

Merit is not fixed and neutral but is an open-ended and rhetorical construct that elites manipulate to maintain their power. Yet in the frenzied pursuit of relativism we forget that no society has ever survived without a core of unifying cultural beliefs. This value-less "revolution" has caused higher education to deviate greatly from the ideals of the society it purports to serve.

Legal education has also fallen prey to the social science ideological value-less "revolution". The majority of law faculty members believe that traditional standards are inadequate, although the choice of particular alternative decision making processes is unclear. There has been little discussion and certainly no resolution of first principles, such as what are the objectives of legal education, why those objectives should be chosen and how best they can be accomplished. The ideology of social science is challenging the moral authority of the law and it may be true to say that interdisciplinary teaching is impelling lawyers to deny the very possibility of any moral authority in the law. Social science ideology has become so pervasive in the legal, political and ethical discourse that it is now a major contributing factor to them in its own right.

However, a knowledge of social science makes for a better lawyer. It improves a lawyer's understanding of human behaviour in legal settings, giving a fuller appreciation of the goals, motivations and strategies of clients, judges and adversaries. Social science helps lawyers to understand the difference between good and bad law, in particular, good law being that which strives to promote core societal values, whereas bad law neglects such values. Ultimately, lessons should be learnt

from social science, while resisting social science's pull towards nihilism.

Professionalism: the deep theory
(The ideological impact of legal education upon the profession - a series of essays)

D R Coquillette

72 N C L Rev 5, June 1994, pp 1271-1277

The legal profession is in crisis because we have lost sight of the "deep theory" of professionalism in the classroom, the office, and the courtroom. Deep theory focuses on the ultimate motivation for obeying rules. There are three common categories of deep theory: goal-based, rights-based and duty-based.

Recent developments in legal education, such as legal realism and critical legal theory, are examples of goal-based deep theory. The older ideals of a neutral rule of law have been rejected as a pious myth and a deliberate effort to exploit the weak under the illusion of fairness. Students become convinced that professionalism means being willing to pursue the ends of others, especially clients, irrespective of the means. Moral relativism and goal-based deep theory therefore go hand in hand.

Most democracies are founded on rights-based deep theories where the focus is on human freedom. In a Dworkinian sense the ground rules of rights-based deep theory are that every person should be accorded the largest political liberty compatible with a like liberty for all and that inequalities in power, wealth, income and other resources must not exist except insofar as they work to the absolute benefit of the worse-off members of society. These principles become the touchstones with which to test the validity of all positive

laws. However, rights-based deep theories do not help people make critical choices within their own area of freedom. Whilst they may determine the freedoms of the client, for instance, they do not answer the question of what we must do to be a good person and a good lawyer.

Duty-based deep theory is founded on the great classical and religious tradition that good acts do not necessarily lead to good results, at least not in this life. The professional traditions of the Inns of Court are duty-based. Law was initially taught as a humanistic study. The ideal of a barrister was strengthened by identification of individual lawyers with the system of justice. Maintenance of this identity was a professional duty.

The task therefore is to refocus legal education towards its humanistic, duty-based deep theory roots. This involves a recognition within the profession that lawyers are not just a means to someone else's ends and that losing a client is not as bad as losing self-respect. The lawyer's job is to protect the rule of law as an ideal, to serve the system of justice and to promote and study humanism.

CONTINUING EDUCATION

[no material in this edition]

CURRICULUM

Reshaping first year legal doctrine: the experience in the law schools

R Chester

20 Fla St U L Rev, 1993, pp 599-629

A previous article written by the author suggested that first year courses, such as contracts, torts and property could be taught within a single topic, civil obligations. This

re-organisation would serve to demystify the current doctrinal analysis. In the current article the author aims not to convince the reader that such changes are practical but how to implement this new pedagogical jurisprudence: the move from theory to practice.

The Langdellian construct was successful in divorcing law from justice. Its focus was on the process of rendering fair and logical decisions without considering the substance of the legal outcomes produced by the process. It described the workings of the system without asking what values informed the system. At the height of WWII several Harvard professors attempted to give American law the purpose of preserving and promoting democratic values and noted that the existing curriculum was not achieving this goal. They proposed to anchor the curriculum with six courses which would reflect democratic values. The subjects were Law and Control, Law and Intelligence, Law and Distribution, Law and Production, Law and Character and Law and Community Development. It goes without saying that such proposals were too abstract for the bar.

More recent ideas for curriculum design include that of D'Amato who suggests that students should be taught ways of reinterpreting legal rules in the light of a legislative purpose that is assumed to be just. In this way justice could be taught through case-law method.

Harvard Law School began experimenting with its first year classes in 1983 on the premise that the traditional case-law method was outmoded and should make way for a consideration of the modern Regulatory State, which in turn required the integration of doctrine in new ways. A course titled Public

Law was established to teach administrative and associated areas of law, but drawing on law and economics, critical legal studies and other current intellectual trends. The curriculum was designed to teach across the boundaries of the traditional separate courses. In a further effort to remove doctrinal boundaries, students participated in "bridge periods" whereby a cross cutting perspective, such as law and economics, law and justice or the significance of legal realism would be used to illuminate the common law and regulatory problems already touched on in standard courses. Whilst the program better prepared students for upper-level courses, the large amount of time devoted to the program, the need for long-term institutional assistance and faculty political battles contributed to its demise.

The Queens Law School - City University of New York has an emphasis on preparing graduates for public service. Its first and second year courses include Liberty, Equality and Due Process in Historical and Philosophical Context, Law and a Market Economy and Public Institutions and Law. Functional integration of basic subjects has been attempted with a strong emphasis on the law in a Regulatory State.

The most far-reaching experimental first year curriculum at an established law school began in 1991 at Georgetown University. The courses developed for Georgetown's experimental section include Bargain, Liability and Exchange, Democracy and Coercion, Government Process, Legal Justice, Process and Property in Time. A perusal of the course synopses indicates that a first-year Georgetown student will be educated more broadly and deeply about the law

than any other first-year student ever has been.

DISTANCE EDUCATION

[no material in this edition]

ENROLMENT POLICIES

Strategies for the selection of students to law courses in the 21st century: issues and options for admissions policy makers

M Tzannes

29 Law Teacher 1, 1995, pp 43-63

The admission policy of a law school affects the entire culture surrounding the course and therefore has a more significant influence than the mere selection of the students who will commence the course. Students admitted to the course should not only possess the necessary intellectual attributes. Other student attributes should be considered in the formulation of admission policies.

A faculty should decide what type of graduate it is trying to produce and select students who have a high probability of completing the course successfully. Objectives of admission policies are often overlooked and schools are more interested in the methodology of student selection. An admission policy should attempt to match the attributes of candidates with the knowledge, skills and attitudes to be acquired in the course and the eventual graduates in practice.

From the student point of view, accurate information about careers and career prospects should be provided to permit accurate self-selection by students, as the size and quality of the applicant pool plays a significant role in determining the profile of the students admitted to the law school.