

to visit their classes to provide peer feedback on their teaching, by openly seeking advice on teaching issues from colleagues, by discussing teaching initiatives they are undertaking and reporting back on their success, by admitting their mistakes, and by being present and actively participating at all meetings to discuss aspects of teaching.

TEACHING METHODS & MEDIA

Borrowing experience: using reflective lawyer narratives in teaching

J Wilcox

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American law schools are generally successful at what they do the most: teaching substantive law and skills of doctrinal analysis in large classes. And most of the relatively few clinical and other skills courses teach other lawyerly skills in educationally effective ways, tying them together with doctrinal skills. But, as professors and practitioners agree, law school falls far short of preparing its graduates for law practice and of giving them the sense of the practitioner's experience that is important to successful work in a profession.

We can assume that American legal education will not change greatly any time soon: traditional courses using case-books of some sort and some version of the appellate case method will continue to make up the bulk of the curriculum. In view of this assumption, the curriculum might be enriched by supplementing case-book readings with a number of books of a type rarely used in law courses: books written for the intelligent non-professional reader that recount and reflect upon stories of attorneys' work. Such books not only inform the reader about substantive law and the practice of law, they also allow the reader to gain a practical and sympathetic understanding of lawyers' work and lawyers' lives.

These 'lawyer stories' reflect the thoughts of careful, intelligent observers of attorneys' work, from both within the profession and without. Some of the

books are lawyers' remembrances, but the lawyer-authors are joined by journalists, historians, and biographers. Such books may help broaden and humanise law students' education by letting them, in a sense, 'borrow' lawyers' experience – as readers have always been able to borrow the experience of others.

American law schools have traditionally set two principal goals for themselves: teaching substantive law and developing the ill-defined but recognisable logical skill of 'thinking like a lawyer'. Of course, given the self-imposed limitations on its aims, legal education cannot be successful in all respects. Even its handling of doctrinal substance has its limits; it is not for extraordinary success in teaching substantive law that law schools are respected. The appellate case method is not even, today, an especially efficient method of conveying doctrinal substance.

The accepted curriculum has places for basic research and writing skills and for some of the skills of oral advocacy. But a lawyer needs many other skills. Only a few courses, taught to relatively few students, focus on additional skills and give at least some students an experience more rounded than that of the typical law school classroom.

It is only in the last thirty years or so that most law schools have seriously broadened the curriculum in this way. The resulting skills courses, though they may play an important role in the education of some students, are a small part of the entire curriculum. The economics of legal education require most classes to be large ones and the tradition within law schools so bounded is to use some variation of the so-called case method.

The right kind of readings can aid students to appreciate both procedural and social contexts, by explaining them, depicting them, and offering reflection on them. Lawyer stories can offer, in limited measure, benefits similar to those of skills courses but realisable in traditional courses by instructors using a Socratic approach.

Such narratives about law practice both teach about the law and paint a prac-

tical picture of lawyers' work – in a sense, a sympathetic picture. The fact that the readers are mostly not lawyers requires the authors to place the legal issues not only in social context, but in procedural (and broader legal) context as well. It is this recreation of the contexts missing from appellate cases that provides much of the educational benefit to law students.

Lawyer stories include accounts of how lawyers have handled their work – accounts told in legally accurate but mostly nontechnical language. They also include explanations of legal doctrine, but not so much as to make them difficult reading for lay people.

Assigning a lawyer story (a short book or a large chunk of a longer one), for about a week's reading in a course, may give law students a better understanding of the law than they would gain from studying only materials designed for doctrinal analysis of a more conventional sort. In helping law students tie together their doctrinal learning with learning drawn from realistic narratives, lawyer stories are food for both the mind and the soul.

The suggestion to assign such books is a modest one, in that its adoption would change course assignments little, and classes even less. But the suggestion responds to a problem that many different criticisms of legal education have noted: the gap between the experiences of studying law and practising law. Lawyer stories can convey at least part of lawyers' experience and bring an element of realism to legal study. And the contextual knowledge gained from them helps students better decode and appreciate the appellate opinions that they read.

There are in fact many lawyer stories that can be recommended for use in law courses; it is hard to imagine a course for which something appropriate could not be found. Most such books are readily accessible (in two senses: understandable and available), because they have been written for an audience far wider than lawyers or law students. All make for excellent reading, and a good number will stand the test of time.

Most of these books focus on the thoughts and feelings of at least one of the attorneys in the story. Books about litigated cases are most numerous, but practice of countless kinds is represented. Tales of lawsuits are the most common type of lawyer story. These include, of course, the memoirs in which trial lawyers tell of their exploits. Judicial memoirs are less important to law students than those by practitioners, given the opportunities that judges have to express themselves in opinions.

All these lawyer stories tell us how lawyers have gone about doing their work, and how they have felt about it. In the process, these books enlighten the reader about legal rules, habits and practices and – perhaps the most important – about the attractions and the dangers of a career in the law.

By encouraging sceptical reading and careful doctrinal reasoning, traditional courses help create what is best about the American legal mind. At the same time, they perpetuate the chief weakness of American legal education: its narrowness.

In our age of increasing legal complexity, casebooks tend to present students with less and less about more and more. It is easy for this situation to pass unnoticed. Students, desirous of marketable skills, are happy to have greater breadth than depth in their learning; they know that in the short run familiarity with a lot of doctrinal rules will help them on the job. For students, lacking the instructor's contextual knowledge, simply studying the edited judicial opinions harder is a largely futile way to round out their learning beyond legal education's two main goals of legal substance and logical skill. The narrowness of casebooks reflects, and in turn helps cause, a narrowness of vision in lawyers' ideas of what should be studied in law school.

The use of lawyer stories responds directly to many of the valid criticisms of the law school curriculum. Lawyer stories introduce students to law practice in all its breadth. They give social and procedural context to the cases and make them more meaningful to the students. They

show the human side of law practice. By reading such books, students can not only clarify their fuzzy pictures of the advocacy that underlies appellate opinions, but also learn much about nonadversary aspects of law practice – too little attended to in the curriculum. No less important is that lawyer stories respond to law students' emotional need to connect their studies with their personal lives.

Developing specific teaching and learning strategies for business law at levels I and II using behaviourist and cognitive models of assessment

L Norris

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This article reviews the effect of the assessment process upon separate cohorts of students engaged in further and adult education studying Business Law at levels I and II. When the educational needs of students are considered at each level and mode of study, the use of separate assessment strategies can be effective. The author suggests that a behaviourist model can be appropriately utilised at level I, whilst a cognitive model is most effective at level II.

In dealing with level I, the behaviourist approach was deemed appropriate for a cohort of students who were almost unanimously new to areas of legal education. It was felt important to introduce course content and assessment strategies that would highlight a change in behaviour that can be observed and measured. The level II strategy was based upon the cognitive approach to learning. Learning in the cognitive domain and hence preparation for assessment is based upon interaction. The learner attains fresh insights or cognitive structures, by modifying old experiences. This approach sees the individual as an active agent in the learning process, deliberately trying to process and categorise the stream of information received from the outside world. The lecturer has the task of reconstructing the student's insights. This is achieved within level II of the study by the undertaking of a series of case studies throughout the year. The aim was to encourage students

to conceptualise and synthesise reflective thoughts on the subject matter being undertaken.

The aim of the case study was to enable the student to appreciate legal frameworks and constraints within Business Organisations, followed by learning outcomes, fostering an appreciating of relevant legal rules as they apply to practical business situations.

This involved the development of a working knowledge of legal principles within Business Organisations and their consequences for business practice. There followed an explanation of the six staged progress tests to be undertaken during the year. This structure provided flexibility in format but based the content upon legal principles mastered within previously attempted progress tests. All forms of assessment were equally weighted towards the end of the year grade. The package clearly identified the aim and outcomes of this continuous assessment process. It indicated its aim of preparing students to revise for topics to be covered within the end of year examination. A study skills session and handout accompanied the case study-based assignment. This provided a suggested format for the writing of legal assignments. It was presented four weeks before the deadline for submission. Feedback on progress was provided via a set of suggested points for consideration, discussed in a tutorial session one week following the return of assignments.

In the model for level II, students were presented with a teaching and assessment pack during week one of their studies. This began with an explanation of the strategies to be adopted within the course. It contained a series of case studies to be completed throughout the year. It began with an identification of the aims and learning outcomes of the case at each stage. These were designed to increase awareness of the way in which legal rules change over time, whilst being alert to such changes within the area of Business Law. The second case study followed the broad theme of the first in terms of aims and outcomes.