

# **“Effective Techniques for Teaching about Other Cultures and Legal Systems”**

***Jassim Ali Salem Alshamsi***  
***Dean, College of Law***  
***UAE University***

In today's era of globalisation, the field of law and legal profession hold significant implications for legal education and the legal profession. A dramatic transformation is taking place in the field of law and legal and financial institutions. Lawyers everywhere are on the cutting edge of those developments. This rapidly changing scenario holds significant implications for legal education and the legal profession in the world.

Present day law graduates will need expertise and skills that will aid them in meeting the professional challenges of the future. And this will depend not solely on their ability to learn and assimilate legal information, but also on the strength of the study materials and methods of instruction they are exposed to. They need interactive, thought provoking and clinical teaching sessions.

Interestingly, the Clinical Legal education Method based on casebooks and the case method of instruction are not modern innovations. Indeed, they were created and introduced by Christopher C. Langdell, the Dean of the Harvard Law School in 1870.

A typical casebook includes readings, carefully selected excerpts of judicial decisions so that students/readers get the judges' reasoning without getting mired in procedural details and introductions that set the cases or readings in a legal historical and political context.

Notes, comments and questions appear either before or after each reading or case that offer a variety of perspectives and challenge the students/readers to think about the judges' creative thinking and the extent to which the cases either follow precedent or break new ground. In short, casebooks are not descriptive but analytical in nature.

A natural corollary of using an analytical textbook such as a casebook is that the professor has to adopt a teaching strategy that includes asking students questions, having them discuss a judicial opinion or other materials used in the casebook and challenging them to predict how a court would decide a case similar to, but slightly different from, the cases in the course book. This

necessitates that the students read the relevant chapter beforehand; think about the issues rose therein and come prepared to class.

The professor also needs to have strong analytical skills since he/she has to pose skillfully framed hypothetical cases to draw out the significance of the cases (in the course book) or to extend or limit the scope of the doctrine under discussion.

The teaching session is therefore not a monologue but a dialogue. This is, in sum, the Socratic or the case method of instruction that is prevalent in American law schools. Clearly, casebooks and the case method of instruction are powerful pedagogical tools since they contribute to training the "legal mind" and inculcating in students the habit of rigorous and critical analysis — behavior that is integral to a lawyer's job.

Casebooks are valuable study aids since students gain practice in briefing cases, i.e. dissecting and analyzing cases, weighing and appraising material, independent thinking and the skill of self-learning. The case method of teaching serves as a catalyst. Interestingly, casebooks and the case method of instruction are not modern innovations.

Furthermore, this style of teaching places some responsibility on students to think even while taking down notes in class. The format of law school exams in the U.S. in turn demands and rewards such analytical thinking of students since they are required to bring their knowledge to bear on a complex problem.

What the examiner looks for is not memorized knowledge, but the ability to apply the knowledge to a new problem or use that knowledge as a basis of thinking about new facts or new issues. Unfortunately, descriptive and non-analytical textbooks and cheap "question and answer" study guides are the only learning aids available to most law students.

In some institutions what is passed off under the stylish name of a "casebook" is not intellectually rigorous: it is simply a collection of excerpts of leading judicial decisions arranged either alphabetically or chronologically!

So far as teaching is concerned, the lecture method remains the dominant mode of instruction in law colleges. And even if a professor were to pose a few questions to students in class, the teaching style does not come anywhere close to the case method of instruction.

Since students are not required to come prepared to class, they are assigned a passive role and copy down as notes the information given by the professor. Even where exams pose hypothetical problems, they are not intellectually stimulating. They do not contain elaborate fact patterns that test students' abilities to spot the relevant issues and the applicable rules, to discriminate between relevant and irrelevant facts and to show how the issues inhere in the stipulated facts. Where problems are given, students are merely asked to cite to and discuss the relevant cases, not apply those cases in solving the problems.

Unfortunately those at the helm of legal education have not yet recognized the direct correlation between the quality of the methods and materials of our education system and the competence levels of our graduates.

Students trained on a diet of cheap guides, descriptive books and predictable essay type questions will have no practice in reading and briefing cases, synthesizing rules from a series of cases or independently preparing a legal analysis — skills that are crucial to functioning as a competent lawyer.

## **Culture Shift Needed For More Effective Legal System**

A Legal system of a country differs from the other states' as it has been developed for centuries and primarily influenced by its distinct culture. Again it is also based on various factors; Historical, religious, economical and political. Keeping the traditional cultural values in tact, the legal system always adapts the changes that take place in the other legal systems of the world. In this culture shift, the legal system will not loose its aboriginal cultural values. It adapts only those changes which suit to their culture.

The culture shift that provides lawyers with new attitudes, skills and knowledge is the only way to help the justice system resolve disputes more effectively and efficiently. Resolving conflicts through methods other than the court system is the key to civil justice reform in the 21st century. But this new approach to resolving disputes can only be effective if it is made a fundamental part of ongoing legal education

"Law schools, law societies, continuing legal education programs, and above all lawyers themselves each of these groups must participate in a profession-wide culture shift that looks at the courthouse as a last resort for dispute resolution, not the preferred

destination," says Dr. Moira McConnell, professor of law at Dalhousie Law School.

"If this culture shift doesn't take place," adds Dr. McConnell, "many of the alternative dispute resolution processes already in place, as well as those still to come, will slowly but surely take on the adversarial nature of the traditional court system, which will not benefit the public."

Canadian Bar Association Working Group in its report made 27 recommendations to help achieve this culture shift, including:

- Law schools should expose students to the theory and practice of conflict resolution practices, encourage teachers to learn about these practices, and institute research into their effectiveness.
- Bar admission courses should teach conflict resolution to new lawyers and effectively evaluate Bar candidates on their dispute resolution skills.
- Judges should have access to conflict resolution education and training opportunities.

## **Conclusion:**

There is a dire need for this type of an analytical textbook for virtually all the law subjects. Talented professors must be given study leave and provided financial and administrative support to prepare such casebooks.

Judges and leading members of the bar also have a responsibility to give their time and expertise to such much-needed pedagogic endeavors and if possible, even participate in them. Only books of this type should be prescribed in the curriculum and as more of them appear on the scene, descriptive books should be completely phased out.

Workshops need to be conducted to expose law teachers to the concept of the case method of instruction and the rationale for its adoption.

A discernible improvement in the competence levels of our future lawyers is possible only if we prioritize formulating and introducing high quality study materials such as the case books and the method of instruction such as the Socrates or the case method of instruction in our education system.

***Prof. Dr. Jassim Al Salem Al Shamsi  
Dean, College of Law, UAE University, UAE***