

The case method breeds boredom. Student interest cannot be maintained at a high level for three years. Week after week, students are asked to read twenty to thirty pages a night for each class. The repetition leads to boredom and numbness. Even ardent case method advocates might concede this point. However, if it is that boring, maybe the problem is not with the method, but with the profession. The enthusiasm and methodological variety with which the professor approaches a topic can often cure 'methodological boredom'.

Some scholars have argued that students, especially in the first year, are too immature to make a good synthesis of legal doctrines or concepts, based upon case materials. It is certainly true that the case method of education generally represents a vast methodological departure from the methods that most incoming law students experienced during their undergraduate studies.

Within the scope of the objectives the case method seeks to achieve, the method has proved to be effective and should continue to be used. Nevertheless, the case method is subject to legitimate criticisms. However, most if not all of these criticisms can be dealt with by (1) confining use of the case method to situations in which its basic objectives coincide with the objectives of the course; (2) altering case books and teacher application of the case method in order to address criticisms; or (3) recognising that some criticisms of the case method are inherent in the law school institution and as such are independent of the case method itself.

Socratic misogyny? - analysing feminist criticisms of Socratic teaching in legal education

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If legal education were known for nothing else, its pedagogical claim to fame would undoubtedly be the widespread use of a unique method of classroom instruction bearing the cryptic moniker, 'the Socratic method'. It is so entrenched in modern American legal pedagogy that a law school just isn't a law school without the Socratic

method. The popularity of the Socratic method in legal education has made it the subject of numerous jokes, parodies, and humorous personal anecdotes. Among the unamused are a rising number of scholars who have challenged the methodological foundations of the Socratic method. They have joined students who have attacked the Socratic method as infantilising, demeaning, dehumanising, sadistic, a tactic for promoting hostility and competition among students, self-serving, and destructive of positive ideological values. In recent years, the liberated voices of feminist legal scholars have joined in the imperial exposure and have revived the debate over the continued vitality of the Socratic method in law school classrooms.

The modern Socratic dialogue resembles a game of 'hide the ball' in which the professor asks questions that he knows the answers to while his students do not. The object of the game is to produce the answer that the professor thinks is correct. If the student fails to answer correctly, personal humiliation follows in various forms.

Many rationales have been proffered to justify the adoption of the case and Socratic methods since their conception within the walls of Harvard Law School 130 years ago. The case and Socratic methods arrived on the heels of the textbook/lecture method and, at least in part, were a reaction to the inadequacies of textbook/lecture instruction. The Socratic method was seen, at least in part, as an effort to rescue students from the endless droning of lecturing professors by requiring students to participate in their own learning. Second, in contrast to the passivity of the textbook/lecture method, the Socratic method purports to provide a more active learning environment. Third, the Socratic method is an empowering method because it shifts some of the responsibility for learning directly onto the student. In addition, the Socratic method has been praised for helping students to develop analytical skills and to think on their feet. Finally, the Socratic method has been praised for its ability to instil in students a sense of the complexity of the law.

Unfortunately, not all rationales underpinning the adoption of the Socratic method are based on the goal of effective pedagogy. In fact, a number of ulterior motives have been ascribed to the adoption and continued use of Socratic teaching in legal education. The first rationale was the desire to gain respectability for the law as a subject worthy of academic scholarship. A second rationale was that the Socratic method provided financial benefits to the collegiate institutions by offering an educational program or innovation that allowed one person to teach even more students.

A third rationale is that, now that Socratic teaching has been the established mode of legal education for decades, new law professors gravitate to it because most of them experienced it as students, and, in the absence of any formal training in teaching methods or theory, it is natural for them to use it when they begin to teach. A fourth inauspicious motive is that the Socratic method is convenient for professors. Since Socratic teaching effectively shifts the original burden of organising and synthesising material to the student, professors are relieved, at least in part, from the pressure to explain the fine points in complex areas of law.

Despite the rationales favouring the Socratic method, it has never been in short supply of detractors. First, even some advocates of the Socratic method concede the fact that the Socratic method has lost its hold on law students by the second year. A second general criticism is that its reliance on vicarious learning is a hoax. Since a Socratic dialogue generally consists of a conversation between the professor and one student, much of the student 'doing' must be vicarious. Proponents of the Socratic method, however, have justified its one-on-one dialogue in large class settings because, when professors call on students at random, the risk of being questioned induces vicarious participation.

Despite the criticisms of the Socratic method that have abounded from its inception, the entrance of women into legal education portended a distinct set of criticisms against the method. Over the past

twelve years, feminist legal scholars have begun to explore the differences in the way men and women law students experience law school. Such feminist critiques of legal education have included both experiential and empirical studies covering a wide variety of issues relating to women's law school experiences, from reasons for going to law school, to grades, to self-esteem, and so on. A few of these studies have drawn conclusions specifically relating to the use of the Socratic method. Others have collected data that relate to classroom dynamics and thus may provide indirect insight into the experiences of women with the Socratic method and the questions concerning the continuing value of Socratic teaching.

It is virtually undeniable that there is in fact a gender-based discrepancy in the amount of classroom participation between men and women law students. Every study addressing the issue has confirmed this result, regardless of the demographic makeup of the sample. While a conclusive cause-effect relationship remains somewhat elusive, the anecdotal evidence and available statistical data support an inference that the traditional Socratic method of legal pedagogy is at least partially responsible for negative experiences of women in legal education.

Assuming that causation can be established between levels of classroom participation, professor conduct, and Socratic teaching, the differential experiences of women in the Socratic classroom can be interpreted through the lenses of various feminist theories. Feminist critiques of law school and the Socratic method are based upon the assumption that women experience law school differently from men and that the different voices women bring are something that should be valued as a viable source of reform in legal education. As this is the fundamental tenet of difference theory, it is not surprising that many of the studies discuss the work of Carol Gilligan, the most prolific advocate of difference theory, and the fundamental values of difference theory as a framework within which to criticise the current system of legal education. Dominance theo-

rists would counsel the abandonment of the Socratic method - a method created and perpetuated by a male-dominated legal hierarchy.

The fundamental question arising from the feminist research with respect to the Socratic method is whether the method is compatible with the educational needs of female law students. Some of the studies have answered the question with an emphatic no. Others have argued that it is women, not legal education, that must change. The most viable alternative, however, lies between these two extremes.

Despite feminist criticisms levelled against it, the Socratic method deserves a continued place in legal pedagogy. Nevertheless, many of the criticisms are valid, and, thus, certain accommodations, as well as fundamental changes, should be implemented to counteract the negative effects traditionally attributed to Socratic teaching.

The challenge in reconstructing such an 'improved' Socratic method is to avoid doing so in a manner that effectively calls for an 'add women and stir' approach. Clearly, a Socratic method that satisfies women's concerns would focus on transforming social institutions, not just assimilating women within them. The studies suggest that law professors can do much to eliminate, or at least mitigate, the differential classroom dynamics among men and women law students. The professor's role in this arena is to remove obstacles that tend to inhibit student involvement.

Although caring, sensitive, and devoted teachers are the primary component of a feminist-friendly Socratic method, law schools as institutions can and should do more to alleviate the differential impact of Socratic teaching on women law students. First, the law school should make pedagogical potential (rather than strictly academic credentials) a higher priority in the process of selecting professors. Second, law schools should provide support for both internal and external pedagogical training of law professors. Third, law schools should foster an open dialogue with students regarding the rationale behind the employment of the Socratic method.

While the procedural accommodations suggested above are an important step in the right direction, more fundamental changes in the substance of Socratic teaching are necessary to tap the full potential of this teaching method and to humanise its use in law school classrooms. The Socratic method should not be a destructive tournament where gladiators of unequal power and experience vie to the death. Rather, the effort is, or should be, a cooperative one in which the teacher and students work to understand an issue more completely. The goal is to learn how to analyse legal problems, to reason by analogy, to think critically about one's own arguments and those put forth by others and to understand the effect of the law on those subjected to it.

TECHNOLOGY

The claims and challenges of computers in learning the law

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Throughout the last thirty years, claims have been made for computers, computer assisted instruction (CAI) and more recently for communication and information technology (C&IT) as educational tools. It is not disputed that CAI has failed to meet these claims and has not attained its full potential. Initially simple challenges, such as insufficient computers, or the difficulty of use, provided too many barriers to both teachers and students. These challenges have steadily declined and technology is now readily available and accessible.

Yet, as these challenges have been met, new challenges within legal education have surfaced, namely: the desire to move away from rigid doctrinal teaching; the need to encourage lifelong learning, providing opportunities for continuing training in the law; the changing nature of the law and the operation of the legal system; the dwindling of traditional opportunities in the profession; the pressure to continue to increase student numbers; and the competition, both national and global, through distance learning and Internet-based courses.