empty letter to the extent it remains an outsider to the normative structure of a political community. This naturalisation may require the greatest adjustments in the curriculum of the law schools of the Americas outside of the United States.

Merely offering a course for students neither suggests the relative importance of the course for student development nor does it suggest its content. As law faculties have been aware for a long time — curriculum matters. The perceived importance of a course, the nature of the way it is taught, and its connection to other courses in an integrated curriculum are all matters that significantly affect the power of a course. In the United States, human rights is a marginalised field of study, consigned to the field of foreign or international law.

The current state of curricular parochialism in US law schools is well known. Most American law schools have not made significant progress in integrating international perspectives within their domestic law courses. The more common strategy has been to add a select number of courses in international and comparative law. To a large degree, instruction in individual human rights is relegated to a curricular Never-Never Land. The important courses in individual rights, with pride of place in the curriculum, are all essentially courses in insular law.

It is an easy matter to argue for a blending of the parochial and the universal when teaching — and practising — human rights within a nation-state. It is, likewise, simple to demonstrate that the methodology of the current pedagogy is imperfect. It is quite another matter, however, to convince law teachers that this methodological problem is one worth correcting, and harder still to illustrate how this correction might be accomplished in fact.

The benefits of such an approach are fairly easy to understand. First, it can significantly enrich an understanding of indigenous approaches to the protection of individual rights within the structuring of the parochial legal system being studied. Second, this contextualising approach can accomplish the enrichment function while remaining true to law as actually being practised. Third, this approach can offer a faculty member the opportunity to provide students with insights not only with respect to current regimes of constitutional interpretation, but also to potential alternatives, which, whether the students or their instructor like them or not, will likely confront the practitioner, as well as the theoretician, more often as the century wears on.

There exist several significant impediments to any movement in this direction. The addition of international and comparative themes to existing courses, and especially existing first year courses, may present fatal obstacles. Traditional courses are already crowded with information, requiring abbreviated presentation of important domestic substantive issues. Also many instructors might be uncomfortable with unfamiliar materials. The result might be faculty resistance to this sort of innovation. If international and comparative human rights issues are woven into advanced courses, there is no guarantee that students may take the course in sufficient numbers to be effective. Moreover, the lack of readily available teaching materials may pose another significant obstacle. Also, busy faculties tend to prefer to follow the strong incentive structure provided by conventional professional expectations. The pull to follow the currently conventional thinking of the judiciary, and the inertia exerted by the traditional division of subjects within a law school curriculum, all tend to create barriers to any change in current approach.

Balanced against these obstacles is the emergence of additional and newer pedagogies for naturalising international individual human rights within the law schools. Among them, clinical education has great potential both as a means of teaching individual human rights in context and as providing an essential bridge between theory in the classroom and practice in the everyday life of the legal community. Clinic and clinical faculties are in the optimum position, not only to weave international human rights themes into their courses, but also to formulate and put forward in court those arguments that might have an effect on the ways in which American courts approach human rights norm making.

INDIVIDUAL SUBJECTS/ AREAS OF LAW

Approaches to teaching property: teaching property law – some lessons learned
S Friedland
46 *St Louis L J*, 2002, pp 581–603

Among the most useful general observations for teaching property law is that it offers a coalescence of dual tenets underlying sociology, psychology and the law – acquisitiveness and antagonism. What an understanding of these central tenets means to the property law teacher is that the law is an effort to shape and corral both acquisitiveness and antagonism, from prioritising multiple claimants in recording statutes, to distinguishing adverse possessors from trespassers, to creating limits on the scope of easements and nuisances. The law of property does not rest solely on legal policy and precedent, cabined only by abstract rules and principles, but rather is forged from principles of acquisitiveness and competitive antagonism as well.

For many students, an exploration of the deeper values underlying the concept of private property helps to explicate the nature and understanding

of the rules. These underlying assumptions reflect the values supporting American property rules and principles and extend across boundaries of economics, psychology, science and sociology, among other disciplines. In exploring these assumptions, students often see more clearly that property law, as complex and as historical as it is, is really a choice of rules and principles that can be modified, disassembled and reconfigured. Property law, unlike other basic law school courses, often defies an easy organisational framework. There are few reference points from which students can get their bearings.

The experienced property law teacher realises there are different levels of organisational schema for property law. One organisational schema for an introductory property course is to focus on legally enforceable property rights, tempered by legally recognised limits. Another explores the perimeter of property recognition, in which property law provides legal recognition to most, but not all, things of value. Still another organisational structure orders property law based on the relationships it considers – from neighbours, including the law of nuisance and easements, to partners, such as co-ownership issues, to multiple claims of ownership, as reflected in found property, adverse possession and recording statutes.

When property law is conceived of as defining relationships between private individuals, it becomes a set of rules promoting orderly relations. The remedies afforded in public or private disputes are generally obtained through the court system, further reducing property law questions to the relationship of claimants in a lawsuit. The important question in this context becomes which of the parties has the better claim, not who in the world owns the property or has the absolute best claim. Thinking in terms of relationships helps to identify the property law problems that may arise.

Describing private property as a bundle of legal rights and associated limits provides students with a basic strategic framework, much like offering a map of landmarks to accompany directions. Pedagogically, this description is intended to provide a referencing scoreboard that assists students in understanding and pursuing course goals, while simultaneously disabusing students of the notion that property is a 'thing.' Private property becomes a choice by society about which interests it is willing to recognise and enforce through legal remedies.

Perhaps one of the biggest obstacles for teachers of property law is the lack of relevant context for students. Entering law students often have difficulty in relating to the conception of owning real property, to the archaic language of estates in land and future interests and to the lack of apparent coherence of the principles addressed in the course. Most of property law is delivered through seminal cases. These cases advance the substantive knowledge of the class but generally do not enhance the relevancy of the subject matter. The lack of relevancy of property law, especially in light of its obscure vocabulary and medieval historical sources, is in direct contrast to that of criminal law or torts. Thus, it is essential that teachers address, create and enhance the relevancy of the property law class.

Relevancy indicates the existence of a relationship, and relevancy in the educational context ought to be a bridge to the students' world, not the teacher's. To properly contextualise a property law class, a professor has numerous options. One option involves the use of popular culture, another option is the employment of visual and commonly referenced words, and a third option is to help the students to experience property law, as opposed to just passively taking the course. Another option is to translate and transform the property law vocabulary to a more understandable set of terms. Infusions of popular culture can help students connect to a course.

The challenge for the property law teacher is to make the course experience resonate for the students, especially for those who find property law irrelevant to their educational goals. To make the classroom experience come alive, it is useful to encourage students to be active learners, who are engaged in the learning process by means of practising, demonstrating and improving various skills, not just on the final examination but all throughout the course.

To promote an experiential course, students could be asked to play a role in creating, negotiating and reworking legal documents. It would be even more useful if these legal documents fell within the students' day-to-day life, such as leases they have signed, if any. By using their leases, the intersection of the classroom with the real world is instantaneous.

A focus on student competencies reshapes the classroom orientation, changing it from reading cases to identifying and improving legal skills. The wide variety of competencies test not just whether students know the vocabulary of property, or actively understand the concepts, but how to apply the cases in a performative framework.

Property law has its own unique vocabulary. Property teachers can give students express notice that the particular vocabulary matters in the lawyering process, and that language counts even more in the property law area. What must be impressed on the students is the importance of the words themselves as triggers of legal consequences, where form counts over substance.

The dominance of cases in a property law class contributes to obscuring the accessibility of the subject matter. One approach that promotes accessibility is the problem

method, a teaching technique that does not simply supplement cases with explanatory problems, but one that uses problems as a central tool for learning the rules and principles. Problems become equal to cases and at times even supersede them in the teaching methodology hierarchy. Why use the problem approach? Many teachers use problems to supplement the primary learning methodology, case analysis. It is perhaps no coincidence, however, that property law is one of the courses that least utilises problems and is the most perplexing to students. A problem orientation would offer students formative feedback, allowing them to improve on their performance as the course progresses.

Property law is a rich and rewarding course to teach and ought to be the same for the students who study it. By using organisational schema and methodologies relevant to even the youngest group of students, connections can be made to enhance the educational value and enjoyment of the course. The experience of property law is tied both to the course content and its presentation. When instructors experiment with a problem-method and a reconceived synthesis of the course framework, the benefits are palpable.

Teaching important property concepts: teaching about inequality, race and property
FW Roisman
46 *St Louis L J*, 2002, pp 665–698

One of the most salient facts about property is the inequality that characterises its control. The US, like the rest of the world, is divided between haves and have-nots. This inequality is great, and has been increasing in recent years. We who teach about property ought to teach about this inequality, in both its international and domestic manifestations. This article addresses a particularly striking aspect of the inequality: that it is clearly colour-coded.

There is no question that in the United States there are large differences between whites and minorities, particularly African-Americans, with respect to control over property. These gaps characterise all measures of property control: income, wealth, and the particular form of wealth represented by home ownership. The incomes of blacks and Hispanics lag behind those of whites by wide margins. Moreover, the racial income gap, like inequality generally, has increased in recent years. The disparities are particularly striking with respect to characteristics of residence, whether one is a home-owner or a tenant, and the value of the home, in financial and other respects.

This racial disparity means that minorities are disadvantaged with respect to what is for most middle-class households in the US the greatest source of household wealth. Home ownership affects the ability to finance education, self-employment and other capital development. It is the principal source of family wealth that is transmitted from one generation to another, and family wealth, in turn, largely determines whether and to what extent home ownership is possible.

Racial property disparities are maintained by everything in our property regime that makes minorities disproportionately renters, rather than home-owners, or segregates them in neighbourhoods where property values appreciate relatively little, and schools, safety and employment opportunities are relatively poor. The causes of the racial disparities have been the subject of considerable analysis and discussion. Although some argue that they are due to choices or attributes for which minorities are responsible, substantial scholarship shows that concepts of white supremacy, racial dominance and similar racial attitudes, their implementation in racial discrimination and segregation, and their embodiment in social structures, all contribute to the racial disparities in control of property.

Many cases that appear in all parts of the property curriculum illuminate ways in which white supremacist ideology and action have been a substantial cause of racial disparities in control of property. These involve, among other things: conquest; slavery; disposition of public lands to predominantly white, male, Anglo beneficiaries; explicit racial zoning; racially restrictive covenants; 'manifest destiny'; 'Negro removal' by the urban renewal and interstate highway programs; racially discriminatory donative transfers; the implementation of the public housing program; the treatment of farm workers; and the use of zoning to establish and maintain exclusively white, Anglo settlements.

In addition to these cases and related material, the author teaches a class that explicitly explores the forces driving the larger distribution of advantage and the structural underpinnings of inequality, seeking to focus attention on the ways in which the opportunity structure has disadvantaged blacks and other minorities and helped contribute to massive wealth inequalities between the races.

Great property cases: using property to teach students how to think like a lawyer — whetting their appetites and aptitudes
P Wendel
46 *St Louis L J*, 2002, pp 733–759

Like many law professors, particularly those who teach first-year courses, the author subscribes to the theory that it is not his job to teach students 'Property', but to teach them 'to think like a lawyer'. So when he was invited to write an article about 'teaching Property', he began to construe the invitation in light of his teaching philosophy and style. To the extent that he claims to 'teach students how to think like a lawyer', could an essay be written about how the law of property can be used to achieve that goal?

Many learned law professors have acknowledged that the primary pur-