percent of other grades. However, gathering similar data on women legal academics is not so straightforward.

One of the benefits of studying women legal academics is that it might tell us more about the nature of the university itself. A new research agenda might use an examination of women legal academics to explore issues relating to the notion of cultural capital. In the late 1980s and the 1990s there have been repeated attempts to impose managerialism and bureaucratic control on universities. In considering the effects of institutional bureaucratisation, it would be particularly interesting to discover more about the role women legal academics may play in resisting the process.

Studying women legal academics may contribute, not only to knowledge of the university as an institution, but also to our knowledge of the discipline of law. The relationship between women legal academics and the discipline of which they are part arguably has particular resonance in terms of gender. Law, it is often argued, is a particularly masculine domain. A research agenda such as that outlined here has the potential to contribute much to the challenging of masculinity, not only within the law school, but within the university as an institution, by exposing areas where oppression is greatest, as well as those where resistance is already well established.

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INDIVIDUAL SUBJECTS/ AREAS OF LAW

Introducing legal reasoning

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47 *J Legal Educ* 4, 1997, pp 571–598

The elements of judicial decision-making are teachable and, therefore, they ought to be taught purposely and forthrightly. How courts solve law problems is not best left to the intuition of beginning students, or to their memory, or to osmosis. Understanding legal decision-making results from learning how logic and rhetoric operate in the specialised area of legal thinking and problem-solving. Chiefly, it results from learning that the law possesses both external and internal logic and then from learning the dynamics of these breeds of logic. Finally, it results from learning how judges justify legal outcomes on non-legal grounds.

Teaching how judges decide law cases means insisting up front that the legal system under consideration be a cohesive system. One requires at a minimum that the system's parts fit together to promote some species of justice. Such a system can be said to possess external logic or is said to be valid on account of its regard for coherence. What essential elements of the legal system should students consider when beginning an inquiry on legal decision-making? What elements bestow upon a legal system that system's external logic? Three elements come to mind: the rules that operate within the system; courts and judges; and tradition coupled with jurisprudence.

One would expect judges presiding within a legal system to decide cases in accordance with the rules operating in that system. One hopes as well that all the cases occurring in the system would fall within the ambit of established rules. But when a controversy arises to which no existing rules attach, a judge may fashion rules or select rules from outside sources, provided that the rule fashioned or selected coheres to the system's aims, purposes and traditions. Students should know, therefore, that judges may legislate in certain situations — variously called hard cases, interstitial cases or penumbral cases.

Students should understand that our legal system's traditions and jurisprudence have provoked sharp controversy about what judges do, what they ought to do and what they are permitted to do. For instance, the naturalist school of jurisprudence insists that the law be imbued with morality and that judges should strive to reach morally right results. The positivist school argues that there need not be any connection between law and morality. Simply put, the law is what it is. Legal realists make up yet another school, which regards positivist thinking as retrograde and archly formalistic.

Getting started on learning how judges decide cases within a legal system requires an insistence that the system be cohesive and coherent, that it possesses external logic. But what of the system's internal logic? How do courts identify controversies? How do they determine which rules to apply? How do they decide outcomes in a logical fashion? How do they justify outcomes once the outcomes are decided? What, in sum, are the dynamics of legal problem-solving? To help students answer such questions a discussion of induction, analogy and deduction may be helpful.

The first step in legal problem-solving is legal induction or issue spotting. Problem-solving begins with the experience the problem-solver brings to bear on a controversy. Answers which are experientially based are

derived inductively. Any conclusions take the form of hypotheses, which have to be tested by questions and the gathering of more facts. Judges possess vast experience on the subject of law problems. One of a judge's first tasks in resolving a law problem is imposing upon that problem its proper focus. Achieving the proper focus requires inductive analysis by way of generalisation and hypothesis.

Once the judge has asked the pertinent question, the inductive mode of problem-solving yields to the analogical mode and to rule selection. The judge must consult precedents similar to the case at hand and determine whether the similarities are sufficient to produce the same result as was achieved in the precedent.

How can it be said that a particular decision is justified? There are three forms of justification: formalist justification; justification through precedent; and justification through policy. Formalist justification is grounded on the idea that the legal syllogism justifies itself. The legal rule becomes the legal truth. The facts of a case depict the truth concerning certain events. When applied to the facts, the rule is capable of disclosing the legal truth surrounding these events.

But justification based on deduction has its problems. Most notably, deduction does not account for the process whereby a court identifies the rule best suited for resolving a case. Rule selection lies at the heart of legal decision-making. The rule will dictate the decision. That is why, when a court seeks to justify a decision's outcome, it is often justifying the selection of a particular rule. Rule selection occurs through analogy and any justification based on analogy inevitably entails justification based on precedent.

INSTITUTIONS & ORGANISATIONS

New wine in old bottles or new wine in new bottles?
P Leighton
25 *J L & Soc* 1, 1998, pp 85–101

Polytechnics and other higher education institutions have come under much recent scrutiny and yet analysis of the law schools and the legal education within them has had barely a mention. Indeed, in the increasing number of publications devoted to the history and celebration of individual new universities with large law schools, the lack of analysis of those law schools is intriguing.

In questioning the particular contribution of the new universities, it is inevitable that issues of comparability with the old universities emerge. All too familiar 'league tables' relating to teaching quality and research have pushed this issue to the forefront. League tables and the like are generally presented on an institutional basis, but individual law schools may create a different picture. Nonetheless, it is impossible to disaggregate these issues of quality, comparability and 'pulling power' from an analysis of law schools generally, and new university law schools in particular. It is also impossible to disregard the tensions that sometimes exist in the relationship between old and new universities. It would be wrong also to deny the controversy, passion, and debate which have characterised the period during which old and new university law schools have co-existed.

At one level these questions are easy to answer. The new universities are the product of the 1992 Further and Higher Education Act for England and Wales, which had equivalent legislation in Scotland and Northern Ireland. The long-established polytechnics were converted into universities.

Until recently there has been little research to facilitate both identification of trends and comparison between old and new institutions. The data reveal some differences. In comparison with old universities, new ones are far more likely to offer law degrees on a part-time basis, by distance learning, and to offer a degree which combines law with other disciplines. New university law courses are also more likely to be delivered on a modularised and/or semesterised basis. There are also some differences in the way in which students are admitted to law degrees. Although 'A' level points and/or grades dominate, there is a stronger tendency for new university law schools to accept non-'A' level qualifications and to have access course arrangements.

The major contribution of the new universities in terms of course provision is clearly in the vocational area. This has great significance for staffing, resources, learning methods, and research. Law schools which have staff involved in this work inevitably have a different culture from those that do not or have it as a marginal activity. It can be argued that the emphasis on vocational and skills based programmes, often available on part-time and other flexible bases, has been the particular contribution of the new university sector.

Less research, longer teaching hours, an emphasis on legal skills rather than scholarship and often inadequate learning and working environments can lead some to see new university law schools as inevitably second-rate. However, whilst it cannot be denied that the emphasis on and output of works of scholarship in general is lower in new universities, on the other hand, the contribution to professional legal education, teaching and