

STUDENTS

Distress among the legal profession: what law schools can do about it

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15 *ND J. L. Ethics & Pub Policy*, pp 307-331

The law can be a miserable profession, characterised by gruelling hours, meaningless work, cut-throat colleagues – and golden handcuffs. Assuming this to be true, why, then, do thousands of students each year decide to enter law schools across the country? The one question law students hate the most is: ‘So, why did you go to law school?’ The reason it is hated is because students often do not know the answer. And, if students ever did know, after spending any period of time actually in law school, they soon forget.

In the early 1980s, a study measured the levels of psychiatric distress among law students as compared to the levels of stress exhibited by medical students. The results of this study indicated that law students exhibited higher rates of psychiatric distress than either a contrasting normative population or their counterparts in medical school. The researchers in this study were surprised to find stress levels among law students remain constant as the school year progressed.

While it is important to recognise differences in stress levels between law students and similarly situated post-graduates, such as medical students, it is also crucial to understand whether or not law school is the cause of the depression. If it is, then we need to consider certain types of institutional reforms. If law school is not the cause, then we can stop blaming legal education for the plight of its students.

The results of several studies indicate, before law school, subjects develop symptom responses similar to the normal population. This comparison suggests that prospective law students have not acquired unique or excessive symptoms that set them apart from people in general. During law school, however, symptom levels are elevated significantly when

compared with the normal population. These findings suggest that it is not the type of person who comes to law school; rather, it is the law school institution itself that causes the stress. These studies focus on three areas, which tend to incite the most stress.

First, the problems of excessive workloads and lack of time management skills are a persistent worry among law students. Law students are guilty of ignoring all other aspects of their lives just so they can be law students. It is not uncommon for the workload to be such that it is physically impossible to complete assignments on time. For many highly motivated first-year students this can lead to a near constant state of anxiety. The second stress-causing area identified in the studies involved the problems law students have in forming inter-personal relationships with their law professors.

The third and final area is the failure of law schools to teach interpersonal skills. From the very first day of law school, students are told they are going to be taught ‘how to think like a lawyer.’ Without a doubt, this is true. Law students come to pay attention to detail much more closely by becoming more analytical. What law schools do not teach, however, are skills such as ‘interviewing, instilling others’ confidence in you, negotiating, understanding the viewpoint of others, and building relationships.’ Ironically, these are the tools that will actually serve us well upon entering the practice of law.

Researchers have also conducted studies on the levels of satisfaction among practising attorneys. It comes as no great surprise that the problems students experience while in law school are similar to the ones confronting practising attorneys. There appears to be a relationship between the stress levels students experience while in law school and the stress levels attorneys feel in the profession.

A team of researchers at Johns Hopkins University measured the prevalence of Major Depressive Disorder within a

number of occupations across many locations. They studied twenty-eight occupations and found that lawyers were the most likely to suffer from depression and 3.6 times more likely than average to do so. Furthermore, they concluded the legal environment might be conducive to depression due to the stress it produces and the heavy workload.

Law students are in a state of distress. Without a doubt, one aspect of legal training that incites fear and anxiety among law students is the Socratic method. Unfortunately, some instructors use this as a way of indoctrinating students into the legal world and, instead of being useful it ends up causing additional anxiety in the first year of law school. Being called on in class is rarely perceived as an invitation to interact with the professor; rather, it is seen as a time to be in the ‘hot seat.’ Students come to fear giving a wrong answer. Socratic teaching has been attacked as infantilising, demeaning, dehumanising, sadistic, a tactic for promoting hostility and competition among students, self-serving, and destructive of positive ideological values.

Psychological research indicates that the amount of control over stress is a major determinant of its impact. From a survey of first-year law students one researcher grouped the stressors into six factors: time pressure, difficulty of material, feedback, lack of recreation, academic environment, and pressure. The factors rated highest on stressfulness were time pressure, difficulty of material, and feedback; pressure and feedback were rated least controllable. This means that the factors that cause the most anxiety (pressure and feedback) are the same ones over which law students feel they have no control. The researcher noted that students cite a lack of feedback, especially positive feedback, as an aspect of law school that is even more stressful than the Socratic method. The lack of feedback and the lack of student-professor relationships contribute to a fear of failure. Students take their final exams having absolutely no idea what the professor expects.

The goal of the legal educational system should be to find ways to minimise the stress, while maximising feelings of satisfaction and congeniality among law students.

First, law school faculties need to take an interest in law students. Professors should take a personal interest in their students. In fact, one of the negative factors law students cite about law schools is the lack of relationships with professors. There is a lack of mentors in the legal profession. Although what goes on in the classroom can contribute to character formation and integration, effective mentoring is difficult without at least some one-to-one contact between mentor and mentored. Perhaps faculty hiring committees could ask interviewees to comment on how, and even if, they would establish relationships with their students. Further, they could inquire as to what the interviewee saw as his/her main responsibility – teaching students or publishing articles?

A professor who serves as a mentor would also be a person to whom a distressed student could approach for advice, guidance or just simple reassurance. In addition to making themselves accessible to their students, professors should also make learning more comfortable for them. This change can take basically two forms – in the material that is taught and the manner in which it is taught. Professors should incorporate more ‘real-life’ issues into the classroom. For instance, teaching students to ‘think like a lawyer,’ often translates into an impersonal study of law. Perhaps law school curricula should devote some attention to the human aspects of practising law.

Professors could implement the Socratic method in a couple of different ways. For example, professors could call on students in alphabetical order or allow them an opportunity to pass if they are unprepared. These suggestions provide the students with some predictability, as they have the comfort in knowing when they will be called upon or at least that they have the option of passing.

TEACHING METHODS & MEDIA

Teaching lawyers the language of law: legal and anthropological translations

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34 *J Marshall L Rev* pp 91-117

A number of studies have focused on a distinctive style of pedagogy associated with doctrinal teaching in US law schools. From a number of different vantages, legal scholars and social scientists often remark on a persistent puzzle: the Socratic method and associated approaches to teaching law found in many first-year doctrinal classes do not seem to make sense. These techniques do not appear to convey legal constructs any more effectively than would other methods, such as lecturing. Moreover, the Socratic method has been the subject of a great deal of criticism and has been connected to elevated student stress. Additionally, it fails to adequately prepare attorneys for practice. How, then, has doctrinal teaching – particularly doctrinal teaching using a Socratic approach – continued in use for so long?

The study reported in this article examines legal education from a novel standpoint, drawing on the methods and theory of anthropological linguistics. Anthropological studies of language begin with the premise that it is crucial to actually observe people’s use of language in context, rather than to rely on their reports of how they speak. The accuracy of a speaker’s perceptions regarding his or her own speech can vary widely, and even when they are correct as to general patterns, such perceptions cannot achieve the level of detail required by anthropological linguists.

Careful examination of this message or world view helps to explain the puzzle of the ‘Socratic method’ of legal education. The distinctive epistemology that underlies legal language, as it is taught in doctrinal classrooms, fits very well with overall goals and features of the legal system in the United States. This symbolic connection makes sense of the persistence of certain Socratic aspects of le-

gal teaching, despite ongoing complaints about efficacy, fairness to students of differing backgrounds, and negative impacts on students. The cultural logic entailed by the fundamental world view taught to law students alters incipient lawyers’ orientations concerning human conflict, authority, and morality. A crucial aspect of this changed orientation involves training students to read texts with a new focus, so that they learn to interpret stories of conflict in legal terms. When viewed through this lens, traditional legal pedagogy symbolically mirrors and reinforces an epistemology that is vital to the legal system’s legitimacy.

Critics of the Socratic method and other traditional methods of teaching law vigorously debate the merits of this tradition. These scholars charge that students either do not absorb moral values or that they absorb largely deleterious values. Sceptics have further asserted that this kind of teaching does not even successfully convey legal doctrine, and that students exit law school without adequate preparation for the practice of law.

Supporters of the Socratic method, on the other hand, assert that the method mirrors the style of reasoning used by lawyers. Additionally, they argue that it is an efficient system for teaching large classrooms and that it stimulates active student involvement. Supporters also maintain that the Socratic method does not dominate and manipulate any more than do methods used in clinical teaching.

The research involved taping first semester Contracts classes in eight different law schools. The tapes were subsequently transcribed, and transcript coders encoded features of each turn, including length of the turn, who spoke, and whether the turn was part of extended or short dialogue, etc. In addition, both the in-class coders and transcript coders noted qualitative aspects of the interactions.

As a result of access to both qualitative and quantitative findings, this study combines an analysis of the underlying message or world view imparted to law students with an examination of the pat-