

As traditionally understood, neutrality has meant that law is applied in a dispassionate or impartial way to all those who come before it. Instead, it has been shown that law often applies particular standards, reflected in legal principles and case law, based on the experiences of white, middle class, liberal men.

The absence of an express reflection upon theory in corporate law perpetuates these illusions of law. Theory opens up intellectual discussion because it reveals the partiality of law – the idea that law is a reflection of the values of those who have had the power to shape reality.

It is clear that there were important political choices involved in deciding whether the corporation was to be treated as separate and distinct from its incorporators. The dominant political attitudes of the time supported the importance of economic liberty, private enterprise and commercial interests in the development of our liberal capitalist society. The separate legal entity doctrine not only has the effect of reallocating directors' responsibilities but it encourages individuals and society as a whole to think that this sort of shifting of risk is desirable.

There is also the possibility of enhancing and expanding our teaching by drawing upon other theoretical insights than those of liberalism. In this context, there is great potential for feminist contributions to teaching. Including a discussion of gender in our teaching is taking a stance on the importance of gender to the social and legal order.

In courts, universities, law firms, business and government it has generally been men who have created, defined and used corporate law. This has resulted in certain questions being asked, certain issues being valued and certain goals being pursued. Most of our teaching reinforces the masculinist values and images that underlie corporate law.

To raise gender issues in corporate law teaching we need to adopt a number of strategies. First, we need to place corporate law in its wider social, political and economic context. This is vital if we are to see both the values embedded in corporate law and the relationship between these values and women's positions in society generally. The author also suggests a need to draw upon empirical research to indicate how and why women are (and are not) coming into contact with corporate law. Furthermore, it is necessary to reconsider the teaching materials, such as texts, cases and other materials, we use in our courses.

Case law is a vital tool in teaching law. By incorporating a detailed discussion of case law we can expand students' understanding of the theoretical underpinnings and values of corporate law. Case law is also vital to locating women in corporate law. Where women have been rendered invisible by the discussion and materials included in a text book, case law can show some of the ways women are involved in and characterise corporate law.

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In not discussing the gendered aspect of such cases in our teaching we reinforce the position that questions of gender and power are irrelevant in the context of corporate law. Whether we also *empower* our students depends on what and how we choose to teach on corporate law. From whatever perspective we explicitly discuss theory and gender, we challenge ideas about the underlying (masculinist) nature of law and the traditional role of lawyering. By consciously incorporating feminist analysis into our teaching we can step outside of the traditional approaches to law.

INSTITUTIONS & ORGANISATIONS

Meeting the MacCrate objectives (affordably): Massachusetts School of Law

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The Massachusetts School of Law's (MSL) effort to offer a different type of legal education began with a few practical questions. Among them: 'Why doesn't law school teach what students need to know to practise law?' and 'Why doesn't it teach what students need to know to pass their bar examinations?' It seems absurd to the authors that law school does not teach what students need to know to practise law or even to pass the professional examinations that are the gateway to the profession.

MSL admitted its first students in August 1988. From its inception the school was committed to delivering professional education and training at a reasonable cost. As the Cramton and MacCrate reports have attested, most graduates who pass their bar examinations are not ready to begin practising law.

The discussions triggered by those reports have brought into focus a fun-

damental split over the nature of legal education. The reports give support to the reformers who wish to redirect legal education toward preparing students to practise law. Traditionalists, on the other hand, have viewed law school as only the first step in a professional lifetime of learning. Traditionalists were being called to account for not having done things they never set out to do. They were teaching law, not training lawyers.

The MacCrate Report challenged the traditionalists' view of legal education because it proceeded from the premise that preparing law students to practise law is the business of law schools. The report surveyed what was already being done in that regard — not much — and put forth a catalogue of skills and values law schools should teach. But it ignored the economic implications of its recommendations. It told law schools what needed to be done, but not how to go about doing it.

Since 1988 MSL has been delivering practice-oriented legal education at a fraction of the cost (and tuition) of more traditional law schools. It has accomplished this without sacrificing content or quality, and without abandoning the case method or a still largely traditional curriculum. MSL places great emphasis on the quality of teaching. What happens in the classroom is a principal focus not only for each instructor but for the faculty as a whole. Almost all of MSL's faculty have been and still are practising attorneys and judges. The school's view is that, although teaching involves a different (but not entirely distinct) set of skills from lawyering or adjudication, those with relevant experience are far better teachers on the whole than those whose knowledge is largely academic.

The reliance on adjuncts provides depth and breadth to the curriculum at a relatively low cost. To hire full-time faculty with as much knowledge and exper-

ience would add greatly to the cost of legal education for our students — without offsetting any benefit. MSL uses various techniques to ensure that all faculty teach as well as possible. It discourages both pure lecturing and pure Socratic dialogue and instead employs a discussion approach wherever possible, particularly in substantive law areas.

MSL has several sources of information about the quality of teaching in class. Like most other law schools it uses student evaluations. Also, each new adjunct is assigned a mentor from among the full-time faculty and receives a detailed memorandum on the school's teaching methods. MSL has a policy of unannounced videotaping at least once a year of a significant proportion of each class. The full-time faculty critique videos throughout the year and all faculty receive a brief summary of the comments. By employing a systematic approach that stresses the accountability and collegiality of all faculty members, MSL ensures that their teaching continues to be excellent.

At first blush, MSL's curriculum looks fairly traditional. But a closer look reveals the heavy emphasis on writing, speaking, and other practice skills (including interpersonal skills), as well as preparation for the bar examination. MSL also has many courses that deal with other practice skills besides writing and analysis. Recognising that lawyers must not only write effectively but also speak well, no matter what the forum, MSL has placed a special emphasis on oral communication across the curriculum.

At an MSL faculty meeting a few years ago, some faculty expressed the opinion, by no means original, that American legal education does not do enough to teach how law works in the context of the social, political and economic world that is inhabited by lawyer's clients. The school's curricu-

lum then asked each faculty member to devise a comparable law-in-context week for each course. The faculty responded with a variety of courses, most also touching on the ethical problems of lawyers. The first touch in teaching ethical sensitivity, according to MSL, is to expose students to professional role conflicts, and such exposure may well arise out of curricular materials that have no immediately apparent connection with the subject of legal ethics. Ethics and morality are part of a larger subject that might be called professionalism, which should be taught throughout the curriculum, as well as by example.

The American Bar Association's (ABA) standards for accreditation of law schools prohibit the teaching of a for-credit or required bar review course. Given that students come to law school for the purpose of joining the legal profession, it does not seem sensible to the authors that law schools should entirely eschew preparation for the examinations that afford that entry. And with no obligation to conform to the ABA model, MSL has been free to act on the conclusion that bar preparation is appropriate for its curriculum.

Despite the absence of any external financial support, MSL has been able to provide a solid legal education, including preparation for the practice of law, at a cost of \$9,000 per year (full time) raised to \$10,800 last year, the first increase since 1989. Its missions of making legal education affordable to those who might not otherwise receive it fits into the historical role of legal education in America as an instrument of social mobility, a role that is in danger of disappearing because of high tuition costs and restrictive policies.