Professional Legal Education Reviews: Too Many “What”s, Too Few “How”s. 

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Introduction

The legal profession and other stakeholders call for review legal education and training (LET) from time to time for want of a system that better produces lawyers who are up to the challenges of the day. The focus of such reviews has tended to be more on the content of the programme and who should teach. Stakeholders have shown interests in what should be included in the curriculum and what graduates should be able to do after graduation. Recent reviews have put increasing emphasis on pedagogical issues such as problem-solving, active learning and student-centred learning. Few, if any, attention has been given to how students could be motivated and further assisted in their learning. The consultants of the Hong Kong review a decade ago might have had this in mind when they recommended employment of innovative teaching methods and inclusion of some distance learning approaches. However, they gave little or no examples as to how these could be achieved. Particularly in this modern world of technology, the question of how best technology can be used to facilitate learning the law and lawyering skills should not be overlooked. Professional bodies have largely been silent about the role technology can play in imparting skills to legal trainees.

Part I of this paper sketches out the landmark reviews of modern LET in England and Wales, Australia and Hong Kong. Part II describes and evaluates the reform initiatives taken by the Department of Professional Legal Education at the University of Hong Kong in its PCLL programme (HKU PCLL), particularly those after the Hong Kong review. Part III explains and examines the role ascribed to technology in legal education reform and development in the common law world today. Part IV provides a road map showing the plan ahead at the HKU PCLL. It concludes by listing out factors that are expected to be relevant to the success in its new venture, one of which probably will be the stand taken by the regulators, particularly the legal profession.

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1 This is still a working draft. Kindly do not quote without prior consent from the authors. Part of this paper is based on the authors’ earlier presentation on the subject matter: “Is E-Learning a Boon to Provision of Professional Legal Education or a Mere Fad?” (with Keith Hotten and Julienne Jen), in the Australasian Professional Legal Education Council Conference, Sydney, 10-12 November 2011.

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I. Landmark LET Reviews

1. Reviews in England and Wales

1.1 The “Ormrod” Report 1971

The Report is frequently quoted as the starting point for reform for English legal education in the modern period. It served a “turning point in the history of legal education” despite certain deficiencies in the Report itself. Its impact has extended beyond the territory of the UK and influenced legal education reforms in its colonies including Hong Kong [see below]. Among other things, an important recommendation of the Report was the separation of legal education into three stages: the academic, professional and continuing education or training stages which remains the case in common law jurisdictions.

1.2 Post “Ormrod” Report

Following the Ormrod Report, the Benson Report in 1979 called for a fundamental reform of the teaching methods and examination style to discourage cramming on the part of students, as “vocational training should be more than an exercise in memorising facts”. The Report also recommended a joint vocational course with a considerable common core for the intending barristers and solicitors in the future.

In the late 1980s, the Marre Report identified a wide range of intellectual and practical skills that law students needed to acquire at the academic and vocational stages of legal education. In addition, the Report recommended that the vocational stage should focus on teaching practical skills by using modern teaching and examining methods.

Following through from these recommendations there have been major changes to the vocational stage of legal education with a greater emphasis on practical skills. These occurred with the introduction of the Bar Vocational Course (in substitution for the old Bar

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5 Report of the Committee on Legal Education, Cmnd 4595.
6 D Barker, “Legal Education in the Commonwealth” [2005] ALRS 3. See the same also for a pre-Ormrod account.
9 Id at para 39.44. See further R Wu, “Reform of Professional Legal Education at the University of Hong Kong” (2004) 14(2) Legal Education Review 153.
10 Id.
12 Id at Chapter 12; also see Law Notes, Vol 107(10) at 278-279.
13 Id at Chapter 14.
Final Examination) in 1989 and the Legal Practice Course (to replace the old Law Society Final Examination) for solicitors sanctioned in 1990 with its first cohort of students in September 1993.

1.3 The Advisory Committee on Legal Education and Conduct (ACLEC) Reports

The ACLEC of Lord Chancellor established in April 1991 under the Courts and Legal Services Act 1990 continued the saga and published its First Report on Legal Education and Training in April 1996. The Report proposed a number of significant changes to legal education with a partial fusing of the training of barristers and solicitors in a common stage vocational course and a general statement of the aims of legal education and training comprising five key elements including (1) intellectual integrity and independence of mind; (2) core knowledge; (3) contextual knowledge; (4) legal values; and (5) professional skills. 14

In 1997 ACLEC issued its second report, on Continuing professional development for solicitors and barristers. Further reports issued by ACLEC until its disbandment include:

- Lawyers’ comments to the media (1997);
- Standards and regulation of immigration advice (seminar report, 1997);
- Improving the quality of immigration advice and representation (1998);
- Rights of audience and the future of legal services (seminar report, 1998);
- Standards in family mediation: the way ahead (seminar report, 1999);

1.4 The Training Framework Review (TFR)

In 2001 the Law Society initiated the TFR, a review of the framework for training solicitors. The Review was conducted by a working group of practitioners and academics. Three consultation papers were published – in July 2001, September 2003 and March 2005 respectively. Largely inspired by the judgment of the Morgenbesser case which places an emphasis on outcomes, 16 the working group proposed, inter alia, that the Law Society

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15 See Barker, supra note 6.
16 Christine Morgenbesser v Consiglio dell’Ordine degli avvocati di Genova, Case C-313/01, in which the European Court of Justice held that a person holding legal qualifications in one European Union member state but not actually having the full professional qualification could have these taken into account towards qualifying for admission in another member state.
should no longer concern itself with how people qualified as solicitors but merely set down the standards known as the “Day One Outcomes” that needed to be reached in order to qualify. During the course of the various consultations, some of the proposals were criticized, cautioned and queried. After further review and modification, in May 2006, the then Education and Training sub-committee of the Law Society’s Regulation Board, currently known as the Education and Training Unit of the Solicitors Regulation Authority (SRA), agreed a detailed framework within which providers should design LPC and within which the SRA would authorize and monitor them. The new LPC, available from September 2009 and mandatory from 2011, was finally announced in March 2008. The new structure allows students flexibility over when the elective subjects can be completed. They are able to undertake the vocational electives during or after some work experience in the training contract or work-based learning and pursue practice-specific electives.

During the process of the Review, some City firms and large regional firms had already partnered with LPC providers to adapt courses to City/commercial practice. Under the new LPC, providers enjoy considerable freedom to design courses for particular students and areas of legal practice, which may lead to some providers offering several different tailored LPCs. On the other hand, practitioners can influence the legal topics, the emphasis given to different compulsory modules, the context for the course and the stage two electives offered by a provider. The new requirements may also enable other kinds of practices to influence the content and context of the LPCs. Firms, and other organizations, may also enter into collaborative arrangements with LPC providers where they deliver the course, with the LPC provider undertaking the assessment or examinations arrangements.

1.5 The Legal Education and Training Review (LETR) 2011-12

Jointly undertaken by the SRA, the Bar Standards Board (BSB) and the Institute of Legal Executives Professional Standards (IPS), the LETR is intended to be the most substantial review since the Ormrod Report. An independent Research Team has been appointed and

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17 The “Day One Outcomes” was first announced in March 2005.
21 E.g., from 2002 to 2006, eight leading City of London firms worked with three LPC providers on a distinct “City LPC” and subsequently in 2006 five members of them sent all of their trainees to study a new “enhanced” LPC with a “MBA style” approach at BPP Law School while the other three sent trainees to study a specialized LPC at the College of Law.
22 See supra note 20.
will after an extensive programme of work make recommendations that are underpinned by sound research and confirmed through a variety of stakeholder engagement. It has commenced its work since June 2011. Seven research questions have been set, all prefixed with a “What”. However, it is observed that the question of “How” is embedded probably in 2, if not more, of those questions. While the exercise is said to be largely concerned with the review of the regulatory aspects of legal education, its recently released draft literature review seems to have given some insight and pointed to, more than tangentially, a newer direction in terms of delivery of legal education and training (see below). This makes its final report, which is expected to be due by December 2012, even more longed for.

2. Australia

2.1 The Pearce Report 1987

The Pearce Report is often cited as the major milestone in legal education reform in Australia, despite earlier attempts such as the often overlooked “Report on Legal Education in Australia Universities – Australasian Universities Law Schools Associations July 1977” The Report was initiated in 1985 when the Commonwealth Tertiary Education Committee appointed three Professors including Dennis Pearce to assess and report on the practices and performance of Australian law schools. The Pearce Report, among others, recommended:

- that law schools examine the adequacy of their attention to theoretical and critical perspectives;
- that law schools should not permit entrants coming directly from secondary school to undertake a straight LLB program;
- a standing curriculum committee should be part of the management

23 See http://letr.org.uk/infobox/approach (last visited on 24 March 2012). The seven questions are: (1) What are the skills/knowledge/experience currently required by the legal services sector? (2) What skills/knowledge/experience will be required by the legal services sector in 2020? (3) What kind of legal education and training (LET) system(s) will deliver the regulatory objectives of the Legal Services Act? (4) What kind of LET system(s) will promote flexibility, social mobility and diversity? (5) What will be required to ensure the responsiveness of the LET system to emerging needs? (6) What scope is there to move towards sector-wide outcomes/activity-based regulation? (7) What need is there (if any) for extension of regulation to currently non-regulated groups? Note: not intended to preclude consideration of the need (if any) to deregulate or otherwise revise the form or intensity of regulation of any part of the LET system.
24 Possibly questions (3) and (5).
25 See Barker, supra note 6.
27 Id.
structure of all law schools;
• class sizes should be monitored and each law school should adopt a policy ensuring teaching resources are directed to areas of most need;
• law schools with Masters programs should review them to ensure that the subjects are fit for purpose;
• law schools should consider whether provision can be made for the grant of release time to staff with a demonstrated commitment to research; and
• law schools should more clearly enunciate what is expected of academic staff and adopt procedures for an equitable distribution of work.

2.2 The “Priestley Eleven”

Australia being a federation, the rules of admission vary between states and territories. A Consultative Committee of State and Territory Law Admitting Authorities, chaired by Justice LJ Priestley, released a Discussion Paper on Uniform Admission Requirements in 1992. The paper specified 11 broad areas of knowledge in which applicants for admission would need to demonstrate basic knowledge and competence known as the Priestley Eleven. They comprise: Criminal Law and Procedure; Torts; Contract; Property (including Torrens System Land); Equity (including Trusts); Administrative Law; Federal and State Constitutional Law; Civil Procedure; Evidence; Company Law; Professional Conduct (including basic Trust Accounting). The Australian Law Reform Commission in its Discussion Paper Number 92 stated that “the Australian position was said to be anchored around outmoded notions of what lawyers need to know.” In 1998, the Law Admissions Consultative Committee (‘LACC’), carried out a survey among law schools, admitting authorities, the Law Council of Australia and its constituent bodies, for their views on whether the Priestley Eleven required review. The response was a uniform negative. A minor change was introduced in 2008 to remove the requirement that Trust Accounting be studied as part of an academic (as opposed to practical) course and the present description for Ethics and Professional Responsibility was inserted.

2.3 Practical Legal Training

New South Wales, Tasmania, Victoria and Australian Capital Territory first decided to

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28 Id.
29 Id., p. 23.
30 Id.
31 Id.
32 Id.
commence practical legal training in 1972.\textsuperscript{33} In 1976 South Australia followed suit and Queensland was the last to do so in 1978.\textsuperscript{34} Among a dozen approved providers PLT programs may be up to 30 weeks in duration and are available on full-time, part-time and online modes, occasionally with professional placement.\textsuperscript{35} One also notices that practical legal trainings are offered both within a university and vocational institutions.

2.4 National Legal Profession Reform

Of late, the focus of reform in Australia is directed at reforming the whole legal profession to bring about uniformity of regulation within the federation even though harmonised legislation has been introduced in all states and territories except South Australia.\textsuperscript{36} In more specific terms, the objectives of national legal profession reforms include:\textsuperscript{37}

- providing and promoting national consistency in the law applying to the Australian legal profession;
- enhancing the protection of clients of law practices and the protection of the public generally; and
- ensuring lawyers are competent and maintain high ethical and professional standards in the provision of legal services.

Despite its yet broad and general terms, there is little doubt that the proposed professional reform will lead to flurry of activities on the part of legal education providers to reorganize their programs.

3. The Hong Kong Review 2000-2001

Legal education and training in Hong Kong resembles largely that of England. It reflects the history of English legal education and its mix of training through traineeship and university education.\textsuperscript{38}

Undergraduate legal education has first been provided at HKU since 1969, which was

\textsuperscript{33} 3 J. Prof. Legal Educ. 81 1985-1986.
\textsuperscript{34} Id.
\textsuperscript{35} For instance, the Leo Cussen Institute in Victoria, see further http://www.leocussen.vic.edu.au/cb_pages/ptc_course_structure.php (last visited on 24 March 2012).
\textsuperscript{38} Redmond-Roper Report, p. 11.
developed simultaneously with the deliberations of the Ormrod Committee. Hong Kong students may alternatively undertake an external LLB degree or its equivalent by distance education, commonly with the assistance of tuition through the School of Professional and Continuing Education (SPACE) of HKU. A graduate of another discipline may now pursue the degree of Juris Doctor (JD) with any one of the law schools in Hong Kong.

The practical and professional stage is undertaken by a year of postgraduate study leading to the award of the Postgraduate Certificate in Laws (PCLL). PCLL providers are exclusively law schools within Hong Kong universities. PCLL is offered not only to local LLB (and now also JD) graduates but also to those who have completed a recognized external programme or obtained an LLB or any other qualifying degree at an overseas university. On completion of the PCLL, graduates will have to undertake on-the-job training either as trainee solicitors (2 years) or pupil barristers (12 months) before fully qualified.

For almost 30 years, there had not been any formal and comprehensive review of the system of legal education and training in Hong Kong despite calls for some times. The then Advisory Council on Legal Education (ACLE) in April 1998 eventually recommended to the Chief Executive of the Hong Kong Special Administrative Region, and who agreed, to conduct a full scale review of legal education in Hong Kong. A Steering Committee was established in late 1999. Two Australian consultants were appointed and the review was carried out during their visits to Hong Kong, once in each year of 2000 and 2001. A consultation paper was published, between the two visits, in September 2000. 55 submissions were received in response to the consultation. Supplementary submissions were made after the second visit. A draft report was submitted to the Steering Committee in May 2001 with the final report published in August 2001.

The full report is over 360 pages long with another 60 pages of appendices. A total of 160 recommendations were made. Appendix I contains a table in which the recommendations are categorized into different aspects with the number of recommendations relevant to each aspect recorded. In total, only 13 recommendations

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39 See Section 1.1 above. More generally on the history of the development at HKU of the LLB and PCLL programmes see D M Emrys Evans, “Taken at the flood: Hong Kong’s first law school” in R Wacks (ed). The Future of Legal Education and the Legal Profession in Hong Kong (1989), pp. 23-24. The other two law schools in Hong Kong are with the City University of Hong Kong (CityU) since 1987 and the Chinese University of Hong Kong (CUHK) since 2004.

40 Those graduates of non-HK universities must now show competencies in certain core and HK law-specific subjects by having those courses included in their qualifying programme or by taking a centrally-administered exam. See further www.pcea.com.hk.

41 Redmond-Roper Report, p.3.

42 Professor Paul Redmond (then Dean of Law, UNSW) and Christopher Roper (former Director of the Centre of Legal Education and then Director of the College of Law Alliance, Australia.

43 A compilation of all recommendations can be found in Redmond-Roper Report, pp.349-367.
touch upon teaching and learning.

So far as the vocational stage is concerned, the consultants recommended replacing the PCLL with an intensive Legal Practice Course of 4 months which would take the form of solely practical training that is training in transactions and skills, within a strong ethical context. Regarding teaching and learning methods, the only recommendation is that innovative methods should be employed, including learning-by-doing and the inclusion of some distance learning approaches.

Despite the proposed abolition of the PCLL, some of the recommendations on teaching and learning methods to the academic stage could have also been made to the LPC. To encourage and reward active participation in class, the consultants recommended students’ participation be part of the assessment scheme of each subject. The role of teachers should become not so much as providers of information but as stimulators, facilitators and modellers of analytical, critical, creative and deep thinking. Introduction of a legal clinic is also highlighted.

Not all the recommendations in the Report were adopted. In particular, PCLL providers “survive” the turmoil. Meanwhile, the professional bodies set benchmarks for the PCLL. The Hong Kong Bar Association formulated their benchmarks in March 2002 in a 15-page document with another 24 pages of annexure, the latter being an adapted version of the English Bar Vocational Course Revalidation Requirements and Guidelines (4 January 2001). Parts of the Guidelines prescribe how many times, and in each time how long, students must be provided with opportunities to practise certain skills. Apart from what the Guidelines suggest, the Bar did not say much, if any, in relation to teaching and learning methods.

The Law Society’s benchmarks laid out in just a five-page document in April 2002 cover seven key aspects: (1) aim; (2) entry; (3) scope; (4) staffing; (5) assessment; (6) teaching and learning methods; and (7) delivery. Again, the majority of the coverage was devoted to set out the scope of the PCLL including matters such as that there should be more emphasis on the teaching of skills than the teaching of substantive law and that, taken verbatim from the consultants’ report, it should take the form of practical training in transactions and skills within a strong ethical context. While a common PCLL for both branches of the profession is preferred the Law Society accepts a common core with electives provided. The Law Society

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45 Recommendation 92, id, p.358.
46 For examples, see Recommendations 52-56, id, p.355.
47 Recommendation 58, id.
48 Recommendation 57, id.
49 Recommendation 63, id.
also lists out basic intellectual and practical skills required together with compulsory and elective practice areas. In contrast, there is only a paragraph on teaching and learning methods. Apart from probably summarizing what the consultants have recommended, the Law Society suggests methods such as simulated practice, small group work, demonstration, video feedback and case scenarios.

4. So What? So How?

So much of the reports and recommendations, but what changes have been brought to the actual teaching and learning of law? The constant call for legal education reform seems to gravitate toward the conclusion that students are not sufficiently prepared to enter into the legal profession. However, such review exercises are often short on providing answers to how legal education and training can be better delivered to equipped students. The increasing number of report averring that legal education should lead to producing lawyers who can hit the ground running with specified sets of skills and required level of professionalism will not help much. Without yardstick for measuring successful legal education training, it is difficult to conceive what needs to be done, and subsequent reviews are bound to repeat the same mantra that the provision is still far from satisfactory. One may argue that reviewers should not dictate how educators devise their programme. However, as Molly O’Brien observes:

“Many legal educators have engaged in thoughtful analysis and explication of what needs to be changed in the law school curriculum...... The ‘how to’ aspect of legal curricular reform is generally only revealed by implication.”

The HKU PCLL experience is not much different.

II. HKU PCLL after the HK Review

At all times, indeed, the HKU PCLL adopts a mix of learning methodologies including, more frequently in the past, prescribed reading and lecturing, tutorials and occasionally, watching video demonstrations and scheduled court visits. The relative weight and hence time allocated to each of those methods have, however, changed over the years. Consequential to the consultants’ report and the benchmark documents by the two branches of legal profession in Hong Kong, HKU PCLL curriculum had undergone a major reform since September 2002 and took its current form (“the new PCLL”) in 2008. In addition to the

structural changes in the curriculum, the new PCLL puts more emphasis on transactional knowledge and lawyering skills with its aim to train students in knowing “how” rather than knowing. Case files are being used more frequently, across different subject areas. Knowledge is enforced in a number of other ways than lecturing such as quizzes (sometimes web-based), guided research and even through performing the skills exercises. On the other hand, skill learning in the HKU PCLL follows the basic format of first, presentation of skill theory followed by skill demonstration; analysis of demonstration; practice; feedback; and debriefing.

An interim evaluation on the extent of which graduates understood the objectives of the new PCLL and how well they thought particular parts and aspects of the programme had contributed to realizing these objectives was undertaken by the three colleagues of the Department of Professional Legal Education in 2006, four years after the initial form of the new PCLL was launched. Responses from students to a survey revealed a general level of satisfaction with the reformed programme, and high levels of satisfaction with some of the courses. Some of the further reform measures did coincide with what students would like to have seen.

Another informal survey conducted by the Department in 2009, immediately after the first academic year in which the completely reformed HKU PCLL found that, while students found a problem-based learning style and the use of programmed instructions in small group learning useful and enjoyable, in general they still encountered difficulties in making the transition from the undergraduate to the professional stage of study. Specifically, “students find it difficult to practically apply the legal knowledge which they have learnt from their undergraduate studies to solve legal problems and which involve a change of student

51 As it currently stands, the HKU PCLL curriculum is broadly divided into (i) Compulsory Core Practice Areas: Civil Litigation, Criminal Litigation; Corporate and Commercial Transactions I; and Property Transactions I and (ii) Elective Practice Areas, of which three must be selected by candidates: Trial Advocacy (which is made compulsory for students who intend to join the Hong Kong Bar); Commercial Dispute Resolution; Personal Injury Litigation; Matrimonial Practice and Procedure; Property Litigation; Corporate and Commercial Transactions II; Property Transactions II; Listed Companies; China Practice, Wills, Trusts and Estate Planning, Use of Chinese in Legal Practice and Mediation in Chinese. While professional ethics and tax issues are taught pervasively, Professional Practice and Management is discretely taught and assessed as another compulsory component.


53 Findings were presented by way of a paper entitled “Evaluation of skills and problem-based learning: transitional phase for professional legal education in Hong Kong” (with F W H Chan, M Dilena, R W S Wu and Y Y K Young) at the Redesigning Pedagogy: Culture, Knowledge and Understanding Conference 2007, National Institute of Education, Singapore, 28 – 30 May 2007.

mind-set from studying about the law to applying the law” in practice. 

How can that be effectively achieved? What is missing in the HKU PCLL thus far?

III Bridging the Gap


1. The Dale’s Cone of Experience

Edgar Dale’s “the Cone of Experience” (Figure 1) seeks to hierarchically rank learning experiences from the apex to the bottom of the Cone in terms of greater concreteness. While this is right to say that those various activities should not be treated as discrete and isolated and there could well be ‘a balanced combination, based on content, teacher background knowledge, resources, and student characteristics’ which ‘is likely to be most effective’, direct purposeful experience, in our view a synonym of “doing the real thing”, occupies the most privileged position in the Cone, followed by contrived experiences, in our

55 Id para 31.
56 Dale, E. (1969) Audiovisual Methods in Teaching, p. 128. For a general discussion, including misconceptions, misinterpretation, echoes and support, of the theory, see further e.g., Wilson Chow, Firew Tiba, Keith Hotten and Julienne Jen, “Is E-Learning a Boon to Provision of Professional Legal Education or a Mere Fad?”, a paper presented at the Australasian Professional Legal Education Council Conference, Sydney, 10-12 November 2011 (document on authors’ file).
view synonymous to simulations. Both require the learner to ‘do the thing’ either in real life or through simulated case studies and exercises. While learning activities remain varied and can take different forms and combinations, “doing the real thing” and “simulations” have been, and will continue to be, cornerstones for curriculum design, particularly in professional schools. “Doing the real thing” or “doing the thing” in real life must be the best way forward.


The Carnegie Report states:

“Unlike other professional education, most notably medical school, legal education typically pays relatively little attention to direct training in professional practice. The result is to prolong and reinforce the habits of thinking like a student rather than an apprentice practitioner, conveying the impression that lawyers are more like competitive scholars than attorneys engaged with the problems of clients”

A standard medical programme requires satisfactory completion of housemanship during the final year. As do the training of a dentist, a nurse or a teacher, although the practical element of each programme may bear a different name and may not be placed in the year just before the entry point to the profession. The two medical schools in Hong Kong provide housemanship via their linked hospitals to every medical student. The case is the same for the Faculty of Dentistry, the Faculty of Education and the School of Nursing at HKU.

The report seems to suggest that better legal training can be offered in a setting that replicates the old apprenticeship style training, where pupils learned the law by doing. However, with several folds of students completing their law degrees compared to the early days, this is a practical impossibility in a present day context, particularly in the law schools in Hong Kong.

3 “Doing the (Real) Thing”?

3.1 Placement and Internship

Readers may note that in Dale’s time, technology had not been so advanced for any simulated learning platform or environment in the online virtual world.

See discussion in III.3 and III.4 below.

The three law schools in Hong Kong consider, rightly or wrongly that, learning the law may not solely and necessarily lead to a career as a lawyer in private practice. Internship, practicum or placement has therefore never been made compulsory. Indeed practically, it would be difficult, if not impossible, for the HKU Faculty of Law to arrange internship for all its final year undergraduate students even though it has by far the largest alumni network and the longest history among the three.

There are no fewer than 150 final year law undergraduates each year from either the single law degree or the various double degrees in conjunction with law at HKU. On the other hand, in terms of composition by reference to practice environment in 2009, 44% 323 law firms (44%) were sole proprietorships while 329 (45%) had between 2 to 5 partners. Only 1% or 6 law firms (1%) had partners of 20 or above. As at 12 March 2012, among 785 registered law firms in Hong Kong, over 73% of them are sole proprietorships or with no more than 2 partners. Of all the sole practitioners, significant numbers of them do not even employ any other legally qualified persons. Thus, not all of them have trainees and apart from a few major international law firms, the number of trainee ships in each firm is usually rather limited, let alone that of internships. The opportunities for internship was once thought to have even been endangered by the introduction of the statutory minimum wage since an exemption for student interns during a period of exempt student employment is not unconditional.

Ensuring sufficient number of placements for PCLL students is even less likely. The three PCLL programmes are not only for law graduates of the three local law schools. In fact, competition for places to read the PCLL is open to law graduates from other parts of the common law world, either as returnees from overseas or via external programmes in Hong Kong. The total number of applications received by the three PCLL providers in recent years has been around 3,000 each year, whereas the success rate has just been about 1 in 6. Finding and matching placements for 500 PCLL students each year is an insurmountable

61 *Becoming a Lawyer in Hong Kong*, Dieter Yih, Vice President, the Law Society of Hong Kong., 7 September 2009, graph on slide 16 of his powerpoint presentation, available at [http://stu.hksyu.edu/~lb/dieter.ppt](http://stu.hksyu.edu/~lb/dieter.ppt) (last visited on 24 March 2012).
62 Id.
64 Id. As of 31 December 2010, 40% of those firms did not have any legally qualified person other than the sole proprietors: [http://www.hklawsoc.org.hk/pub_e/about/default.asp#profileprofession](http://www.hklawsoc.org.hk/pub_e/about/default.asp#profileprofession) (last accessed on 24 March 2012).
Many PCLL applicants will have already secured a training contract by the time they file their applications. Indeed it is common for the major law firms to recruit trainees while the latter are still in their penultimate year of the academic legal studies. However the outcome of the PCLL admission cannot be dictated by this factor and it has been resolved that PCLL places must be allocated to applicants on the basis of merit. Inevitably at least a small number of applicants who have already secured a contract have been denied a place. Even if all of them were admitted to the programme, the number of placements required would not necessarily go down to a manageable threshold. On top of that, it may not be administratively easier to handle placements for all other successful PCLL applicants who are yet to have a contract. Furthermore, HKU runs a part-time PCLL to ensure fair access to professional legal education. Some of the part-time students may have had a full-time job and consider law as their second career. Making placement compulsory for them may be perceived as an unnecessary hurdle set against a policy of fair access.

3.2 Law Clinic

Unlike the medical schools which have their own ‘teaching’ hospitals, Hong Kong does not have any ‘teaching’ law firm. The closest resemblance to that perhaps is a law clinic administered and run by a law faculty. Probably long overdue, the Faculty of Law at HKU launched the Clinical Legal Education (CLE) course, the first of its kind in the territory, in January 2010 as a credit bearing course for its law students. The General Stream of the CLE course operates the Free Legal Advice Scheme (FLAS) on campus in which students in pairs take instructions from the client at an interview session and submit a case summary and legal research memo to the duty lawyer. They may need to attend follow-up session(s) with the lawyer and must be present at the advice session when the lawyer gives the preliminary legal advice. In parallel, the Specialised Stream jointly run with the Hong Kong Refugee Advice Centre offers general advice and legal assistance to asylum seekers and refugees in Hong Kong in relation to their applications for refugee status with the United Nations High Commissioner for Refugees. The CLE course generally and the two streams have been very well received. A prospective employer commented:

‘If we had two otherwise equal applicants, but one had engaged in a clinic, they would not be equal applicants. The one who had taken the clinic is a better candidate.’66

66 Richard Chalk, Partner, Freshfields Bruckhaus Deringer, HKU Faculty of Law Newsletter, Autumn 2011, p. 15.
A student participant reflected on his learning experience in the clinic and wrote that he had learnt practical skills of ‘keeping paper records of every single detail of a case; the art of communication with teammates, supervisors, teachers, clients, observer students and duty lawyers; and offering practical solutions to clients’ needs, not only advising on how legal issues are likely to be dealt with in courts.’ Another student treasured most the opportunity to learn and practise what she had learnt at the same time which equipped her with the necessary knowledge and ability to help clients.

However, the CLE course started on a modest scale with just a small number of students although the total number of cases taken up during the academic year 2010/2011 was 71 and a wide variety of cases including matrimonial, personal injuries, land and probate disputes, criminal litigation, contractual disputes and other matters such as water leakage, jurisdictional dispute and defamation have been dealt with. Further expansion of the CLE course requires additional human resources and perhaps, the backing of the professional bodies and in particular the Law Society of Hong Kong because, curiously, they have been sceptical about the idea since it was first brought up by the Faculty. After much time and effort spent on negotiation, a mutually agreeable model as it currently stands came about with much give than take.

An alternative method of providing legal training is, therefore, a necessity.

4. Use of Virtue Learning Environment (VLE)

4.1 Advancement and Use of Technology

With the rapid development in technology and the widespread use of different e-learning methods all over the world, is there a hybrid between, in Dale’s terms, ‘simulation’ and ‘doing the real thing’? If so, how would this new way be perceived by students and other relevant stakeholders?

Things have changed since 2001 when Honey contended that the “e-learning industry is overselling its merits and not focusing appropriately on the learner’s needs.”\(^{67}\) For instance, internet bandwidth is no longer an issue in places like Hong Kong. Furthermore, segments of e-learning techniques are more advanced and cannot be referred to as e-reading where it simply “regurgitates pages of text culled from books and classroom courses.”\(^{68}\)


\(^{68}\) Ibid, 202
The most appealing use of technology to assist learning is one that provides a virtual environment for simulation closest to reality. While the use of simulation in legal education has been with us for a long time, albeit in different forms, particularly in relation to training oral skills, what is attracting attention is the use of e-technology to boost simulation activities in learning other lawyering and professional skills.

In this regard, the Simulated Professional Learning Environment (SimPLE) trialled by a consortium of five UK Law Schools is one of the pioneers. The participants had reported very favourable outcomes. SimPLE has also been adopted and integrated by the Australian National University with a Learning Management System (Moodle), an E-portfolio System (Mahara) and other learning technologies to create an Integrated Learning Environment (ILE) in its Graduate Diploma in Legal Practice (GDLP).

Another contender is Second Life, an online virtual world developed and launched by Linden Lab on 23 June 2003. The Berkman Centre for Internet and Society at Harvard Law School is one of the law schools to have staked a claim to a portion of the virtual world to run courses in its extension program. Another example that integrates Second Life into the teaching of law can be found in Legal Ethics Paper at Queensland University of Technology, in which Second Life is introduced to facilitate a problem-solving approach based on real-world-type contexts. Likewise, the University of Western Australia reports an encouraging feedback obtained from students who participated in a pilot virtual moot

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69 E.g., Mock trials, moot court competitions, negotiations, client interviewing and the like are widely used.
70 E.g., specific skills such as drafting and legal writing as well as soft skills such as time management, teamwork and communication skills.
71 http://www.ukcle.ac.uk/projects/past-projects/tle/ (last visited on 24 March 2012). The five law schools are, in addition to the Glasgow Graduate School of Law, the University of Glamorgan, University of Warwick, University of Stirling and the University of the West of England
72 http://www.ukcle.ac.uk/projects/past-projects/tle/ (last visited on 24 March 2012): feedback from each law school can be accessed by clicking on the names of the schools.
73 Moodle is an open source learning management system that educators can use to create “effective online learning sites”: http://moodle.org.
77 The course entitled “CyberOne: Law in the Court of Public Opinion” is offered by Professor Charles Nesson, Co-founder of the Berkman Center and Rebecca Nesson. See the website of the Course at http://blogs.law.harvard.edu/cyberone/ (last visited on 24 March 2012).
court using Second Life. The same has also been used in other professions and examples include the Mayo Clinic in the United States, the Medical School of the Imperial College, London and nursing education in Glasgow Caledonian University. In Hong Kong, the Polytechnic University of Hong Kong (PolyU) has been using 3-D on a Second Life platform to create a virtual campus. Thus far the trial is, however, limited to only about 15 non-law courses. Second Life platform had once been in use for second language learning and visual studies and design in Lingnan University.

Between the two, SimPLE is preferred, the major reason being that it is an open source originally developed by a consortium of educational institutions. Another key reason is that students should have direct and personal learning experience, not through an avatar. Although students play the role of a trainee under supervision in a SimPLE project, they act as themselves, bearing the responsibilities and receiving the credits direct.

The use of e-learning technologies at HKU has not been as widespread and advanced as many would like to have seen. It is currently just in the process of replacing WebCT with Moodle. Until 29 August 2012 both platforms will run in parallel after which Moodle will remain the sole e-learning platform. Training sessions have been offered and running. No formal study on how the response from teaching staff is has been undertaken.

Specifically, the HKU PCLL has and maintains its own student website which remains largely a portal for knowledge, information and communication management and in this sense limited and primitive. Functions such as calendar, group email and discussion board are there but tend to have been under-utilized.

4.2 The Students’ Perspective

81 http://www1.imperial.ac.uk/medicine/teaching/elearning/secondlife/ (last visited on 24 March 2012).
82 http://www.gcu.ac.uk/cuthere/projects.html. However, it is understood that there has not been any central development or support for the project there since February 2012: http://www.gcu.ac.uk/cuthere/index.html (last visited on 24 March 2012)
83 http://coresl.edc.polyu.edu.hk/about.html (last visited on 24 March 2012); the project is being supported by a joint effort with staff from the Department of Applied Social Sciences (APSS), the Department of Computing, the School of Hotel and Tourism Management (SHTM), the School of Design (SD), and the Pao Yue-kong library.
84 Id.
85 Source: Brant Knutzen, Learning Designer, Faculty of Education, HKU, formerly Educational Development Officer, Lingnan University.
86 The website which is password protected serves a number of functions but mainly (a) as a repository of learning materials and (b) a communication facility for students, teachers and administrators.
4.2.1 Students generally

The students are more ready to take on the challenge. Most university students in Hong Kong nowadays belong to the so called Generations Y\(^{87}\) (broadly referring to those people born between 1982 and 2003) and Z (born between 1994 and 2004 and are said to be the first generation with complete technology and do not know life without technology\(^{88}\)). Generation Y students dominate Hong Kong PCLL programs intake and in fact universities are receiving students of Generation Z.

4.2.2 A Pilot Survey of UK Students with SimPLE experience

Further to the SimPLE report,\(^{89}\) an independent pilot survey has recently been undertaken to evaluate and, to an extent, verify UK students’ satisfaction over the use of SimPLE.\(^{90}\) Responses from a total of 26 students, coming from three different institutions, with experience in SimPLE for at least a semester before the survey, were collected. 10 of this group are first year undergraduate students in law and the rest are pursuing their postgraduate diploma leading to professional qualification (equivalent to the PCLL). A general invitation to all students by the researcher was made via the course leaders using SimPLE. All respondents came forth on a voluntary basis. The limitations in this pilot survey are well noted, particularly in light of the small sample size. However, the feedback collected seems still significantly indicative.

The questionnaire comprises three sections. The first section asks for respondents’ self assessment while the second requires them to assess the group they are in as a whole. Each of these sections comprises 6 statements started off with the phrase “The simulation platform used in this course has...” to which respondents were invited to choose from a Likert scale of: (a) Strongly disagree; (b) Disagree; (c) Neutral; (d) Agree; and (e) Strongly agree. Questions in the first two sections along with the counts of responses to each point on the five-point scale are presented in Appendix II. A preliminary analysis of the data shows that respondents found SimPLE had helped them learn better and their learning more


\(^{89}\) Supra, note 72.

\(^{90}\) This significant leap would not have been possible but for the HKU funding under the inaugural Teaching Exchange Fellowship Scheme 2011 and the advice and support from Professor Maharg, Professor of Legal Education, University of Northumbria, Newcastle, who kindly introduced and lined up his contacts. Wilson Chow was funded to visit the University of Northumbria for about one week.
enjoyable. There is also an overwhelming majority that respondents found SimPLE had increased their interaction and collaboration with peers in learning.

The last section consists of 7 open-end questions with the last soliciting students’ view on whether they would support the use of SimPLE to be extended to all courses of the programme (Appendix III). Explanation, however, is still required. In short, the responses have been evidently positive and encouraging with some individual concerns and suggestions that invite action. Most of those relate to the technical side of the matter and in few occasions students raised concern over consistency of different tutors when more than one teacher is involved.

IV. HKU PCLL - Way Forward and Plan Ahead

From the pilot survey, there is little question about the effectiveness of simulation technology in facilitating learning in both the academic and professional stages of legal training. There are also sound theoretical and pedagogical justifications for pursuing such use.

It is the plan of the HKU PCLL to introduce SimPLE to its students. A pilot run is scheduled to take place in January 2013, in four out of ten electives in the HKU PCLL: Commercial Dispute Resolution (CDR), Personal Injuries Litigation (PI), Matrimonial Practice and Procedure (MPP) and Wills, Trusts and Estate Planning (WTEP). Table 1 shows that from statistics over the last four years, more than 90% of a student cohort will probably be able to experience SimPLE in at least one of those electives. It will be interesting to examine what the outcome will be and to what extent students’ perceptions and degree of satisfaction over the learning experience may be different from their counterparts in other common law jurisdictions and, if so, the reasons for such differences. In a longer term, it may also be worthwhile to investigate how well employers and end-users of legal services receive graduates trained with SimPLE.

<table>
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<tr>
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<th>2008/09</th>
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<th>2010/11</th>
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<td>141</td>
<td>154</td>
<td>132</td>
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<tr>
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<td>70</td>
<td>59</td>
<td>46</td>
<td>32</td>
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<tr>
<td>MPP</td>
<td>52</td>
<td>103</td>
<td>69</td>
<td>89</td>
</tr>
<tr>
<td>WTEP</td>
<td>[not offered]</td>
<td>22</td>
<td>57</td>
<td>60</td>
</tr>
<tr>
<td>At least 1</td>
<td>55</td>
<td>105</td>
<td>113</td>
<td>118</td>
</tr>
<tr>
<td>Any 2</td>
<td>58</td>
<td>101</td>
<td>90</td>
<td>96</td>
</tr>
<tr>
<td>Any 3</td>
<td>12</td>
<td>4</td>
<td>12</td>
<td>1</td>
</tr>
</tbody>
</table>
Table 1: Statistics showing enrolment to each elective chosen for the pilot run and various combination of those over the last 4 years at HKU PCLL.

<table>
<thead>
<tr>
<th>Total</th>
<th>125</th>
<th>210</th>
<th>215</th>
<th>215</th>
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</thead>
<tbody>
<tr>
<td>Out of</td>
<td>137</td>
<td>237</td>
<td>230</td>
<td>241</td>
</tr>
</tbody>
</table>

V. Conclusion

Legal education reviews tend to be indifferent in investigating new methods to enhance students’ learning. Hence, there has been very little understanding of how increasing use of technology assisted legal simulation to train lawyers in a professional setting is viewed by regulators. On the one hand, it may be understood that they considered improper for them to make any specific recommendation on “how” a professional programme should be taught, which may well be seen as showing little respect to the educators. After all, from the above account, we have seen self-reflection and experiments by law schools on their programmes anyway and, in doing so, they often go beyond what is required of them from such reviews. However, on the other hand, it may also be true that law schools tend to be timid about innovative changes to their curriculum for uncertainty that these changes may offend against long standing professional sensibilities about how lawyers are trained.

A recent literature review released by LETR\(^\text{91}\) indicates that a slightly different course may be steered towards this time round. The authors, among others, examine the interface of technology with legal education under the broader theme of key regulatory issues from a comparative perspective. As the authors note, “for regulators...... a key question is: can the Web encourage deep learning amongst students?\(^\text{92}\) In other words, how “can regulators ensure that extensive multimedia and internetworked Applications will enhance the quality of student learning?”\(^\text{93}\) While the remark is made in the context of distance learning which the Hong Kong legal profession, sharing the more traditional view in Australia and the United States,\(^\text{94}\) would unlikely accept, it can lead to a much wider impact on e-learning generally.

It is largely unknown whether for the legal profession in Hong Kong, who are also potential


\(^{93}\) Id., para 59

employers of PCLL graduates, e-learning platforms such as SimPLE may be treated with skepticism, just like what they did to clinical legal education. As one commentator aptly observed, again, in the US context:

“As ardently as law firm leaders and other practitioners say they want law schools to step up and better train lawyers, the legal hiring market has yet to signal that it recognizes the value of innovative teaching and curricula”95

Getting the equation right so that it is pedagogically effective96 is one key to the success of an e-learning infrastructure – which requires careful planning, a critical mass of dedicated teachers, support from the university administration, as well as courage and perhaps trials and certainly learning from the inevitable errors; whether other stakeholders, particularly the legal profession is prepared to warm up, or at least remain open-minded to, the recommendation is probably another.

95 William Henderson, a professor at Indiana University Maurer School of Law – Bloomington who studies the profession, quoted by Karen Sloan, “What is law school for, anyway?” http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202538352545&What_is_law_school_for_anyway&slreturn=1 (last visited on 24 March 2012).

### Appendix I

<table>
<thead>
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<th>Aspects</th>
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<td>Language</td>
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<td>English</td>
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<td>Academic Stage</td>
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<td>Goals and Objectives</td>
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<tr>
<td>Structure</td>
<td>21</td>
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<td>Graduate Law</td>
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<tr>
<td>4-year LLB</td>
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</tr>
<tr>
<td>Double/combined</td>
<td>6</td>
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<tr>
<td>5-year law and non-law</td>
<td>5</td>
</tr>
<tr>
<td>5-year academic &amp; prof.</td>
<td>2</td>
</tr>
<tr>
<td>Funding</td>
<td>1</td>
</tr>
<tr>
<td>Knowledge Content</td>
<td>10</td>
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<tr>
<td>Teaching &amp; Learning Methods</td>
<td>12</td>
</tr>
<tr>
<td>Assessment</td>
<td>10</td>
</tr>
<tr>
<td>Part-time</td>
<td>1</td>
</tr>
<tr>
<td>Balance between providers</td>
<td>1</td>
</tr>
<tr>
<td>Vocational Stage</td>
<td>27</td>
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<tr>
<td>PCLL</td>
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<tr>
<td>LPC</td>
<td>26</td>
</tr>
<tr>
<td>Generally</td>
<td>2</td>
</tr>
<tr>
<td>Organization</td>
<td>6</td>
</tr>
<tr>
<td>Entry Quota</td>
<td>1</td>
</tr>
<tr>
<td>Premises</td>
<td>1</td>
</tr>
<tr>
<td>Establishment Grant</td>
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</tr>
<tr>
<td>Funding and Fees</td>
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</tr>
<tr>
<td>Characteristics</td>
<td>3</td>
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<tr>
<td>Teaching Methods</td>
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</tr>
<tr>
<td>Curriculum</td>
<td>1</td>
</tr>
<tr>
<td>On-job Training</td>
<td>1</td>
</tr>
<tr>
<td>Teachers</td>
<td>2</td>
</tr>
<tr>
<td>Initial Planning &amp; Design</td>
<td>1</td>
</tr>
<tr>
<td>Common Core &amp; Options</td>
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</tr>
<tr>
<td>Modularization</td>
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</tr>
<tr>
<td>Part-time Mode</td>
<td>1</td>
</tr>
<tr>
<td>---------------</td>
<td>---</td>
</tr>
<tr>
<td>Assessment</td>
<td>2</td>
</tr>
<tr>
<td>On-the-job training</td>
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</tr>
<tr>
<td>Generally</td>
<td>6</td>
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<tr>
<td>Pupillage</td>
<td>2</td>
</tr>
<tr>
<td>Trainee Solicitor Contracts</td>
<td>2</td>
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<tr>
<td>Common Admission Standard</td>
<td>13</td>
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<tr>
<td>Common Standard</td>
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<td>Conversion Course</td>
<td>7</td>
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<tr>
<td>Overseas Lawyers Exam</td>
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<tr>
<td>Academic Staff Development</td>
<td>4</td>
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<tr>
<td>Equity and Access</td>
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<tr>
<td>Places in Conversion Course</td>
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<td>Mature &amp; non-law graduates</td>
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<td>Scholarships &amp; Bursaries</td>
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<tr>
<td>Artificial barriers / bottlenecks</td>
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<td>Bar’s Advanced Legal Education</td>
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<td>Providers</td>
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<td>Accreditation</td>
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<td>Model Curricula</td>
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<tr>
<td>Specialist Accreditation</td>
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<tr>
<td>Academy of Law</td>
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<tr>
<td>Place of Values in Legal Education</td>
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<tr>
<td>Culture of public service</td>
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</tr>
<tr>
<td>Ethical capacity &amp; social responsibility</td>
<td>8</td>
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<tr>
<td>Knowledge Exchange</td>
<td>2</td>
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<tr>
<td>Legal Qualifying Council</td>
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<td>General</td>
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<td>Powers</td>
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<td>Composition</td>
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<td>Public accountability</td>
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</table>
**Self-Assessment**

The simulation platform used in this course has:

<table>
<thead>
<tr>
<th></th>
<th>(a) Strongly Disagree</th>
<th>(b) Disagree</th>
<th>(c) Neutral</th>
<th>(d) Agree</th>
<th>(e) Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Increased my interaction with teachers in class and online</td>
<td>0</td>
<td>2</td>
<td>7</td>
<td>11</td>
<td>6</td>
</tr>
<tr>
<td>2. Increased my interaction and collaboration with my peers in</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>6</td>
<td>18</td>
</tr>
<tr>
<td>learning in class and online</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Facilitated timely feedback from teachers</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>4. Increased my interest in the subject</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>13</td>
<td>10</td>
</tr>
<tr>
<td>5. Made it more enjoyable for me to learn</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>14</td>
<td>11</td>
</tr>
<tr>
<td>6. Helped me learn better</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>8</td>
<td>17</td>
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</tbody>
</table>
Peer-Assessment

The simulation platform in this course has:

<table>
<thead>
<tr>
<th></th>
<th>(a) Strongly Disagree</th>
<th>(b) Disagree</th>
<th>(c) Neutral</th>
<th>(d) Agree</th>
<th>(e) Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Increased our interaction with teachers</td>
<td>0</td>
<td>2</td>
<td>9</td>
<td>9</td>
<td>6</td>
</tr>
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<td>2. Increased our interaction and collaboration in learning within the group</td>
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<td>0</td>
<td>1</td>
<td>11</td>
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</tr>
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<td>3. Facilitated timely feedback from teachers</td>
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<td>14</td>
<td>6</td>
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<tr>
<td>4. Increased our interest in the subject</td>
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<td>0</td>
<td>5</td>
<td>13</td>
<td>8</td>
</tr>
<tr>
<td>5. Made it more enjoyable for us to learn as a group</td>
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<td>1</td>
<td>2</td>
<td>9</td>
<td>14</td>
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<tr>
<td>6. Helped us as a group to learn better</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>8</td>
<td>17</td>
</tr>
</tbody>
</table>
Appendix III

1. What do you think your lecturer was hoping to achieve by asking you to learn this course through the simulation platform? Do you think he/she made this clear to you at the beginning of the course?

2. What did you actually do in this course with the simulation platform? How did you use this opportunity? What was the most important thing for you?

3. What difficulty did you have in learning this course through the simulation platform? Did you manage to resolve it and if so, how?

4. In what ways did the simulation platform help you to learn in this course? How helpful were they? If they were not helpful, why was that so?

5. Did you find the simulation platform helped you to prepare yourself to be a legal practitioner? If so, in what ways? If not helpful, why was that so?

6. What are you proud about in the work you produced on the simulation platform?

7. What things do you think your lecturer can do to make the simulation platform more effective for future students of this course?

8. Would you support the use of the simulation platform in this course to be extended to all courses in the programme? Why or why not?