Teaching the Law: Can you kill two birds with one stone? Using and Contributing to Pedagogical Literature

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Legal Education Review v.

- *The Law Teacher* published by the UK Association of Law Teachers
- *Australia and New Zealand Journal of Law and Education* (ANZ Education Law Association)
- JALTA
- CLEAR Canadian Legal Education Annual Review
- Conferences HERDSA, ATN, ASCILITE
Washington and Lee
http://lawlib.wlu.edu/LJ/index.aspx

- Boston University Public Interest Law Journal
- Brigham Young University Education and Law Journal
- Clinical Law Review
- Education & Law Journal (Canada)
- Education and the Law (United Kingdom)
- International Journal of Clinical Legal Education (2000-) (United Kingdom)
- The Journal of College and University Law
- Journal of Commonwealth Law and Legal Education (2001-) (United Kingdom)
- Journal of Law & Education
- Journal of Legal Education
- The Journal of Legal Studies Education
- The Thomas M. Cooley Journal of Practical and Clinical Law
Brainstorming

- Who?
- What?
- How?
- Where?
- When?
- Why?
Brainstorming

- Technical Issues
  - Suitable Units
  - Cost Issues
  - Evaluation Methodology
  - Ethics clearance
- Comparative jurisdiction
- Risk management issues
- Australian Jurisdictions

- Which classes of Students
  - Units
  - Numbers of students
Brainstorm your idea

- Define your topic
- Work out what it is you want to achieve - objectives
- Set your timeframes
- Do you have a budget?
- Do you need to tap into other teaching team members’ expertise?
- What is your main argument / hypothesis?
- Write a Proposal
POINT ONE

- Make sure you develop your idea in the context of a full literature review
Some of the questions the review of the literature can answer

Source: The Learning Centre UNSW http://www.lc.unsw.edu.au
Literature Review including

- What is ‘x’? (Definitions)
- How we use x more generally in the course (LLB)
- How we use/ view x at the university generally (Uni of Adelaide)
- Origins/history/context?
Literature Review including

• What has been said about ‘x’ in the general education literature? What has been said about ‘x’ in the legal education literature?

• What hasn’t been covered in the literature on this topic? Where are the gaps in the literature? How does what I have done ‘fit’ or relate to the literature?
The Literature Review

- Is more than simply describing what others have said – that’s only the starting point
- It requires you to categorise the literature
- To identify underlying assumptions
- To critique those assumptions
- To line up what has been said and tried previously against what you have done or your argument / hypothesis being put forward
Foundations
Including
Literature
Review
inadequate or missing
…

How I use new teaching technique eg role play, music or video-conferencing in LWB101
There are different Writing Genres in the Legal Education Literature …

- **Practice articles** differ from General articles in that:
  
  They usually focus on a particular teaching experience
Practice Article Guidelines

A practice article, based on particular teaching experience, should encompass the following:

- Description of the **previous teaching method**, if applicable;
- Discussion of **assumptions behind**, and reasons for, moving to or attempting new activity, with **reference to relevant literature on legal education**;
- Detailed **description of the teaching project** / new teaching activity undertaken or being undertaken, including aims or objectives, and method of assessment if applicable;
Practice Article Guidelines

- **Discussion** of issues arising in the planning of the new activity or in its implementation or impact;

- Description of **objective evaluation** of that activity which was undertaken;

- **Analysis of that evaluation, with comparison to any existing literature**;

- Discussion of **implications** of your experience for other legal academics in similar situation;
Practice articles are similar to General articles in that:

- They should be well written and include headings;
- They should be accurate;
- They should contain reference to relevant literature on legal education;
- They should evidence thorough research of literature on the same angle, but not necessarily of the same general topic;
- They should be scholarly in the objectives, tone, reference and approach generally.
What else is missing???
The Evaluation of the Innovation

eg -

- Survey (and remember University Ethics Approval required if results being published)
- Focus group
- Testimonials
- Outcomes – eg better student results
- Impact
General Article Guidelines

- **General articles** should be a comprehensive analysis and evaluation of a scholarly topic of legal education.
- Starting with the literature review
General Article

• What is ‘x’? Origins/history/context? What has been said about ‘x’ in the general education literature? What has been said about ‘x’ in the legal education literature? What hasn’t been covered? Where are the gaps in the literature?

• What is your main argument / hypothesis?

• Case study or example within this broader framework

• Conclusion judged within larger literature context
POINT TWO

Research Methodologies

William Twining made the point that ‘in my experience most lawyers are innumerate and most law students are terrified of figures’. He noted that Oliver Wendell Holmes had argued a century ago that lawyers need to master economics and statistics. However, his predictions that ‘Holmes’ dictum will be incorporated in standard conceptions of competence by the year 2000’ has not eventuated. W. Twining, “Preparing Lawyers for the 21st Century” (1992) 3 Legal Education Review 1, 14.

SO

Many legal academics are still nervous about using statistics and empirical research.
Choose your Methodologies carefully

- Electronic database research
- Evaluation
- Testimonials
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<th>Method</th>
<th>Time period</th>
<th>Intensive / Extensive</th>
<th>Intrusive</th>
<th>Theory Flexibility</th>
<th>Quantifiability</th>
<th>Cross-Cultural Applicability</th>
<th>Replicability</th>
<th>Thin / Thick Explication</th>
<th>Causality</th>
<th>Threat to Researcher</th>
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<td>Modestly intrusive</td>
<td>Inflexible</td>
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<tr>
<td>Social survey (longitudinal)</td>
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<td>Fairly intrusive</td>
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<tr>
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<td>Possible but with problems</td>
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<td>Very thin</td>
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POINT THREE

- Be your own Referee!
Who are you writing for?

- Editorial Committee?
- Two expert referees perhaps one of whom might be on the Advisory Board?
- Your peers? Your colleagues?
- Your Head of School? Dean?
- Yourself?
Example of Editorial Process

- Editorial C’ttee as a group decide whether article should go to Referees - and also if it is a full article or a Teaching Note
- Once submission has been accepted to go to Referees, the Commissioning Editor (CE) organises two referees
- The referees receive a Referee Form and are asked to respond within 2-3 weeks normally
- CE writes to author enclosing referees comments and explaining any changes that are to be made; author required to use AGLC style guide.
- Author re-submits using Track Changes
- The CE needs to assess whether the authors have addressed the referee comments
- Proofing (may be further queries to author at this stage)
- Typesetting

NOTE: LER will not accept an article if it has been submitted elsewhere
Referee’s Criteria (rating 0-5)

- Significance of subject
- Adds to existing knowledge
- Argument well developed
- Evidence related and compelling
- Suitability of methodology
- Organisation/Structure
- Clarity of expression
- Currency of Material
- Topicality
"No, go ahead and critique my mss. I'm always ok ... after the initial reaction."
Example of Referee’s Critiques

- Inadequate literature review – particularly of legal education (and wider tertiary education) literature
- Little in the article that reflected anything that has not already been (some would say copiously) addressed in existing literature – authors need to add to the literature
- Simple recitation of others’ views - descriptive
- No use of empirical evidence to support arguments
- Too parochial – through drawing only from one law school’s experience or by not explaining terminology and context for the international readership
Referee’s Critiques

- Inadequate methodology eg 20 tables reporting a survey with 6 respondents …
- ‘methodology arguably has faults and the analysis of the results is poor…the sample is not terribly conclusive of the suggested outcomes’
- ‘I got to the end of this paper and said to myself “So what”. It just did not tell me anything I already did not know..’
- Needs ‘more thorough analysis of the results for this study to be of any value’
- Inadequate headings and many grammar and other errors
What is expected from the Referee (and from the author…?)

- More than a one-liner …
- More than picking up the typos..
- The longest referees’ comments I’ve received are from the referees who have accepted the papers – this demonstrates acutely the extent of academic generosity inherent in this process.
- What editors do expect is that authors will use the referees’ comments – very incensed where the referees write 3 pages of comments and the authors change one sentence and re-submit!
10 STEPS to PUBLISHING in LEGAL EDUCATION

- Any research needs to begin with a literature review. This is true of legal education too. Ground your teaching in what has been done before. And this does not mean simply listing material in the footnotes. You need to integrate the literature into your reflections and analysis.
- Critique and reflect on the literature, don’t just describe it.
- Look at general education theory, not just legal education articles.
- Look at previous issues of journal and use those articles as examples and in your literature review.
10 STEPS to PUBLISHING in LEGAL EDUCATION

- Consider the editorial culture of the journal. LER is Tier One in the Education List and Tier Three in Law. What does this mean? How is rating judged? (Rejection rates among other things.)
- Cite pedantically and use spot references
- Use peer reviewers before submitting
- Edit in layers ie read footnotes, read for substance, read for grammar etc
- Sit on it for a week before sending it off
- Use the referees’ comments fully and take advantage of the expertise provided
“Thinking outside of the box is difficult for some people. Keep trying.”
Be original!
Try something new!
Or do something differently!
Tell others about it!
Reflect on your teaching!
An Abstract to Develop

- AGLC Compliance: Why can’t students do it?

Almost every Australian law course requires adherence to the rules set forth in the *Australian Guide to Legal Citation*. Yet the correct use of the rules in the reference guide is often not taught. Whilst the rules may appear relatively simple concepts that can be “looked up”, poor adherence to the AGLC indicates that law schools are not doing enough to either teach the importance of compliance with the AGLC or how to comply with it. This study will evaluate a number of methodologies for teaching AGLC compliance. It will consider three teaching methods: electronic, using online quizzes as hurdle requirements prior to written assessment falling due; more traditional seminar style teaching and peer learning, using peer marked quizzes which require students to use the AGLC in answering the questions and again in marking them. Each method will be evaluated in a number of ways; first, through bookend quizzes, that is testing the students’ compliance pre and post the course; second, through an evaluation of compliance in the written assessment in the course; and finally, with student evaluation, through SELTs.