

LEGAL TEACHING IN THE TWENTY-FIRST CENTURY

By:

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Abstract: The World has changed in the past few years and so have students. As members of the Generation Y, their demands upon legal learning are different than those of the previous generation and pose new challenges to professors that exceed the discussion about the objectives of legal education and the methodologies used. A more integral legal teaching requires the awareness to take positive actions to perform effectively and to succeed in their academic roles.

Legal teaching in the Twenty-First Century is not just about sharing legal knowledge or lecturing students. Not even stimulating critical thinking. Even the context of a civil law background, there are challenges for law schools and faculty that go beyond the traditional questions on what and how to teach. Indeed, the subjects of legal education –students, either pre or postgraduates, depending on the educational system to which they belong– are quite different from those of the preceding Century.

In the early years of information society in which we live, younger generations receive a daily load of processed and unprocessed information. As a consequence, the learning path of various types of knowledge is disperse, interactive and requires the active use of most physical senses. But it is not just a matter of technological means. Psychologists have identified that the new generation, which they call “Generation Y” presents unique characters that make possible to separate it from the preceding Generation X. Students belonging to Generation Y have lived in a more protected environment, and such over protection has been said to create demanding behavior and a share of insecurity. As a consequence, their expectations with respect to their learning process and their demand for immediate feedback are high, requiring higher degrees of commitments from their teachers. This do not relate only with the subject matter that is taught or the personality of the professor, but with disappointment if they cannot see instant results.

When learning a specific discipline, Generation Y students expect to be stimulated in a way that is keener to their previous learning experience, but in the case of law, professors deal with certain difficulties: a decline of book reading as opposed to screen reading, a demand for audiovisual elements, the expectation of instant thinking, the execration of uncertainty and the demand of quick and definitive answers.

In this context, teaching law has become quite a challenge, because most of the rules are contained in written codes and laws, in written court decisions and in the work of commentators contained in textbooks and law reviews. How does one raise a student attention to details, wake

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dormant instincts to argue or foster critical thinking with such limited –albeit powerful– tools? There is probably no single answer, but in today’s environment, it is very clear that showing and dissecting written materials is not enough, neither under a mainly lecture nor under a mainly Socratic method.

The traditional method of lecturing is still mostly used in civil law countries. It has the advantage that provides high degrees of certainty both to professors and students. To professors, because they can give assurance that the contents of the curricula have been given to their students, that they will have access to all the knowledge that is needed to pass the exams no matter which the evaluator is and, in often cases, because it alleviates the burden of class preparation. To students, because they may know exactly in advance the contents of any evaluation, securing that, if they learn and repeat the exact words used by the professor they will get good grades and because it requires less work in preparing classes or active participation. It also enhances a sense of effective learning. In sum, lecture teaching provides a high level of comfort to both groups. However, it is undeniable that lectures are less attractive and less motivating to professors and students, and the learning levels among the latter tend to be much lower, as it requires more memory skills than effective understanding.

In contrast, the Socratic method, mostly used in common law countries, while giving apparent solution to motivation, critical thinking and many times effective understanding through an inquisitive methodology, has also been criticized for not providing assurance that students are really learning the law, not to say any practical professional tool other than oral expression and argumentation. Indeed, the technique of giving materials in advance for the student to read and analyze and then organizing the class through the questioning and contrasting answers is intellectually motivating and allows for the development of some skills that will be useful for a lawyer, but, at the same time, it impedes to cover all the contents of the subject matter. For that reason, professors very often require students to study additional materials (typically textbooks) that contain encyclopedic explanations and descriptions of the missing subjects. The risks of this approach is that students may think that the contents that were not explained in the class are less relevant than the others and, therefore, need not be studied in depth. As a result, students may be discouraged because they will need to devote excessive time for each course (for anticipated preparation, active participation, the review of the explained matters and the personal study of those that were not covered at all). In turn, professors are required to devote extra hours in comparison with traditional lecturing and to acquire performing skills to keep every student’s attention throughout the class.

The debate about filling the gap between “thinking like a lawyer” and “lawyering” is still active and current and is a proof that neither the lecture, nor the Socratic Method provides a single answer to the question of educating lawyers in the Twenty-First Century. This is not to say that, as a conclusion, one should simply seek a good mix of methodologies to obtain desired results that is simply not enough. The matter requires deeper analysis and solution, taking into account the challenges presented by the evolving information society. In this context, the role of the law professor as an involved educator and a role model is crucial.

Modern (if we can use this expression) legal education requires that professors really attract students’ attention to the legal world and thinking, are able to obtain their personal commitment to participate in their own intellectual progress by putting additional effort, and are genuinely involved in student performance inside and outside the classroom. In this context, the

days of the old lecturer seem to be over and replaced by the work of craftsmen who are devoted to model and transform students' minds and behavior. This proposal assumes that the mission of a university –and hence a law school– is the formation of integral men and women that are capable to contribute to the progress of their communities with a vocational purpose of serving others. For this reason, the deeper the scholarship and the sounder the teaching of a professor, she will be better in performing her purely academic mission and contributing to common good.

In my own experience of more than 15 years as a professor of law, there are many actions that may be taken to constantly improve teaching and, at the same time, attain the described challenges. This is not to give infallible recipes nor does it pretend that every action suits everyone. However, the combination of several of them may be undoubtedly very useful when consciously focusing in today's teaching and in the subjects of the academic efforts of a law school professor –his students. Many of them may seem obvious, but, for that same reason, they are worth to remember, because they may make a difference between a professor that is really committed to his students and a professor that transmits a wrong signal about his academic vocation. The list of actions that follow is not exhaustive, exclusive or infallible, nor are they listed in a priority order, but they all seem relevant and irreplaceable, are easy to undertake, and are proposed as an invitation to conduct teaching in an amiable, yet demanding manner.

- 1) Class programming and preparation
- 2) Teaching all scheduled classes
- 3) Correcting evaluations and exams on time
- 4) Demanding attitude towards herself and students
- 5) Availability outside the classroom
- 6) Calling every student on his or her name
- 7) Having instances for personal knowledge and treatment with students
- 8) Using course websites, social networks and other technological means available
- 9) Using techniques to attract attention and stimulate the mind
- 10) Being yourself in front of the class
- 11) Asking for feedback from students and following their recommendations
- 12) Developing assistants