

A plug for the 'traditional approach' to teaching law

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The Socratic method, long viewed as the "traditional" teaching methodology in law school, has diminished in use. The explosion of case law and especially statutory and administrative regulations has been a catalyst for this change.

Lawyers today must thread their way through a more complicated body of law than existed as recently as fifty years ago. Today, for example, a simple real estate transaction can involve environmental and civil rights issues in addition to traditional property law questions. The Socratic method, an inherently slow methodology that minimizes course coverage, has fallen prey to the desire to utilize teaching methodologies that cover as much law as possible.

A fundamental question must be asked before choosing any teaching methodology: What is the teaching objective? It is important to identify the skills an attorney needs to practice law effectively. The ability to analyze a large mass of factual data and focus on the relevant facts and relationships is essential. An attorney with a firm grasp of the fundamental legal theories and policies that underlie the basic foundations of law will be equipped to accomplish this task. Knowledge of statutory and administrative regulatory schemes is also necessary. The Socratic method fosters development of these skills.

The desire to maximize coverage of law is a misguided objective. It is impossible to expose law students to more than a fraction of the ever-expanding mass of law they will encounter as practicing lawyers. Also, many aspects of law will change between the time students are exposed to them in law school and any subsequent exposure in the real world.

Furthermore, an emphasis on coverage necessitates conveying large amounts of law without fully exploring it. This is dictated by the time constraints imposed by the realities of a typical three-semester-hour class which consists of a mere 45 hours of classroom time (actually it is less, because an academic hour is usually only 50 minutes). This type of environment encourages, and perhaps requires, students to memorize much of the material they are exposed to in order to survive the exam at the end of the course. Such a pedagogical approach is questionable since learning theory and anecdotal evidence support the belief that memorized information has a short lifespan.

The Socratic method in its purest form involves teaching students via the sole use of questions asked by the professor. The professor uses the questions to guide students through the material and to facilitate their own understanding of the material. Unfortunately, such a method is simply too slow to effectively cover sufficient material.

A modified form of Socratic method can effect a balance between exposing students to significant areas of law and developing lawyering skills. Such a method entails exposing students to large bodies of law via handouts or e-mail distribution. Class time can then be directed to developing analytical skills. The bodies of law can be applied to specific problems and hypotheticals which draw out the underlying theories and policies that provided the impetus for enactment of the law. This approach, which requires students to grapple with the difficulty of making legal arguments to support various outcomes in the problems and hypotheticals, makes students engage in analysis which must then be communicated in a persuasive manner. Additionally, it makes students examine the underlying policy of the law at issue as well as policies underlying other areas of law. This allows the student to understand the law rather than merely memorize it.

Learning theory supports the belief that knowledge is retained if it is fully understood in contrast to its merely being memorized. A modified Socratic method will not maximize students' exposure to law. It will instill a long-term memory of the law they are exposed to, in addition to developing the necessary lawyering skills of analysis and communication.