

students understand the reasons why ethical rules require a particular response in a given situation. If a student has the understanding and the capacity to analyse the problem with reference to relevant values, then the student has the capacity to make an ethical decision. Whether he or she chooses to do so is another matter, but that is beyond the responsibility of the academy.

Experience and legal ethics teaching

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Legal ethics, or the law governing lawyers, is law. As such, teaching about legal ethics is in an important way like teaching about any other area of law. It was not always seen in this way. Once it was thought that legal ethics was more etiquette than law; more manners than enforceable rules.

Law, at least law as seen as inclusive of the social policies and moral principles embodied in the positive rules of law, is now central to what we teach about in a legal ethics course. None of the leading teaching materials treats the subject as anything but law. Legal ethics, or the law governing lawyers, is a body of enforceable understandings and mandates no different in that respect from the law of tort or contract. And in some respects, teaching it is just like teaching contracts or torts or evidence. That was far less the case as little as 25 or so years ago when teaching legal ethics was sometimes more preaching than policy discussion, more morals than mandates.

At the same time, teaching about the law governing lawyers is different from teaching about any other area of law, because it is experienced by the lawyer directly rather than vicariously. Unlike other areas, in the law governing lawyers, the lawyer is the client. This simple observation means a great deal to the pedagogy. Since the lawyer's relationships and experiences and acts are the subject matter governed by the law governing lawyers, and since our students will be those governed lawyers soon, special advantages

may be found in teaching the law governing lawyers through experiential learning devices, such as clinics and simulations. In effect, lawyers' activities create the data on which the law governing lawyers acts. Students in experiential learning settings create data, too, and their experiences are the acts to which the law they are learning about applies.

Many once thought that legal ethics was next to impossible to teach well. This position was taken, however, at a time when the goals of the course were quite different. It was common to hear the question, 'If adult students have not learned right from wrong by the time we get them, how can we hope to teach it?' Legal educators do in fact have a substantial impact on their students' character development and 'goodness', but making students better people is no longer a goal of the legal ethics course. To the modest extent that it may be, it is a goal equally shared by the entire legal education enterprise and not held exclusively by the ethics teacher.

In fact, it turns out that the subject is among the easiest and most enjoyable to teach. With a modest amount of direction, students soon see that this course is about them, it is about their chosen profession, and it is the law that governs their own behaviour. In no other law subject is the lawyer the centre.

Using explicitly experiential learning devices (such as elaborate simulations, clinics and externships that are accompanied by seminar discussion) to teach legal ethics presents special advantages. The subject is the lawyer and her relationships. Placing students in role, allowing them first-hand experience with the experience of lawyering, gives them special insights into the law governing lawyers. The data on which this area of the law are based are generated by what lawyers do. Students, in the lawyer's role, sense the application of the law to their conduct and simply learn it more effectively.

In a way, even classroom teaching of the legal ethics course is experiential teaching. Students who see themselves in role as they read the cases and work through the hypotheticals and the prob-

lem materials, have a mental experience with the role of lawyer that is different from that experienced in other law courses.

Along with professional skills courses, the legal ethics course was long a second-class subject area in American legal education. Prior to the 1960s, many schools offered either no course or a one credit course and there were few serious scholars in the subject. Considered to be both academically light and practice and profession heavy, the subject was relegated to the edges of legal education. Along with the rise of clinical legal education during the 1960s and 70s, the professional responsibility course began its ascent to respectability and beyond.

Today the subject is covered at all US law schools and through multiple courses at many. The subject is taught by a wide range of creative teaching methods, supported by numerous, excellent materials. And a substantial group of first rank scholars devote primary energy to the subject.

Our students will learn from experience what it means to be a lawyer. We have a choice: either they can begin learning what it means to be a lawyer after admission; or they can begin doing so while they are with us, at a time when and in a place where that learning can be guided, can be structured and can be taught, rather than merely learned.

On tending to the ethics in legal ethics: two pedagogical experiments

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Ethics is about what is interesting in morals. Ethics is about what is important in morals. Ethics aims at resolution. Discernment comes up with answers. Ethics is communal. It depends on insight explained and on persuasion practised without coercion. And finally, ethics seeks to learn from consensus. The author has developed two techniques for teaching ethics that have worked well: the use of daily (or at least weekly) writing by students; and teaching in and from the clin-