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THE NEED FOR DIVERSITY IN TEACHING LAW

Sheela Jayabalan

*Faculty of Law, Universiti Teknologi MARA,
40200 Shah Alam, Selangor, Malaysia
E-mail: jsheelathana@yahoo.com.my*

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ABSTRACT

Teaching law is normally depicted with students seated in a large lecture theatre with the professor in law who lectures in the traditional lecture method feeding students with the content of law. This content is faithfully taken down by students as notes while trying to make sense of the professor's lectures. This was the norm of teaching law some 20 years back during the author's student time and still is the practice because the lecture method is the most efficient means to cover the vast subject content of law. Furthermore, it is opined that it is easier to expound one's views than to ask penetrating questions which rarely provoke the activity of original thinking. As such, law students are inundated with substantive and procedural law. Little thought is given to the learning process. The corpus of learning the law becomes less significant. Emphasis is on teaching the law. The traditional teaching norm of lecture method is so innate that the traditional method of teaching law is perpetuated, dragging the students into a dry and boring journey of studying law. Even though the study of law is daunting as a serious one, but equal significance should be given to provoke the cognitive thinking of the students. Law students should be taught to think like a lawyer. Additionally, some form of creativity can be an added value in teaching law which makes learning law more vibrant. This article laments that the traditional pedagogy of teaching law merely imparts knowledge, whereas law students should be taught to learn the law, stimulate critical thinking and ignite their cognitive skills.

Keywords: *law, diversity, teaching pedagogy*

INTRODUCTION

The focus of law teaching in most law schools is primarily on the exposition of legal doctrines which is what the law is all about and its factual application to problem-based questions. The general approach to teach is fairly the same in most law schools. For example, in Malaysia, lecturers are assigned the subjects to be taught for the semester or for the year. These subjects are to be taught within the syllabus content and the time frame given. For example, in the Faculty of Law, University Teknologi MARA, the time frame given is 14 weeks. The task to teach can be a rather daunting experience because the emphasis has always been to squeeze in everything about the subject taught and present it to the students. It becomes a rat race to complete the syllabus content within the time frame given and at the end of the semester the students are expected to 'know the law' and be able to apply the law to the given problem-based questions. The lecturer plays the authoritarian role who is expected to be an expert and the traditional method of delivering the law is through a series of lectures. This scenario brings back profound memory of the series 'Paper Chase'. It depicts how law students grapple with studying law at a law school and how they are traumatised by an authoritarian professor who has the law at his fingertips. The students are inundated with substantive and procedural rules of law. The paper chase experience is the nomenclature of most law schools in Malaysia and many other countries. There is a total disregard and disdain of the learning process of the students. Furthermore, not all law lecturers are practitioners. Most are academics. Since most are academics, the repercussion is over emphasis on the identification and analysis of black letter rules. Students are to accept the law as series of rules. The practicality, appreciation, and the relationship of the law to society are not given much thought (Barry, 2012). Moreover, not all lecturers undergo any teaching methodology courses. Hence, the teaching method adapted is the traditional method which is teaching by way of lectures and note taking by the students. The end result of holding on to this traditional teaching pedagogy is producing law graduates with the knowledge of law but cognitively not knowing how to comprehend it in the real world (Katz, 2012-2013). Therefore, this article discusses that; (i) Study of law over emphasises on 'teaching' rather than the learning process which is the traditional nomenclature in most law schools specifically public universities; (ii) Diversity is imminent in the teaching methodology of law; and (iii) The advent of technology can enhance teaching pedagogies. The

author shares her experience as an academician having taught law for the last 23 years at the Faculty of Law, Universiti Teknologi MARA.

TEACHING THE LAW VERSUS LEARNING THE LAW

Studying law over emphasises on ‘teaching’ rather than the learning process which is the traditional nomenclature in most law schools specifically public universities. The objective of studying law can be generally divided into three themes (Arthurs, 1983):

Table 1: The Objective of Studying Law (Arthurs, 1983)

Cognitive Content	Skills Content	Perspective Content
Students are provided with fundamental knowledge of the law and are trained in legal analysis to apply the law to fact situations.	Students are provided with lawyer skills in legal research, writing advocacy, negotiation and interviewing.	Students are encouraged to critically examine the role of the law and of the legal profession within the society

Cognitive Content

Cognitive content trains students to think; reason out or in other words to critically analyse a given situation. This critical thinking involves six classes of cognitive learning objectives (Bloom, 1956):

- Class 1: Knowledge
- Class 2: Comprehension
- Class 3: Application
- Class 4: Analysis
- Class 5: Synthesis
- Class 6: Evaluation

These objectives apply to the study of law. Imparting the rule of law and the legal doctrines is gaining of knowledge. Expectation of students to understand is comprehension. The students must then apply the law taught which application is. It is later followed by sorting out relevant facts from irrelevant facts which is the objective of analysis and synthesising. Lastly,

evaluation is done at the end of an exercise. Teaching the students of the six classes of learning objectives under Blooms Taxonomy is said to prepare students of being able to think like a lawyer.

Skills Content

Skills content on the other hand trains students the professional skills required of a lawyer i.e. lawyer competency (Cort and Sammons, 1980). The skills required teach students the ability to:

1. Analyse legal problems;
2. Perform legal research;
3. Collect and sort facts;
4. Write effectively;
5. Communicate orally with effectiveness in a variety of settings;
6. Perform important lawyer tasks calling both the communication and impersonal skills of; (i) interviewing; (ii) counseling; and (iii) negotiation;
7. Organise and manage legal work.

Perspective Content

Perspective content exposes students to think critically which includes critical examination of the norms of law, the legal profession and the legal education itself. It does not deal with knowledge but values. It is referred to as the affective domain of learning in educational theory (Krathwohl *et al.*, 1964). The objectives of affective domain of learning in educational theory are:

- Class 1: Receiving
- Class 2: Responding
- Class 3: Valuing
- Class 4: Organisation
- Class 5: Characterisation

This domain of learning teaches students to apprehend and comprehend contrary views. What are stated above are the objectives of

legal education. Whether the objectives explained above are achieved in a law school much depends on the teaching and learning process. Meritorious objectives are not futile if it is not effectively taught. The techniques of teaching should be the most important attribute of a good teacher apart from being knowledgeable in the field of law. The knowledge can only be imparted by effective teaching which enhances the learning process of students. For example, in teaching professional ethics, it is not only sufficient for the students to know the code of conduct but students should be encouraged to accept and integrate the value of ethics into their own character. The endeavour should be to train lawyers to be professional responsible lawyers. The students should be taught to appreciate the worth of the code of conduct i.e. good governance.

Emphasis however is on imparting and completing the content syllabus of a subject and not on the appreciation of the law. Teaching the law of contract, I ask my students to define a contract at the completion of the syllabus. Most often than not they are able to define. But when I ask them the relevance of the law to a contract, only handfuls are able to comprehend. The worrying scenario is when law students from the final year are unable to analyse the legal problems and sort out and identify the relevant facts from the irrelevant facts. Whereas, final year law students should be able to make a prognosis of the factual problem cases.

Hence, law students must be taught to cope with the rapidly changing problems inherent in the development that is, not only to be problem solvers but also social engineers. Conquering knowledge alone is not going to be sufficient but students must be taught to appreciate the law and relate the law to other emerging factors such as economics, sociology, religion and political science. In other words, law must be taught within the context that it operates within a complex society (Katz, 2012-2013). The reformation however is only achievable not only through curriculum review but also reforming the pedagogy of teaching law.

DIVERSITY IN STUDYING LAW

Sensing boredom in law students is quiet a common factor. It has been stated that sameness in teaching methods that is the repetition of the Socratic

Method taught throughout the years of studying law should be the primary cause of boredom. A report states that, “*We do not doubt that the decline in student engagement over the three years is partly cause by repetitiousness, as students find it of much of the classroom experience* (Michelman, 1982).”

Though there may be other factors of disinterest among the students of the study of law, diversity in the teaching methods could be a motivating factor for students to learn the law. Good law teaching pedagogy should enable students to achieve a broad range of learning objectives explained earlier in the article. Legal education should not just enable the student to learn about the law in all the different aspects discussed but also should involve freeing the learner from dependence upon traditional pedagogical methods and enabling the learner to learn how to learn. The methodology to think about is cognitive apprenticeship.

Cognitive apprenticeship is an instructional design model that emerged from situated learning theory. It was introduced in 1989 and developed by Allan Collins, John Seely Brown and their colleagues (Brown, Collins and Daguid, 1989). Cognitive means teaching or training the students thinking skills through mentoring known as apprenticeship. In other words, cognitive apprenticeship is a way of learning through experience guided by an expert. The inspiration for this approach came about because formal education emphasises on learning the abstract and usually separates learning from practice and teaches skills and knowledge in an abstract manner, making it difficult for the students to apply the learned knowledge in real-world situation. According to Brown, “*the central issue in learning is becoming a practitioner, not learning about practice*” (Brown, Collins and Daguid, 1989).

Cognitive apprenticeship focuses on four dimensions that constitute any learning environment (Brown, Collins and Daguid, 1989):

1. Content: Domain knowledge, Heuristics strategies, Control strategies, Learning strategies
2. Method/Way of learning: Modelling, Coaching, Scaffolding, Articulation, Reflection and Exploration
3. Sequencing: Increase diversity and practice in a variety of situations to emphasize broad application
4. Sociology: Situated learning, Community practice, Cooperation

There is no fixed formula for implementing a model based on the dimensions of cognitive apprenticeship. *“It is up to the teacher to identify ways in which cognitive apprenticeship can work in his or her own domain of teaching.”* (Brown, Collins and Daguid, 1989). Since the dimensions of cognitive apprenticeship allows learning by way of content cum mentoring, teaching law via this method would be appropriate. Good teaching however, is not only about knowing the law or keeping the law at one’s finger tips. Good teaching means activities and attitudes which encourage high quality learning. Ramsden opines that good teaching begins with clearly defined and comprehensive teaching objectives that are based on the competencies we want our students to achieve before they leave law school. (Ramsden & Dodds, 1990). He goes on to say that: *“Good teaching usually includes the application of methods that we know beyond reasonable doubt are more effective than a diet of straight lectures and tutorials, in particular methods that demand student activity, problem solving and co-operative learning. There are no simple means to simple ends in something as complicated as teaching... Good teaching is not a series of methods and recipes and attitudes, but a subtle combination of technique and way of thinking, with the skills and attitudes taking their proper place as vital but subordinate partners alongside an understanding of teaching as the facilitation of learning.”*

Usurping Ramsden’s argument to teaching law, primary importance should not only be on imparting conceptual or abstract knowledge of the law but also the pedagogical practise of law (Barry, 2012). In Malaysia, apprenticeship in the legal education only takes place during the chambering period of nine months where a law student upon completing his/her legal education undergoes pupillage in a law firm. The student is placed under a lawyer who becomes the master to the student to teach the practise of law. It is during this period that law students are exposed to real life situations and students must be able to utilise the law to a given situation. The author’s exposition is this chambering pedagogy that is cognitive apprenticeship should be infused in teaching law during the period of studying law so that, law students can be trained to think like a lawyer as well as reflect on how lawyers think (Katz, 2012 -2013). An old Chinese proverb is apropos (Strong, 1973):

*I hear, and I forget
I see, and I remember
I do, and I understand*

Apart from feeding students with the digest of black letter rules, law teachers should infuse cognitive apprenticeship by (Brown, Collins and Daguid, 1989):

- i. Identifying the processes of the task and make them visible to students;
- ii. Situate abstract tasks in authentic contexts, so that students understand the relevance of the work; and
- iii. Vary the diversity of situations and articulate the common aspects so that students can transfer what they learn.

In the author's view, cognitive apprenticeship needs to be expounded and apprehended under three terrains; teaching, learning and the content of syllabus for the study of law.

USAGE OF TECHNOLOGY TO ENHANCE DIVERSITY IN TEACHING PEDAGOGIES

Ramsden and Dodds (1990) further notes that the subject content should be genuinely interesting so that students take great pleasure in learning the subject taught. Pedagogical goals can be achieved through the usage of technological sophistication. It must be borne in mind, however, that,

“Producing sophisticated learning is a function of sophistication of the discussion that surrounds the use of the technology and not the sophistication of the technology.”(Pogrow, 1997)

Hence, with current technological sophistication, law teachers have myriad tools to teach law and make the learning process more appealing to students, especially generation Y or more commonly known as 'Gen Y'. Gen Y refers to the population group born from somewhere around 1976 to around 2000. This group are the first group to come to age just as the Internet began to flower. They are thus familiar, usually from childhood,

with not only Internet surfing, but also all the gadgets that have come along with it such as cell phones, electronic organisers, cable radio, hundreds of television stations, and many more things folks born before this period would consider novelties. Whereas Gen Y considers this technological sophistication are just the basic staples of existence. Consequently, using any form of technological sophistication would entice and draw students' attention of that is being taught. Furthermore, it has been proven that any form of computer related instruction used in teaching can enhance learning. It has been stated that,

“Many researchers have conducted meta-analysis research studies on computer related instruction effectiveness and found that students receiving computer related instruction scored better on standardised achievement tests than peers who received no computer related instruction. They also found that computer related instruction had better retention and that computer related instruction improved the speed at which students learned a given amount of material.” (Crumb, 1990)

Likewise, in teaching law, teaching can be made more innovative through the sophistication of technology which naturally will make the learning process more stimulating and alluring to Gen Y. For example, using freelance graphics presentation software to aid teaching. A click of the mouse reveals successive topic as the lecturer covers them. Another example would be the usage of 'Lecture MAKER' which is an e-learning content authoring software which empowers anyone to create interactive lessons and activities that can be easily delivered in various ways based on the deployment requirements. Other than the stated examples, videos of court cases can be incorporated to depict advocacy skills or video of movie clips can be used to identify certain points of law. Innovative teaching would steer clear the boredom syndrome of students. Consequently, apprehension will be enhanced.

CONCLUSION

The objective of studying law is basically to master legal analysis. Legal analysis involves rule application, analogy, reconciliation and synthesis. Emphasis of law teaching however is deductive in nature which is the process of reasoning to a given legal problem is based on inferences from general principles of law. This pedagogy may satisfy the component of rule application in legal analysis but not the other components of legal analysis such as analogy, reconciliation and synthesis. Utilising cognitive apprenticeship methodology in teaching however encourages inductive learning which metacognition is. Students should be taught how to generate new thoughts, notions or philosophies. The primeval of teaching law where law students must concentrate on learning how to use the law needs to be reformed. Ideally, cognitive apprenticeship should be inculcated in teaching law. Models or methods of teaching law with cognitive apprenticeship should be moulded to enhance effective teaching and learning. Even more so with the existence of technological advancement tools. Hence, teaching and learning law needs diversity and the pedagogical method such as cognitive apprenticeship should be the way forward.

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