

Law School Large Classes

Opportunities

Invariably we find ourselves bringing forth prior experiments to our core course offerings. We have reaped tremendous benefits from applying what we did in a small seminar to a larger law school classroom. We have been exposed to students' diverse learning styles, communication techniques, backgrounds and creativity. We have learned about our own blind spots and have come to realize that our assumptions about what people think or know are often false. We have discovered that breaking a large class into smaller groups takes the pressure off the teacher who otherwise feels she must perform or entertain in order to motivate students or retain their attention.

Innovative pedagogical formats in a large class setting often promote a more robust exchange with our students, enriching our own scholarly work and research. Our analysis of legal problems and our orientation toward thinking about conceptual puzzles has changed as a result of our teaching. Many students have come to law school from other public policy work. When people with degrees in other fields are given the space, their diverse backgrounds can inform what happens in the classroom and can also generate research ideas or lead to student participation in projects that interest the faculty member.

Challenges

Some professors might not want to invest the energy and the time in this kind of participatory learning, particularly if they don't think they will learn anything from their students. They may, given the "right out of college" trajectory of many students, view their students as vessels to be emptied and refilled. It is certainly difficult to do more than one class like this in a semester or even a year. When this is purely about teaching as a process of conveying information and skills, it may be too demanding to do on a regular basis. When classes are larger than 65 students, the default position is to resort to conventional panels to lead off the discussion within the large class or to rely on out of class opportunities for informal interaction through lunch or meetings in the faculty member's office. This is not surprising, since the willingness to take risks and experiment with new classroom formats does not always gel in very large law school classes.

Schools with substantial teaching demands or schools with high student/faculty ratios may not be able to sustain this kind of intense preparation and commitment by faculty members to teaching. There is a trade-off between teaching a small group really well, which we both enjoy, and teaching a large class that stimulates critical thinking but does not permit as many opportunities for active learning as might be needed to create long-term retention, relationships of trust, or innovative problem-solving approaches. There is also a trade-off between teaching and producing numerous scholarly publications in

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a particular academic year. Nevertheless, we continue to experiment in large class settings and have seen others do so with great success as well.

Jeff Bauman

Jeff Bauman is a Law Professor at Georgetown. Professor Baumann saw Lani Guinier and Susan Sturm speak at a workshop for experienced teachers. He was inspired by their work building a Multi-Racial Learning Community and he began to apply the process to teach an advanced corporations class. Susan Sturm spoke with Professor Bauman. Her notes of that telephone conversation follow. His ideas may help you in your own effort to experiment with this approach...

I was calling first and foremost to thank you for having made it possible for me to teach the best course I have ever taught in 28 years of teaching. With all the good and the bad that went along with it, it was the most successful teaching I have ever done. I owe it all to you guys and that video.

I came away from seeing your presentation thinking the process was marvelous. I thought I'd love to try it in my advanced corporate law course. I knew it would be time consuming, but it would be worth it. On the first day, 25 students showed up. I told them "after the first couple of weeks you are going to co-teach with me. We are going to talk about how you do that and what it means." They looked at me skeptically. I had no idea what I was doing. The first two people who volunteered to teach were fabulous. I had them post their lesson plans on the website, along with their thoughts and questions. The rest of the class was responsible for responding. I sat down with five of my best students and asked, "how do I make it better?" We decided that two people would post the lesson plans to the teachers, and two or three others would post responses to the lesson plan.

Each student co-taught twice and responded twice. There were two people responsible for co-teaching each class. I sat down with the two of them for an hour or two to talk about the substantive teaching and how one communicates it. When there were issues that needed to be surfaced, I said, "I'm going to do this if you don't."

They loved it. They began to appreciate what it means to teach. I let them choose the substance of what they wanted to do.

Having each of them teach twice was very important. The first time they didn't know what they were doing. The second time they had done it. The tutorials changed from the first to the second time. No two people taught together both times, which was also good. It was a way of keeping them fresh, saying "You guys go and figure out who does what." I had some enormously gifted kids who hadn't thought about teaching who discovered this in themselves.

What follows are thumb nail sketches of these techniques in a range of courses including professional responsibility, first year civil procedure, and employment discrimination. Except for the professional responsibility course and law and lawyering in the workplace, we have used these techniques to supplement rather than to supplant traditional pedagogies in large classes.

Responsibility of Public Lawyers Class at Harvard Law School Law

Introduction

The course combines an interactive format with a substantive investigation of the lawyers' role as counselor, advocate, representative and public citizen. Students read a range of essays, personal narratives, and client accounts as they consider the nature of the profession they are about to enter. Second and third year students, selected because they excelled in a previous class, work as teaching fellows to help organize the complex logistics. The faculty shares power with the students and gives them a chance to learn through experimentation. The course fulfills students' ABA professional responsibility requirements.

To understand the operating principles of this course go to principles.

Goals

With an enrollment of 50 students, some of whom are in their first year, the class encourages students to think differently about what it means to be a lawyer. It also invites them to reflect upon their future role as professionals and public citizens. Guinier, a former litigator, encourages students to question the dominance of court-centered approaches to resolving broad public policy concerns. Students consider both adversarial and non-litigation approaches to legal advocacy.

Getting Started

Students are divided into ongoing facilitation teams, which are responsible for helping the faculty member plan the lessons. Each member of the facilitation team must also write an 8 page persuasive essay based on the required and recommended reading for the week their team is "on call." That essay is read and evaluated by a peer, a teaching fellow and the professor.

PUBLIC LAWYERING: Getting Started

Each member of the weekly facilitation team drafts an eight page persuasive essay. The first draft is due the day before the class he or she facilitates. The essays are not merely narrative expositions or summaries; they are arguments or analyses that engage with the required and recommended readings assigned that week. In response to written feedback from a peer reviewer and

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a teaching fellow, students then have an opportunity to revise the essay, before submitting it to the professor for a grade. Although the professor keeps graded notations for all written work that is handed in, she does not inform the students of the grade until the end of the semester. In an effort to encourage student attention to learning rather than ranking, the professor's written feedback emphasizes the strengths of the essay and the ways the student might improve their next submission.

The facilitation teams meet outside of class alone, with the teaching fellow and then again with the professor to plan the lesson for the week. During the meeting with the professor, students also discuss the readings that formed the basis for their essays. Students are encouraged to link the theoretical or ethical concepts to the practical challenges they will face as lawyers.

Facilitation

Students bring enormous creativity to the lesson plans, but the faculty member often needs to ask skeptical and reflective questions to ensure that the lesson plan covers the substantive content and that the rest of the class, which has not read as much of the assigned reading as the facilitators, will be stimulated to engage personally and intellectually during the class period. Students have used art projects (draw a picture of the lawyer you want to be), skits, role-plays, structured deliberation, and breakout groups within the larger class. The energy within the formal classroom is transformed and inspires different forms of learning for both students and faculty.

Evaluation

Students' final grades are based on a self-grading memo, in addition to the grades they receive on their written work and their peer critiques. The self-grading memo asks students to provide an evaluation of

- the strengths and weaknesses of their own class participation as well as
- the relative effectiveness of the class format given their own learning style.

The self-grading memo has proved to be a popular assessment mechanism because it reflects both the values and the process of the course. Students are encouraged to use the self-grading memo to write about comments made by other classmates, which reinforces the importance of listening, not just talking as a means of "participation." This aspect of the memo reassures those students who feel challenged by speaking in large classes but routinely contribute in small group exercises in ways that the professor may not notice. These memos also provide constructive and specific feedback to the teaching fellows and the professor.

When It Works

Students' comments in their self-assessment memo reflect a high level of engagement, willingness to question, and tremendous creativity in thinking innovatively about the profession and their future roles.

"The most powerful element of this class for me was the interaction between [a classmate's] essay and the time capsule exercise [where students were asked to pick from among a group of physical images or quotations from court cases those that best illustrated the legacies of litigation oriented strategies]. ... We treat law like it is a game in which we have no responsibility for who wins or loses. This time capsule 'game' treated law more seriously in many ways. It demonstrated that the legacy of a lawyer-as-historian is in the content of the story she tells and its impact on people's lives."

Law and the Political Process

Law and the Political Process has enrollments between 60 and 70 students. In many ways, Law and the Political Process is socratically taught, with the use of panels, role plays, and movies to stimulate alternative forms of student engagement. The novel innovation in Law and the Political Process involves assessment; students may take their exams in groups of up to three students.

Evaluation

Students are given the entire examination period to work on the exam, whether they work as a group or individually. The exams are very difficult, testing students' ability to think about the relationship between law and democratic institutions conceptually as well as doctrinally (using a more traditional issue spotter format). Usually, about 50 percent of the class exercises the option to write a group exam. There are four goals behind this option.

- to introduce the idea that there is a value to collaboration. Because the option is announced at the beginning of the semester, students have an incentive to get to know and work with other people in the class.
- to build skills for working interdependently that students will need if they decide to practice law.
- to connect the form of assessment to teaching goals, rather than simply to evaluate the knowledge students have gathered over the course of the semester. The goal is not to see how fast students think, but how effectively they connect the case analysis to actual problems.
- to equalize the opportunities for women (who have been found to do better on take home exams) to show what they have learned.

Law, Lawyering and the Workplace

Introduction

This course developed out of Sturm's work first as a plaintiff's employment discrimination lawyer and then as a scholar using field research to develop innovative approaches to workplace equity. Sturm's background prompted questions about the adequacy of conventional approaches, which rely unduly on courts to develop and enforce universal rules for complex problems. It also led her to experiment with problem-oriented teaching and learning, and to collaborate with practitioners in developing and running the class.

Goals

The course uses interdisciplinary and inter-professional approaches to workplace equity issues. These broader perspectives more accurately reflect the considerations lawyers face in addressing workplace issues. They also expand students' conception of law and lawyering to take account of informal and organizational roles. The course also challenges the "lone ranger" image that sometimes emerges from the traditional Socratic classroom, and introduces the importance of collaboration across disciplines, positions, and identities.

"I've realized that there are more steps to 'fixing the problem' than I thought. The answer isn't always to 'fix the problem. A lot of variables are involved—like what caused the problem and how to prevent future problems."

Getting Started

Sturm created and co-taught the class with a clinical faculty member at the University of Pennsylvania Law School, Alan Lerner. The faculty also had the assistance of a former practicing lawyer who was making a transition into teaching. This lawyer worked as a teaching fellow to help assemble materials, construct scenarios and role plays, and facilitate smaller group sessions.

[For another description, click here to download Alan Lerner, Law & Lawyering in the Workplace: Building Better Lawyers by Teaching Students to Exercise Critical Judgment as Creative Problem Solvers, 32 Akron I. Rev. 197 (1999)]

The class was offered as an elective to 30 students during the second semester of their first year of law school. By the second semester, many students had already been socialized to adopt uncritically a pure litigation-oriented, adversarial model of lawyering. Through interdisciplinary readings, simulations, role plays, and interactions with practitioners, the course disrupted the frameworks students had passively internalized and stimulated students to rethink the lawyer's role in addressing workplace equity problems.

"The Law and Lawyering class challenged us to look beyond the strict legal issues. Behind the legalities were real problems involving unequal opportunity, social stereotyping, professionalism in the workplace. We discovered the importance of focusing on the underlying disease to effectively relieve the recurring symptoms."

Classroom Methods

The course focused its inquiry around two specific workplace contexts (a police department and a law firm), positioned students in varying roles within those contexts, (in house counsel, partner, police chief, union representative, community member, black employee affinity group etc), and pushed participants to think critically about the role of law and lawyers from the perspective of those different roles, values, and contexts. We developed interdisciplinary materials to give students a sense of the political, organizational, and cultural dynamics of those contexts. Students then read assigned legal cases with new understanding. Role plays, simulations, and discussions called upon students to interact at different decision points and to employ a range of skills, from traditional advocacy to mediation to institutional design to public persuasion. Academics from other disciplines and practitioners participated in the class, often enacting their real-world roles in the class room or critically commenting upon students' role plays.

Writing Assignments And Evaluation

The course tailored the writing assignments and assessment process to its goals. Students wrote newspaper editorials, participating in selecting in house counsel for a police department, designed a sexual harassment policy, grievance procedure, and organizational change process for a law firm, conducted a mediation, and participated in redesigning a selection and recruitment process for a police department faced with both a challenge by white officers to its affirmative action policy and a challenge by black applicants to its selection criteria. Because of the variety and intensity of interaction with students, faculty got to know them and their writing quite well. This provided faculty with considerable information upon which to base an evaluation of class participation. After faculty brought in a creative expert on constructing evaluation processes, they redesigned their own structured and shared assessment of participation. They identified and applied common criteria independently and then collectively to take account of their disagreements and potential biases.

When It Worked

Students seemed literally to expand their professional and analytical horizons. The interdisciplinary, theory/practice integration, when it "took", opened them up to ask really interesting questions, to think dynamically about legal problems, and to take seriously the prospect of developing legal roles that could address underlying problems. This experience provided a foundation for rethinking approaches to teaching Civil Procedure, as well as to developing a new field

research seminar at Columbia.

"Luckily, now I have a better idea of what other skills I must have to succeed in the real world. It gives me much needed hope to know that there are jobs out there that entail more than just pushing paper around and pulling out black letter law. What a relief!"

Civil Procedure

In Civil Procedure, with enrollments from 90 to 120 students, active participation occurs through small, student facilitated learning groups that supplement the larger classroom. Students are given problems, role-plays and simulations that involve them in active learning. They also have the opportunity to ask questions, to learn from each other and to interact in a casual, open-ended, and participatory environment.

Teaching Fellows As Facilitators

These sections are made possible by the availability of teaching fellows, who facilitate the 15 person sections. These teaching fellows are highly successful second or third year students from prior civil procedure classes who showed exceptional understanding of the material, motivation, communication and leadership skills. They get 3 course credits for their work.

Active Learning

The teaching fellows help faculty develop problems, simulations, and lesson plans for each weekly small group session. Faculty and teaching fellows meet every two weeks to share ideas about the class and plan upcoming sessions. Teaching assistants also provide oral and written feedback, based on an answer guide prepared by the professor, to students on ungraded, written assignments, including drafting a complaint and answer, negotiating and drafting a pre-trial order, and drafting a personal jurisdiction memo. The sections meet in a small classroom or a lounge once a week. Students do not get additional credit for these sessions.

Problem-Based Inquiry

The larger class sessions anchor the more abstract concepts to a familiar, practice context. A factual scenario involving a claim of sexual harassment provides the organizing thread for exercises, which students conduct within the small person section. The extra sessions are optional except for assigned role plays in mediation, a summary judgment argument, the preparation of a discovery plan and the conduct of a pre-trial conference.

Employment Discrimination

In Employment Discrimination, Sturm uses interdisciplinary readings, role plays, and case studies to expand students' exploration beyond the courtroom and to introduce psychological, organizational, and transactional dimensions of lawyers' responses to workplace bias.

With enrollments from 40 to 90 students, Sturm has weekly panels of five or six students who are responsible for facilitating the class. She meets with them in advance. If the subject matter of the upcoming class is technical, such as statistics or burden shifting, she uses these students as a focus group to determine how best to run the class.

If the subject matter lends itself to normative questions or discussion, then these students participate in planning the class. Another less time-consuming strategy is to assign a panel of students to email the professor individually a comment about the readings and a question they would like to explore in class. For issues such as affirmative action that often spark stylized or polarized discussion, she either uses small group discussion or a role-play within the large class itself.