

TEACHING METHODS & MEDIA

Teaching substantive law through problem based learning in Hong Kong

A B Szabo

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In October 1992, the City Polytechnic of Hong Kong (CPHK) began the second year of its Post Graduate Certificate in Laws (PCLL) program. The program lasts for nine months in duration and uses problem-based learning as its major teaching method. As the PCLL is a certificate awarded after the law degree is obtained, it can be compared to the bar admission course in Canada, the College of Law in England, and PLT in Australia. The course places an emphasis on the learning of lawyering skills in conjunction with teaching substantive law through problem-based learning (PBL).

This article opens with a brief analysis of the authorities' views of the distinction between problem-based learning and problem solving. Then follows an overview of the first year in Hong Kong: the content of the program, the roles of the staff, the facilitation methods used and a description of a sample week. This is followed by a detailed analysis of teaching part of a core substantive subject Conveyancing, through PBL. The fourth part of the paper is an application of Cruickshank's analysis to CPHK's case. As a result of experience in the first year, the program has been modified and the latter part of the paper focuses on the evolution of the program.

Adopting an educator habit of mind: modifying what it means to "think like a lawyer"

G A Jaquish and J Ware

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Law students should be encouraged to develop cognitive skills beyond those currently embodied in "thinking like a lawyer". Lawyers are unable to effectively communicate the law to their clients, consequently a reconsideration of what it means to "think like a

lawyer" is suggested. Lawyers should view themselves not only as advocates but also as educators - becoming advocate educators. Communication between lawyers and non-lawyers during a jury trial highlights the efficacy of advocate educators. To think like an advocate educator one needs to understand that the learning process is a function of the interaction between the teacher, the learner and the learning environment.

The teacher should understand and assess the characteristics of the learner including the learner's basic aptitude and competency. The advocate educator should understand that people learn through the sensory system and that humans respond most strongly to visual information. Emotions can serve to facilitate learning. Psychological identification, whereby a perceiver recognises a basis for connection between his/herself and a target stimulus can also enhance learning. Limitations of the attention span should be taken into consideration and repetition used to facilitate long term memory. The learning environment should allow learners to actively participate. This is difficult to achieve in a trial situation, however, some judges are allowing jurors to take notes and ask questions when the testimony is not clear.

Constructions of the client within legal education

A Shalleck

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Legal education has constructed clients that permit the familiar classroom dialogues to proceed. The routine practices within law school classrooms are conducive to the construction of clients. The statement of facts of a case recounted in an appellate opinion are seen as being unproblematic and authoritative and strip the client of individual identity. Within the classroom, students may be asked to present the argument for or against a party, with no regard for what a client in the situation might actually want. Clients are an explicit part of professional responsibility (PR) courses. However, within PR courses clients

invariably want wealth or freedom and have subjective, determinate, articulated interests constituted before they attend their lawyer. As in the classroom, the constructed clients of PR courses force out the real clients.

Clinical legal education has created a powerful opportunity to challenge the constructed client. Students no longer see clients as abstract people with predetermined traits. The client-centered approach to lawyering of Binder and Price in *Legal Interviewing and Counselling: A Client Centered Approach*, whilst not without its problems, is another step in challenging the constructed client. More recently Gerald Lopez has founded "rebellious lawyering" which views clients as complex beings and not just abstract, autonomous individuals with bare motivations.

"A(nother) critique of pure reason": toward civic virtue in legal education

A P Harris and M M Shultz

[see Purpose]

Raising personal identification issues of class, race, gender, sexual orientation, physical disability and age in lawyering courses

B O Hing

[see Individual Subjects]

TECHNOLOGY

[no material in this edition]

WOMEN'S ISSUES

How legal education will assault you as a woman

C Rogers

23 *Vict U Wellington L Rev*, May 1993, pp 167-178

Legal education assaults women as women. Women do not want a male telling them what is the impersonal objective "truth" defined by a male person. The substance and system of legal education expatriates women because it thinks and speaks only as men do. Men define legal reasoning, the substance of subjectives, how

subjects are taught and the law culture. Women's voices must be heard in legal education. Personal law school experiences and the works of Catherine MacKinnon, Carol Gilligan and Ann Scales reveal the "bitter, solitary anger" experienced by women. Women must come together to prevent the assault of legal education.

Ambivalence: The resilience of legal culture in the United States

J Resnik

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The classroom is still invulnerable to radical commentaries such as critical legal studies, feminism and critical race theory. There are three reasons for the resilience of the classroom to these radical commentaries: (1) law professors tend to teach what they themselves have been taught; (2) the conservative power of the law and economics movement, which is heavily financed by conservative (in the political sense) foundations and; (3) law professors find it very difficult to stand before students and tell them of the failures of the discipline of law. Courtrooms are also displaying a similar resilience to radical commentaries.

Many task forces on women's issues have revealed that gender bias is

prevalent in the legal system, however these task forces have been predominantly directed by either men or white women. Investigations by task forces into the bias against women who belong to racial or social minorities is notably absent and in need. White women within power should be insisting on the inclusion of women from minority groups.

Missing questions: Feminist perspectives on legal education

D L Rhode

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In legal education, feminists are now demanding that institutions change to accommodate women, unlike the early feminists who argued for equal opportunity. What feminists want from legal education is similar to what other critics have wanted - an overhaul of the values, skills and substantive concerns of legal education.

The questions that legal educators should be asking are: (1) Are legal educators effectively equipping students to address the needs of the client as the client perceives them? (2) Are legal educators strengthening commitments to ethical decision making and public service? and (3) Are legal educators serving faculty interests at the expense

of others in the way in which the educational experience at law school is structured? In response to these questions values more central to feminist analysis - care, collaboration and context - should become more central to legal education and practice.

The socratic method of teaching and the omnipotent nature of the lecturer perpetuate the authoritarian structure thereby suppressing alternative voices. Legal texts ignore the factual circumstances, the legal choices, the consequences for litigants and the social and historical context of cases. The contextual details are necessary if the interaction of life and law are to be understood. Finally, issues of professional ethics and responsibility are not addressed within courses as they arise, moreover, they are relegated to a single course which is perceived by students as being the 'dog of the law school'.

Legal education and the politics of exclusion

R A Epstein

[see Context, Criticism and Theory]

What we do, and why we do it

L Alexander

[see Context, Criticism and Theory]

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