

tion in which academics work autonomously and with limited external interference. Different individuals have different identities and differing sets of values, which produce a dynamic working environment. The university is increasingly a commercial enterprise both in terms of its business and its structures.

## **TEACHING METHODS & MEDIA**

### **Socratic ignorance: once more into the cave**

J Beattie

105 *W Va L Rev* 2003, pp 471–494

What should we teach to our students and how should we teach it to them? In particular, how can law schools best prepare students for their legal careers? Answers to these basic pedagogical questions continue to elude us. Within the current legal community there is no general consensus regarding how best to teach our students the law or how to meet the future challenges of legal education. The lack of consensus is not from want of trying. There does appear to be, however, near uniform condemnation in modern legal scholarship of what has been tried in the past. More specifically, teaching the law using the Socratic method, the traditional core of legal pedagogy, is now held in general disrepute. Why is this so?

Critics claim that the Socratic method manipulates students to expose them to public refutation while the professor safely chooses whether or not to reveal the correct answer or to join in the classroom discussion. The method is combative, similar to military indoctrination or custodial interrogation, and it only serves to confuse, entrap, and silence students — female and non-white students in particular.

Possibly driven by their law school experiences of particular overbearing law professors claiming to use the Socratic method, critics are rightly concerned that such a teacher effectively destroys the possibility of learning for many students. The question remains, however, whether such demagoguery can accurately claim to be using the Socratic method. But such classroom despotism is not required of the Socratic teacher and, in fact, is not consistent with Socratic teaching. There is another type of law teaching, one which follows more closely the educational theory developed by Socrates and can truly claim the name Socratic teaching.

If teaching is viewed as a process of eliciting information from students, information that will eventually lead to the answers we are looking for, then plainly we must pay close attention to what our students are saying. This attitudinal approach requires two very simple, but often very difficult, activities on behalf of the teacher: listening and reinforcing.

First, we have to listen to our students. When our students are responding to our questions or asking questions of us, we have to listen. We may learn something new, and if we take the effort to listen closely to our students, our students will be more disposed to take the effort to listen to us.

Second, if Socratic teaching requires students to supply the information for class discussion, then in order to keep the information flowing we need to reinforce students' contributions. The Socratic teacher must take the time to reinforce and support students as they attempt to understand their experiences and the experiences of others in light of relevant legal doctrine and policy.

Another pedagogical commitment is suggested by Socrates' theory of

recollection: students who actively reconstruct answers for themselves best achieve learning. Other commentators have stressed the central importance of students' self-discovery to Socratic teaching. Professors do this by using a series of questions and answers called the dialectic. The dialectic is Socrates' term for a special kind of questioning process. It is a sustained series of questions and answers whereby participants, usually the teacher and one student, start with a common problem and proceed to question their original (starting) perspectives and assumptions on how to solve the problem. As the dialogue proceeds, the participants formulate new hypotheses concerning the problem, vary their perspectives, and question their assumptions.

The dialectic has two main objectives. The first objective is to make some headway in the particular inquiry at hand. Only if students and teachers are willing to subject their implicit knowledge of the situation to open inquiry can they hope to achieve a more explicit understanding of, and justification for, their solution to the problem.

Socrates' primary objective in using the dialectic was to internalise the questioning process in those with whom he was conversing in order to teach students to become self-questioners, or self-taught, capable of rendering explicit what they know implicitly by their own devices. It appears that the normative pedagogical commitments of Socratic teaching, at least as Socrates understood this method, are heavily student-centered.

If it is the fundamental goal of Socratic teaching to get our students to internalise the questioning process, then students, if we as teachers are successful, are going to ask questions and pose hypotheticals of the teacher. In the Socratic classroom, students as well

as the teacher should lead the dialogue by asking questions, and the hunches of both the teacher and students must be exposed to the questioning process.

Third, when students do question the teacher's 'hunches' about the law in the class, the teacher must be willing to hold our 'answers' up to the public light without lashing out at the questioner. When teachers are successful at varying their perspectives, assumptions, and evaluations in the light of student questions, the students soon learn that the dialogue really can be a collaborative process. At its best, Socratic teaching really does uncover shared questions that neither the teacher or the students were aware of prior to the dialogue.

The most salient criticisms in the literature target the alleged deleterious effects on students of current Socratic law teaching. The four main criticisms raised against the current Socratic method do not directly apply to the method developed above, or where they do indirectly apply, there are significant gains to students that more than offset the potential risks. The concerns of critical scholars serve as guideposts or warnings to avoid improperly applying the method — because proper Socratic teaching is difficult.

Perhaps the most troubling criticism raised against current Socratic law teaching is that it humiliates students. This criticism is so troubling because if true it would undermine one of the primary goals, if not the main goal, of the method discussed in this essay. Plainly, Socratic teachers cannot secure the internalisation of the questioning process if students are being humiliated in the process. It is also clear that Socratic teaching, properly understood, does require students to be honest and candid in their assessment of their own perspectives, assumptions, experiences, and values. When students are required

to speak in class on a particular matter often it will be their personal opinion that will be discussed and possibly found to be wanting.

More than any other pedagogy, the Socratic method closely models fundamental skills required by current legal practice. The current practice of law, for better or worse, often entails publicly addressing on and responding to difficult questions where the speaker's reasoning must withstand close scrutiny. Our students must be able to address the problems presented, analyse applicable legal doctrine, evaluate the underlying concerns and commitments of those affected, effectively respond to the questions asked, and ask the right questions in turn, all the while thinking on their feet. Socratic teaching uniquely prepares students for such important legal tasks.

Another line of criticism often urged against Socratic teaching is that it is an inefficient and unfair way to communicate information that the teacher possesses but does not reveal. The problem with this line of criticism is that the assumption that the law is largely determinate with given content and settled boundaries is seriously under-inclusive, if not outright wrong. In fact, most legal principles are fundamentally unsettled with, as yet, no determinate boundary conditions or answers. Rather than withholding the 'correct' answers from students, Socratic questioning in fact arms students with skills for gaining or creating solutions in unsettled areas of the law.

Finally, there is a related and extremely influential line of criticism charging that traditional Socratic teaching is effectively opposed to the achievement of the indisputably important educational goal of diversity. The claim is that current Socratic teaching hinders the educational op-

portunities of women and minorities, being particularly deleterious to African American women. Although the literature expresses an overwhelming negative attitude towards traditional Socratic teaching, the 'hard' data on precisely how Socratic teaching affects women, ethnic groups, and minorities is sketchy and conflicting. Until more evidence is available, it is premature to conclude that traditional Socratic teaching, much less the type of Socratic teaching derived from the internal pedagogical constraints of Socrates' educational theory, is responsible for the different experience of or performance in law school by women and minorities.

Having briefly canvassed the four main lines of criticism against the traditional use of Socratic method in law schools, the conclusion is that their critical sting does not directly apply to Socratic teaching properly employed. Nevertheless, those of us who are committed to the proper use of Socratic teaching must candidly admit that the successful classroom dialogue is often more an aspirational goal than a factual accomplishment. Without question, the proper use of Socratic teaching takes its toll on the teacher; it is a difficult teaching technique to apply properly. It stands to reason that if the method takes its toll on teachers, the method can also take its toll on students. In particular, teachers who wish to use Socratic inquiry must heed the warning that students are often intimidated by the method. The combined strength of these criticisms of traditional Socratic teaching should lead those of us who are committed to the proper use of Socratic teaching to redouble our efforts to abide by the internal constraints of the method.