Institute for Law Teaching and Learning
"Engaging and Assessing Our Students"
June 1-3, 2011

Connecting the Dots: Stimulating Law Students to Love the Law From the Classroom to the Courtroom Through Constructive Engagement, Content Integration, and Collaborative Assessment

Tonya Krause-Phelan

I. INTRODUCTION

Many law students struggle to understand the relevance between what professors require for content preparation, classroom performance and course assessment to the knowledge, skill and competency they must exhibit as lawyers. By engaging students with innovative, but challenging, teaching methods and providing collaborative assessment tools, professors can guide students in developing and refining the ability to understand the connection.

To begin, it is helpful to consider how the professor and the students interact to accomplish these goals. The progression of learning within the law school setting is succinctly illustrated by a learning triad comprised of three distinct, but inter-connected, facets of the teaching-learning process: constructive engagement, content integration and collaborative assessment.

Constructive engagement refers to a professor's efforts to induce students to participate. Randomly calling on students for Socratic presentment does not mean, in and of itself, the professor has successfully persuaded students to be interested, involved or engaged in the material or in the class. Exploring creative methods to connect with students can parlay the professor's enthusiasm for his or her subject matter into an enriching and rewarding experience for both the students and the professor.

Content integration involves assimilating the individual components of substantive knowledge into the skill set(s) necessary for students to achieve in-depth knowledge, comprehension and competency in a particular area of law. In short, the professor helps students to think, talk and act like lawyers.

Finally, collaborative assessment involves interaction between the professor and student, working together on an intellectual journey to explore what the students know, understand and can do with their knowledge. With these inspired, coordinated and well-directed techniques and methods, professors will be able to promote constructive engagement and facilitate content integration and collaborative assessment.

II. CONSTRUCTIVE ENGAGEMENT: INDUCING STUDENTS TO LEARN

Most law students intend to practice law. As a result, they want to develop the knowledge and the skills set necessary to become an outstanding lawyer. But often times, there is a "disconnect" between their level of motivation their level of participation in class. Engaging law students requires more than just holding the students' attention, engaging law students requires professors to induce students to participate in their legal education and the formation of their professional persona.

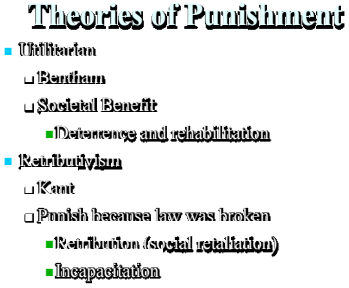
A. SOCRATIC INTERACTION AS THE INDUCEMENT, NOT THE ENTIRE PEDAGOGY

Much has been written about the Socratic Method and its iconic role in legal education. Nonetheless, in recent years, the Method's efficacy has been called into question because of its potential to humiliate students, to create a negative learning environment, to instill fear rather than enthusiasm, and to disengage students from the learning process.

However, because the dialogue that occurs between professor and student during Socratic presentment parallels the exchange that often occurs between lawyers and judges in the courtroom, the Socratic Method continues to serve a legitimate purpose in legal education. Unless the manner in which lawyers perform in the courtroom changes, law students must understand, accept and excel at this type of exchange. By refining and repurposing the Socratic Method into a starting point for student engagement, as opposed to the entire pedagogy, professors can stimulate interest, foster individual and group participation and promote substantive, collaborative assessment.

1. The Beginning: Substantive Backdrop

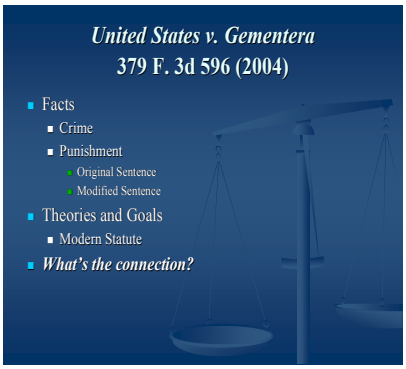
To ensure that there is enough time for content integration and the accompanying collaborative assessment and exercises, the professor might consider beginning with a brief outline or discussion of the substantive material that will be covered. Or, the professor can elicit the substantive points through Socratic questioning. For this seminar, the substantive lesson includes theories and purposes of sentencing, relevant case law, sentencing statutes, and imposition of sentences.

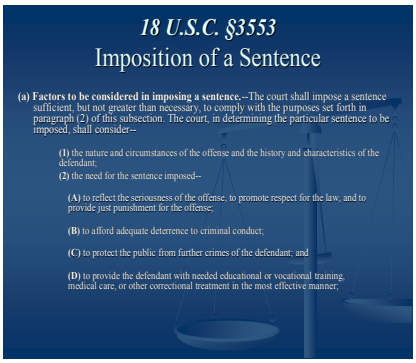


2. The Warm-up: Student Engaged in Assignment

Once the substantive points have been established, the professor will call on a student for Socratic presentment as to the assigned material and learning objectives.

a. The professor facilitates learning by highlighting the substantive/doctrinal material through stimulating and challenging questioning relative to the assigned material.

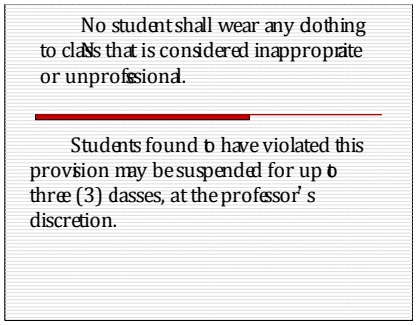




B. THE STUDENT PERFORMS WHAT S/HE LEARNED

1. <u>Student Fully Engaged: Class One Exercise</u>

Dress Code Exercise



a. Individual student

The student who has been engaged in the Socratic presentment (Student #1) will be found guilty of violating the dress code. The professor allows the student to pick any other student in class to be his or her defense lawyer.

b. Two more students

i. Student chosen as defense counsel

The student chosen to play the role of defense lawyer (Student #2) will be called upon to use the material, legal concepts and principles previously gleaned and discussed in class to defend his/her client (Student #1). Student #2 is allowed to choose

the student will play the role of the prosecuting attorney.

ii. Student chosen as prosecuting attorney
Not only is the student chosen to play the role of the prosecutor (Student #3) called upon to use the material, legal concepts and principles previously gleaned and discussed in class to argue the People's position regarding an appropriate sentence, s/he must respond to the defense lawyer's presentation and argument.

iii. The defendant is afforded allocution
The student found to have violated the dress code (Student #1) is provided an opportunity for allocution. Student #1 is encouraged to use the material, legal concepts and principles previously gleaned and discussed in class to argue respond to the People's position, as well as, to discuss what s/he thinks an appropriate sentence would be.

2. <u>Professor Feedback</u>
Law students need feedback regarding their learning. Not only does feedback allow students to understand what they have learned, it gives students the tools they need to improve their knowledge and skills. For the exercise to have merit, the professor must explain what the students did well and what needs to be improved.

a. Substantive feedback regarding the exercise
To provide meaningful feedback regarding the exercise, the professor should explain what concepts and theories the students applied correctly, effectively and persuasively. But for the students to improve, the professor must also point out what concepts were misunderstood or misapplied. Also, the professor is encouraged to highlight alternative ways the parties could have articulated their respective positions.

b. Feedback regarding exam
To illustrate the connection between the Socratic presentment, the classroom exercise, and the manner in which the students will be tested on the material, the professor might choose to highlight previous exam questions covering the substantive material.

c. Feedback regarding practice

At this point, the professor can provide the class insight and comments about the manner in which a similar issue might be handled in court. The professor is urged to share related experience from her/his own practice.

i. The professor is encouraged to share a sentencing memorandum or similar document from an actual case. By doing so, the professor is connecting the dots from the classroom to the courtroom.

III. CONTENT INTEGRATION: ENCOURAGING STUDENTS TO EFFECTIVELY USE WHAT THEY HAVE LEARNED

A common criticism of utilizing the Socratic Method in legal education is that the rest of the class tunes out when one student and the professor are engaged in the Socratic Method. Whether this is because the other students are relieved they were not called on, because it's difficult to hear or for any other reason, if any of these problems arise, it defeats the purpose of student/class engagement. So, not only does the individual student called on need to integrate the material, so does everyone else. How can a professor accomplish this—especially in large classes? Quite simply, the professor must engage the entire class.

A. THE PROFESSOR KICKS ENGAGEMENT UP A NOTCH: AN EXERCISE FOR THE ENTIRE CLASS TO FACILITATE CONTENT INTEGRATION

As noted earlier, the facets of the learning triad are inter-connected. With respect to this exercise, a certain degree of content integration was likely occurring during the constructive engagement of the individual student, as well as the trio of students handling the dress code exercise. To engage the entire class and facilitate content integration, the professor might consider an interactive exercise.

On that note, at some point after the initial exercise is complete, the professor must impose sentence on Student #1's dress code violation. The professor will instruct the students that the sentence imposed must be appealed. To make this the most meaningful learning experience possible, the professor is urged to structure the sentence in such a way that plausible arguments can be made on both sides.

1. **Appealing the Case: A Group Exercise**

One approach to this exercise might be to divide the class into two groups: appellant and appellee. Once the groups have been identified, the professor can establish the parameters and provide the instructions s/he wants in place for purposes of this exercise.

One approach that has worked is to allow the appellant's group a short period of time to decide on its argument. After the appellant's group has articulated its argument, the appellee's group will be given a short period of time to decide on their response to appellant's argument. The appellee's group must then articulate its response.

2. Professor Feedback

Again, it is important for the professor to provide feedback to the class regarding its collective performance. If things have gone well, the professor will be able to highlight the improvement that has occurred from the beginning of the class period to the completion of the group exercise.

a. Feedback regarding the substantive material

Additionally, the professor will likely be able to underscore the manner in which students utilized and integrated the substantive material into their respective responses.

i. At this point, the professor can show highlighted excerpts of the briefs from the cases used during class discussion to connect the dots between the abstract lessons to real practice. (*Gementera* case).

IV. COLLABORATIVE ASSESSMENT: WORKING WITH THE STUDENTS TO MEASURE THE DEPTH OF THEIR KNOWLEDGE AND PROVIDING THEM WITH THE MEANS TO IMPROVE THEIR KNOWLEDGE, SKILL AND PERFORMANCE

Collaborative assessment involves interaction between the professor and student, working together on an intellectual journey to explore what the students know, understand and can do with their knowledge.

A. PROFESSOR-STUDENT (ONGOING CLASSROOM ASSESSMENT)

As noted, the professor will be providing ongoing, in-class assessment throughout the entire term by utilizing creative exercises. The professor's feedback and on-going assessment are crucial tools for the students to

understand what they have learned, how they have performed and what they need to improve. Professors are encouraged to maximize the assessment process during office appointments and student meetings.

B. STUDENT-STUDENT

By engaging in classroom exercises coupled with Socratic presentment, the students are actively engaged with assessing their own knowledge compared to that of their classmates. As they engage and interact, each student refines their own understanding based on what they see and hear.

C. INDIVIDUAL

1. <u>Assignments Throughout Term</u>

a. P.A.S.S. Pages (Analytical Exercises/Mini-Essays)

To address a common criticism of legal education, professors might consider giving analytical exercises or assignments throughout the term. There are many benefits to providing this type of exercise to students. First, it allows students to practice writing

i. Model answer

To ensure the maximum benefit of this type of exercise, provide the students with a model answer of some kind.

ii. Rubric for self-assessment

The professor is encouraged to encourage the students to assess their work using the model answer and a self-assessment rubric.

iii. Individual critique by professor

The professor can maximize the benefit of these exercises by turning their written answers in to the professor for review and constructive feedback.

2. <u>Testing Throughout Term</u>

a. Midterm

If permitted, professors are encouraged to provide midterms or other graded assignments throughout the term.

D. OVERLAP WITH CONTENT INTEGRATION AND PROFESSOR FEEDBACK

As previously noted, professor feedback is an integral part of the process of content integration. Feedback is also imperative to providing meaningful assessment. Consequently, professors are strongly encouraged to utilize feedback that solidifies a connection to the subject matter, draws

a parallel to the type of assessment the professor will conduct relative to the final exam (or other graded assignments), and connects these concepts to the knowledge and skills used by competent lawyers in the practice of law.

V. CONCLUSION

Engaging students in the learning process is challenging. However, by constructively engaging students, facilitating content integration and encouraging collaborative assessment, law professors can induce their students into enthusiastically participate in their own learning process. By utilizing inspired, coordinated, and well-directed exercises, the professor can facilitate a journey of learning that will provide students with the skill set to successfully transition from the classroom to the courtroom.

Sources

Alaka, Aïda M., *Learning Styles: What Difference Do the Differences Make?*, 5 Charleston L. Rev. 133. (2011).

Lasso, Rogelio A., *Is Our Students Learning? Using Assessments to Measure and Improve Law School Learning and Performance*, 15 Barry L. Rev. 73. (2010).

Mashburn, Amy R., *Can Xenophon Save the Socratic Method?*, 30 T. Jefferson L. Rev. 597 (2008).

Miller, Nelson, *Teaching Law, A Framework for Instructional Mastery*, Bridge Publishing Group, LLC (2010).

Schwartz, Michael Hunter, Sparrow, Sophie, Hess, Gerald, *Teaching Law by Design: Engaging Students from the Syllabus to the Final Exam*, Carolina Academic Press (2009).

Segienko, Greg, *New Modes of Assessment*, 38 San Diego L. Rev. 463 (2001).

Stuckey, Roy and Others, *Best Practices for Legal Education: A Vision and A Road Map* (2007), available at http://www.cleaweb.org/best_practices-full.pdf (last visited April 22, 2011).

Wlodkowski, Raymond J., *Enhancing Adult Motivation to Learn: A Comprehensive Guide for Teaching All Adults*, Wiley, John & Sons, Incorporated, (3d ed., 2008).