ment, challenge, and aggression serve as key ingredients, which originate with a law school's faculty. And these ingredients alchemically change students and teachers alike. Cynically, as long as deans and law faculty play a role in defining what excellence, commitment, challenge and aggression mean, all law schools will have good law teachers, especially if their definition does not disturb the dominant institutional narrative.

However, good law teaching is a narrative, a story, that reflects a certain perspective, usually an institutional one driven by a host of well-formed cultural norms, and it continues to reject black law professors — the questionable intellectual. As such, I understand these ingredients (e.g. excellence, commitment, challenge and aggression) in this narrative context. They are text and subtext. At the level of text, everyone can be good law teachers and, in this vein, law schools actively recruit minorities and women for this role. At the level of subtext, minorities and women are not expected by white males (deans and professors) to succeed in the classroom. If a minority succeeds in the classroom, especially in a majority white institution, she must leave most of her lived experiences in her diary, in her close personal friend's ears or in her law review article's 'fictional' personal narratives. If a minority fails in the classroom, he must have violated an institutional norm, some totem to which most of the white males pray and upon which most white law students depend to gauge their performance in law school. In either case, success or failure depends on whether the minority law professor locates herself inside or outside of the institution's narrative.

This narrative does not empower, but restricts one's pedagogy and, in so doing, it usually shelters white male law professors from the reality that they violently, institutionally and continuously marginalise minority law professors. Without institutional power and naming rights, this narrative reifies a cultural norm that denies that minority law professors can succeed in the classroom on their own terms and rejects the black intellectual as a co-equal partner in the legal academic enterprise.

TEACHING METHODS & MEDIA

Innovative teaching methods and practical uses of literature in legal education

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18 *Whittier L Rev* 4, 1997, pp 815–822

The complaint most attorneys have about students graduating from law school is that they cannot write. Fixing the problem is more complicated than merely improving law school curriculum or becoming a better teacher. This is especially true because law school, generally, does not provide activities which instill a zeal for the written word.

Because a breadth of reading enhances one's ability to think and write, throughout the years the author has tried to encourage extra-curricular and diversified reading to be done in conjunction with her Legal Writing class. Unfortunately, yet understandably, law students generally only do the required work, but not more. As a consequence, she has discovered that the 'readers' in her classes continue to read while the 'non-readers' never take the opportunity to discover what advantage there might be in taking her advice. Because no change has occurred in students' overall attitudes, she decided to make life more interesting by integrating literature into the first year Legal Writing curriculum.

The final project of the first year Legal Writing course is the appellate advocacy experience. Traditionally, this consists of pleadings and opinion from a Moot Court casebook assigned for the purpose researching legal issues, writing a brief and preparing an oral argument. The author decided, however, that she would shift from the stock format and begin assigning a novel to be used as the basis for the problem. The novel chosen for the experiment was *Lolita*, by Vladimir Nabokov.

Using the book as the fact situation and assuming that the main character, Humbert Humbert, had been convicted for first degree pre-meditated murder, her assignment of error was the following: 'whether the trial court judge erred in refusing to allow the jury to be instructed on the lesser offense of voluntary manslaughter when the judge determined that the initial provocation was the time of Dolores' disappearance, that no subsequent provocation existed, and that the time between the initial provocation and the murder was too lengthy to warrant a manslaughter instruction.'

As additional information, she included excerpts of statements made by the judge justifying his failure to giving a manslaughter instruction, such as, 'even if there was sufficient provocation the cooling time was too lengthy.' The students would take sides, do the research, prepare a brief and an oral argument — all the traditional elements of the appellate advocacy experience.

I had multiple goals in doing this project. First, I wanted my students to become educated and 'broadminded' without knowing it. *Lolita* is not a lengthy book, but it is difficult. The sentences are complex and the vocabulary advanced. It was a book the students would not be able to master without working hard. Additionally, with respect to learning a legal skill, it provided the students with the full scope of the client's story. In order to complete the assignment with any degree of success, the student had to use all the skills of good representation. The student had to prioritise information and understand the psychology of the characters to create plausible arguments and defenses. The student had to mas-

ter the nuances of the law with respect to the selected strategies for representation. Those representing the defense had to decide whether to portray the client as insane, or justified, or whether the conviction should be reversed based on a technicality. Those representing the prosecution would have to choose whether to portray the main character as a monster.

In short, the assignment was pretty close to a real criminal prosecution — whether the students realised it or not. Additionally, the hope was that some students who had not previously been exposed to quality literature would take an interest that continued once the year was finished.

As moot court time approached and more students began reading the book, most of them said the book was lengthy, difficult and all they could distill from it was that the protagonist, Humbert Humbert, was a sick man. In legal terms, the book was about murder — criminal law, conviction, erroneous jury instruction, provocation — all terms to which the students could relate. However, there seemed to be no appreciation for any human elements in the book. Humbert Humbert was a child molester who sought out a man and killed him; clear cut, black letter law, application of a test, the state wins. Ninety-eight percent of the students wanted to represent the state. They wanted to apply an equation not to human beings, but to 300 difficult-to-read pages of information.

The author began thinking that maybe she had made a mistake in assigning *Lolita*. Her students were there to learn a career, to learn the law and how to incorporate legal explanations into legal documents. Learning to appreciate literature seemed to have no place on this agenda. However, a flicker of potential appeared: a couple of students saying they had read the criticisms and began seeing the book from another perspective or how the annotated version of the book really helped; a couple of other students commenting that, at second glance, the case law was not completely negative. Despite the initial complaints, consternation and protestations that the problem was too difficult and one-sided, the briefs and arguments for both sides were passionate, well-constructed and full of conviction.

In retrospect, the author cannot claim that any cataclysmic changes were made in anyone's writing or lawyering abilities. However, her hope is that she sent many students away with new perspectives on literature and legal education. The students read something that, in many ways, was as far away from legally analytic writing as one could get. They were required to study language for the purpose of understanding what was occurring and were exposed to a stylistic manipulation of the language which most had not seen. They were exposed to ways in which language worked or could be worked, in order to convey an idea.

Despite *Lolita*'s seeming irrelevance to the law school experience, there was no doubt that it was an eloquently written portrayal of some very real human conflicts — conflicts that, in real life, unfortunately end in the violence with which the book ended. It gave the students the opportunity to spend time with such characters, get to know them and ultimately feel for them, the good, the bad, the vile and the heart wrenching. The author cannot think of a more appropriate way in which to prepare students for their chosen careers as attorneys.

Revamping the law tutorial

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1 *Southern Cross U L Rev* 1, Sept 1997, pp 208–227

With 'quality teaching' becoming the catch cry of the decade, the process of 'rethinking the teaching of law' has been apparent in law schools throughout Australia. Although there have been significant innovations in undergraduate teaching methods, it is not uncommon still to find the traditional teaching division of lectures and tutorials as the dominant structure for the teaching of law. Quality teaching can thrive within the traditional framework of tutorials and lectures. However, a failure by teachers to evaluate, in the light of current educational research and theory, what they do and why they do it puts the quality of law teaching in jeopardy and means that a highly effective teaching forum, the tutorial, may be devalued.

In many cases, the repeated tutorial format is a consequence of habit rather than critical selection. To allow tutorials to function just as 'mini-lectures' or as 'exam-trainers' is undervaluing their potential as a way to maximise student learning. Students spend 70 to 80 percent of the tutorial passively listening. From a student's perspective there appears to be very little difference between what it expected in tutorials as opposed to lectures. Developments in educational theory have until recently been ignored in law schools throughout Australia. Law teachers have generally tended to approach teaching in the same way that they were taught.

For many students the period of settling into law studies can be difficult. The tutorial can play a role in combating alienation because it has the potential to facilitate interaction and co-operative learning, both of which may help to reduce anxiety and isolation. Furthermore, the tutorial has scope to offer support and to provide a network of contacts, both social and academic.

Tutors might feel justified in implementing a range of teaching strategies in the tutorial program on the basis that students perceive variety as improving their motivation and learning. However, the structuring of tutorials should not be a process of random selection governed by variety for variety's sake alone. Whilst good teaching never allows a particular method to dominate,