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LEARNING PROFESSIONAL ETHICS – AN INTERNATIONAL PERSPECTIVE

SARA CHANDLER AND NIGEL DUNCAN

DRAFT

This report addresses work done at the 4th Worldwide Conference of the Global Alliance for Justice Education (GAJE), held at Cordoba, Argentina from 27 November to 2 December 2006. GAJE, established in 1996, is an international alliance of legal educators and NGOs concerned with promoting issues of social justice through legal and community education. 26 jurisdictions were represented. Further details of the organisation, its activities and its conferences may be accessed on its website:

www.gaje.org.

We ran three linked workshops addressing the learning of professional ethics with undergraduate students; vocational students and trainees; and post-admission professionals. The workshops were prepared in conjunction with Adrian Evans of Monash University. While there, we also took the opportunity to interview colleagues from different jurisdictions as to issues around the teaching of legal ethics in their own countries. This report will firstly address the workshops, then present preliminary findings from these interviews together with proposals to develop this research and finally suggest ways in which readers may assist with this work.

The workshops

The first workshop was based on the twin premises that live clinical experience may provide deep learning experiences of ethical dilemmas and responses to them, and that most universities will not have the resources (or perhaps the desire) to offer that experience to all students. It explored ways in which the experience of students on clinical programmes might best be used to provide powerful learning experiences for students who are unable to have a live clinical experience themselves.

The second workshop engaged participants in two activities used to alert students and trainees to the values underlying ethical practice. A group exercise explored understanding of and attitudes towards the values of professional practice. A further exercise exposed individuals to behaviour designed to challenge those values and explored their responses to it.

The third workshop presented participants with a role-play in which a group of lawyers adopting different ethical perspectives discussed their responses to a profound ethical dilemma facing them. This was used as a springboard for a discussion exploring attitudes towards the continued assessment of lawyers post qualification and the best ways of providing support to lawyers facing ethical dilemmas in practice.

The interviews

Questions asked included:

- whether professional ethics was mandatory (and if so, whether mandated by the professional body or the State);
- whether professional ethics was taught and if so:
 - in the classroom;
 - in a clinical activity;
 - whether assessed, and if so, how;
- whether the aim was simply to learn a Code or to address other issues, such as underlying values, social justice issues, etc.;
- where clinical methods were used, how students were prepared for ethical dilemmas and how supervision addressed problems in practice.

Qualitative variables and the learning methods used were also explored.

The preliminary findings included a strong correlation between State-mandated ethics courses and former communist bloc states and one between professional-body-mandated ethics courses and common law countries. Most classroom-based courses showed strongly didactic tendencies. Clinical programmes existed in most jurisdictions (although this finding is probably skewed by the nature of the conference) but were exceptional apart from a few jurisdictions where it was available in most institutions. Clinical programmes were the most likely to address critical approaches to the Codes or to consider ethical issues in the social justice context. They were also the most likely to use reflective learning methods.

Your assistance

We intend to take this preliminary research further, with a more structured questionnaire to these participants and others we were unable to interview in the limited time available at the conference. We would appreciate your proposals as to interested individuals we might contact in jurisdictions other than those present at the GAJE conference (see Appendix) in order to broaden the scope of the research.

Furthermore, this project forms part of a broader project being undertaken by Nigel Duncan as a National Teaching Fellow of the Higher Education Academy in the UK. Examples of innovative approaches to learning in the area of legal ethics would be of great value to this project. Full credit will, of course, be given to anyone whose ideas or work is used in disseminating the project outcomes.

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APPENDIX

	Chile	Hungary	Mexico
Argentina	China	India	Montenegro
Armenia	Colombia	Indonesia	Nicaragua
Australia	Czech Rep.	Ireland	Nigeria
Cambodia	El Salvador	Kenya	Poland

Puerto Rico
Russia
South Africa
Turkey
UK
Ukraine
USA