

other scenarios to which their proposal might apply. This often leads them to make proposals that, on closer examination, prove to be unsound.

For instance, a student might be outraged by the government's refusal to fund abortions, and might therefore propose a new rule that 'if the government funds the non-exercise of a constitutional right, then the government must also fund the exercise of the right'; or the student might simply propose that 'if the government funds childbirth, it must fund abortions,' and give the more general claim as a justification. But the student might not think about the consequences of this general claim, which are that, when the government funds public school education, it must also fund private school education since that is also a constitutional right — or perhaps even that a government that funds anti-drug speech must also fund pro-drug speech.

The student's argument, at least at its initial level of generality, is thus likely wrong or at least incomplete even by the student's own lights. But the focus on the one core case keeps the student from seeing the error.

All of us have run into this in our students, and we have tried to help them by identifying the counter-examples that they need to consider — and by stressing to them that they should themselves identify such counter-examples. The author wants to suggest a more systematic approach for doing this, using a concept borrowed from computer programming: the test suite.

A test suite is a set of cases that programmers enter into their programs to see whether the results look right. If all the test cases yield the correct result, then the programmer can have some confidence that the program works. If one test yields the wrong result, then the programmer sees the need to fix the program — not throw it out but improve it. Such test suites are a fundamental part of sound software development.

What information can this testing provide? First, pointers to error: the student might find that the proposal reaches results that even he thinks are wrong. If so, the student might think that the proposal yielded the wrong result because it did not take into account countervailing concerns that may be present in some cases. If this is so, he could modify the proposed test, for instance by limiting its scope. Another possibility is that the insight which led the student to suggest the proposal is better explained by a different rule.

Second, evidence of vagueness: the student might find that the proposal is unacceptably vague. Third: surprise: the student might find that the proposal reaches a result that he at first thinks is wrong, but then realises is right. The student should keep this finding in mind and discuss it in the article; it may help him show the value of his claim, because it shows that the proposal yields counter-intuitive but sound results. Fourth, confirmation: the student might find that the proposal yields precisely the results that he thinks are proper. This should make the student more confident in the proposal's soundness, and it also provides some examples which can be used in the article to illustrate the proposal's soundness.

How can students identify good items for test suites? Students could start by identifying what needs to be tested. The test suite is supposed to test the proposed legal principle on which the claim is based. Sometime the claim itself is the principle. But sometimes the claim is just an application of the principle. Second, each test case should be made plausible. It should be the sort of situation that might happen in real life. It is good to base it on a real incident, whether drawn from a reported court decision or a newspaper article. The situation need not precisely follow the real incident, and may assume slightly different facts if necessary; the goal is to have the reader acknowledge that the case might happen the way it

is described, not that it necessarily has happened. Third, the test suite should include the famous cases in this field. This case should confirm for the student and the readers that the proposal is consistent with those cases.

Fourth, at least some of the cases should be challenging for the proposal. The student should identify cases where the proposal might lead to possibly unappealing results and include them in the test suite. Sceptical readers will think of these cases eventually. Identifying the hard cases early — and, if necessary, revising the proposal in accordance with them — is better than having to confront them later, when changing them will require much more work. Fifth, the test cases should differ from each other in relevant ways, since their purpose is to provide as broad a test for the claim as possible.

The test suite is the student's tool for proving to herself and to the reader that her claim is sound. It can also be a tool to prove the same to readers. After presenting the proposal, the article should show the reader how the proposal applies to a variety of examples drawn from the test suite. There are three advantages to this. First, this application will help make the proposal clearer and more concrete for readers. Second, it can help prove to the reader that the proposal reaches the right results. Third, applying the proposal to the test suite in writing can help the student make sure that the proposal does indeed reach the right results.

## **TEACHERS**

### **Lived experiences of the law teacher**

E Mytton

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The biographical study of the lived experiences of six law teachers offers a new dimension to understanding the dynamics of law teaching. The overall purpose of the study is to reveal how these law teachers make sense of

the world of legal education in terms of individual identities and values and whether they necessarily regard themselves as academics. The significance of the study is the contribution it seeks to make to the understanding of individual law teachers and how they experience the dynamics of a rapidly changing teaching environment. The study reveals how different experiences emerge through a complex interplay between spheres of influence and theoretical frames of reference.

The biographical method has not hitherto been applied to understanding this dimension to legal education. The purpose of adopting this method is to make a deliberate departure from more traditional research methods in legal education and to determine the extent to which it might be possible to see the world of legal education as a lived experience. This approach provides tools of analysis for our understanding both of the dynamics of law teaching and dynamic identities.

The lived experiences of six law teachers form the basis of this study and were explored through semi-structured interviews. Three of the teachers are former practitioners, while the rest have not practised law. Key themes were developed through the interviews, namely, personal identity, being an academic and perspectives on values. The study shows the ways in which these law teachers experience the dynamics of law teaching and how they are affected by their backgrounds, career expectations and teaching experience. This is set against the wider socio-political context as the university seeks to accommodate the complex dimensions of career and management structures.

The study shows that some university staff do not feel valued. The words 'impotent' and 'exploited' were used to describe the frustration of trying to manage course teams. Academics have traditionally been at the very heart of university life, but the picture is changing. The shift is evident as more di-

versity occurs. Administrative functions are expected of academics, some of whom may seem unwilling or ill-equipped to take on such tasks. This is not surprising since, traditionally, being valued as an academic derives from the recognition of academic peers but today the position of the academic has changed. There are multiple roles to perform and the university seems not to have managed to achieve an environment where those with changed academic roles can achieve a feeling of being valued outside traditional frames of reference.

The interviews were structured around key themes, rather than specific questions, and sought to explore academic identity and the context of being a law teacher. The interviews were designed to draw on people's stories, to avoid bias and to provide an opportunity for the individuals to reflect upon their own identity, what it means to be an academic and their sense of values. The individuals were free to make choices in terms of which aspects of their lives as law teachers they wished to reflect upon.

It might have been anticipated that all six law teachers would regard themselves as academics but in fact the responses did not bear this out. At its simplest level, academics might be described as people who work within a university. However, this approach fails to recognise the complex working structures which now exist. All the former practitioners separated the identity of the academic from the professional practitioner. Given their practice backgrounds, perhaps this is not surprising. They identified themselves first and foremost in terms of their professional backgrounds as lawyers and did not regard titles such as 'university lecturer' or 'academic' as having professional parity with their professional practitioner status.

It had been expected that academic freedom would be taken as a significant factor relating to academic identity, yet this was perhaps the most sur-

prising aspect of the study. Apart from one, none of the teachers were particularly concerned with retaining this as an important aspect of their sense of values. There was a distinct similarity between the former practitioners' understanding of values developed through working in practice, especially with regard to professional conduct and working in teams. As law teachers, they found themselves working alongside 'academics' with different value systems.

It becomes clear that there is potential for conflict relating to the collision of different cultural experiences. Practitioners coming into the universities to teach share a similar set of cultural expectations and experiences with respect to training, management and working in teams. The interviews revealed that, having entered the academic environment, course management responsibilities led to a sense of frustration and exploitation. It seems to have been more arduous for the practitioners to establish a sense of what is valued and how academics relate to one another. The practitioners regarded academics as those who are subject-driven with a view to specialisation, contribution to knowledge and publication. Those interviewed showed a preference for retaining their identity as practitioners, rather than adopting new identities as academics.

One of the surprising aspects of the study has been the realisation that not all law teachers regard themselves as academics. There are individuals working alongside each other with different values and identities. On the one hand, there are traditional academics, dedicated to the pursuit of knowledge and extending the boundaries of understanding in their specialist areas. Alongside these academics are law teachers who prefer to retain their professional practice identity and do not relate easily to traditional academic working practice.

The university can no longer be taken to be solely an academic institu-

tion in which academics work autonomously and with limited external interference. Different individuals have different identities and differing sets of values, which produce a dynamic working environment. The university is increasingly a commercial enterprise both in terms of its business and its structures.

## **TEACHING METHODS & MEDIA**

### **Socratic ignorance: once more into the cave**

J Beattie

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What should we teach to our students and how should we teach it to them? In particular, how can law schools best prepare students for their legal careers? Answers to these basic pedagogical questions continue to elude us. Within the current legal community there is no general consensus regarding how best to teach our students the law or how to meet the future challenges of legal education. The lack of consensus is not from want of trying. There does appear to be, however, near uniform condemnation in modern legal scholarship of what has been tried in the past. More specifically, teaching the law using the Socratic method, the traditional core of legal pedagogy, is now held in general disrepute. Why is this so?

Critics claim that the Socratic method manipulates students to expose them to public refutation while the professor safely chooses whether or not to reveal the correct answer or to join in the classroom discussion. The method is combative, similar to military indoctrination or custodial interrogation, and it only serves to confuse, entrap, and silence students — female and non-white students in particular.

Possibly driven by their law school experiences of particular overbearing law professors claiming to use the Socratic method, critics are rightly concerned that such a teacher effectively destroys the possibility of learning for many students. The question remains, however, whether such demagoguery can accurately claim to be using the Socratic method. But such classroom despotism is not required of the Socratic teacher and, in fact, is not consistent with Socratic teaching. There is another type of law teaching, one which follows more closely the educational theory developed by Socrates and can truly claim the name Socratic teaching.

If teaching is viewed as a process of eliciting information from students, information that will eventually lead to the answers we are looking for, then plainly we must pay close attention to what our students are saying. This attitudinal approach requires two very simple, but often very difficult, activities on behalf of the teacher: listening and reinforcing.

First, we have to listen to our students. When our students are responding to our questions or asking questions of us, we have to listen. We may learn something new, and if we take the effort to listen closely to our students, our students will be more disposed to take the effort to listen to us.

Second, if Socratic teaching requires students to supply the information for class discussion, then in order to keep the information flowing we need to reinforce students' contributions. The Socratic teacher must take the time to reinforce and support students as they attempt to understand their experiences and the experiences of others in light of relevant legal doctrine and policy.

Another pedagogical commitment is suggested by Socrates' theory of

recollection: students who actively reconstruct answers for themselves best achieve learning. Other commentators have stressed the central importance of students' self-discovery to Socratic teaching. Professors do this by using a series of questions and answers called the dialectic. The dialectic is Socrates' term for a special kind of questioning process. It is a sustained series of questions and answers whereby participants, usually the teacher and one student, start with a common problem and proceed to question their original (starting) perspectives and assumptions on how to solve the problem. As the dialogue proceeds, the participants formulate new hypotheses concerning the problem, vary their perspectives, and question their assumptions.

The dialectic has two main objectives. The first objective is to make some headway in the particular inquiry at hand. Only if students and teachers are willing to subject their implicit knowledge of the situation to open inquiry can they hope to achieve a more explicit understanding of, and justification for, their solution to the problem.

Socrates' primary objective in using the dialectic was to internalise the questioning process in those with whom he was conversing in order to teach students to become self-questioners, or self-taught, capable of rendering explicit what they know implicitly by their own devices. It appears that the normative pedagogical commitments of Socratic teaching, at least as Socrates understood this method, are heavily student-centered.

If it is the fundamental goal of Socratic teaching to get our students to internalise the questioning process, then students, if we as teachers are successful, are going to ask questions and pose hypotheticals of the teacher. In the Socratic classroom, students as well