

**PEDAGOGY AND TECHNOLOGY:
BRINGING VALUES BACK INTO THE LAW SCHOOL CLASSROOM**

**Remarks
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Hola, y buenas noches a todas y todos! At this moment, standing here, I am humbled and exhilarated beyond words. Humbled by the generosity of your love and recognition. Exhilarated by the wondrous site that is you. Wow!

And, I am honored to be a member of this special Society—one which has labored for decades to fill gaps and correct skews in our chosen profession. One such gap is the astonishing fact that no one ever teaches law teachers how best to teach law. Instead, we learn as we go along. We learn from each other. We learn that learning our craft is a never-ending journey, a journey that this Society supports in countless and innovative ways, which leads to my topic this evening: bringing values back into the law school classroom.

As we all know, this craft of teaching is neither just art nor just science. We spend our years in this profession toiling to perfect both the substance and the method of our pedagogy. We plan and prepare, we invent and improvise. But oftentimes, in this never-remitting act of multi-tasking, we can lose track of purpose—I mean *ultimate* purpose, not simply making the next in-class moment “work.”

Without doubt, we remain aware at all times of knowledge transmission as the most basic or immediate purpose in any given class or course. But apart from that dangerously ministerial

purpose, what are we doing? What do we *think* we are with our teaching? What is the big picture? Or is it all really just about technical and/or doctrinal knowledge transmission? I hope and trust not; at least not among the kindred spirits in this room. Instead, I hope here we all aim for more, something more enduring, perhaps even more meaningful.

For the past several years I have been developing a course on “Law & Popular Culture” in which we “read” and discuss cinematic “texts” focused on legal practice and the profession. Students compose weekly essays responding to specific questions calling for nuanced judgments. Although only I read these essays, they provide one key basis for classroom discussions; each week, I extract themes from the student essays to enrich class discussion of the course materials. Throughout this process, two recurring experiences in this course get my attention each year.

Each year, as we screen and write about and then discuss these materials, the class inevitably finds itself confronting the need to discuss social values in order to make sense of the legal issues or situations depicted in the course films. In other words, the students individually and collectively become increasingly self-aware that their understanding or analysis of the “law” ultimately cannot be disentangled from the values implicated in any “legal” issue or situation. This self awareness, acquired by them without any preaching from me, oftentimes seems to hit them like a new revelation, one which then helps to fertilize the classroom for deeper discussions of this linkage. However, the revelation I derive from this experience is this: how have our students managed to get this far without understanding this most basic and important linkage?

In addition, and even before I can begin to come up with responses to the above question, each year I also am amazed, and moved—sometimes to literal tears—by some of their weekly essays. To my surprise, these students actually hunger for values—values packaged with integrity, offered for inspection and critical discussion, not sold or asserted in conclusory fashion from the classroom pulpit as group-think ideology. In these “private” essays to me, they cry out with

eloquence for educational opportunities to express thoughts on the value choices that legal decisions inevitably make, but which rarely make their way into opinions and classrooms.

By the way, oftentimes these are the very same students that typically tend to sit mute in typical, doctrinal courses. But in these essays they lament the technocratic bent of their formal legal education, and our focus on doctrines expressed in the form of opinions—texts which appear to them to be worlds apart from the values-drenched depiction of life and the law that we study and discuss in this course. Why, they ask privately in their essays, is legal education devoid of a focus—a *critical* focus—on values? Why do we cram rules and doctrines into the course but not the underlying, oftentimes unstated, values that they promote or support over viable (and perhaps “better”) decisional alternatives?

Now, I do not think for one moment that any one of us imagines ourselves to be teaching without regard to values. Nor that we aim for mere doctrinal genuflection and regurgitation. But I also think I get what the students mean: oftentimes, as individual teachers, we are forced to rely on books and other mainstream materials that bleach out any explicit discussion of values from their presentation of legal knowledge. The institutional and circumstantial pressures for “just the rule” affect us all—teacher as well as student. Under these conditions, values enter the picture only if we insert them from the pulpit, and then they tend to remain at the margins. Moreover, oftentimes this kind of contextualizing effort can be discounted or dismissed by some students as merely professorial editorializing—something, they might mistakenly think, amounting to “brainwashing” with little if anything to do with the rule.

In this class, we end up talking about this vexing situation quite a bit. We discuss many possible reasons for this status quo, including the polarization of just about everything in North American life during the past three decades of cultural warfare against specifically “liberal” values—a polarization that makes it extremely difficult for both faculty and students to discuss candidly and critically the different kinds of values served by different choices of policy regimes. To

me, however, the bottom line of my recurring experiences with this course is this: whereas in doctrinal courses focused on opinions the social context—and therefore values—are edited out by judges and/or publishers, in this course, the exact opposite occurs. In this course, all legal questions necessarily come embedded in a fictionalized real-life situation; in this way, students readily see, *on their own*, the values implicated by the array of possible outcomes to any legal question.

All of this is made possible chiefly by the use of a different technology to present the materials. By using a different technology and modality in this course, the stage is set for incorporating critical discussion of values, and of their role in the construction and operation of every and each legal-policy choice. In little time, the students are engaged in the drama, both legal and social, of making decisional choices. They see clearly the indeterminacy and politics of law.

These films introduce students to a thick and rich world of life in the law, a world where all kinds of people—lawyers, clients, judges, jurors and others—necessarily grapple with values, on a daily and individual basis, as they work through the legal issues being depicted. They encounter challenging, multidimensional situations in which values are not only socially salient but clearly relevant to a legal analysis that will be used to chart a path for personal or institutional conduct. They come to see that every rule and outcome reflects a subjective human choice, and that none are neutral, objective or divine. Through these materials and their social presentation of legal knowledge, students are not only compelled but also impelled to broaden and deepen the focus of their attention from simply issues of technical law to questions of social justice. Each year, as the discussions evolve, “justice” displaces “law” as their main concern in the resolution of legal conflicts.

This recurrent teaching experience prompts me to wonder whether similar experiments might be even more successful in helping to bring values back into our classrooms. If a fairly simple technological shift from written to cinematic texts can generate this kind of educational

environment, what might newer and fancier technologies help to accomplish? This is the big-picture question that I bring with me tonight, for our joint reflection and consideration.

This moment, this award, this community of activist scholars, all stand in sharp contrast to the mainstream landscape. Here and now is where we center and celebrate classroom teaching *and* its fusion with socially democratic values. And so, on this occasion, I want to close with a few words about a momentous opportunity, and a daunting challenge, on this precise point—one which, in my view, remains way too under-discussed.

As we all know all too well, new technologies already have disestablished the traditional practices of law teaching—de facto, if not quite de jure. Yet, no new system has yet emerged to consolidate the new approaches to law teaching that remain still in the offing. We *all* deal with this great flux each year, as we consider—always, it seems, in the rush of the moment—how technological change might beckon pedagogical reform. As we toss about in the midst of this great structural flux, the question I want to urge upon us, as a multiply-diverse community of activist scholars with commonly shared values, is this: how can we step back collectively from the daily rush and develop norms, frameworks and practices to harness new technologies for values other than “efficiency” or “productivity”? How can we use this moment of macro-flux to reintroduce values into the classroom, in tandem with the adoption of new technologies? How can we wed technology to pedagogy synergistically, and in a socially conscious and responsible manner?

Of course, as we all struggle daily in our atomized worlds with these great shifts and fluxes, many law teachers across the country already are using new technologies in your courses. Oftentimes, however, it appears that our individual efforts and capabilities are limited to marginal adjustments that incorporate a new technology or modality into a preexisting practice. These efforts are necessary and a wonderful starting point, but perhaps they remain closer to tinkering than to transformation. So, my closing query asks us to begin thinking seriously and creatively about *systematic, structural fusions* of new technologies with social values in formal legal education.

I understand this very broad and basic query raises many subsidiary thoughts and questions: for example, whose values, which values? Hopefully, the ones we share in this Society. But the introduction of a robust and explicit discussion of values already takes us a long way forward from the current, sterile status quo, for the very fact of substantive *and* critical classroom discussion effectively inculcates the point that *all* legal decisions entail value choices—choices that any competent legal actor must be able to articulate professionally, and perhaps even explain to the public, in a democratic and secular constitutional order. Indeed, the very fact of explicit and sustained discussion can advance not only a salutary kind of social awareness but also the lawyerly ability of our students to think their way, independently, through complex and varied sociolegal situations.

I understand also that this urging may sound odd coming from a fella without a cell phone, answering machine or iPod. But that is the very point: even a fella like me can see this historical moment is freighted with unique opportunity. And this is why I hope tonight, in these brief remarks, simply to put these questions on our collective radar—in the hope that our programmatic projects in the coming few years might provide timely occasions for collaborative and concrete follow-ups.

Many, many, MANY thanks to everyone who had a hand in the crafting of this moment—I really do not know who you are, but I appreciate profoundly, and will be eternally grateful to you for, this moment and memory. Equally important, I want to thank each and every single one of you in this room this evening, for everything you do, day in and day out, in the trenches and the towers of the legal academy. Besos y abrazos!