dents. The remarks of these respondents reflect a conscious blending of the themes of engagement, realism, application, judicial thinking, and efficiency, to produce a superior pedagogy.

Choosing which approach to use requires professors to make conscious tradeoffs. Professors were also candid about the challenges associated with each of these approaches. None of the three approaches is free of challenges. For the new or occasional evidence teacher, articulation of these method-specific problems provides the opportunity to match teaching methods with the teacher's strengths or preferences.

Most respondents recognise that the problem approach presents a variety of pedagogical issues. First, noting that the problem approach relies upon student preparation for its effectiveness, professors cite the unevenness of class preparation. Second, the unpredictability of class pacing as students grapple with problems creates coverage issues. Third, reorienting students from case analysis to understanding and applying rules, principles, and policies can generate student discomfort.

The case approach also is seen as posing challenges. First, professors note the challenge of getting students to appreciate how the rules are actually used in court and the effect of evidentiary error on the ultimate outcome of the case. Second, professors cite the difficulty of generalising from the particular case to the variety of issues raised by the applicable federal rule. Finally, respondents cite other problems such as the complexity and inefficiency of the case approach as compared to the problem approach, and suggest that the problem textbook offers the students a faster way to a basic level of comprehension than does the case method.

Professors address preparation problems by using a variety of devices to hold students accountable for the materials. A sampling of these devices includes the following: (1) assigning panels of students to each set of problems; (2) dividing the class into groups that are responsible for leading the class discussion or for taking opposing positions and ruling on evidentiary issues presented by the problems; (3) making sure that students know what material will be covered in class; and (4) counting class participation in the final grade. In terms of the case approach, to deal with the problem of appellate decisions obscuring the strategic use of evidence rules in practice, professors also take steps to compensate for other perceived deficiencies in the case approach.

A noteworthy distinction between the problem and case approaches is the high incidence of team and small group assignments and role playing under the problem approach. A majority of professors in each category use detailed syllabuses. Professors in all three categories extensively use partially or fully objective final examinations.

While the Survey indicates that the problem approach predominates over the case approach among current evidence professors, the effective use of hybrid approaches by a significant minority of professors suggests the importance of thinking beyond a bipolar view of evidence-teaching methodology. The Survey is a richly textured snapshot of the thinking behind the teaching and evaluation practices of seasoned evidence faculty.

Preliminary reflections on teaching about ethnic minorities in law
P Shah
37 *Law Teacher* 1, 2003, pp 18–35

This article presents some reflections on approaches adopted and experiences of being involved in teaching the field of Ethnic Minorities and the Law. The author started off co-teaching this subject as a timid postgraduate student at the School of Oriental and African Studies, University of London.

It is remarkable that student interest in courses tackling these topics has generally tended to be quite high, although it was noticed that a number of reservations also preoccupy students when considering taking up such courses. Not least among these are worries about being marginalised or penalised in the job market. This has largely not been the case in actual practice and there is evidence that older lawyers are rewarding students who have under their belts the sorts of qualifications that they themselves never got the chance to study. The ever-increasing emphasis on diversity-aware workers provides an added incentive in this context.

An ever-present worry is the possible 'ghettoisation' of the discipline. More worrying is the assumption that white English law students do not need to know about the legal implications of increasing cultural pluralisation within British or European societies. Another important trend has been that the overwhelming majority of students are tending to be female, and there is cause for thinking about whether and why ethnic minority studies in law are also gender-coded in students' minds. There appear to be obvious parallels here with Family Law and Women and the Law courses which attract mainly female students. There is also reluctance about the topics taught and approaches taken within law departments where fellow academics can often be dismissive due to prevailing orthodoxies or latent fears.

If the British legal order largely expects conformity, refuses to fully recognise diversity and penalises people for cultural hybridity, is there a framework of legal inquiry that can help us to approach things more positively? Our response has inevitably had to involve a departure from the way in which law was being taught elsewhere and as it has generally presented in the leading textbooks, regardless of which topic is dealt with. Indeed, it has been essential to start from basics and pose questions about how we conceptualise law. We there-

fore question the fundamental premises of Western 'model jurisprudence' as a way of eventually understanding that the legal situation of ethnic minorities cannot be adequately analysed within traditionally accepted 'black-letter' renderings.

While students often find intuitive appeal in reading legal pluralist perspectives, they are often much more reserved about their practical value. The use of expert reports therefore enables students to see how field knowledge can actually be applied in real casework contexts, thereby opening the door to discussions about how legal pluralism could work in practice. The author is convinced, despite what may be apparent from law reports, that a huge market exists for such work as long as it is possible to train people with the right sort of skills.

One key issue will be that of teaching materials. Using law reports as a teaching tool is, of course, indispensable. However, law reporting remains fraught with its own politics that have ensured the systematic non-appearance of cases of crucial relevance to ethnic minority laws. Articles, largely though not exclusively, derived from the minority press have been a key source of information showing how the social basis of the legal system is changing ethnically, and in ways which are barely discussed in the academic literature. Although matters are improving, reliance on 'unorthodox' sources is still necessary.

A more general curricular concern is whether one should teach a course on Ethnic Minorities and the Law as a separate optional offering, or whether an ethnic minority focus ought to be integrated into all areas of teaching. In principle, the latter approach is favoured. Indeed, if it is accepted that police, magistrates, judges and other officials are prone to institutional racism and that training is essential to mitigate its effects, then it would now seem impossible to argue that students should not be taught about the implications ethnic diversity has for all areas of law.

A real danger still exists that separate optional courses on ethnic minorities can be pushed further into an 'ethnic niche', so that other academics can comfortably avoid taking seriously the need for changes in their own curricula. This should not, in any case, deter committed individual teachers from being more adventurous in their own repertoires.

LAW SCHOOLS

Access to justice: The social responsibility of lawyers — markets and mindwork
D Bok
11 *Wash U J L & Policy* 2003, pp 1–13

In the last twenty-five years, markets have strengthened their hold on the American imagination. In economics departments, business schools, public policy faculties and even law schools, free market doctrines have become more visible and more ingenious in their claims for extending the principles of competition to other areas of American life.

Buoyed by the ideas of free market intellectuals and swept along by the current *zeitgeist*, competition has increasingly entered professional life. In the legal profession, law firms compete for the brightest students, while personal injury lawyers advertise loudly to capture business from competitors. In higher education, universities publicise their attractions more widely than ever before to enroll the students they want.

Despite this wave of popularity, it is worthwhile to question how beneficial competition is for institutions that traffic in the work of the mind. There can be too much competition in intellectual pursuits. At least, in these fields of endeavour — including law and education — there is no invisible hand that automatically guides human activity to optimum results. On the contrary, intellectual services share certain characteristics that make competition highly problematic unless great care is applied. In fact, competition is already doing some damage to America's three most prominent intellectual institutions: public schools, universities and law firms.

Competition in intellectual pursuits is problematic in that it is often hard to measure the quality of the product. How is one to tell whether one law firm is better than another? In law, judgment is what the world pays for. However, judgment is very hard to measure even in retrospect — and harder still before the fact when someone is trying to choose which law firm to employ. If anything, the problem is even greater in choosing among schools and universities. Who among us really knows how much we learned in three years of legal training, and whether we might have learned more or less at a different school?

Lacking good indices of quality, we tend to fall back on crude measures. We must make judgments about what law firm to engage or what university to attend. In choosing a law firm, we look at earnings per partner, or perhaps at the law schools members of the firm attended, or at the stature of the clients that hire the firm. For universities, there are the US News & World Report rankings.

University rankings are at least as unreliable as law firm rankings. The results are primarily based on evaluations from educators at other institutions. Other indicators enter into the rankings — SATs of the entering class, alumni contributions, dropout rates, and the like — but all of them bear little connection with how much students are actually learning and developing at the institutions being measured.

The fact that standards of performance for intellectual services are seri-