the Web for academic work.

Do any of these statements describe your students?

- They rely too heavily on Internet searches for their research, and ignore other key sources of material.
- They don't critically evaluate the information they find online, and degrade the quality of their work by citing inappropriate resources.
- They copy information from the Internet, and don't acknowledge their sources.

Internet for Lawyers is a free online tutorial that teaches Internet research skills for Law students. Now in its eighth year, the tutorial is regularly revised and updated.

www.vts.intute.ac.uk/he/tutorial lawyers

Internet Detective is a complementary tutorial that focuses on teaching critical evaluation of information found on the Internet.

The tutorials can support research methods and study skills courses, and are easy to link to from course VLEs or online reading lists. They take around an hour to complete and include interactive guizzes and exercises to lighten the learning.

Both are part of the Intute Virtual Training Suite, a national service for all UK universities, funded by JISC.

www.vts.intute.ac.uk/detective/





www.ukcle.ac.uk



The third Learning in **Law Annual Conference** 23-24 January 2009

See pages 18 -19 for details and booking form



WELCOME TO INTERNET FOR LAWYERS

Would you like to learn how to use the Internet for legal research?

Use this free, interactive tutorial to improve your Internet research skills



≥ Success Σ⊕ Finally

For teachers





SIMPLE launch event

University of Warwick, 9th to 10th June 2008

A two-day event was held at Warwick to formally launch the SIMPLE suite of tools developed by the project team at Strathclyde, and to review the experience of the pilot projects funded by JISC and the UKCLE.

The basic concept behind SIMPLE is transactional learning through virtual simulation. This encompasses fact finding, communication, developing a negotiation strategy and deploying that strategy. Fact finding is something that we do not often ask students to undertake: problem scenarios are generally ready populated with facts for the student to then consider and apply

Following an introduction from Paul Maharq, Karen Counsell illustrated how SIMPLE is used for first year students in their Torts module at Glamorgan. Previously, students were able to identify a 'duty of care', but not so good at exploring remedies; the simulation helps to develop this missing skill-set. Karen added that staff were able to 'hide' behind their 'online persona' to add realism, although the downside is the student expectation of immediate replies. The solution lies in setting clear expectations at the outset that tutors will access the system only two or three times per week.

Nick Johnson from Warwick Law School emphasised that there is no technical expertise required to deploy a simulation - although there will be occasional glitches, as with any system. One interesting, if atypical view from Nick was "SIMPLE: the greatest misnomer since Microsoft Works"! The recipe for success seems to be developing the scenario and materials in advance to ensure that the project runs smoothly - a pilot may also be useful to identify potential pitfalls.

The afternoon session opened with a review of the range of Strathclyde project case studies. Karen Barton opened by discussing GGSL's experience in transferring from the original

Ardcalloch simulation to SIMPLE, followed by Mel Cadman and Kate Cameron, from Strathclyde's Social Work school, describing the strategic use of their simulation within the curriculum to provide level 2 students with some form of experience before starting practical placements the following semester. Emma Nicol then explained how SIMPLE was used in a Design Management & Practice module within the architecture degree. Unlike social work, the students used the simulation after their placements. Helyn Gould (management science) then described how to use 'SIMPLE on a shoestring'- with barely any resources or funding! Instead of replicating many real world requirements into the simulation, i.e. populating Ardcalloch (the virtual town), Helyn relied on various external internet sites and the real facilities of Glasgow to enable her students to project plan a music festival internally using a very slim simulation.

The final session of the day, on Future Directions, took in a tour of Cyberdam - the Dutch equivalent to SIMPLE. This project is in the process of being translated into English and will also be able to function in other languages, which would certainly make European and International simulations very interesting. There are a number of games for healthcare, social sciences and law on their site: www.cyberdam.nl

Michael Hughes, the IT developer behind the SIMPLE project then spoke about new features, drag-and-drop technology and how bugs had been found (and fixed!). The future plans will look at integrating SIMPLE into other systems to make it more extensible - perhaps hooking into Second Life, or even sending emails direct to your regular account to avoid having to log into the simulation repeatedly to check for progress.

Day two was very much an opportunity to play around with ideas and attempt to build some simulations. Group work looked to be very lively and productive:

some attendees had thought of a scenario and were starting to draw a Narrative Event Diagram – the first stage in planning a simulation. To start with, a pen and paper were essential (and refreshingly different) tools to plan an idea. Some odd parallels were drawn as the timeline for the players. non-players etc appeared to look like a musical stave, the events like notes, and even vertical bars were present to break up the carefully orchestrated scenario – with or without a crescendo!

I certainly came away from this with a head full of ideas - not only for developing a simulation, but how to embed it into the programme and bring about maximum benefit.

My previous assessment that SIMPLE was really for learning procedural things (which might not fit in a substantive law module) and focussing on professional practice (which might be more relevant to diploma and LPC students) changed dramatically.

With the formal JISC project coming to the end of its funding, a SIMPLE Foundation has been developed at www.simplecommunity.org to act as a hub to share resources based around a Creative Commons licence for free academic use.

A previous version of this report was published as a series of blog entries on Digital Directions at http://ukcle.typepad.com/digital directions/2008/06/simple-launch-e. html

Michael Bromby, Research Fellow in the Joseph Bell Centre for Forensic Statistics and Legal Reasoning, Glasgow Caledonian University/ University of Edinburgh.

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The 3rd International Legal Ethics Conference

Griffith University, Australia, 13th to 16th July 2008

This conference was the latest in a series originally launched by Kim Economides and Julian Webb at Exeter in 2004. Hosted jointly by the University of Queensland and Griffith University on Australia's Gold Coast, this was the largest event to date. Considerable credit goes to the Conference Organising Committee, Michael Robertson, Lillian Corbin, Francesca Bartlett, Reid Mortensen and Kieran Tranter (pictured below) for planning and delivering such a high quality conference. It was an action-packed, thoughtprovoking and stimulating meeting, with a good mix of high theory, practical theory and practitioner focused research, and a strong education theme running through the conference.

Keynote addresses were presented by Professors David Luban (Georgetown), Gino Dal Pont (Tasmania), Deborah Rhode (Stanford) and Brad Wendel (Cornell), together with a conference address by Kim Economides (Exeter). Taken together, the papers demonstrated that there is a lively continuing debate about the nature and extent of legal ethics, and about our duties as lawyers and educators to bring ethical debate into the classroom.

The legal education stream sought to take the ethical component forward in undergraduate, postgraduate and professional studies. Papers were given by academics from many commonwealth jurisdictions including Australia, Canada, Hong Kong, South Africa, the UK and the US, as well as Taiwan. Much of the research focussed on the difficulty of teaching legal ethics, and of course this has been explored at length by many academics in the field. The challenge

was laid down at the outset in papers by Lawrence Hellman and David Chavkin from the US, which considered the implications of the recent Carnegie Foundation Report. This suggests

that, even

in the context of over thirty years of compulsory professional responsibility courses, US law schools have not adequately prepared putative lawyers for ethical decision-making in law firms.

The relative virtues of stand-alone and pervasive approaches were discussed by Michael Robertson from Australia, who provided examples of pervasive legal ethics teaching within the law curriculum, with a note of caution that such an enterprise requires a clear conception of what it means to learn "legal ethics" - the million dollar question for all legal ethics teachers. Gonzala Villalta Puig, again from Australia, continued the theme of pervasive legal ethics teaching, by considering how we construct coherent learning aims and outcomes in the field of legal ethics to assist in the development of legal ethical judgment, taking into account cognitive, affective and skills objectives.

Alternative approaches were explored by Jefferies (a neo-Aristotelian approach to teaching and learning legal ethics) and Philip Schrag (teaching legal ethics through role play rather than the doctrinal approach). Helen Krusse from South Africa gave an incisive paper on teaching legal ethics in South Africa and how this may be used as a spring board for institutional and country-wide change, and Brent Cotter reflected on his experience of teaching legal ethics in the Canadian context. Interestingly Cotter particularly emphasised the need to consider student demographics in determining the way in which a curriculum should be structured and delivered. The final session included

a paper from Elspeth McNeil and Kristoffer Greaves from Australia (""No Sacrifice is too Great for the Cause!": Cause(less) Lawyering and the Legal Trials and Tribulations of Gone with the Wind!), Richard Wu from Hong Kong spoke on the future integration of skills and ethics teaching in Hong Kong professional legal education and Brian Kennedy spoke on new directions in Taiwan's legal profession.

What are the lessons of the conference for legal ethics in the undergraduate and professional curriculum in the UK? What was clear was that a small discrete professional responsibility module may go some way to assisting in ethical awareness-raising but appears to give little assistance in developing students' ethical judgment. The examples of pervasive ethical role play, of multi-layered resources on hand for legal ethics teachers, and the integration of ethics with skills teaching and clinic provided much food for thought. Nigel Duncan's paper, proposing to develop an international legal ethics resource for law teachers may be the starting point that allows us to share best practice as well as our mistakes. The legal education stream in itself was an invaluable resource in this regard, and it is hoped that many of these papers will be included in a number of planned post-conference publications.

Dr Lisa Webley

Reader, University of Westminster School of Law

The UKCLE events diary covers events with a legal education or general learning and teaching focus, as well as links to other law focused and learning and teaching listings – access it at: www.ukcle.ac.uk/newsevents/diary.html.

To add your event, contact: ukcle@warwick.ac.uk

1 October 2008: Researching legal education: taking ideas forward

Workshop organised by the Association of Law Teachers' Legal Education Research Network (LERN) in association with IALS

Venue: Institute of Advanced Legal Studies (London)

For more details, see: www.ukcle.ac.uk/newsevents/alt. html

16-19 October 2008: ISSOTL 2008: Celebrating Connections: Learning, Teaching, Scholarship Fifth annual conference of the International Society for the Scholarship of Teaching and Learning Venue: Edmonton, Alberta, Canada

For more details, see: www.issotl.org/conferences.html

24-26 October 2008: 3rd Annual INUK National Training Programme for Innocence Projects

The third weekend training programme for law teachers or students exploring the possibility of setting up an innocence project.

Venue: Cardiff Law School For more details, see: http://innocencenetwork.org.uk/ events.htm

1 November 2008: LawWorks Student and Law School 6-10 January 2009: Conference 2008 AALS Conference -

This year's LawWorks conference will specifically focus on student pro bono issues

Venue: Nottingham Law School For more details, see:www. lawworks.org.uk/?id=430

5 November 2008: Socio-legal studies and the humanities

Conference organised by the Socio-Legal Studies Association, aimed at providing a forum for discussion and exchange of information on the relationship between the humanities and socio-legal studies.

Venue: Institute of Advanced Legal Studies (London)

For more details, see: www.kent.ac.uk/nslsa/content/ view/166/139/#humanities

13 November 2008: Into the professions: enabling entry and success for disabled learners

Conference organised by the Higher Education Academy aimed at clarifying the requirements of the disability legislation and sharing inclusive practices to support disabled students' access to the professions.

Venue: Royal National Hotel, London

For more details, see: www.heacademy.ac.uk/events/ detail/13_Novembero8_Into_the_ professions

10-13 December 2008: JURIX 2008: 21st International Conference on Legal Knowledge and Information Systems

Conference hosted by the Institute of Legal Information Theory and Techniques (ITTIG-CNR) and the European University Institute (EUI)

Venue: Florence, Italy

For more details, see: www.ittig.cnr.it/Jurixo8/

6-10 January 2009: AALS Conference -Institutional Pluralism

The 2009 Annual Meeting of the Association of American Law Schools.

Venue: San Diego, California

For more details, see: www.aals.org

If you would like to contribute a news item or feature to Directions, please contact the Centre, ukcle@warwick.ac.uk.
The deadline for submissions for the Spring 2009 issue is 17 February 2009.

The third Learning in Law Annual Conference (LILAC)

Concepts of Culture in Legal Education

University of Warwick, Friday 23 and Saturday 24 January 2009

LILAC 2009 will take place at the University of Warwick on Friday 23 and Saturday 24 January 2009. Proposals have been invited for individual papers, interactive workshops, discussion forums and poster presentations based on the following conference themes:

- The culture of legal education organising principles, values, attitude and beliefs
- Cultivating humanity in legal education interdisciplinary approaches; the role of the affective domain in learning; ethics and morality
- Cultivating legal education reflection on and renewal of approaches and generation of new ideas; managing resources and people; ensuring the discipline and the law school are 'fit for purpose'
- Cultivation of staff and students student support; admissions procedures; retention issues; staff development; skills development
- Multiculturalism implications for teaching and learning in law.

Keynote address



This year's keynote will be delivered by Professor Ian Ward, on the theme of Legal education and the democratic imagination.

Ian is currently

Professor of Law at the University of Newcastle, UK. He teaches and researches primarily in associated areas of legal theory, public law and European law, and has published a number of books and articles in these areas. His Law, Text, Terror will be published by Cambridge University Press later in 2009. A third edition of his critically acclaimed A Critical Introduction to European Law will also be published in 2009, again by Cambridge University

Law Teacher of the Year

The conference will host the final of the Law Teacher of the Year competition, with the award being presented to the winner at the conference dinner on 23 January. The Law Teacher of the Year is sponsored by Oxford University Press in association with the UK Centre for Legal Education. The award is designed to recognise the vital role that teachers play in the education of tomorrow's lawyers, and to reward achievement in teaching. Last year's joint winners were Professor Alastair Hudson of Oueen Mary. University of London and Dr Fernando Barrio of London Metropolitan University.



Venue

The conference will be held in the Rootes Building at the University of Warwick. The conference dinner and overnight accommodation will be provided in Radcliffe House.

Booking

To book your place, please fill in the booking form on the next page and return to:

Events Coordinator, UK Centre for Legal Education, University of Warwick, Coventry CV₄ 7AL





Further information about the conference is available at: www.ukcle.ac.uk/ newsevents/lilac



Learning in Law Annual Conference 23 and 24 January 2009



Concepts of Culture in Legal Education

Complete the booking form below to secure your place on the Learning in Law Annual Conference 2009. Booking deadline: 19 December 2008. Early bird rates apply for bookings placed before 21 November 2008.

DELEGATE DETAILS			
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Special requirements - note any special dietary, accessibility or other requirements	nents below:		
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Cancellations: prior to booking deadline 10% of the fee. After booking deadline may be substituted from the same institution/organisation as long as the details travel booked if the event has to be postponed or cancelled.			
Data Protection Act 1998			
Your details will be entered into the UKCLE contacts database and may be shared Tick here if you do not consent to your details being stored and shared in this wa A delegate list will be produced for the conference packs. If you do not want your	ay 💮	_	
FEES (please tick)		early bird rate	standard rate
Full 2 day conference package (includes conference dinner and accommodation on 23 January only)		£285.00	£325.00
Day delegate rate (either day includes lunch and refreshments)		£95.00	£125.00
Please specify day of attendance:			
Optional requirements:			
Overnight accommodation 22 January (B&B only)		£95.00	£115.00
Dinner 22 January		£25.00	£30.00
Conference Dinner 23 January (for day delegates only)	under minded above Marchident:	£32.00	£35.00
I am a student in full time education and I apply for a 50% discount on the	rates quoted above. My student i	denuncation number is:	
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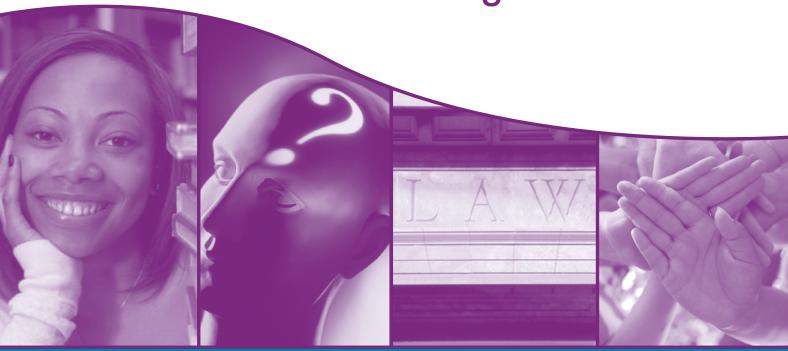
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Concepts of Culture

in Legal Education



23 & 24 January 2009

University of Warwick

Further details from: www.ukcle.ac.uk/newsevents/lilac

