

4-1-1997

## A Case for Compulsory Legal Ethics Education in Canadian Law Schools

Jocelyn Downie  
*Dalhousie University*

Follow this and additional works at: <https://digitalcommons.schulichlaw.dal.ca/dlj>



Part of the [Legal Education Commons](#)

---

### Recommended Citation

Jocelyn Downie, "A Case for Compulsory Legal Ethics Education in Canadian Law Schools" (1997) 20:1 Dal LJ 224.

This Article is brought to you for free and open access by the Journals at Schulich Law Scholars. It has been accepted for inclusion in Dalhousie Law Journal by an authorized editor of Schulich Law Scholars. For more information, please contact [hannah.steeves@dal.ca](mailto:hannah.steeves@dal.ca).

*The author presents principled arguments, consequentialist arguments, arguments by analogy and arguments by authority in support of her conclusion that Canadian law schools should have compulsory legal ethics education. Among other things, she argues that legal ethics education is an imperfect but essential way to meet the obligations that arise from the public trust placed in the legal profession. She also explores a number of benefits that can accrue to students, law schools, the legal profession and society in general when ethics is a compulsory component of legal education.*

*L'auteure présente des arguments par principes, des arguments consécutifs, des arguments par analogie et des arguments par autorités en faveur de sa conclusion que les écoles de droit au Canada devraient offrir une pédagogie obligatoire en éthique juridique. Entre autres, elle argumente que la pédagogie en éthique juridique est un moyen imparfait mais indispensable à remplir l'obligation qui se présente de la confiance que le public place dans la profession juridique. L'auteure explore aussi de nombreux avantages qui peuvent revenir aux étudiant(e)s, aux écoles de droit, à la profession juridique et à la société en général lorsque l'éthique est un composant obligatoire de la pédagogie juridique.*

### *Introduction*

In 1991, Mr. Justice Iacobucci issued a challenge to the legal profession that is equally applicable to Canadian law schools:

Many years ago, a group of workers were busy at a construction site. A passer-by asked them what they were doing. The first worker said, "I'm making \$5.00 a day." The second worker replied, "I'm cutting stone." But the third worker replied: "I'm building a cathedral."

We must re-discover law as a calling, as rendering high service to our fellow men and women. Again I challenge you: do you have the courage to build cathedrals and to be proud of it?!

Many Canadian law schools appear to have lost sight of the project of building cathedrals. Students graduate with the ability to cut stone (construct legal arguments etc.) and to make \$5.00 a day (actually

---

\* Director, Health Law Institute and Assistant Professor, Faculties of Law and Medicine, Dalhousie University, Halifax, Nova Scotia. The author would like to thank the anonymous reviewers and Hugh Kindred for helpful comments on an earlier draft of this paper.

1. Mr. Justice Iacobucci, "The Practice of Law: Business and Professionalism" (1991) 49 Advocate 859 at 864.

hundreds of dollars a day) but they often lack the ability to build cathedrals (participate in the design and operation of an ethical legal system and profession dedicated to serving the public). Some may build magnificent and structurally sound cathedrals. However, others may build magnificent cathedrals that collapse in the first storm or structurally sound bunkers that imprison the people they are supposed to house. This article will argue that in order to meet Mr. Justice Iacobucci's challenge, Canadian law schools should introduce compulsory legal ethics education.<sup>2</sup>

The term "legal ethics" refers to all kinds of ethical issues that may arise in the legal system, the legal profession, and the practice of law. Other terms such as "professional responsibility", "professional conduct", "the legal profession", and "lawyering" are often used to engage the same subject matter but "legal ethics" is preferable for three reasons. First, it captures the subject matter most accurately and completely. Second, it emphasizes the centrality of *ethics* to the field, i.e., the normative rather than descriptive study of the legal system, the legal profession, and the practice of law. Third, it parallels course titles in other professional schools (e.g., medical ethics, nursing ethics, and engineering ethics) all of which fall under the general rubric of "professional ethics". It must be noted that W. Brent Cotter, in work which represents the most comprehensive Canadian consideration of this issue<sup>3</sup>, uses the term "professional responsibility". In explaining why he uses this term instead of "legal ethics" he says that "in the minds of many readers... 'legal ethics' has come to be associated exclusively with muddled questions of values and morality."<sup>4</sup> However, this is, as Cotter himself notes, a "cop out".<sup>5</sup> The fact that an accurate and powerful term has

---

2. It must be noted here that four schools already have some form of compulsory legal ethics education. Professional Responsibility (or a course by a similar name) is a required course at Dalhousie University, the University of Alberta, the University of Manitoba, and the University of New Brunswick. Review of school calendars and web sites Spring 1997. As noted in D. Buckingham et al., eds., *Legal Ethics in Canada: Theory and Practice* (Toronto: Harcourt Brace, 1996) at vii: "Each year over 2000 students enter Canadian law schools. These students spend three years on a quest for a degree, yet many will have only the faintest brush with questions about the basic structure of the legal profession and the place of the profession in society. Even rarer is an encounter with the forbidding subject of legal ethics." For the sake of brevity, I will use the expression "Canadian law schools" throughout this paper rather than "Canadian law schools except for Alberta, Manitoba, New Brunswick, and Dalhousie."

3. W.B. Cotter, *Professional Responsibility Instruction in Canada: A Coordinated Curriculum for Legal Education* (Montreal: Joint National Committee on Legal Education of the Federation of Law Societies of Canada and the Council of Canadian Law Deans, 1992).

4. *Ibid.* at 1-6.

5. *Ibid.*

unfortunate associations in at least some readers' minds is no reason to abandon it. As George Costigan noted in 1917:

The futility of much that has been perpetrated in Legal Ethics lectures at our law schools has made the very words "Legal Ethics" so objectionable that certain law teachers would gladly vote to abolish the words altogether, but on the whole it seemed better to ... hope that, under the despised name, the really estimable subject will achieve the good reputation which it deserves.<sup>6</sup>

Therefore, *contra* Cotter, "legal ethics" is the most appropriate term to use and the reasons for making it a compulsory course in Canadian law schools will now be examined.

### I. *Why Make Legal Ethics Education Compulsory?*

The case for compulsory legal ethics education consists of four sorts of argument which may be called principled arguments, consequentialist arguments, arguments by analogy, and arguments by authority.<sup>7</sup>

#### A. *Principled Arguments*

There are two major principled arguments in favour of compulsory legal ethics education: the professional school argument and the covert messages argument. Each will be considered in turn.

##### 1. *The Professional School Argument*

The first argument relies upon assumptions about the professional character of legal education. Professional schools require that students be exposed to each of the essential components of the profession. Since law school is a professional school, law schools should require courses/activities in each of the essential components of the legal profession. The essential components of the legal profession are a particular body of specialized knowledge, skills, and ethics. Therefore, Canadian law schools should require legal ethics courses/activities.

---

6. G. Costigan, "The Teaching of Legal Ethics" (1917) 4 Am. L. Sch. Rev. 290 at 294 cited in D. Rhode, "Ethics by the Pervasive Method" (1992) 42 J. L. Ed. 31 at 31.

7. It should be noted that many of the arguments that follow are grounded in assumptions about the kind of course that would be required. For example, in making the claim of many of the consequentialist benefits of compulsory legal ethics education, I am assuming that the course will not simply review the rules of professional conduct or, at another extreme, simply explore in depth the ethical theories of Immanuel Kant and John Stuart Mill. I am ultimately assuming a reiterative relationship between the form and substance and the objectives of compulsory ethics education. The kind of course that would be required would therefore be shaped by the arguments set forth in this article.

There are two controversial premises in this argument. The first one is that law school is a professional school (i.e., it is training people to be lawyers). The second is that the essential components of the profession of law are a particular body of specialized knowledge, skills, and ethics. The first premise is not difficult to defend because it is not denied by most law schools that they are at least in part a professional enterprise. For example, the Faculty of Law at the University of Toronto admits this premise explicitly in its calendar when it describes itself as “an academic faculty devoted to scholarship and legal education *as well as practical training for the profession.*”<sup>8</sup> All Canadian law schools admit this implicitly when they require courses/activities on the specialized knowledge and skills of law. These courses/activities include the first year core curriculum, legal research and writing, and mooting.

The second premise requires a more abstract defence than the first. Ethics is an essential component of the profession of law because lawyers are a group of people who hold the power of specialized knowledge and skills over others. They are given a public trust which carries with it obligations to act ethically. Lawyers are also given a considerable amount of influence over the design and operation of the legal system and almost complete control over the functioning of the legal profession. With respect to practice, lawyers make the rules and police themselves. This trust and influence obliges lawyers to act ethically in the administration of the legal system, the legal profession, and legal practice.

No ethics course can ensure ethical behaviour. However, legal ethics courses can make students more aware of ethical issues in the system, profession, and practice of law. They can give students the tools they will need to determine how to be ethical (even if they do not choose to be). Legal ethics education is therefore an imperfect but essential way of meeting the obligations that arise from the public trust in the legal profession. Consequently, it is an essential component of legal training.

## 2. *The Covert Messages Argument*

Consider now what might be called the “covert messages argument.” The absence of a compulsory legal ethics course does not result in ethically neutral legal education. There are countless unspoken messages about values in law which should be made explicit through a compulsory ethics course. As David Richards notes:

doing nothing in the way of conscious moral education is not ethically neutral or liberally tolerant; it is not to take seriously the facts of moral

---

8. University of Toronto Faculty of Law Calendar (1996-1997) at 4, emphasis added.

development or the impacts of our educational policies on moral development. Ethical reasoning is a complex, delicately intricate, inestimably human capacity which develops in response to certain kinds of favorable circumstances. Professional education, which educates the most powerful class of people in our society, receives these people at a crucial age in which, in response to the circumstances of professional education, they will or will not develop better capacities for ethical reasoning concomitant with their professional identity. I do not see how we can justifiably deny our active responsibility for results we so palpably shape.<sup>9</sup>

Students in Canadian law schools receive a great variety of messages about ethics in their legal education. They receive messages about the nature of legal practice and the legal profession and the place of lawyers in society. They receive implicit admonitions about what kind of lawyers to be as well as suggestions about confidentiality, whistle-blowing, honesty, and integrity. Anecdotal evidence of these covert messages is readily available. Consider just three examples received by the author while studying at one Canadian law school:

- 1) "Ethics is not an essential part of legal education." This message came straight from the absence of compulsory legal ethics education.
- 2) "Ethics is not even an important part of legal education." This view originated in the advice given by the Faculty to first year students about course selection. The existing course on professional responsibility received no mention at all.
- 3) "Ethics can be separated from the study and practice of law." This opinion was implied by the glaring absence of legal ethics in all but one of the courses taken. It was directly expressed in a course in Trial Advocacy when the students were told during the first lecture:

---

9. D. Richards, "Moral Theory, the Developmental Psychology of Ethical Autonomy and Professionalism" (1981) 31 J. L. Ed. 359 at 373-4. Similarly, Deborah Rhode notes:

Every law school does, in fact, teach some form of ethics by the pervasive method, and pervasive silence speaks louder than formal policies and commencement platitudes. (*Supra* note 6 at 32)

Alvin Esau points out:

law students pick up a lot of value messages from the informal and formal context of the law school experience.... we may reasonably assume that the law school experience does impact on the personal identity of students and thus on what and how they practice.... Since legal education is not value-neutral and some professional responsibility issues will inevitably be dealt with covertly and often badly, is all the more reason to address such issues explicitly and critically in a formal course of study. (A. Esau, "Teaching Professional Responsibility in Law School" (1988) 11 Dalhousie L. J. 403 at 457 & 433).

This course is not about ethics, it is about practical skills. We have a lot of material to cover and we don't have time to talk about justice and things like that. If you want to talk about ethics, you can go out for a beer at the end of the course with Mr....

Trial advocacy is an ethically charged course and yet ethics was excised by its instructors!

Other covert messages include "Dishonesty pays," "Elitist/superior attitudes are fine," "Good lawyers do whatever it takes to defend their clients," ... It must be strongly emphasized that not everyone in Canadian law schools is sending these kinds of messages. Some people who are sending them do so unintentionally, and others are making concerted efforts to counter them. However, the messages are still being sent. Legal ethics education would provide students with both the tools and the opportunity to respond to the covert and unacceptable messages.

## B. *Consequentialist Arguments*

Consequentialist arguments about compulsory legal ethics education compare its benefits and harms. This analysis considers the impact of compulsory legal ethics education on students, law schools, the legal profession, and society in general.

### 1. *Students*

Students can benefit from compulsory legal ethics education in many ways. Courses in legal ethics can develop students' analytical skills, capacity for moral judgment, sense of moral responsibility, knowledge of relevant ethics codes, rules, and laws, knowledge of legal and quasi-legal responses to unethical conduct (courts and disciplinary committees), awareness of and ability to resolve ethical problems in law, and understanding of the different possible roles for lawyers, the legal profession, and the legal system.

As a result, students who have taken legal ethics courses may be better able to: make informed and reasoned decisions when they are confronted with ethical dilemmas during law school<sup>10</sup>; recognize the socialization that is taking place during law school and *choose* whether to become what the law school is making them become; make informed decisions about what kinds of lawyers they want to be (if any) and how they want to use their law degrees (if at all); meet Bar Admission and articling legal ethics

---

10. These can be ethical issues arising in clinical situations. They can also be ethical issues arising in law school situations - for example, cheating, other forms of dishonesty, and violence.

requirements; make informed and reasoned decisions when they are confronted with ethical issues after graduation<sup>11</sup>; make informed and reasoned contributions to the development of the legal profession and legal system; and be more comfortable with their decisions about ethical issues.

Opponents of compulsory legal ethics education warn against its costs to students. These costs are said to include the reduction of student autonomy in course selection as well as the opportunity costs of the class not taken in order to accommodate the legal ethics program. However, students already have restrictions on their autonomy, even in the upper years. In many schools, the entire first year is compulsory and perspectives courses, moots, and extended papers are compulsory in upper years. A mere restriction on autonomy is therefore not fatal to a call for compulsory ethics education.

In addition, there are constraints on autonomy operating against students taking optional courses in legal ethics. These constraints include the fear that an ethics course on a transcript will scare off potential employers, or at least will not impress potential employers as much as a tax or business organizations course, and official Faculty advice about course selection to first year students. For those students who would like to take a legal ethics course but feel constrained, requiring the course would free them to do so.

In response to the opportunity costs argument, it can be argued that the harm/benefit ratio of a legal ethics course is comparable to, if not more favourable than, the harm/benefit ratio of compulsory first year courses. Concerns about opportunity costs do not preclude mandating a first year curriculum and they should not preclude mandating legal ethics education.

## 2. *Law Schools*

Compulsory legal ethics education could benefit law schools in diverse ways. First, courses in legal ethics can help foster an institutional atmosphere in which awareness of ethical issues and the ethical implications of one's behaviour is respected. As a result, there might be less cheating, less violence, and greater tolerance of different perspectives on the many moral issues that arise in other law school courses and activities.

---

11. They will be confronted with ethical dilemmas no matter what way they use their law degree (for example, conflict of interest in government, whistle-blowing in business, civil disobedience in activism, confidentiality in practice, and family leave policies in partnerships).



Second, the reputation of the law schools among students, the law societies, the legal profession, the judiciary, and society at large might improve with the introduction of compulsory legal ethics education. Some students might be drawn to those schools in which legal ethics is accorded such prominence and in which the climate is affected by all students having to take ethics. The law societies might be very impressed if law schools made legal ethics compulsory. The legal profession might see compulsory legal ethics education as a positive commitment on the part of law schools to the ethics of the profession. The judiciary has repeatedly called for measures to improve the practice of law and would, no doubt, be impressed by a compulsory legal ethics program.<sup>12</sup> Members of the public often think of the legal profession as a self-serving privileged group and they do not make fine distinctions between law schools and the legal profession. Introducing a compulsory ethics course might show that the law schools are at least trying to do something about the perceived crisis of ethics in the legal profession.

Third, teaching legal ethics can lead to teacher satisfaction. Brent Cotter's survey showed that:

In 1985, 50% of the full-time law teachers found the teaching of Professional Responsibility to be more satisfying than the teaching of other courses, and another 35% found it to be at least as satisfying as other courses.<sup>13</sup>

Finally, as Deborah Rhode notes, compulsory legal ethics courses are "likely to ... enrich its [the field of legal ethics] research and teaching potential."<sup>14</sup> Experience in the United States provides examples of such enrichment:

[F]or a remarkably large number of American law teachers whose primary academic interests are other than professional responsibility, ethical issues have pervaded their own thinking about their own subjects and their school's objectives...

These developments grew directly out of the requirement that a course in professional responsibility be taught at their schools. Many distinguished scholars in various areas of the law have become thoughtful commentators on ethics. This has occurred by virtue of their having

---

12. See, for example, *supra* note 1; Mr. Justice Sopinka, "Practice of Law Engulfed in 'Sea of Commercialism'" *Lawyers Weekly* (20 April 1990); Madam Justice McLachlin, "Lawyer Arrogance is Top Complaint: McLachlin" *Lawyers Weekly* (24 April 1992); and former Chief Justice Brian Dickson, "Excerpts from the speech delivered at the closing dinner of the conference on legal education" in R. Matas & D. McCawley eds., *Legal Education in Canada* (Montreal: Federation of Law Societies of Canada, 1987).

13. *Supra* note 3 at 2-20. It should be noted that satisfaction rates might be lower for teachers of a compulsory course.

14. Rhode, *supra* note 6 at 44.

become involved in, perhaps even conscripted to, the teaching of a course in professional responsibility.<sup>15</sup>

There has been a dramatic increase in the publication of U.S. teaching materials and treatises on legal ethics and professional responsibility during the last decade.<sup>16</sup>

The cost of compulsory legal ethics courses to the Faculties of Law is obvious - resources. Most notably, these courses would require the dedication of faculty time. This is indeed a problem, particularly in light of current financial constraints on law schools in Canada. However, given the other arguments presented in this article, this is far from a compelling reason not to require legal ethics education.

### 3. *The Legal Profession*

There are also many benefits to be gained by the legal profession from compulsory legal ethics education. First, courses in legal ethics can help improve the public perception of the legal profession, especially if it provides support for the law school programs. If members of the public were to see a commitment to strengthen the ethical practice of law, they might become more favourably disposed towards the profession. If it became generally known that all lawyers have to take legal ethics courses as part of their training, the public might be more willing to leave discipline and administration of the profession in the hands of the law societies. If no efforts are made in this direction, there may well be increasingly strong calls for the self-regulation of lawyers to be modified.<sup>17</sup>

Second, as more faculty members become involved in teaching legal ethics (as they will if the subject is made compulsory) and some of them dedicate a significant portion of their research efforts to the field, the literature on legal ethics is likely to improve and the critical analysis of the legal system, legal profession, and the practice of law is likely to be strengthened. Third, courses in legal ethics might better prepare professionals to participate in the design and operation of the legal profession. If students are provided with a framework for ethical analysis, for example, they might be better able to draft a policy on a pressing contemporary issue such as conflicts of interest and the single-client lawyer.

---

15. *Supra* note 3 at 2-40.

16. *Ibid.* at 2-25.

17. I do not necessarily believe that increased external involvement in the regulation of the legal profession would be a harm rather than a benefit. However, I assume that the legal profession does and I am enumerating the benefits from the perspective of the legal profession.

One purported cost to the legal profession is that legal ethics education will result in more challenges to the status quo. If the legal profession does not wish such challenges, then it will view compulsory legal ethics education as a cost rather than a benefit. However, if it views legal ethics education in this way, the profession is in worse shape than anyone thought and there is even more of a need for such education than anyone imagined.

#### 4. *Society*

The advantages of compulsory legal ethics education will flow beyond the legal profession to society at large. Much of the design and operation of the legal system, the legal profession, and the practice of law has been entrusted to those who have graduated from law schools. This public trust will be better served if the people in whom it is placed have been trained to cast a critical eye on the system, the profession, and the practice.

#### C. *Arguments by Analogy*

Why is it more legitimate to require students to take constitutional law, contracts, property, torts, civil procedure, or criminal law than legal ethics? Why is it appropriate to insist that students take a perspectives course, write extended papers, and engage in moots but not take legal ethics? As Deborah Rhode notes: “many practicing lawyers will never encounter a shifting (or springing) executory interest; virtually all will confront issues of honesty, confidentiality, and loyalty.”<sup>18</sup> To this may be added, many graduates of law school will never argue a case at an appellate court but virtually all will encounter ethical issues.

Civil procedure, contracts, property, torts, criminal law, constitutional law, perspectives on the law, legal writing and research, and mooting are all compulsory courses/activities at many Canadian law schools. Those who reject a compulsory legal ethics course are challenged to explain how, on either principled or consequentialist grounds, these courses have more of a claim to be compulsory than legal ethics. If they cannot do so and if these courses should be compulsory, then legal ethics should also be compulsory.<sup>19</sup>

---

18. Rhode, *supra* note 6 at 43. I would add non-practising lawyers to this. For, example, honesty, confidentiality, and loyalty will confront many politicians, business people, and law professors (to name but a few alternative uses of law degrees).

19. It is recognized that some may reject the notion that property, contracts, constitutional law and so on should be compulsory courses. If so, of course this argument fails. It is made only to those who stand by having compulsory courses in law schools.

#### D. *Arguments by Authority*

It may be argued that if certain people and organizations believe that legal ethics education should be compulsory, law schools should make it so. It should be noted in passing that, as students who take a legal ethics course may learn, arguments by authority are logically fallacious. Nevertheless, this section is included because arguments by authority are very popular in law (consider, for example, references to precedent) and because they are often very effective for convincing people. Furthermore, the use of logic is not the only legitimate way to persuade people.

Compulsory legal ethics education has many significant authorities supporting it, including judges, legal associations, law schools, and educators. Consider the following examples, beginning with judges.

At the Winnipeg National Conference on Legal Education in 1985, former Chief Justice Dickson said:

What is the goal of legal education? My answer to that question relates to people. The primary goal of legal education should be to train for the legal profession people who are, first, honest; second, compassionate; third, knowledgeable about the law; and fourth, committed to the role of law and justice in our democratic society.<sup>20</sup>

Legal ethics has traditionally been a subject dealt with in an informal way in the law office, usually on an ad hoc basis between principal and articulated clerk or between senior lawyer and junior lawyer in the context of an immediate problem. That is not enough. Legal ethics is a subject worthy of serious and formal consideration by all lawyers before they embark on their legal careers. Accordingly, it should be addressed in the curricula of law schools or bar admission courses - preferably both. ... The quality of the legal profession in Canada relates directly to the quality of Canadian legal education.<sup>21</sup>

At this same conference, Mr. Justice Matas said:

Nor may we overlook the fundamental need to educate lawyers to take their places in our profession as persons of integrity and persons with a high degree of professional responsibility. And that applies to every graduate, whether he or she practices in a small or large firm, in an urban or rural setting, as a generalist or specialist, as a judge or teacher, or if the graduate is not in practice but works in a field related or even unrelated to law.<sup>22</sup>

The Federation of Law Societies of Canada and the Council of Canadian Law Deans have also indicated support for compulsory legal

---

20. Former Chief Justice Brian Dickson, *supra* note 12 at 69.

21. *Ibid.* at 73-4.

22. Mr. Justice Roy Matas, "Law as a Learned Profession" in R. Matas and D. McCawley eds., *supra* note 12 at 33.

ethics education. These groups sponsored the National Conference on Legal Education in 1985.<sup>23</sup> A task force arising out of this conference set out as one of its four priority items:

2. Education in professional ethics and responsibility

The [proposed National Legal Education Committee] should plan and seek funding for a study of the design and administration of effective programmes for the study of professional ethics and responsibility that would assist law schools, bar admission courses, and continuing legal education agencies in this important matter. (emphasis added)<sup>24</sup>

The Joint National Committee on Legal Education was formed and, among other things, it supported Brent Cotter's project<sup>25</sup> and published his book.

In the United States the American Bar Association has made the teaching of professional responsibility a criterion for accreditation of law schools. The ABA Standards for the Approval of Law Schools require that:

302 (a) The law school shall:

(iv) require of all candidates for the first professional degree, instruction in the duties and responsibilities of the legal profession.<sup>26</sup>

American law schools have responded to this ABA standard. 95% of the schools which answered a 1986 ABA survey stated that completion of a course in professional responsibility is a graduation requirement. The other 5% offer an optional course.<sup>27</sup>

Some Canadian law schools have demonstrated their belief in the need for compulsory legal ethics education by introducing compulsory courses under various names. At present the University of Alberta, the University of Manitoba, the University of New Brunswick, and Dalhousie University law schools provide legal ethics instruction to all of their students.<sup>28</sup>

---

23. "The National Conference on Legal Education held in Winnipeg, Manitoba from October 23-26, 1985 was the most comprehensive of its kind ever held in Canada. It was attended by lawyers, law society representatives, judges, law teachers and others and among its number could be counted the most distinguished members of the legal profession and leaders in legal education in Canada." *Supra* note 3 at 1-10 - 1-11.

24. *Supra* note 3 at 1-3.

25. *Ibid.*

26. American Bar Association Center for Professional Responsibility, *A Survey on the Teaching of Professional Responsibility* (Chicago: American Bar Association, 1986) at 27.

27. *Ibid.* at 3.

28. See *supra* note 2.

Moreover, legal educators generally support compulsory courses in legal ethics. According to Cotter's survey, 62.5% "were of the view that a course in this subject area ought to be a compulsory law school course."<sup>29</sup>

In addition, other professional schools have also demonstrated their belief in the need for compulsory ethics education. In recent years, compulsory classes have been developed and taught in medicine, nursing, applied health sciences, and dentistry faculties in Canada.<sup>30</sup> Other professional schools, for example social work, engineering, business, and journalism, have also been developing professional ethics instruction. The health sciences have been particularly active in the development of ethics education.<sup>31</sup> Consider, for example, the current activities in Canadian medical schools where compulsory instruction is given for periods that range from 10.5 to 45 hours, with an average of approximately 24 hours.<sup>32</sup>

### *Conclusion*

Thus, it can be concluded that there are principled arguments, consequentialist arguments, and arguments by authority in favour of compulsory legal ethics education. It is to be hoped that Canadian law schools will find these arguments persuasive and introduce compulsory legal ethics education in the near future. Then, perhaps, their graduates will "have the courage to build cathedrals and to be proud of it."<sup>33</sup>

---

29. *Supra* note 3 at 2-21. If one counts as a yes the person who responded "Our policy is to require courses in only those subjects required by the Law Society of Upper Canada, although my personal view is 'Yes!'", this percentage increases to 68.8%.

30. For example, in the late 1980's, the Westminster Institute for Ethics and Human Values in London, Ontario conducted a three year grant for the development and implementation of ethics courses in medicine, nursing, the applied health sciences (physical therapy, occupational therapy, and communicative disorders), and dentistry.

31. Cotter's material on ethics education in medical schools is out-of-date. For more current material see F. Baylis & J. Downie, *Undergraduate Medical Ethics Education: A Survey of Canadian Medical Schools* (London: Westminster Institute, 1990). Since the publication of this survey, some schools have increased their ethics instruction. Now, every medical school in Canada has compulsory ethics education. See also A. Browne, M. Broudo & V. Sweeney, "Results of the Survey on Undergraduate Ethics Education in Canadian Medical Schools" in A.I. Rothman & R. Cohen, eds. *Proceedings: The Sixth Ottawa Conference on Medical Education, Toronto, Ontario, Canada, June 26-29, 1994* (Toronto: University of Toronto Bookstore Custom Publishing, 1995). Although the programs leave much to be desired, they are better than those available in Canadian law schools. Law schools may no longer take comfort in weak medical school ethics education.

32. Baylis & Downie, *ibid.* at 18.

33. *Supra* note 1 at 864.