Chapter 20
Teaching Law: The Learner in the Driver’s Seat

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ABSTRACT

Traditional methods of teaching law such as the lecture method, Socratic method or the case method has become the predominant teaching pedagogies in most law schools. Emphasis is on teaching law students the blackletter law. However, when law students complete their formal undergraduate studies and move on to practice law, they face the crisis of being unable to cerebral the black letter law to real life situations. Applying doctrinal analysis and the observation of law teaching in Malaysia from the authors own experience as a law lecturer, the author explicates in this chapter that the reason behind this crisis is because the traditional methods merely imparts the knowledge of law to students but does not stimulate and ignite the cognitive skills which should be the ultimatum of teaching law students. Traditional methods of teaching law should be reformed. Law students should be taught to apprehend the law to real life situations or problems using the cognitive apprenticeship method. In other words, putting the learner in the driver’s seat.

INTRODUCTION

The traditional methods of teaching law such as the lecture method, Socratic method or case method has become the predominant teaching pedagogy in most law schools. The lecture method for example, allows the lecturers to complete the formidable task of completing the wide coverage of the syllabus content at a given time. The lecture method is where the lecturer basically addresses large volume of information regarding the law to the students i.e. the lecturer plays the role of a sage on stage. This method does not develop the students’ cognitive skills because the students are recording and retaining the knowledge which is the black letter law imparted to them. No doubt the lecture method is a convenient method to give law students as much as possible about the black letter law. However, when law students complete their formal undergraduate studies and move on to practice law, they face the crisis of being unable to analyze the black letter law to real life situations. The task of appreciation and understanding the law is
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comprehended only when law graduates either start to practice law or during their chambering period when they are assigned cases. Realizing that the lecture method does not cultivate the intellectual cerebral skills of the students, this teaching pedagogy was overtaken by the Socratic Method. In this method the lecturer plays the authoritarian role who is expected to be an expert in the subject he is teaching. The teaching pedagogy used is through a series of mini lectures but in the form questions and answer. The lecturer asks the questions and the students are required to answer. Though this method ignites critical thinking, students only benefit if they have done prior reading and research on the subject matter taught. In the case method, the students are taught to apprehend the reasoning of the decision given by judges. No doubt case method is absolutely important in analyzing cases. But then again this teaching pedagogy was criticized to be ineffective because it does not provide hands on training (Kerr, 1999). Cognitive skills need to be incorporated into teaching law. Law students need to be trained to think like lawyers. The fundamental skills expected of a competent lawyer would include the ability to:

1. Analyse legal problems,
2. Perform legal research,
3. Collect and sort facts,
4. Write effectively,
5. Communicate orally,
6. Organize and manage legal work, and
7. Interview, counsel and negotiate.

This training should start from the very first year a law student enrolls in the law school. Emphasis should not be on the teaching process but more on the learning process of the students. 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, 1991). 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.*

Consequently, the objective of this chapter is to analyse the scope and limitations in the predominant method of teaching in Malaysia namely, the Lecture Method and the Socratic Method or case method. The education system consists of the substance taught and the system or design it is taught i.e. what is taught and how it is taught. The author’s concern is on the teaching pedagogy. The author opines that cognitive skills should be incorporated in the teaching pedagogy.
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