

A few words about the Teaching of Law

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Among the different sub-themes opened to discussion for the needs of the IALS Education Conference, Pedagogy is the one which enters into the field of our immediate interests. At the source of such choice, the fact that it is a topic located at the heart of the teaching activities which raises an issue met on a regular basis by all Law teachers, if not by the majority of them. The fundamental question being: "How to teach Law? ".

Think and talk about the teaching of Law is not an easy task if it is kept in mind the difficulty to deal with these two notions put together in the same subject matter: Law and Teaching. Both concepts which, taken separately, are each one not only wide but also harsh to handle. As justification for future developments, it appears useful right now to have a general idea of the two notions cited in order to figure out precisely what is really at stake in the topic. Thus, it has first to be remembered that Law by its nature of social science cannot be seen only as a set of rules. In fact, for a good understanding of the said rules of law, it comes as a prerequisite to be full of the entire Legal System which has generated them. In other words, it means that it is fundamental to grasp at the same time the general principles on which those rules rest, the techniques of interpretation and the representation a community in a given country has of what is fair or unfair, just or unjust. As a matter of fact, in all countries, teach Law students amounts to familiarize them with those different elements by providing the suitable vocabulary and the relevant methods of reasoning. This training cannot so consist only in having students memorize the rules of law since these latter, far from being self sufficient, are called to be reviewed, amended or even abrogated. Concerning the Teaching of Law in itself, it shares with any other teaching whatever the subject taught the fact that two categories of people are involved i.e. a teacher in one side and a learner in the other. However, the particularity in our case is that Law is only taught at the university level, therefore a Law teacher faces young adults supposed endowed with an intellectual baggage. We mean here persons coming from different horizons with certainly an opinion (whatever it might be) on the discipline taught and even maybe certainties about what is Law taken as social science, its philosophy, its role and its functioning. The haunting question coming is therefore to know how to manage these realities and transmit knowledge of the best ways, in a manner as neutral and effective as possible. Of course, numerous and various teaching methods have been proposed and experienced over the years (some with success) but as we know these ones are not recipes ready to be used everywhere by everybody. In our opinion, it's more a matter of context, of opportunity and even of conception to which has to be added the crucial role teachers are called to play in that endeavor.

In consideration of all this, this paper will try with humility to focus on what may appear as the Objectives of the Teaching of Law (I) and once defined, present Techniques we experience to fulfill them(II) .

I) The objectives of the Teaching

In a first approach, it appears clear and evident that teaching Law aims principally at transmitting the knowledge of rules and procedures which are the core of Law. Fulfill this task constitutes without any doubt the main challenge met by Law teachers who use for that different methods to reach this goal.

However, although crucial and in a way ultimate that objective may be, one cannot avoid the question of knowing if it is the only one or at least the most decisive. In this path, let us refer to Antoine de Saint-Exupery, one of the pioneers of aerial adventure who used to advise teachers by telling them: "Instead of teaching the techniques of shipbuilding apprentice engineers, rather tell them the great story of the conquest of the oceans by man". With these words, the French philosopher Saint-Exupery focused with perspicacity on the duty of teachers to train students' minds as to ensure the success of their training and have the best outcomes for their future careers. We fully endorse this view that appropriately applies to our thoughts. In fact and because of the intrinsic nature of Law, we think it is essential to develop analytical skills and synthesis of law students, helping them acquire critical thinking and not of course a spirit of criticism. The objective sought in this case being to ensure that students, through the ways of reasoning and interpretation taught to them, will be able ultimately to identify the real substance on which rests the meaning of either a law, a ratio decidendi or a legal change. In other words, supply students with the spirit of analysis and synthesis which enables to understand, recognize and discover the groundings of the rules of law.

At this very moment, let us specify that what we call "training of minds" doesn't mean shaping minds in a particular direction so biased and subjective as would be the case for a plea for instance. As we know, basic ethics requires respecting the independence of mind of students. Reason why teachers must remain neutral and impartial and have all the solutions and opinions on the issue or rule that is being studied.

If we first focused on the objective of the training of minds, it's only because it appears to be a point not often emphasized. What is however relevant and so to be kept in mind is that this objective goes hand in hand with the aim of imparting knowledge which remains fundamental even if not absolute as proved above. In fact, we are facing two objectives which are theoretically on an equal footing and practically to be jointly implemented. That's the price, we think, for teaching of Law to benefit students and this regardless the specific legal profession they will hold at the end.

Just as the training of minds, the transmission of knowledge is primarily a matter for the teacher. Generally, it is accepted to consider as "good teacher" someone who, in the course of his teachings, reasons rigorously and speaks with clarity. In this respect, we should understand that the behavior of the teacher, his way of exposing the rules of law and his mastery of the subject must match the living example of the way in which one enters the mysteries and subtleties of the discipline taught.

Just an example among others: in front of students, the teachers should always go to the essential for them to understand that we must distinguish the important from the unimportant and by the way that Law is a body of scientific logic that must be addressed with precision and fineness. Achieve this particular objective requires that the Law teacher constantly and periodically renew his knowledge and teaching techniques. In other words, be a teacher-researcher rather than a simple informer for law. Being a teacher-researcher will allow him to enhance his knowledge of Law and his pedagogy through an intellectual activity always in alert. But as we easily imagine, the achievement of the objectives set out above presupposes the adoption of suitable methods. That will be our next and final step.

II) The Teaching techniques

It has first to be noticed that the issues of teaching methods and of teaching objectives are closely linked. The reader has certainly had the opportunity to see it when we were previously addressing the objectives of teaching law. In fact, in the course of defining these latter, someone with little concentration could already draw the outlines of the specific teaching techniques to be used.

On another hand and as pointed out in the introduction, several teaching methods have been proposed over the years by eminent Law teachers and it would be maybe a bit daring to favor one approach among others ones which are indeed excellent. In that prospect and generally speaking, we can also say and this despite the nature of Law taken as a whole, that teaching methods depend largely on various factors as the context, the means and the university traditions for example.

For all these reasons, we've chosen for the needs of this paper to raise some elements emanating from my personal experience as Law teacher in terms of difficulties met and attempts made to find out solutions in order to optimize the efficiency of my teachings.

It is useful here to remind that Senegal, my country, belongs to the family of civil law countries. In addition to the principles inherent in this particular system, Senegal has also adopted the habits surrounding that system including the methods of transmitting legal knowledge. The result is that traditional ways of teaching are: on one side, lectures delivered in lecture hall by a lecturer before all students taking passively an oral course (listening and writing) and on another side, exercises in law classes in which the same students in small groups are trained to legal methodology by assistant-lecturers. It means theoretical classes followed by practical application in small workshops.

From my own experience, I noticed with some regret that very often those workshops instead of focusing on the methodology (techniques to comment a case law, present an article of law or develop a legal subject) turn to become places where students are more interested in pursuing legal issues related to the previously taught lecture in amphitheater and this, despite the sincere commitment of the assistant-lecturer.

To bring a remedy and in relation with my law classes of import-export, I have prepared a teaching aid available to students at the beginning of each semester. I was inspired by the Socratic method in use at universities in common law countries. As we know and without going into details, the current education system in most common law countries is based on the Socratic method which requires students to carry out preparatory work before coming to attend the course in lecture hall. By doing so, I had the concern to save a time which would no longer be devoted to take notes and hence allow students to ask directly questions about the course contained in the teaching aid. Another advantage has been to have a lecture class more lively interactive with students responsible for part of their work. For this latter point, even if students are presumed to be already responsible for being in general young adults, we believe that it is neither vain nor incongruous to think of strengthening their autonomy of action for their future careers in law.

We conclude this paper by noting that the authorities in my Law Faculty have recently initiated a program to put lectures on line for all students in all grades. This indicates a positive evolution in the perception of legal education.