

Maintaining standards of undergraduate's legal education in Malaysia: UKM Law Faculty's approach

ROZLINDA MOHAMED FADZIL

ABSTRAK

Para graduan undang-undang abad ke 21 kini memasuki era yang lebih kompleks dan berlainan strukturnya berbanding graduan terdahulu. Kaedah pembelajaran, pemakaian isi kandungan dan penggunaan bentuk pengetahuan bidang perundangan berubah dengan pantas dan amat berbeza jika dibandingkan dengan yang sebelumnya. Ini dapat diperhatikan di dalam banyak kriteria lapangan latihan guaman di mana undang-undang kedoktrinan yang lazimnya dipelajari di pusat pengajian tinggi sudah lapuk dan tidak mempunyai kaitan dengan amalan perundangan terkini. Dari perspektif yang lebih meluas, amalan guaman kini lebih dipengaruhi oleh faktor luaran seperti globalisasi, persaingan, perubahan dari segi pendekatan, teknologi maklumat dan komunikasi (ICT) dan juga langkah-langkah untuk mengenyapkan sistem adversori sebagai cara penyelesaian sesuatu perbalahan. Kertas ini membincangkan keperluan pembelajaran serta latihan dan persekitaran positif yang perlu ada pada abad ini bagi pengamalan guaman yang terbaik dengan mengambil contoh transformasi yang telah dipelopori oleh Fakulti Undang-undang (FUU), Universiti Kebangsaan Malaysia, yang secara amnya bertujuan untuk memastikan tahap kualiti di FUU sentiasa dapat dikekalkan, dipantau dan dipelihara bagi memastikan pengeluaran bakal-bakal peguam yang akan berdaya-saing dan berupaya bertahan di arena sektor khidmat guaman Malaysia.

INTRODUCTION

The new agenda for higher education?

While the practice of law has fundamentally changed at a very rapid pace, it is not clear that legal education restructuring has kept pace with the demands of modern practice. In a setting where external drivers beyond its control have also altered the higher education sector, the UKM Law Faculty has undertaken

a major reexamination of its undergraduate law programs. Oriented to reconceptualise legal education around skills that a student training to be a lawyers need to be able to perform, rather than remaining bound to the traditional focus of textbook law, the Faculty (after its annual Iktizal or faculty self-audit workshop cum family weekend in Malacca) embarked on curriculum renewal centred around the development and implementation of a graduate capability framework, in the year 2001.

The Faculty is committed to providing a package of teaching and learning opportunities that combined substantive content, theoretical and practical knowledge with the development of certain general skills; all of this in a legal context to a basic level of competency for all students, regardless of the diversity of their prior background and experience.

The spirited need for improvement and modernisation sees legal education providers striving to be receptive to student demands about the quality of their teaching and learning environments, flexibility in course delivery and the suitability of their courses as preparation for future employment and career advancement. Government expectations of the sector align with student demands: universities are assumed to have recognised that there is a need to ensure that graduates have the generic skills desired by employers such as analysis, communication, team-work and leadership skills.² The final element in the contemporary mix is that there has also been a significant shift in teaching and learning approaches in higher education in recent times: from “teacher-centred” teaching to “student-centred” and “independent” learning.³ As Coaldrake and Stedman have noted “we understand more about teaching⁴ – Deeper understandings of the nature of student learning, and pressures to reposition the teaching and learning environment around learning outcomes, demand a more professional approach to university teaching. Academics are being asked to meet the needs of more diverse student groups, to teach at more flexible times and locations, to master the use of information technology in teaching, to design curricula around learning outcomes and across disciplines, to teach in teams, to subject their teaching to evaluation and develop and implement improvements, to monitor and respond to the evaluations made by students and graduates, to improve assessment and feedback, to meet employer needs, and to understand and use new theories of student learning.” In other words, The manner in which law students are taught and trained at undergraduate and post-graduate level impacts on the quality of the legal services that are delivered to clients once students qualify as legal practitioners.

The question to be answered is - whether undergraduate programmes at universities at law schools are producing lawyers who are able to meet the needs of the public? Furthermore, have legal educators kept pace with the current demands of 21st century legal practice, changing student expectations

and the new strategy for higher education? This paper will address that issue, using the novelty that has been implemented in the undergraduate law program at the Universiti Kebangsaan Malaysia, as the yardstick for comparison.⁵

A review of legal education by The Steering Committee on the Review of Legal Education and Training in Hong Kong is one such example. In its 2001 Report *Legal Education and Training in Hong Kong*, the Committee stated: “The pace of change in legal practice – in the range of legal services provided, the mode of delivery and the mode of organisational and structure of the law firm units – is dramatic. What is less clear is the necessary adjustment that needs to be made to thinking about legal education, its foci and methods.”⁶

While the UKM Law Faculty had made progress concerning the inculcation of theoretical and critical perspectives, crucially, there were still no blueprint or taxonomy for the development of skills programs within core curriculum. A commissioned further project on learning outcomes and curriculum development in law must be undertaken with the support and cooperation of the Higher Education Department of the Ministry of education and the Malaysian Bar Council. This project must be undertaken to perform a stock take of Malaysian legal education and identify best teaching practice. In addition, it should be able to provide further valuable insight into the contemporary response of law curricula to the changing agenda described above.

UNDERGRADUATE UNIVERSITY LEGAL EDUCATION - QUALITY ASSURANCE FOR THE MAINTAINING OF STANDARDS BY THE MINISTRY OF EDUCATION

Quality Assurance (QA) – Public university (IPTA) quality assurance overview

Quality assurance in public universities is not new to Malaysia. In this arena, the Law Faculty, UKM and most law schools under the IPTA system are strictly bound by the efforts carried out by the Quality Assurance Division, Higher Education Department, Ministry of Education and its code of conduct,⁷ in the realm of total quality management for the purposes of Quality Assurance. Prior to the adoption⁸ of the formal approach universities have been using various measures to ensure the quality of their programmes. The rapid democratisation of education has necessitated the establishment of a more uniform and systematic approach towards Quality Assurance in public universities. This Code of Practice⁹ is designed to achieve the purpose and to promote public confidence that quality in higher education is being maintained.

IPTA quality assurance definition

Quality assurance comprises all those planned and systematic actions (policies, strategies, attitudes, procedures, and activities) necessary to provide adequate confidence that quality is being maintained and enhanced and the products and services meet the specified quality standards. In higher education, Quality assurance is the totality of systems, resources and information devoted to maintaining and improving the quality and standards of teaching, scholarship and research, and of students' learning experience.

Rationale for quality assurance

Universities have traditionally used several mechanisms to ensure the quality of their programmes. Currently, young lecturers and even experienced ones are constantly sent for refresher courses as a part of their new appraisal system, the *Sistem Saraan Malaysia* (SSM). Apart from being a way for evaluating a lecturer, these appraisal-based courses, which are stringently assessed by an agent of the Ministry of Education, also afford means for updating new information on teaching and research methods. These courses provide a valuable insight to lecturers as a forum to discuss present educational and tertiary problems and designs ways that could be a stepping-stone for future solutions to it. Aside from these appraisal based courses, other equally beneficial courses are also offered by UKM under the purview of its Centre for Academic Development, be it a course for assessing how effective a set of questions is in distinguishing how excellent or bad a group of students fare after sitting for an examination, or simply a refresher course to modernise and bring up to date, lecturers on new software and peripherals for enhancing their lecture based programme. The Law Faculty of UKM also conducts yearly teaching and research workshops to enable lecturers to air out current problems associated with their teaching and tutoring at the faculty, and discuss current trends of tertiary education with distinguished speakers invited solely to align the faculty and its lecturers to comply with the university and Ministry of Education's TQM endeavours.

The of external examiners, movement of academics around institutions, involvement of professional associations in the accreditation of awards, national and international peer evaluation for staff appointment and promotions as well as allocation of research grants by competitive assessment have had discernible effect on the exchange of information and the maintenance of high academic standards. However, mechanisms that work in an elite system are no longer sufficient in mass education. Democratisation of higher education has led to a

rapid expansion of the numbers of students and higher educational institutions. There has also been increased internationalisation of the labour-market, international mobility of teachers, researchers, students and competitive educational programmes and thus the need to be able to assess the equivalence of qualifications, standards and credits. It is no surprise that societal concern for quality in higher education has increased. Demands for transparency in public expenditure and the necessity of defining priorities in education in relation to other socially desirable activities have focused the attention of higher education policy-makers on adopting formal methodological approaches to provide guarantees of quality.

The National Accreditation Board was legally established in 1996 to certify minimum standards and accreditation of programmes conducted in private colleges and universities. The Quality Assurance Division (QAD) in the Ministry of Education was established in December 2001 as the national agent responsible for managing and coordinating the Quality assurance system for public universities. Presently the Law Faculty is also strictly bound and subjected to visits from auditors from the board which, besides establishing a good working environment, it also instils the faculty (be it academics or even its support staff) members a high aptitude for excellence and an adeptness to clarity and transparency, in line with one of its missions of the faculty, which is to instil its students with confidence, excellence and discipline in performing their responsibilities.

THE UNDERGRADUATE LEGAL PROGRAMME AT UKM - THE TRANSFORMATION

Generally undergraduate LLB programmes in Commonwealth university law faculties and departments are based on the English model, which traditionally, apart from a few exceptions, focused on substantive law and academic legal education, rather than on training in procedural and practical aspects of the law. Training in the latter was seen as the remit of post-graduate practical training programmes, and, to a decreasing extent, apprenticeship programmes.¹⁰ The structure of the legal professions established in Commonwealth countries during the colonial era tended to mirror that of the English legal profession. Many countries followed the tradition of a divided bar which in most instances persisted until decolonisation. Both the bar and the sidebar required a period of apprenticeship by law graduates before they could be admitted to practice. After decolonisation, however, in many Commonwealth countries the divided bar concept was replaced with fusion, and in Malaysia, the requirement of apprenticeship with compulsory attendance at an apprenticeship with an

established law firm which provided practical legal training as a part of the prerequisite to a legal practicing qualification posed new challenges for legal training.

At UKM, after a period of extensive curriculum review and consultation with staff, students and professional stakeholders, it is concluded that the content-based approach of traditional law curricula does not adequately prepare graduates with the skills necessary to succeed and evolve as reflective practitioners and lifelong learners in 21st century legal practice. The challenge to provide a coherent framework for the teaching of conceptual knowledge embedded with transferable generic and legally specific skills has been taken up by the Faculty of Law with the assistance of its own Total Quality Management (TQM) Committee for the Faculty of Law, which is spearheaded from the university's own TQM Committee. Critical amongst these factors is the University's commitment as a whole to a systematic approach to explicit development of transferable skills, in the sense both of its stated institutional vision to this effect and in its allocation of funding to support curriculum innovation. This "whole of university" ethos has been identified as vital to the success of such wholesale curriculum renewal.

The projects have sought to progress through a "whole of course" approach to curriculum redesign with the development of authentic learning environments supported by the adoption of revised learning objectives, embracing a range of teaching, learning and assessment approaches including, importantly, programmed monitoring and evaluation for continuous quality improvement. The integrationist reforms and online delivery approaches, which the faculty has implemented ensures a seamless transition from the academic to the professional environment for students will now be briefly described.

In the development of the capability framework, it was recognised that the type of teaching, learning and assessment environments experienced by students in their undergraduate degree would impact significantly on the development of their capabilities through their future career. The external drivers for change in the legal and tertiary sectors offered the Faculty the opportunity to effect significant structural and philosophical transformation to core undergraduate law curriculum that may otherwise have been too fundamental to contemplate. Critically, the changing tertiary and professional environment required the Faculty to reflect on the type of graduate practitioner it would desirably produce for 21st century legal practice. This vision was then tested by communicating with students, staff and other stakeholders for feedback and agreement prior to its implementation.

Following an extensive two-year planning period, a new first year LLB curriculum was developed and introduced gradually, beginning with the 2002-2003 session. The foundation of the undergraduate degree is now provided by

four completely new and integrated years of undergraduate education. From the customised base, the faculty progresses to effective “whole of course” approach to curriculum redesign - one which could build incrementally on a stable, tailor-made platform of substantive content, theoretical and practical knowledge and the development of certain embedded generic skills - all in a legal context to a basic level of competency for all students, regardless of the diversity of their prior background.¹¹

The capabilities and skills premeditated

A guaranteed benefit of the new program is that this careful combination of learning objectives also goes a significant way towards addressing various first year transitional issues that frequently impede students’ engagement in their learning process. The notion of taking the diverse student body and developing them all to a basic level of skills acquisition in the first year, on which second level learning can then confidently proceed, is a great strength of the new integrated program. These are prerequisite skills to have before transcending to the next year. In the first year of skills training, students are instructed on both the theory of skills and the application, usually at a general level (for example, generic questioning skills at level one as a precursor to legal interviewing at a higher level). These general level skills are practiced under guidance and feedback on the novice’s performance is provided. Assessment usually includes a critique and/or reflection on the skill as practiced.¹²

As regards to skill acquisition, it should be emphasised that, whilst the vital placement and assessment of substantive content is carefully considered in line with unit, year and course objectives, it is also important to be deliberately cautious about the placement and assessment of the generic skills as a “whole of course” exercise.¹³

The teaching team for each of the first and later year units had assisted in this transformation by identifying particular skills that might be appropriately matched to and practiced in the context of the substantive content of that unit for example: information literacy in legal research and writing, client interviewing in Tort, negotiation in Contracts and advocacy in Criminal Law. In this way, the skills developed vary from unit to unit and from year to year; though the intent is to achieve both horizontal and vertical integration across any curriculum year and across the entire degree respectively. Ultimately the decision was taken to agree on a set of capabilities, to describe satisfactorily a desirable graduate. In reaching that decision, it was agreed that the graduate capabilities chosen should meet the following criteria as allotted in the faculty’s mission statement, some of which include:

- To prepare the students with necessary legal knowledge to become lawyers in civil courts.
- To prepare the students with the necessary Islamic legal knowledge to become syarie lawyers.
- To prepare the students with necessary legal knowledge to become legal administrators.
- To provide the students with a wide range of knowledge.
- To instill the students with confidence, excellence and discipline in performing their responsibilities.

In short, the faculty's main mission is to produce graduates who are trained and capable in all areas of law, including Syariah law. It is also hoped that as a desired result the Law Faculty, UKM, will have the ability to provide for a legal education aligned with the wants industry. The faculty must be able to equip skills to the focus of "*what lawyers need to be able to know to do*" rather than to be bound by the traditional orientation of "*what lawyers need to know,*" severely lacking in its practical side of the profession.

ASSESSING STANDARDS NECESSARY TO CORRESPOND IN ACCORDANCE WITH CURRENT AND FUTURE NEEDS OF THE PROFESSION

The curriculum of law schools including UKM's Law Faculty should endeavour to ensure that students acquire skills appropriate to the practice of law, and strive to inculcate ethical values. To this end it was agreed that in addition to the traditional core courses taught in the four year LLB programme, a number of new skills courses should be introduced. Amongst the skills agreed upon include:

- Analytical skills to understand the relationship between law and society.
- Language skills (including languages to facilitate Syariah law i.e. Arabic and English for Law).
- Communication and writing skills.
- Legal ethics.
- Cultural, race and gender sensitivity.
- Practical management skills and networking.

- Research skills.
- Trial advocacy skills (mooting and attachment programme).
- Information Communication and Technology (ICT) or computer skills.

An important consideration in these recommendations as outlined below, was the recognition of the need for an integrated approach to legal education, rather than the traditional approach, which separated the theory of law from practice. In other words it is not enough to provide students with knowledge about the law without developing their skills to apply such knowledge or inculcating them with the necessary values concerning the practice of law.¹⁴

Language skills

While deliberating on the pre-qualification for studying law, if one asks what the number one priority to look for, the obvious answer would be the “knowledge of language”. This also applies for the success in profession. The reason why language is so important is because language is the vehicle of thoughts.¹⁵ As Lord Denning said “words are the lawyer’s tools of trade. When you are called upon to address a Judge, it is your words which matter most. It is by them that you will hope to persuade the Judge of rightness of your cause. When you have to interpret a section in a Statute or a paragraph in a Regulation, you have to discover the meaning by analysing the words - one by one- to the very last syllable. When you have to draw up a will or a contract, you have to choose your words well. You will have to look into the future and envisage all the contingencies that may come to pass - and then use words to provide for them. On the words you use, your client’s future may depend”.

In addition to one’s own language, a modern citizen uses one international language in his/her daily work. Proficiency in language is a prerequisite for learning law. Besides other qualifications such as grade and graduation, knowledge in both languages ought to be a precondition for the study of law. Before embarking on legal studies basic knowledge in English as well as Bahasa Malaysia, ought to be given the highest priority. Knowledge in English should be the prerequisite for admission and continuous advancement at a Law Faculty. To this end the Law Faculty at UKM, not only augmented the LLB programme with English for Law which centers around amongst others, public speaking, but also Arabic for law. These courses are taught in the first two years of the LLB course at UKM.

The ability to recognise and solve ethical dilemmas

The ethical rules of the legal profession should be designed to protect the public from unscrupulous lawyers and to ensure that legal practitioners conduct themselves appropriately. Ethics need to be inculcated into students from day one of their legal studies at university. If law faculties are to assist in the production of ethical lawyers they should integrate legal ethics across their curriculum.¹⁶ Ethics is an inherent part of legal practice. It cannot be assumed that the law or professional rules necessarily replicate what would amount to the personal values all lawyers would espouse in their personal life. One of the strengths of the profession (and of legal education generally) is its willingness to foster in lawyers (and students) a need to challenge established processes of thought. Given that legal education (in the broad sense, not limited to university education) engenders such an attitude, it cannot be expected that lawyers will exhibit a uniform approach to values.¹⁷

There will be occasions where the law or professional rules may dictate an outcome that conflicts with a lawyer's own personal values. The fundamental notion of partisanship in the adversary system is capable of generating obvious conflicts in this regard, because what the law or professional rules mandate so far as client loyalty is concerned may conflict with what an individual lawyer considers to be 'right' in the circumstances.¹⁸ In such circumstances, a lawyer must be professional and put their client's interest first.

Much of what is termed 'legal ethics' or 'professional responsibility' is little more than what the Americans call 'the law of lawyering'. In fact, one of the criticisms of much of university and legal practice course education in professional responsibility is that it represents little more than a recitation of legal (and professional) rules, taught in a manner akin to any other law subject.¹⁹ Yet in some ways ethics instruction cannot but focus on legal and professional duties and prohibitions, for these are, after all, the nubs of what legislators, judges and professional associations have determined as the parameters and hallmarks of appropriate conduct by a person conducting the practice of law.²⁰ At UKM, coded as UK 4243, Legal Ethics is taught in both semester of the 4th year LLB, as a core paper.

Trial advocacy skills (Mooting and attachment programme)

In terms of how the law curriculum is changing there is clearly a greater focus on skills development in law schools. This is arguably more important to modern legal education than a primary focus on substantive law. This is not to say that

legal principles are not a focus. As a consequence, currently the law school skills emphasis are primarily on analytical, reasoning and written communication skills, as well as oral skills development, as seen at UKM with the boosting of seminar and tutorial based delivery, rather than merely lecture style delivery.

Increasingly, there is a movement towards the imbedding of a range of skills in the curriculum so that students can learn broadly and deeply about the core principles. An example of imbedded skills development occurs in the mooted and attachment programme coded UK 4001. At UKM, faculty's 'live client' attachment programs, usually emphasising on the practicing community's involvement in training a future lawyer, have been widely used to complement classroom instruction on substantive law, giving them a practical insight of mooted in practise and to provide students with an appreciation of the nature of law as it is actually practiced - including the social element and the ethical dilemmas which may arise.

*Responding to the impact of globalisation -
An evolving curriculum²¹*

The 21st Century legal practitioners cannot escape the wave of globalisation sweeping the world and law schools in developing countries need to equip their law graduates to deal with this. This means that apart from exposure to traditional core courses law students in Malaysia need to be prepared to engage with relevant aspects (it is intended to deal with each of these in turn) of:

- ICT.
- Intellectual property.
- Human rights.
- Medical law - HIV/AIDS.
- The environment and sustainable development.
- International trade and investment.
- Women's and children's rights.
- Alternative dispute resolution (ADR).

ICT and the law

Information technology and its impact on legal practice are becoming increasingly relevant and important. It cannot be denied that, even in the 21st Century there are still a small section in our community where due to poverty, have not had the benefit of reaping from the long arms of ICT and the Internet

age. However, a country with a reasonably sophisticated infrastructure, more and more of our people are not only exposed but work everyday in the area of ICT and trade with the outside world on a regular basis. The Internet is one of the basic tools of commerce and communication.²² Information technology and Internet law demand a new understanding by law teachers, legal practitioners and law students in the fields of contract and tort. In contract, questions arise as to where and when the contracts were entered into, e.g. where was the offer made and when did the acceptance take place? Issues of tort involve such questions as: Are employees entitled to privacy concerning their e-mails during business hours? Is an employer vicariously liable for publishing defamatory e-mails circulated by employees on their local area network? Not only should law students know how to use the Internet, but they also need to have sufficient understanding of the impact of information technology on the law so as to be able to advise clients on such issues.²³ In line with the need for understanding ICT and its impact on current and future legal implication, Information Technology and Law,²⁴ with it's unit coded as UK 1011 is offered and taught in the first year for UKM's Law Faculty LLB programme.

Intellectual property law

Intellectual property law in the 21st Century requires aspiring lawyers, particularly in developing countries, to be vigilant against exploitation of intellectual property interests by developed countries. This is especially true in respect of the Geographical Indications Act 2000. For instance, the patenting of Indian basmati rice by American firms illustrates just how easily developing countries can lose their intellectual property rights to entrepreneurs in the developed world. Another example is where 'rooibos tea', which is the generic name for an indigenous tea that has been known under that name for about 300 years in South Africa, was recently registered as a brand name in the United States, so that South African exporters would have to pay a royalty to the American holders of the brand name. A related issue is that of 'cybersquatting' where the names of famous people or places in a country are used as domain names on the internet and people, cities or governments have to pay exorbitant amounts to use their own names.²⁵ Law students in Malaysia need to be trained to protect the intellectual property interests of their compatriots and countries against exploitation from abroad. In view of these current trends in this arena, UK 4543 - Law of Intellectual Property is offered as an optional course, both at the undergraduate and postgraduate level at UKM.

Human rights law

A positive development of globalisation has been the spread of human rights and democracy across the world since the end of the Cold War.²⁶ However these gains received a major setback after 11 September 2001 when some areas of human rights protection came under attack during the 'war on terrorism' resulting in draconian anti-terrorism legislation in many countries, including some in developed countries who were the main proponents against these type of legislation. This has led to a reversal of the human rights gains in many countries - both developed and developing. Aspiring lawyers need to be aware of these threats and equipped to devise appropriate responses. This is particularly true of developing countries that are still in transition from trying to erase the effects of for example, past army dictatorship or apartheid. Every effort must be made to ensure that the human rights gains of the past are not reversed under the guise of defeating terrorism.²⁷ Future lawyers in Malaysia also need to be trained, in how to use our countries' constitutions to litigate on human rights issues to curb insignificant use of this important mechanism, particularly to invalidate unconstitutional legislative or administrative acts. There is an urgent need to train a new breed of Malaysian lawyers in the 21st Century who will be prepared to hold the executive and legislature accountable when they violate human rights by breaching the provisions of the constitution. In coinciding with this aim, Human Right is taught as one of the five main topics contained in UK 3023 Public International Law II, which must be compulsorily taken by a third year LLB student at UKM.

Environmental law

Environmental degradation in developing countries has resulted in major damage to natural forests and the dangers of water shortages and floods. Pollution, hazardous mining operations and the dumping of toxic waste by developed countries have also caused environmental harm and health hazards to people in developing countries.²⁸ Aspiring lawyers in Malaysia need to be trained to deal with similar threats to the environment at the home front. In concurrence with this aspiration, Environmental Law, coded UK 4513 is offered as an optional course.

Law of international trade

A major impact of globalisation has been the need for countries to open up their economies to international trade and investment. In order to promote international trade developing countries, particularly in ASEAN, have been required to drastically reduce their import tariffs and to privatise their state assets. This trend will continue into the 21st Century. The result of these structural adjustment exercises has been the closing down of many previously protected local industries and massive job losses due to mergers and acquisition.²⁹ For instance, it is essential that during such negotiations Malaysian trade lawyers remain vigilant to ensure that their countries are fully aware of the possible consequences. Aspiring Malaysian lawyers need to be trained to advise their governments and private sector on the intricacies of trade agreement contracts and the pitfalls of privatisation. Coded as UK 4653, Law of International Trade is at present, an optional paper offered at undergraduate level at UKM.

Women's and children's rights

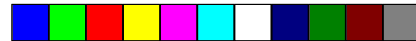
Women's rights have been in the limelight since the Beijing Conference, but issues of women's reproductive rights, domestic violence, certain cultural and religious practices, and sexual exploitation are likely to remain major obstacles to the emancipation of women and the girl-child during the 21st Century.³⁰ There is increasing recognition around the world of the need to protect and promote the human rights of women and children. This has resulted in the adoption of a number of international and regional documents by the international community and in Malaysia.³¹ Malaysian lawyers need to be aware of which international and regional agreements their countries have adopted, and should be prepared to assist in ensuring that the rights of local women and children are respected. Apart from the perennial issues of discrimination against women and sexual exploitation of women and children, illegal child labour issues also recurrent, continuing to be inherited from previous 20th century. At present, Child Law is taught at a postgraduate level at UKM's law faculty but efforts are underway, with the assistance of necessary funding to have the subject and Women Rights imbedded in the undergraduate programme. Law undergraduates however have an overview of both, as both topics are enshrined within the ambit of Human Rights taught to third year students in Public International Law II.

Alternative dispute resolution (ADR)

World-wide, the escalating costs of litigation have made it increasingly difficult for anyone apart from the wealthy to afford the services of lawyers. This is also true of the legal profession in many developing countries where alternative dispute resolution was often the usual method of settling disputes before colonisation and the introduction of lawyers as service providers. During the last quarter of the 20th Century the use of alternative dispute resolution expanded as a response to the length and cost of litigation in the developed world.³² The trend has spread to Malaysia where several law schools are teaching alternative dispute resolution as a course for aspiring lawyers. This trend is likely to continue into the 21st Century. Currently, ADR is taught as a part of Law of International Trade, offered as part of one of the optional courses, coded as UK 4653.

PROPOSAL FOR FURTHER REFORM -
THE QUEENSLAND UNIVERSITY OF TECHNOLOGY MODEL

Identified below is the model that UKM's Law faculty may emulate in order to further improve undergraduate education. The identified lists³³ of generic and legally specific skills for incorporation within the course were categorized broadly as attitudinal, cognitive, communication and relational skills. The table below sets out the skills identified by categories. It is these skills that have been integrated within the content of the core undergraduate LLB units and then incrementally developed through the degree in three broad levels of skills progression, generally from generic practice through the discipline specific application to the more complex and creative utilisation.



A simple example of the interrelationship as between capabilities and skills can be seen in the instance of the capability, “Ethical Attitude”. This capability encompasses (at least) the skills of “ethical orientation” (an Attitudinal Skill) and “discipline and ethical knowledge” (a Cognitive Skill). Each of these skills has application both generically (eg, truth, accuracy, honesty, accountability and ethical behaviour) and in a discipline specific context (eg, knowledge and understanding of ethical standards and their enforcement). But the identification of capabilities and their deconstruction into skills is no particular advance *per se*. To assist in the development and assessment of the various skills, each of the identified skills has been further deconstructed in the following order of detail:

- The broad *skill category* - from the four categories set out above.
- The *specific skills* within those categories - from the more detailed shaded table above.
- The *course objectives*: that is, the level of competency expected of a graduate by the end of his/her course regarding the specific skill.



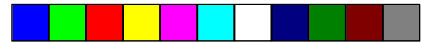
- The *demonstrated abilities* of the graduate for each of the skills: that is, a statement that to meet the (final) course objectives for the specific skill, the graduate will have demonstrated certain abilities.

CONCLUSION

While Malaysian lawyers during the 21st Century acquire the necessary knowledge, skills and values to provide legal services within the context of their own domestic legal system, with the influence of globalization, they have to be prepared to provide legal advice and services to clients who are citizens of the global village, in order to continue to be relevant. They also need to be trained to protect the interests of their countries against some of the marauding practices of global capitalism. Unless Malaysian lawyers are able to deal competently with such issues there is the danger that their countries will be subjected to a new era of exploitation and marginalisation. In order to achieve these aims, there must be a high maintenance of standards of undergraduate education in law, a university education which would be able to inculcate the skills necessary to utilise relevant knowledge in an ever-changing global workplace. This is also what employers and graduates now demand.

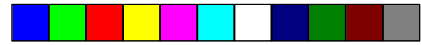
In the past, it was clearly seen that a lack of practical training in lawyering skills resulted in the need for a transformation of UKM's Legal Education in order to maintain a high standard and to continue to be relevant in the future. It was gathered that before the current insurrection, basic skills needed in practice such as drafting, negotiating, counseling and interviewing are non-existent in the present legal education system, or the laws relating to business and financial institutions, insurance, shipping, intellectual property, environmental, international economic law, industrial and trade development planning laws. As was seen before, Human Rights, Information, Communication and Technology (ICT) law, hardly find their place in the syllabus.

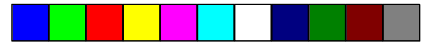
At present however, integration of skills training into core curriculum that recognises the necessity to reinvent legal education to ensure that our graduates can do what modern legal practice demands of them.

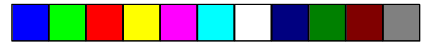


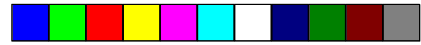
APPENDIX 1







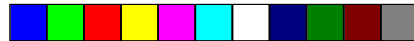




REFERENCES

- ¹ Current member of UKM's Law Faculty TQM Committee and lecturer of Undergraduate's Public International Law and Postgraduate's Law of International Trade-Advanced.
- ² Quality Assurance In Public Universities of Malaysia-Code of Practice May 2002, Quality Assurance Division, Higher Education Department, Ministry of Education.
- ³ Kift Sally, *Developing the Law Curriculum to Meet the Needs of the 21st Century Legal Practitioner*, paper presented at the 13th Commonwealth Law Conference 2003.
- ⁴ P Coaldrake and L Stedman, *Academic Work in the Twenty-first Century Changing Roles and Policies*, DEST Occasional Paper Series 99-H, 1999, available at <http://www.dest.gov.au/highered/occpaper.htm> (accessed Feb, 2003), at 13.
- ⁵ For a full view of courses offered at the Law faculty, UKM see appendix 1.
- ⁶ The Steering Committee on the Review of Legal Education and Training in Hong Kong, *Legal Education and Training in Hong Kong: Preliminary Review*, Report of the Consultants, August 2001, (the "Hong Kong Report") available at <http://www.hklawsoc.org.hk> (accessed Nov 2003).
- ⁷ See endnote 2.
- ⁸ Prior to the approach taken, there existed no national taxonomy on Quality Assurance and thus each university resorted to its own individual route to a rationalized Quality Assurance, which is not nationally streamlined.
- ⁹ See endnote 2.
- ¹⁰ Professor David McQuoid-Mason and Professor James Scott Wylie, *Can't get No Satisfaction: The Law and its Customers: Are Universities and Law Schools Producing Lawyers Qualified to Satisfy the Needs of the Public?* Paper presented at the 13th Commonwealth Law Conference 2003.
- ¹¹ Kift Sally, *Developing the Law Curriculum to Meet the Needs of the 21st Century Legal Practitioner*, paper presented at the 13th Commonwealth Law Conference 2003.
- ¹² See *ibid* at footnote 10¹⁴ This approach is set out in American Bar Association Section of Legal Education and Admissions to the Bar *Legal Education and Professional Development - An Educational Continuum: Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (The MacCrate Report)* (1992).
- ¹³ Sourdin Tania, *Developing the Law Curriculum to meet the needs of the 21st. Century Legal Practitioner*. Paper presented at the 13th Commonwealth Law Conference 2003.

- ¹⁵ M. Amir-UI Islam, *In Search for a Need and Justice Orientated Legal Education*, paper presented at the 13th Commonwealth Law Conference 2003.
- ¹⁶ Cf CJ Menkel-Meadow 'Can a Law Teacher Avoid Teaching Ethics?' (1991) 41 *Journal of Legal Education* 3-10.
- ¹⁷ In this context see the responses to the values survey conducted at Monash University: Adrian Evans, 'Lawyers' Perceptions of Their Values: An Empirical Assessment of Monash University Graduates in Law, 1980-1998' (2001) 12 *Legal Education Review* 209 In this context see the responses to the values survey conducted at Monash University: Adrian Evans, 'Lawyers' Perceptions of Their Values: An Empirical Assessment of Monash University Graduates in Law, 1980-1998' (2001) 12 *Legal Education Review* 209.
- ¹⁸ See Gino Dal Pont, 'Ethical Instruction in Legal Practice Courses: Getting the Right Answers by Asking the Right Questions', Paper presented to the Australian Professional Legal Education Council 2002 Conference, Melbourne, 10 November 2002.
- ¹⁹ See, for example, Charles Wolfram, *Modern Legal Ethics* (1986) 68 ('Most of what is called "legal ethics" is really discourse on the law of professional regulation or self-congratulatory encomiums on professional solidarity and tradition'); Thomas Shaffer, 'The Legal Ethics of Radical Individualism' (1987) 65 *Texas Law Review* 963, 963 ('Most of what American lawyers and law teachers call legal ethics is not ethics. Most of what is called legal ethics is similar to rules made by administrative agencies. It is regulatory. Its appeal is not to conscience, but to sanction').
- ²⁰ See Gino Dal Pont, 'Ethical Issues Confronting Lawyers-what should I do when ...?', Paper presented to the 13th Commonwealth Law 2003 Conference 2003.
- ²¹ Professor David McQuoid-Mason and Professor James Scott Wylie, *Developing the Law Curriculum to Meet the Needs of the 21st Century Legal Practitioner: A South African Perspective* Paper presented at the 13th Commonwealth Law Conference 2003.
- ²² Economics Planning Unit, Prime Minister's Department: Quality of Life 2002.
- ²³ See *ibid* at endnote 21.
- ²⁴ See Appendix I, phase 1000 (Year 1) of the courses offered, taught by the Law Faculty's webmaster.
- ²⁵ See *ibid* at endnote 21.
- ²⁶ *Human Rights in Development Yearbook 1999/2000: The Millennium Edition* (2001) 56-57.
- ²⁷ See *ibid* at endnote 21.



²⁸ See *ibid* at endnote 21.

²⁹ See *ibid* at endnote 21.

³⁰ See *ibid* at endnote 21.

³¹ Children Act 2001.

³² See *ibid* at endnote 21.

³³ For further clarification see Kift Sally, *Developing the Law Curriculum to Meet the Needs of the 21st Century Legal Practitioner*, paper presented at the 13th Commonwealth Law Conference 2003.

Fakulti Undang-Undang
Universiti Kebangsaan Malaysia



