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Frank Iacobucci\*

Recent Developments in  
Legal Education at the  
University of Toronto\*\*

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*Introduction*

As has been the case in other Canadian law schools, the period of the 1970's and early 1980's has seen a number of significant changes in legal education at the Faculty of Law at the University of Toronto. These changes reflect several underlying themes. The first is that the Law School should remain committed to its strengths in the common law and traditional legal subjects. The second is that we in law schools have much to gain from other disciplines in the teaching and studying of law especially in times when new areas of law, particularly those spawned by technological change, are rapidly emerging. And the third is that the curriculum should attempt to incorporate courses and programmes that reflect more of an emphasis on lawyers' skills such as research and writing, problem solving, and advocacy. Although these themes can conflict, I believe they have been effectively integrated into the curriculum by the changes that have been made at the University of Toronto. This comment will briefly examine some of the major changes that have occurred which illustrate these themes.

The changes to be discussed will include alterations in the first year programme as well as curriculum changes in the second and third year that have provided interdisciplinary and perspective courses which in turn have encouraged breadth and depth in research. These reforms have aided in expanding the scope of legal education and research in the law school while strengthening traditional subjects. Finally, a new proposed programme at the graduate level, a Masters of Studies in Law, designed to facilitate links with other disciplines, will be briefly reviewed.

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### *First Year*

Because of the importance of legal knowledge, analysis and reasoning and an introduction to lawyering skills, first year in most law schools has emphasized the traditional common law subjects. The University of Toronto Law School has not altered that pattern although it has made some changes that have had a beneficial effect on the first year curriculum.

In 1972-73, the Faculty introduced the small group programme by which each first year student is assigned to one of his or her first year courses in a small group of 15-20 students. In each group, instruction is given in the techniques of legal writing and research as well as in the substantive law of the course. The legal writing component is based on the substantive law of the subject area of the course. Evaluation for the course is based substantially on the legal writing exercises along with an examination. Thus legal writing and research has been integrated with a substantive law subject.

The small group programme has been very successful. Instruction in a small group of both legal writing and research and substantive law has strengthened legal skills, knowledge and analysis because of a very favourable student-teacher ratio. The informality of the small group has provided a significant pedagogical variety to our first year offerings. The small group enables students from differing academic backgrounds to use the knowledge and experience of those backgrounds within a legal framework. A further consequence has been the spirit that is engendered by having a small group of students who are able to know each other very well. This also helps to foster the development of legal analysis and the understanding of traditional legal values and methods. In fact, it is quite common for small group members to form study groups that have continued in senior years. In addition, the intimacy of the small group instruction has done much to break down the impersonal nature of law school and thereby has greatly improved the atmosphere for students fresh to a new subject and institution. On the Faculty's side, it has provided an opportunity for members to know a small number of students well and that knowledge has been useful in helping students deal with problems and in encouraging the interest of students in particular areas of legal scholarship throughout their careers in law school and beyond.

The Faculty has further strengthened and broadened the teaching of common law subjects and traditional legal approaches with the introduction of a course in public law. This course has undergone a number of changes and developments that reflect the difficulty of

successfully providing such a course in first year. In 1970-71, the course was entitled, "Introduction to the Legislative and Administrative Process". The course was taught over both terms, two hours per week. In 1973-74, the course was called "Development of Canadian Law and Legal Institutions" and met for three hours per week in the second term. In 1975-76, the course was reconstituted as "An Introduction to Statutes and Administrative Law" and was taught for the 1975-76 and 1976-77 academic years. It was not taught in 1977-78 and 1978-79. In 1979-80, the course was called "Introduction to Legal Institutions and Legal Reasoning", and finally in 1980-81, the course was called "Public Law".

In its present form, the course is an attempt to analyse the legislative and administrative processes including the constitutional framework within which these processes exist. Particular attention is given to statutes and subordinate legislation and a general introduction to administrative law. Also studied are government agencies, courts, and specific areas of law relating to government tort liability and freedom of information. It has been taught by a team of colleagues who have been able to contribute special expertise to the various topics that form the course. Throughout the changes in the course there has been a concern to maintain the integrity of basic common law subjects of first year and to balance them with the wider perspective on law and legal institutions that this course provides. There has not, however, been any attempt to bring any interdisciplinary focus to the course. It has, therefore, resulted in more of a broadening of the traditional legal perspective by focusing on differing aspects of law and legal institutions than would otherwise be found in first year and it has resulted, we believe, in the strengthening of the traditional approach to legal education.

Another change, but of an extra-curricular nature, is the Practitioners' Programme which was also initiated in the 70's for first year students. Under this Programme, linked with the course in Civil Procedure, first year students are assigned to practising lawyers who arrange meetings with the students to discuss current cases or matters their offices have handled. The Programme thereby provides an opportunity for first year students to be exposed to practical considerations that can provide a helpful illumination of subjects that they study in the academic setting of the Law School. No academic credit is given for student participation in the Programme.

It is important to note that the Public Law course and the small group programme have had an important catalytic effect on the first year curriculum. The Practitioners' Programme has also added a

further dimension to the formal courses. The small group programme provides more time for discussion of legal issues and the Public Law course has helped provide additional bases for that discussion. Together, therefore, they have strengthened our first year programme and this impact has spilled over into the other first year courses as well.

### *Second and Third Year*

While first year reforms have resulted in improvements in the teaching of basic legal subjects, curricular changes in second and third year have focused more on expanding the scope of legal education. Changes were implemented, as in other law schools, that have resulted in the courses in the second and third year becoming optional. In the 1969-70 academic year, second year students had to take approximately half of their academic course load in required courses. In third year, students had to take two required courses and took the rest of their hours from 18 optional subjects. It was in 1970-71 that our second year students were allowed to choose from some 19 courses which were open to them. Third year students could take any course not already taken, of which there were an additional 35 courses from which to choose. In 1975-76, second and third year students were able to choose from the same group of courses. Also, the number of courses that were available increased quite dramatically over the last decade reflecting the growth in many legal subjects and the emergence of new ones. A fully optional system in second and third year was thus put in place.

In spite of these changes, however, the traditional focus of legal education has remained important. The vast majority of students take most of the so-called core or professionally oriented courses. But the movement to a fully optional system in second and third year has had a profound effect on the development of the Law School's curriculum. It has facilitated the development of interdisciplinary courses and research to complement and build upon traditional legal research and scholarship. It has, as well, provided an opportunity to broaden the focus of traditional legal studies. As a result, courses in: law and economics; public policy formation; international trade; legal history; legal institutions and processes in planning; law, ethics and social policy; and medical jurisprudence, all of which are interdisciplinary in nature, are now offered.

This development of broadening the scope of legal education can be seen most clearly in a number of discrete subject areas—law and

economics, social welfare law, business law, and clinical legal education and related courses.

In the mid-seventies, the Law and Economics Programme was first funded by the University's Connaught Fund. It began in 1976 with two courses: one entitled, "Applications of Economic Principles to Law", the other, "Economics for Non-Economists". This programme now offers students special study and research opportunities in a broad range of subject areas having a significant law and economics interface. It is taught by faculty from the Law School, the Department of Political Economy, and the Faculty of Management Studies. Students can take subjects which include competition policy, public utility and related regulation, economic analysis of traditional legal doctrines, communications regulation, environmental control, personal income security, tax policy, land use planning and international trade regulation. The preliminary course in basic economics mentioned above is still available to students without a background in economics.

The course offerings in Law and Economics have been further supported by a Law and Economics workshop series which has stimulated research and writing in law and economics, not only at the University of Toronto but also at numerous universities in North America and in the United Kingdom. On a regular basis scholars present papers to both our faculty and students for discussion and criticism. Another important dimension to the Programme has been the number of distinguished visiting professors to the Law School who have taught and engaged in their research as part of the overall activities of the Programme. In short, the Programme has been successful as an interdisciplinary venture as well as a model for blending research and teaching initiatives to the benefit of both students and faculty.

The move to expand the interdisciplinary approach to law has not remained solely with economics. In 1976 as well, the Connaught Fund also funded a programme in Family Law and Social Welfare for two years in order to encourage research and study in this area. Once again, the focus was interdisciplinary and seminars and workshops were held on the Child and the Courts, Social Welfare as a Planning Objective and New Developments in Family Law. During 1982, building on this base, a series of workshops in Family Law and Social Policy were held, bringing together leading academics, judges, practitioners and social workers. For the past several years a series of workshops on *Legal Theory* that emphasized topics involving jurisprudence and legal philosophy have been held and they have also

attracted contributions from leading scholars from Canada and abroad.

Another extremely important development in legal education has been the "Business Planning Cluster" which was introduced in 1974-75. Building on the strong base of the Law School in the business law area, this course was introduced to provide an opportunity for a thorough study of the operation of the legal process as it functions in the business area. The course also reflects the increased emphasis on lawyers' skills that was mentioned at the outset of this commentary as the third theme of curriculum changes that have been made. The goals of the course include the following: placing legal problems in the broader perspective of business problems generally in addition to developing substantive legal knowledge; integrating various law school courses by focusing on legal problems that cut across various areas of business law; and developing skills such as fact and problem analysis, effective communication, negotiation and advocacy. The course has also enabled students to develop a realistic understanding of the operation of certain legal institutions and the ethical and policy issues that arise in the business law area.

Although the primary focus of the course is not clearly on interdisciplinary work as such, it is on broadening the perspective of the students by exposing them to accounting, economic policy and other issues, and in this respect outside professionals - underwriters, venture-capitalists, evaluators, accountants, economists and representatives of regulatory agencies are brought into the classroom to discuss specific problems. The purpose is not to develop trained specialists in business law as such but to provide a depth and breadth of study not found in most business law courses. The course concentrates on four stages of the life cycle of a corporation from incorporation to reorganization, and classroom sessions are on problem-solving through participation in simulated exercises where drafting and negotiation skills are tested. Evaluation is based on written assignments and a research paper has been required in the past.

The Faculty has also introduced a number of other courses that emphasize lawyering skills through clinical legal education again reflecting the third theme of curriculum changes made during this period. In 1973-74 a course entitled "Problems Encountered in Community Law Clinics" first appeared. In 1976-77 a Clinic Programme for 7 hours credit was introduced which was offered for several years. The purpose of the Programme was to provide, in a clinical setting, a study of the practice and function of the legal system and how it applies to low income persons and groups. Special

emphasis was given to a consideration and evaluation of the applicability of traditional legal and ethical values in this context. In this Programme, students were expected to interview and advise clients under the supervision of the Director of the Programme on problems relating to immigration, consumer, welfare, unemployment insurance, workmen's compensation, and other public assistance matters. The students were assessed on their casework, including their ability to: analyse the issues involved; carry out acceptable research; prepare a case for presentation in court or before tribunals; successfully negotiate the case, draft documents and advise and assist clients. They were also evaluated on their participation in seminars and on assignments.

In 1981-82 a new Clinical Research Programme was introduced that builds and expands on the Clinic Programme and traditional legal courses as well. The new programme is designed to permit second and third year students who are working in a clinical setting to prepare a research paper relevant to their work or experiences on topics similar to those studied under the Clinic Programme mentioned above. Papers may take the form of a traditional academic writing assignment, or indeed, any other approved form including memoranda of cases personally handled by students, handbooks or other educational instruments, and briefs for presentation to private or public agencies.

In connection with the clinical education courses, it is also worth noting the array of procedure or advocacy courses that have been developed at the Law School. "Advanced Evidence Problems," "Advanced Civil Procedure," "Advanced Criminal Law," "Criminal Procedure," "The Practice of Criminal Law," and "Trial Advocacy" have contributed much breadth and depth to the study of litigation-oriented problems. These courses are also worth mentioning because they illustrate the invaluable help that the Law School derives from a great number of distinguished practitioners who add a very special dimension to the curriculum in a wide variety of subjects.

These developments in substantive courses have built on the traditional basis of legal education and have broadened and strengthened that basis in different ways, in some cases by adding the new perspective of another discipline such as economics or philosophy, in others by re-evaluating basic legal values and emphasizing different legal skills. This attempt to broaden and strengthen the teaching and study of law has been mirrored in the regulations that govern research and course selection in the Faculty. In order to facilitate in-depth and interdisciplinary research, in 1976 the Faculty approved



a programme in Directed Research. The calendar describes the programme as follows:

To encourage original (including inter-disciplinary) doctrinal or empirical research, third year students only may gain credit hours by participating in the Directed Research Programme. The selected topic must make conceptual sense, have sufficient academic content and be pursued by feasible research methods. The project should preferably aim at publishable conclusions, in whole or part or by adaptation, for instance in a journal article, in written submissions to a ministry, law reform agency or other governmental or professional committee, or for presentation by special-interest groups, such as consumers' groups ...

Students wishing to conduct research are encouraged to approach a suitably interested faculty member to act as supervisor. Supervision may be divided, and in an interdisciplinary project may include a supervisor from outside the faculty. The Committee will determine approval of topic, plan of supervision and hours credit. Credit hours may be confined to either term, or be spread over both terms.

This programme is also used as a model for supervision in the clinical research programme discussed earlier.

Other regulations govern student research in the Faculty. In order to ensure that research was of a high quality and to ensure that students could be selective in their approach if they so desired, beginning in 1969-70 each third year student was required to take one subject which involved a substantial writing requirement. In 1973-74 all students were required to satisfy at least one course by research and writing in either second or third year. In 1975-76 no second or third year student could take more than five essay courses in total in an academic year and no more than three single term essay courses in a term.

One final provision respecting course selection should be mentioned. It has already been noted that traditional core courses form the nucleus of most students' studies even though there have been substantial changes in the curriculum to broaden the perspective of a law student's education at Toronto. To encourage the development of that broader view, students are required to take at least one course that has a jurisprudential or overview approach that is separate and distinct from a doctrinal subject. Courses such as "Legal History," "Legal Process," "Economic Analysis of Law," "Public Policy Formation," "Law Reform," and "Jurisprudence" are classified as perspective courses because they deal with the nature, source or purpose

of legal regulation in general rather than with the study of legal doctrine in a particular area.

### *Master of Studies in Law*

The undergraduate programme, it has been seen, has undergone many changes that have been designed to strengthen traditional approaches to legal education. The changes have also attempted to broaden that education and to bring its professional dimensions into the mainstream of liberal scholarship. While an emphasis has been placed on moving law students and legal studies towards other disciplines, the Faculty is now proposing a Master in Legal Studies Programme to assist those in other disciplines to develop a sophisticated appreciation and understanding of legal analysis, reasoning and research. While there are, of course, a number of scholars across Canada undertaking research and writing in fields interacting with law who have been able to develop their skills without the assistance of formal training and study, we believe that the potential for high quality interdisciplinary work will be increased if a formal programme were available. We have, therefore, proposed a one-year degree in law based on similar programmes at Yale and Stanford designed to provide a formal introduction to legal analysis, reasoning and research for scholars who do not wish to practice law but whose work would be enhanced by a greater understanding of law and legal institutions. We expect only a small number of scholars, certainly not more than five, to be enrolled in the programme each year. They would normally be drawn from academic positions although we have not excluded the possibility of accepting applicants from appropriate non-university settings. The rationale for making the study of law available to persons whose primary interests lie outside law is to enhance the potential which we have been developing for rigorous interdisciplinary scholarship and policy analysis. Such work should contribute to a superior understanding of law as a central social institution and this understanding will be of benefit to both legal and non-legal scholars alike.

### *Conclusion*

The changes in legal education at Toronto over the past twelve years have reflected legal education's dual roles - one of preparing students for a professional calling and the other of encouraging research, scholarship and learning as one of the Humanities and Social Sciences in the University. Reform reflects a commitment to both those

tasks. There has been a maintenance and strengthening of the teaching of common law and traditional legal subjects and a broadening of that education to encourage interdisciplinary work and new perspectives in law. Although in this latter respect the Law School may be best known for its Law and Economics Programme, interdisciplinary work has not in any way been restricted only to economics as the Family Law and Social Welfare Programme, the Family Law and Social Policy Workshops, and the Legal Theory Workshops and the many other courses taught on an interdisciplinary basis confirm.

This attempt to broaden and strengthen the programme is continuing as illustrated by three new courses for the 1982-83 academic year. In the coming year we have added a course entitled *Social Science Methods*. The course is designed to introduce and develop social science research techniques for the study of law. The course has five parts. The first involves a consideration of several landmark studies exemplifying the use of social science methods in legal research. The second part develops principles of theory testing, measurement and causality. Applications of these principles then are explored in terms of various research strategies, including the use of survey, experimental, observational, historical and archival methods. The use of statistical packages in computer-based research of various kinds is explored in some detail. Finally, attention is given to ethical issues involved in social science research methods. The course is being taught by a sociologist who has been cross-appointed to the Law School.

Another research course is being introduced entitled "Law Review Seminar". This course is designed to attract highly motivated students with research and writing skills who are interested in producing an integrated series of research papers on a topic of current interest for publication in the Faculty of Law Review. For the 1982-83 academic year, the topic will be "The Canadian Judicial System" and will most likely concentrate on the role of judges.

Finally, a course entitled "Law, Ethics and Social Policy" is to be introduced. It will explore in a systematic way the major ethical theories that fall within our legal tradition and help clarify the various issues of social policy which now confront our legislatures and courts. The course will begin with an examination of the major ethical theories (e.g. utilitarianism, libertarianism, natural rights, etc.). Then, using these ethical theories as tools, a number of specific social policy issues will be studied. The aim of the course is to show that the ethical theories under consideration have different specific and practical implications for how and why the law should respond

to particular problems. While the selection of substantive issues will vary to reflect contemporary debate, in general the focus will be on: issues of personal obligation (e.g. abortion, euthanasia, obscenity); issues arising between individuals in particular social relationships (e.g. in the workplace, such as affirmative action, industrial democracy, occupational health); and issues which raise questions about our responsibilities in the widest possible setting (e.g. foreign aid, immigration, and environmental obligation to future generations). Throughout the course consideration will also be given to the appropriate use to which adjudicators may put the normative principles which underlie the various ethical theories in their resolutions of policy disputes.

This last course further emphasizes the broad interdisciplinary approach at the Faculty and the Faculty's determination to develop further in the area of philosophy and jurisprudence. Moreover, all these new courses are well within the approach to change that has developed over the past decade in Toronto. They build on an excellent basis of traditional legal study and analysis and they broaden that study and analysis through the examination of law from different perspectives.