

CHAPTER 1

WHAT IS 'LAWYERING'?

INTRODUCTION

It might seem surprising to begin by asking, 'what is lawyering'? Yet this is an important question, not only for providing a basis for many of the ideas we will discuss, but also because 'lawyering' is a term often used but rarely defined.¹ In this chapter, we will start by outlining our view of what lawyering is and how notions of lawyering are currently the subject of many discussions. We will then look at who lawyers are, because the composition of the legal profession has changed significantly in recent years. From this point, we will consider the debate as to whether lawyering is a profession or a business, and the implications of that debate for the standards of lawyering. We will also consider the ways in which the increasing commercialisation of the profession is reshaping legal practice.

1 WHAT DO WE MEAN BY 'LAWYERING'?

When we refer to lawyering, we refer to what it is that lawyers do. However, lawyers do in fact operate in a variety of contexts and in different ways. This variety is reflected in Daniel's lament that, when we talk about lawyering, '[e]veryone seems to know what it means, but finding a published—and meaningful—definition of the word is exasperating'.² The literature identifies what are generally accepted to be the 'fundamental lawyering skills' such as problem solving, legal analysis,

¹ Josiah M Daniel, III, 'A Proposed Definition of the Term "Lawyering"' (2009) *Law Library Journal* 207.

² *Ibid* 207.

legal research, factual investigation, communication, counselling, negotiation and litigation and alternative dispute resolution.³ This list is useful, but does not tell us what it is we actually mean by ‘lawyering’.

So what is it that lawyers do? For many, notions of lawyering are developed through popular culture. Asimow et al.,⁴ for instance, researched law students from a number of different countries, including Australia. This study found that only news coverage is more helpful than popular culture in assisting students to form their opinions of what constitutes lawyering. In fact, the study found that news and popular culture were generally more helpful than other sources of information (such as having lawyers as friends or family members, personal experience with lawyers, conversations with family and friends, or classes in school) in forming an understanding of the role of a lawyer.

This phenomenon of viewing law through the lens of popular culture can be illuminating not only for seeing the ways in which our ideas of lawyering are shaped, but also for revealing our public attitudes to lawyers: one can see a change in the representations of lawyers over time, for instance,⁵ and with this change has come a more overt hostility to lawyers. Post,⁶ picking up on this latter point, makes the interesting observation that, in popular culture:

lawyers are applauded for following their clients’ wishes and bending the rules to satisfy those wishes; and they are at the very same time condemned for using the legal system to satisfy their clients’ desires by bringing lawsuits at their clients’ behest and using the legal system to get what their clients want, rather than to uphold the right and denounce the wrong.⁷

Such a dichotomy reveals a discrepancy between our aspirations and our realities: community and individual autonomy, the need for a stable and authentic self, and the fragmentation and disassociation of the roles we play in modern life.

Representations of lawyers in popular culture often focus on the work of criminal lawyers (both prosecution and defence), barristers and lawyers who work for large, well-resourced firms. The reality, however, is that lawyering is

3 American Bar Association, Section of Legal Education and Admissions to the Bar, ‘Report of The Task Force on Law Schools and the Profession: Narrowing the Gap’ (the ‘McCrack Report’), July 1992, 135. See also Marjorie M Schultz and Sheldon Zedeck, ‘Final Report: Identification, Development and Validation of Predictors for Successful Lawyering’, 2008, 12, 13, 18, www.law.berkeley.edu/files/LSACREPORTfinal-12.pdf. This was a study of 2000 lawyers who identified 26 factors that they considered to be important to effective lawyering.

4 Michael Asimow, Steve Greenfield, Guillermo Jorge, Stefan Machura, Guy Osborn, Peter Robson, Cassandra Sharp and Robert Sockloskie, ‘Perceptions of Lawyers—A Transnational Study of Student Views on the Image of Law and Lawyers’ (2005) 13(3) *International Journal of the Legal Profession* 407.

5 PD Baron, ‘The Emperor’s New Clothes: From Atticus Finch to Denny Crane’ in Francesca Bartlett, Reid Mortenson and Kieran Tranter (eds), *Alternative Perspectives on Lawyers and Legal Ethics: Reimagining the Profession* (Routledge, 2011) 85.

6 Robert C Post, ‘On the Popular Image of the Lawyer: Reflections in a Dark Glass’ (1987) 75(1) *California Law Review* 379.

7 Ibid 380.

much wider than this. In Australia, lawyers may be barristers or solicitors or both; they may work in large firms, or as sole practitioners; they may work as in-house counsel or government lawyers; they may be generalists or specialists; work for the underprivileged or for the elite; work in one of the major cities, in the suburbs, or in regional or rural practice.

Because of the range of roles lawyers play in common law systems, there has always been some measure of diversity in describing what it is that lawyers do. Generally, however, the traditional conception of the lawyer was as an expert in law; advising, if not directing, the client; actively engaging in the litigation process; and upholding the rule of law. This tripartite rule can be seen in the Preamble to the US Model Rules of Professional Conduct (2004), which states:

A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.

As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

López argues that the most common assertion that can be made about what it is that lawyers do, irrespective of the context and the organisational structure in which they work, is that lawyers solve problems: 'Lawyering means problem-solving. Problem-solving involves perceiving that the world we would like varies from the world as it is and trying to move the world in the desired direction'.⁸

Recently, a body of literature, of which López's work is part, has identified what might be described as 'new lawyering'.⁹ This does not call into question the notion of lawyer-as-problem-solver so much as challenge the traditional paradigms of problem solving; that is, the lawyer-as-expert directing the client; or the zealous advocate pursuing solutions through the adversarial system. This 'new lawyering' does not have a single definition, but its characteristics can be distilled from the literature. First, 'new lawyering' is client-centred, rather than directive. The autonomy of the client is seen to be of prime importance,

⁸ Gerald P López, 'Lay Lawyering' (1984) 32 *UCLA Law Review* 1, 2 cited in Daniel, above n 1, 214.

⁹ See, for instance, Julie McFarlane, *The New Lawyer: How Settlement is Transforming the Practice of Law* (UBC Press, 2008).

so the lawyer's role is facilitative,¹⁰ collaborative¹¹ and evaluative,¹² generating legal options for the client.¹³ Second, rather than being focused on adversarial solutions to the problem, the new lawyer will look to a range of problem-solving methods, including alternative dispute resolution options. The new lawyer is a creative problem solver,¹⁴ empathises with the client,¹⁵ is conscious of the client's needs,¹⁶ and displays fidelity to the pursuit of a solution to the client's problem¹⁷ rather than a concern to 'win' at all costs.¹⁸ All this, of course, has led to calls for a rather different form of legal education.¹⁹ For instance, as detailed in Chapter 9, 'Service and Access to Justice', the Australian Learning and Teaching Academic Standards²⁰ suggest that law students are encouraged to recognise that lawyers, acting in their public role, should promote justice and reflect on the fact that their professional decisions have consequences.²¹

2 WHO ARE THE LAWYERS? THE DIVERSITY OF THE PROFESSION

Traditionally, the practice of law was perceived to be elitist and masculine, a domain of power and prestige. Lawyering and the culture of lawyering were dominated by 'white, Anglo-Celtic, heterosexual, able-bodied, middle class' males.²² In consequence, '[w]omen, indigenous people, NESB

10 Richard D Marsico, 'Working for Social Change and Preserving Client Autonomy: Is There a Role for "Facilitative" Lawyering?' (1995) 1 *Clinical Law Review* 639.

11 Daniel, above n 1, 214.

12 Marsha M Mansfield and Louise G Trubek, 'New Roles to Solve Old Problems: Lawyering for Ordinary People in Today's Context' (2011–2012) 56 *New York Law School Law Review* 367.

13 Robert F Cochran Jr, 'Enlightenment Liberalism, Lawyers, and the Future of Lawyer-Client Relations' (2011) 33(3) *Campbell Law Review* 685, 686.

14 Carrie J Menkel-Meadow, 'When Winning isn't Everything: The Lawyer as Problem Solver' (1999–2000) 28 *Hofstra Law Review* 905; Lisa A Kloppenberg, '"Lawyer as Problem Solver": Curricular Innovation at Dayton' (2006–2007) 38 *University of Toledo Law Review* 547; Janet Reno, 'Lawyers as Problem-Solvers: Keynote Address to the AALS' (1999) 49 *Journal of Legal Education* 5; James M Cooper, 'Towards a New Architecture: Creative Problem Solving and the Evolution of Law' (1997–1998) 34 *California Western School of Law Review* 297.

15 Ian Gallacher, 'Thinking like Non-Lawyers: Why Empathy is a Core Lawyering Skill and Why Legal Education should Change to Reflect its Importance' (2010) *College of Law Faculty Scholarship*, Paper 6, <http://surface.syr.edu/lawpub/6>.

16 John Lande, 'Developing Better Lawyers and Lawyering Practices: Introduction to the Symposium on Innovative Models of Lawyering' (2008) 1 *Journal of Dispute Resolution* 1.

17 Robin S Golden, 'Collaborative as Client: Lawyering for Effective Change' (2011–2012) 56 *New York Law School Law Review* 393.

18 Menkel-Meadow, above n 14.

19 Paul Brest, 'The Responsibility of Law Schools: Educating Lawyers as Counselors and Problem Solvers' (1995) 58(3/4) *Law and Contemporary Problems* 5.

20 Sally Kift, Mark Israel and Rachael Field, 'Learning and Teaching Academic Standards Project: Bachelor of Laws Learning and Teaching Academic Standards Statement' (Australian Learning and Teaching Council, December 2010).

21 Ibid 16.

22 Margaret Thornton, 'Gender, Legality and Authority' (Paper presented at the Australian Lawyers and Social Change Conference, ANU, Canberra, 22–24 September 2004), http://law.anu.edu.au/sites/all/files/users/u4081600/Conference_docs/thorntondiversity.pdf.

[non-English-speaking-background] people, working class people, gays and lesbians have been viewed as non-normative within the legal culture'.²³ In recent years, however, there has been a significant growth of diversity in the composition of the practising profession; in the organisational structures in which law is practised; in the specialisations within legal practice; and in the paths open to law graduates.

2.1 The diversity of the membership of the profession

Today, there is considerably more diversity in the legal profession than was the case 40 years ago. For instance, in 1970, women made up some 20 per cent of law students and 6 per cent of practitioners. By 2004, women made up some 50 per cent or more of law students and around 30 per cent of practitioners.²⁴ Multidisciplinary practices, 'mega-firms', transnational firms, small specialised firms,²⁵ and the increase in the number of women and individuals from varying ethnic backgrounds have all contributed to this diversity.

Nevertheless, there are still concerns that the profession tends to maintain its 'exclusivity, uniformity and conservatism'.²⁶ In particular, women still tend to cluster at the lower levels of legal practice, as employed solicitors and support staff. A very small proportion achieves partnership in large firms and a smaller proportion still becomes Senior Counsel.²⁷ Thornton points to the influence of neo-liberalism²⁸ and the corporatisation and quasi-privatisation of universities as barriers to further diversification of the legal profession. Moran points to the way in which judicial debates focus upon gender and ethnic diversity, but remain silent on the issue of sexuality.²⁹ Further, Indigenous membership of the legal profession remains low, although reliable information on the actual number of Indigenous lawyers is difficult to find.³⁰

23 Ibid.

24 Ibid.

25 Ibid.

26 Ibid.

27 Ibid.

28 Ibid. Neo-liberalism has been defined as 'a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices': David Harvey, *A Brief History of Neoliberalism* (Oxford University Press, 2005) 3.

29 Leslie J Moran, 'Judicial Diversity and the Challenge of Sexuality: Some Preliminary Findings' (2006) 28 *Sydney Law Review* 566.

30 Law Council of Australia, *Challenges for the Legal Profession. 2010: A Discussion Paper*, September 2001, 20, <http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN016547.pdf>.

2.2 The diversity of organisational structures

Lawyers today work in a diversity of organisational forms. Traditionally, legal practices operated as either sole practitioners or partnerships. However, as reported by the Australian Bureau of Statistics in 2008,³¹ there were at that time 11,244 businesses employing 84,921 people from the ‘other legal services’ category;³² and, within that figure, 7350 were unincorporated businesses, 2264 were incorporated and the remaining 1630 were trusts. Since that report, the 2014 Law Society National Profile was published,³³ the statistics of which show that as at October 2014 there was a total of 66,211 practising solicitors in Australia: 41.6 per cent in New South Wales; 24.5 per cent in Victoria; and 15.7 per cent in Queensland. Of the total number, 51.5 per cent are males and 48.5 per cent females; and 0.8 per cent identified as being of Aboriginal or Torres Strait Islander status. There are more large firms, the report showing a 300 per cent increase in firms with over 40 partners. There has been a 22 per cent increase in the number of solicitors in the corporate sector and a 19 per cent increase in the government sector.³⁴

While there are still large numbers of legal practices that operate as sole practitioners and partnerships, those that have taken the opportunity to become incorporated are able to take advantage of the benefits of limited liability: easier entry and exit paths for ownership; acceptance of non-lawyer contributions; and an increased ability to raise debt and equity. The legislation governing legal practices also allows the formation of multidisciplinary partnerships, but there are ‘only a handful of multi-disciplinary partnerships’.³⁵ Incorporation is the favoured organisational structure, ‘primarily among sole practitioners and small law firms, and is increasingly becoming their structure of choice for new law practices’.³⁶ There are also four law firms who have registered on the Australian Stock Exchange. These are Shine Corporate Ltd., Slater & Gordon Limited, IPH

31 Australian Bureau of Statistics, *Legal Services, Australia*, No. 8667.0, 13, [www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/ED9EDC3A4FFBF9BDCA2575DE0019F004/\\$File/86670_2007-08.pdf](http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/ED9EDC3A4FFBF9BDCA2575DE0019F004/$File/86670_2007-08.pdf).

32 The Australian Bureau of Statistics categorises legal services into a number of sub-industries; that is, barristers, legal aid commissions, community legal centres, Aboriginal legal services, government solicitors, public prosecutors and other legal services: *ibid* 4. This latter category of ‘other legal services’ is further defined as ‘solicitor firms, patent attorney businesses, service/payroll entities and businesses providing various legal support services’: *ibid* 13.

33 Law Society of New South Wales, ‘2014 Law Society National Profile: Final Report’, April 2015, www.lawsociety.com.au/cs/groups/public/documents/internetcontent/1005660.pdf.

34 *Ibid* i.

35 *Ibid* 4.

36 *Ibid*. See also Uniform Law Chapter 3, Part 3.2; and Chapter 3, Part 3.7 Division 2.

Holdings and Xenith IP.³⁷ However, a report in January 2016 suggested that the two 'pioneer' firms of Slater & Gordon Limited and Shine Corporate Ltd are now experiencing some financial issues.³⁸

The Law Council of Australia reports positively on the introduction of these alternative business structures. More specifically it notes that Legal Services Commissioners have found incorporated bodies to have 'higher standards than traditional law practices'; and that no conflicts of duty issues by legal practitioner directors have been reported between 'their professional obligations as lawyers and their corporations law obligations as company directors and officers'.³⁹ This latter finding is particularly relevant, as it addresses the profession's initial concerns about the adoption of these alternative organisational structures. These concerns led the Law Council of Australia to create a policy which stated: 'lawyers' business structures should focus on the compliance of individual lawyers with ethical standards and professional duties rather than on the regulation of the business entity'.⁴⁰ More specifically, it was thought that if there were non-legal owners of these alternative business structures, this might create a threat to professionalism and the 'integrity of the role lawyers played in the administration of justice'.⁴¹ This debate is examined below, in Section 3.1.

2.3 The growth of specialisation

One of the characteristics of lawyering in Australia has been the growth of specialisation, whereby practitioners confine their practice wholly or largely in certain practice areas, such as intellectual property or family law.⁴² Specialisation is seen to be a consequence of the growing complexity of the law, and one effect of globalisation.⁴³

37 Stefanie Garber, 'Second IP Firm Debuts on ASX at \$89m', *Lawyers Weekly*, 20 November 2015, www.lawyersweekly.com.au/news/17544-second-ip-firm-debuts-on-asx-at-89m.

38 Jonathan Shapiro, 'Shine and Slater & Gordon put the listed law firm model in the dock', *Financial Review*, 31 January 2016, www.afr.com/business/legal/shine-and-slater-gordon-put-the-listed-law-firm-model-in-the-dock-20160131-gmhwyt.

39 Ibid. Interestingly, Christine Parker predicted this result. See Christine Parker, 'Law Firms Incorporated: How Incorporation Could and Should Make Firms More Ethically Responsible' (2004) 23 *University of Queensland Law Journal* 347.

40 Murray Hawkins, Director, National Legal Profession Project, Law Council of Australia, 'Emerging Trends in the Provision of Legal Services: Some Australian Experiences' (Paper presented at the Commonwealth Law Association Conference, Nairobi, 7 September 2007, 8.

41 Andrew Grech, 'New Legal Practices Embracing Incorporation', *The Australian*, 9 July 2010, www.theaustralian.com.au/business/legal-affairs/new-legal-practices-embracingincorporation/story-e6frg97x-1225889567789.

42 This trend has been evident for some years. In 1993, for example, Clarke noted the increase in specialisation in legal practice and the greater advertising of such expertise as emerging trends in lawyering: E Eugene Clarke, 'Note: Legal Education and Professional Development—An Educational Continuum' (1993) 4(1) *Legal Education Review* 201.

43 A discussion paper authored by the Law Council of Australia states: 'Global markets facilitate global specialisation: a lawyer's field of expertise can be quite narrow if the potential market is the world'. Law Council of Australia, above n 30, 44.

Such specialisation is endorsed by the professional bodies in each of the Australian states and territories through their specialist accreditation schemes. Specialisation is seen to have a range of benefits in terms of improved access to legal services and reduced costs for the legal consumer. Lawyers are also seen to benefit from the ability to charge higher fees; law firms from the ability to compete more effectively in the marketplace;⁴⁴ and the legal system from the growth of specialist expertise.

The trend to specialisation has been subject to some critical comment, however, by Justice French,⁴⁵ who, in the context of the National Reforms,⁴⁶ calls for a ‘careful and rigorous consideration’⁴⁷ of the issue. Such consideration, he claims, should aspire to ‘a better generic understanding of the concept than presently exists, the criteria for defining particular specialties and the interests served and objectives advanced by their recognition and regulation’.⁴⁸ The Justice is particularly careful to separate out the two meanings of specialisation: concentration, meaning ‘a limitation of activity to a particular area of practice’; and expertise, meaning ‘the acquisition of knowledge and skills’.⁴⁹ His Honour observes that these two meanings of specialisation are distinct, though they may at times overlap.

While His Honour acknowledges the potential advantage of specialist practice in terms of efficiency and marketability of legal services, he is concerned as to the complexity and inconsistency of the regulation of specialisations across Australian jurisdictions. His Honour maintains that if there is to be national regulation of specialisation to overcome such complexity and inconsistency, that regulation should be devised thoughtfully, with greater attention to the meanings both of specialisation and the criteria that define the subject areas for specialisation.

Over and above these concerns, however, Justice French points out that the complexity of the contemporary legal environment is such that the law is not as easily segmented as specialisation would suggest: ‘Any apparently discrete section of legal practice cannot avoid the pervasive influence of other areas which are of

44 ‘Boutique appears to be the way of the future for medium firms ... While medium sized firms will generally not be able to compete head to head with large firms in all practice areas, there is room for medium sized specialists to capture significant niche markets and quality clients in selected practice areas’: Law Council, *ibid* 114.

45 Justice Robert French, “In Praise of Breadth”—A Reflection on the Virtues of Generalist Lawyering’ (Paper presented at University of Western Australia Law Summer School, Perth, 20 February 2009), www.hcourt.gov.au/assets/publications/speeches/current-justices/frenchcj/frenchcj20feb09.pdf.

46 The Uniform Framework has now been adopted by Victoria and New South Wales. See the Legal Service Council, <http://www.legalservicescouncil.org.au/Pages/uniform-framework/guidelines-directions.aspx>.

47 French, *above n* 45, 2.

48 *Ibid*.

49 *Ibid* 6–7.

general application'.⁵⁰ For this reason, in His Honour's view, specialist lawyers must maintain currency in their knowledge of the general law. He argues:

given the extent of overlap between different areas of the law and the inability to quarantine specialist areas from that overlap, how are the specialist practitioner and his or her clients to be protected from a dangerous narrowing of competencies? And how is the profession to be protected from fragmentation? If specialisation is to be supported and protected by accreditation, the objective of accreditation must ultimately be directed to serving the public interest and not just the commercial interests of the subset of lawyers who hold themselves out as specialists. Whatever system is devised ultimately it must recognise the disadvantages of specialisation and seek to mitigate them in particular deskilling in the areas of law outside the specialist's practice area.⁵¹

The former Chief Justice's concerns about specialisation are not confined to legal practice. He also urges some caution in relation to the creation of specialist courts and specialist divisions within courts. Along similar lines, some commentators have questioned the desirability of increasing specialisation among legal academics.⁵² We discuss the issue of specialisation in relation to competence in more detail in Chapter 7, 'Competence'.

2.4 The diverse paths open to law graduates

Law graduates have a variety of paths open to them. They can obviously work in the legal services sector, but they can also choose to work in government departments, or accounting or corporate organisations. With respect to those who work in the legal services sector, the most recent data collected by the Australian Bureau of Statistics in June 2008⁵³ reported that there were 99,696 people employed and 15,326 businesses and organisations providing either legal services or legal support. More specifically, there were 3869 barristers who employed 1285 people;⁵⁴ 5108 people employed in community legal services (legal commissions, Aboriginal legal services and community legal centres);⁵⁵

50 Ibid 11. Justice Michael Kirby also referred to the 'increasingly narrowing effect of specialisation' in 1996: Justice Michael Kirby, 'Legal Professional Ethics in Times of Change' (Paper delivered at the St James Ethics Centre Forum on Ethical Issues, Sydney, 23 July 1996), http://www.hcourt.gov.au/assets/publications/speeches/former-justices/kirbyj/kirbyj_stjames2.htm.

51 French, above n 45, 16.

52 Bryan T Horrigan, 'Reforming Law Reform's Engagement with the Academic Arm of the Legal Profession' (Paper presented at the Australasian Law Reform Agencies Conference, Port Vila, Vanuatu, 10–12 September 2008) 3, <http://ssrn.com/abstract=1448490>.

53 Australian Bureau of Statistics, above n 31.

54 Ibid 7.

55 Ibid 19.

4514 people working in offices of government solicitors or public prosecutors;⁵⁶ and 84,921 people working in more traditionally understood legal settings, referred to as ‘other’ legal services.⁵⁷

It is this latter category that is the subject of most of the literature on lawyers, but it should not be assumed that the lawyers in this group are homogeneous. For example, as already noted, many lawyers specialise in particular areas of law such as litigation, employment and labour law, tax law, corporate law or international law; and lawyers work in a variety of settings. The majority of lawyers work in private practice; some work in large commercial firms, but most are employed in small and mid-sized firms.

3 THE PROFESSION VERSUS BUSINESS DEBATE

In addition to the changes outlined above, there has been increased commercialisation of legal practice in recent years, bringing with it questions of whether law is still a ‘profession’ or whether it has become a business. Such questions go to the purpose of the practice of law.⁵⁸ However, before discussing the profession versus business debate, it is important to recognise that the Uniform Law dictates that only qualified lawyers or entities may engage in legal practice.⁵⁹ Section 6 of the Uniform Law defines ‘engage in legal practice’, ‘entity’ and ‘qualified entity’ as follows:

engage in legal practice includes practise law or provide legal services, but does not include engage in policy work (which, without limitation, includes developing and commenting on legal policy).

entity includes:

- (a) an individual, an incorporated body and an unincorporated body or other organisation; and
- (b) in the case of a partnership:
 - (i) the partnership as currently constituted from time to time; or
 - (ii) the assignee or receiver of the partnership.

...

⁵⁶ Ibid 24.

⁵⁷ Ibid 13; and the Law Council of Australia, above n 30.

⁵⁸ Joshua JA Henderson, ‘The Ethical Development of Law Students: An Empirical Study’ (2009) 72 *Saskatchewan Law Review* 75, 84.

⁵⁹ Uniform Law s 10.