January 2003

Socratic Ignorance: Once More into the Cave

James R. Beattie Jr.
Capital University Law School

Follow this and additional works at: https://researchrepository.wvu.edu/wvlr

Part of the Legal Education Commons

Recommended Citation
Available at: https://researchrepository.wvu.edu/wvlr/vol105/iss2/7

This Article is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact researchrepository@mail.wvu.edu.
I. INTRODUCTION

What should we teach to our students and how should we teach it to them? In particular, how can law schools best prepare students for their legal careers? Answers to these basic pedagogical questions continue to elude us. Within the current legal community there is no general consensus regarding how best to teach our students the law or how to meet the future challenges of legal education. The lack of consensus is not from want of trying.¹ There does

¹ Perhaps the most ambitious recent attempt to build a general consensus of what content and which skills should be taught in law schools is the American Bar Association’s MacCrate Report. See Legal Education and Professional Development – An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, 1992 A.B.A. SEC. LEGAL. EDUC. ADMISSIONS TO THE BAR 137 [hereinafter the MacCrate Report]. Unfortunately, the Mac-
appear to be, however, near uniform condemnation in modern legal scholarship of what has been tried in the past. More specifically, teaching the law using the Socratic method, the traditional core of legal pedagogy, is now held in general disrepute.  

Why is this so?

Most critics of Socratic teaching answer that the method, as currently practiced, inevitably humiliates, intimidates, and silences students. In one form or another, critics claim that the Socratic method manipulates students to expose them to public refutation while the professor safely chooses whether or not to reveal the correct answer or to join in the classroom discussion. Additionally, the argument goes, Socratic teaching uniquely reinforces majoritarian (read "white") and "male"-dominated thinking. The method is combative, similar to military indoctrination or custodial interrogation, and it only serves to confuse, entrap, and silence students—female and non-white students in particular.  


One notable recent exception to the general disdain in current literature for Socratic teaching is Jennifer L. Rosato's article entitled The Socratic Method and Women Law Students: Humanize, Don't Feminize, 7 S. CAL. REV. L. & WOMEN'S STUD. 37 (1997).


This is the widespread criticism of Socratic teaching that the method requires teachers "hide the ball" unnecessarily and unfairly from students. See, e.g., THOMAS SHAFFER & ROBERT REDMOUNT, LAWYERS, LAW STUDENTS AND PEOPLE 154 (1977); Phillip E. Areeda, The Socratic Method (SM) (Lecture at Puget Sound 1/31/90), 109 HARV. L. REV. 911, 914 (1996); Lila A. Coleburn & Julia C. Spring, Socrates Unbound: Developmental Perspectives on the Law School Experience, 24 LAW & PSYCHOL. REV. 5, 26 (2000); Weaver, supra note 3, at 519 n.5.

deed, some critics go so far as to claim that Socratic teaching requires students to separate their ethical and personal lives from the sterile, amoral intellectual commitments demanded of them in law school.6

No doubt these criticisms have some merit against a type of law teaching that claims to be Socratic. Possibly driven by their law school experiences of particular overbearing law professors claiming to use the Socratic method (read the Professor Kingsfields of the academy), critics are rightly concerned that such a teacher effectively destroys the possibility of learning for many students.7 The question remains, however, whether such demagoguery can accurately claim to be using the Socratic method. If so, then the critics of Socratic teaching have won the day and those of us who are committed to the method must reconsider our choice. One of the tasks of this essay is to demonstrate that such classroom despotism is not required of the Socratic teacher and, in fact, is not consistent with Socratic teaching. There is another type of law teaching, one which follows more closely the educational theory developed by Socrates and can truly claim the name Socratic teaching.

In order to make my case, it will be necessary to take a brief look at what Socrates actually had to say about education, an inquiry often overlooked in the literature, and to see what the normative pedagogical commitments of that theory actually require from the teacher.8 Accordingly, Part II of this essay is primarily a cautionary tale for those of us who claim to use Socratic teaching. It attempts to establish the internal pedagogical constraints of Socratic teaching so as to guide the Socratic law teacher in the proper application of the method. Part III of the essay will address whether the criticisms prevalent in the literature also apply to the Socratic educational method developed in Part II. Hopefully, this discussion will demonstrate that most of the criticisms of current Socratic teaching do not apply to Socrates’ educational theory. But the analysis will also demonstrate that using the Socratic method properly is a difficult task, which is often more an aspirational goal than a factual accomplishment. Likewise, Part III will demonstrate that the scholarly criticisms of current Socratic teaching can

after Yale Study]; Coleburn & Spring, supra note 4, at 27.

6 See, e.g., SHAFFER & REDMOUNT, supra note 4, at 156; Coleburn & Spring, supra note 4, at 27.

7 Notably, Professor Areeda gives the fictional Professor Kingsfield’s teaching method a B minus. See Areeda, supra note 4, at 914. This should lead us to wonder why is Professor Areeda’s grade so low? Professor Rosato correctly terms Kingsfield’s approach a “mutant form” of the Socratic method. See Rosato, supra note 2, at 41-42.

8 I realize that the phrase “normative pedagogical commitments” is a mouthful. By a “pedagogical commitment” I mean, for example, that if your theory of education conceives of teaching as primarily the transmission of information from teacher to student, then you are committed pedagogically to the position, other things being equal, that students do not learn as effectively by their active participation. This pedagogical commitment in turn entails a “normative” position that teachers primarily should lecture to their students. All educational theories, including Socratic teaching, entail certain normative pedagogical commitments for the teacher.
serve as warnings to those of us committed to the method for how it can be improperly applied.

Finally, Part IV will assess the proper use of the Socratic method in legal teaching, if any, as well as make recommendations for its future use. This analysis will suggest that Socratic teaching is only one part, albeit a fundamental part, of the skill set that we need to teach our students. Part IV will also briefly address the relationship between the “problems approach” and Socratic teaching and establish that the methods are in fact complementary. More importantly, the discussion will conclude that the normative pedagogical commitments for the teacher and practical consequences for the student of Socratic teaching are worthy of renewed attention and continued application.

II. THE VALUE OF SOCRATIC IGNORANCE

Consider how Socrates might answer the two basic pedagogical questions with which the essay began – what should we teach our students and how should we teach it to them. In his famous “cave analogy,” Socrates offers a vision of education:

SOCRATES: And consider this also, said I. If such a one should go down again and take his old place would he not get his eyes full of darkness, thus suddenly coming out of the sunlight?

GLAUCON: He would indeed.

SOCRATES: Now if he should be required to contend with these perpetual prisoners in “evaluating” these shadows while his vision was still dim and before his eyes were accustomed to the dark – and this time required for habituation would not be very short – would he not provoke laughter, and would it not be said of him that he had returned from his journey aloft with his eyes ruined and that it was not worth while even to attempt the ascent? And if it were possible to lay hands on and to kill the man who tried to release them and lead them up, would they not kill him?

GLAUCON: They certainly would, he said.

SOCRATES: But a sensible man, I said, would remember that there are two distinct disturbances of the eyes arising from two causes, according as the shift is from light to darkness or from darkness to light, and, believing that the same thing happens to
the soul too, whenever he saw a soul perturbed and unable to
discern something, he would not laugh unthinkingly . . . .

GLAUCON: That is a very fair statement, he said.

SOCRATES: Then, if this is true, our view of these matters
must be this, that education is not in reality what some people
proclaim it to be in their professions. What they aver is that
they can put true knowledge into a soul that does not possess it,
as if they were inserting vision into blind eyes.9

Socrates’ theory of education presents a disarmingly simple, albeit puz-
zling, answer to the first question “what should we teach to our
students?”10 His answer is nothing. According to Socratic educational theory, students already
know what we as teachers are attempting to teach to them; they just do not know
that they know it. This is Socrates’ theory that “all inquiry and learning is but
recollection.”11 Socrates states:


9 PLATO, THE REPUBLIC (Paul Shorey trans.), reprinted in THE COLLECTED DIALOGUES OF
PLATO 575, 749-50 [516e-518c] (Edith Hamilton & Huntington Cairns eds., 1961). All page
numbers to the dialogues of Plato in this essay shall refer to The Collected Dialogues of Plato. To
enable readers to find the relevant passage in other translations, however, I have provided parallel
parenthetical citations to the standard Stephanus pagination.

10 Throughout this essay I shall speak of Socrates’ educational theory and not Plato’s educa-
tional theory. Whether the doctrines canvassed herein are actually Plato’s, which he later attrib-
uted to Socrates, is a matter of some debate in the literature. See, e.g., G. M. A. GRUBE, PLATO’S
THOUGHT xiii-xiv, 308-09 (1980). Fortunately, this debate has little bearing on the issues dis-
cussed in this essay.

11 PLATO, MENO (W.K.C. Guthrie trans.), reprinted in THE COLLECTED DIALOGUES OF PLATO,
supra note 9, at 353, 364 [81c-d].

12 Id.
not possess it, as if [we] were inserting vision into blind eyes."\(^{13}\) What teachers can do for their students is to get them to recognize explicitly what they already know implicitly. Rather than transferring information to our students, we should elicit information from them; information, which in some significant sense, they already possess.

A. Students Know More Than They Think

If we assume that Socrates’ theory of recollection can be relevant to our approach to teaching, without necessarily committing ourselves to the metaphysical assumptions of the theory,\(^ {14}\) several interesting normative pedagogical commitments seem to follow. First and foremost, the Socratic teacher should approach her students with the attitude that they know more than they think they know; the effective Socratic teacher should always “strive to treat students and their ideas with respect”\(^ {15}\) – we must take our students seriously.\(^ {16}\) If teaching is viewed as a process of eliciting information from students, information that will eventually lead to the answers we are looking for, then plainly we must pay close attention to what our students are saying. This attitudinal approach requires two very simple, but often very difficult, activities on behalf of the teacher – listening and reinforcing.

First, we have to listen to our students. When our students are responding to our questions or asking questions of us, we have to listen. One of the most difficult tasks for the teacher is simply to listen (much less listen carefully) to what students are saying when class objectives or agendas are in mind. There is an unexpected benefit from listening to students, however, that makes the effort worthwhile. We may learn something new, and if we take the effort to listen closely to our students, our students will be more disposed to take the effort to listen to us.

Second, if Socratic teaching requires students to supply the information for class discussion, then in order to keep the information flowing we need to

\(^{13}\) PLATO, THE REPUBLIC, supra note 9, at 750 [518c].

\(^{14}\) I note in passing that several modern philosophers, most notably Wittgenstein, agree with Socrates’ primary insight that learning can only take place within the situated context of all participants, teachers and students, already possessing a great deal of knowledge in common. For Wittgenstein, it is our common linguistic conventions, our common forms of “life,” the prior possession of which makes inquiry possible. See LUDWIG WITTGENSTEIN, PHILOSOPHICAL INVESTIGATIONS, ¶ 89 (3d ed., G.E.M. Anscombe trans., 1968).

\(^{15}\) Rosato, supra note 2, at 60.

\(^{16}\) Professor Eisele claims that one of the two main lessons of Socratic teaching is that “you know more (or other) than what you think (you know).” Thomas D. Eisele, Bitter Knowledge: Socrates and Teaching by Disillusionment, 45 MERCER L. REV. 587, 603 (1984). The second lesson of Socratic teaching is that “you don’t know what you think you know.” Id. This second point will be discussed infra at Part II.D, showing that it applies with equal force to teacher and student.
reinforce students' contributions. A simple comment of "good answer" or "that's right" or "tell me what you think" or "you know this" as the student participates in the dialogue, or later incorporating a student's response or question into the ongoing dialogue with other classmates, not only creates an environment for renewed contributions from the particular student but also generates greater participation from students who are listening. If we take Socrates' deportment in the Platonic dialogues seriously, we soon see that reinforcement and support of students is an essential characteristic of Socratic inquiry.\textsuperscript{17} Although Socrates claims that students already know what they think they do not know, he also states that getting students to accept that fact – to have confidence in their dialectical powers – "is strenuous."\textsuperscript{18} To offset that strain, at least somewhat, reinforcement of students' efforts and contributions is essential. The Socratic teacher must take the time to reinforce and support students as they attempt to understand their experiences and the experiences of others in light of relevant legal doctrine and policy.

\textbf{B. Students Learn Best by Self-Discovery}

Another pedagogical commitment is suggested by Socrates' theory of recollection: students who actively reconstruct answers for themselves best achieve learning. Other commentators have stressed the central importance of students' self-discovery to Socratic teaching.\textsuperscript{19} Professor Peter Winch writes:

\begin{quote}
[W]hen, in Plato's dialogue \textit{Meno}, Socrates introduced the slave boy to Pythagoras' Theorem not by \textit{telling} him the answer to the problem but by \textit{eliciting} the answer from him . . . [t]he suggestion . . . is that each of us has within him or herself the resources for answering the question: a point which Plato expressed picturesquely in terms of "recollection." The further suggestion is that . . . no one truly \textit{has} the answer who has not arrived at it for him or herself.\textsuperscript{20}
\end{quote}

This focus on student self-discovery is illustrated by the Socratic image of the teacher as a midwife who can allay the pains of giving birth to new ideas and make "a difficult labor easy."\textsuperscript{21} Here, at least, the puzzling theory of recol-

\textsuperscript{17} See, e.g., \textsc{Plato}, \textit{Meno}, \textit{supra} note 11, at 367 [83c-e].
\textsuperscript{18} See \textit{supra} note 12 and accompanying text.
\textsuperscript{19} See, e.g., \textsc{Rosato}, \textit{supra} note 2, at 43.
\textsuperscript{20} Peter Winch, \textit{Who Is My Neighbour?}, in \textsc{Trying to Make Sense} 154, 156-57 (1987); see also Areeda, \textit{supra} note 4, at 921 ("Why should students care [about the Socratic method]? Because they learn best by doing. They learn best to reason about the law and facts by doing so.").
\textsuperscript{21} \textsc{Plato}, \textit{Theaetetus} (F.M. Cornford trans.), \textit{reprinted in The Collected Dialogues of Plato}, \textit{supra} note 9, at 845, 853-54 [149a-e].
lection conforms to the insights in modern learning theory, namely, that students must be actively involved in the learning process in order to learn effectively. Thus far the analysis has demonstrated that Socrates' educational theory is committed pedagogically to the view that students know, in some significant sense, more than they think they know and that students learn best by actively participating in the learning process, where the focus is on students generating their own ideas, and teachers "easing the pain of delivery." In other words, Socrates' apparently paradoxical theory of recollection has led to what might be termed a strong "student-centered" theory of education. The next question is whether Socrates' theory of education is too strongly student-centered.

C. Students Must Internalize the Dialectic

Socrates' educational theory seems to fly in the face of reality. Plainly, students do not (always) already know what we as teachers are trying to teach them. Students often get answers wrong. And if they do already know the answers, then why do our students need teachers? Indeed, Socrates sometimes acts as if there can be no effective teaching, in any meaningful sense of the word. For instance, in the Meno, Socrates states, "I am not teaching him anything, only asking." But clearly, Socrates does understand the object of the lesson whereas his student does not. How can we make sense of this apparent contradiction?

The foregoing analysis has already indicated how Socrates attempts to solve this problem. According to his theory, even though our students already know (in some sense) what we as teachers are trying to teach them, they do not know that they know it. The primary function of teaching, therefore, is to bring to explicit awareness what is already implicitly known. Professors do this by using a series of questions and answers called the dialectic. This is not to imply, however, that Socratic teaching requires the teacher only to ask questions. "The relentless questioner who never utters a declarative sentence is extinct. . . . One need not be so relentless. One can force students to reason for themselves and still give them some relatively clear and certain knowledge or premises as anchors for their independent further exploration."

The dialectic is Socrates' term for a special kind of questioning process. It is a sustained series of questions and answers whereby participants, usually the teacher and one student, start with a common problem and proceed to question their original (starting) perspectives and assumptions on how to solve the problem. As the dialogue proceeds, the participants formulate new hypotheses concerning the problem, vary their perspectives, and question their assumptions.

22 See, e.g., David A. Garvin, Barriers and Gateways to Learning, in Education for Judgment 4-12 (C. Roland Christensen et al. eds., 1991).
23 Plato, Meno, supra note 11, at 366 [82e].
24 Areeda, supra note 4, at 919.
When necessary, participants also question their moral and political commitments in order to evaluate them against what has gone before in the process. Most importantly, the participants will honestly admit when their original perspectives, assumptions, hypotheses, or values can no longer be maintained (justified), given what has occurred previously in the process. Without such candor, no dialectical progress can be made.

The dialectic has two main objectives. The first objective is to make some headway in the particular inquiry at hand. Whatever particular matter we are tackling—analyzing cases, evaluating legal philosophies, interpreting statutes, drafting contracts, negotiating conflicts, etc.—both teacher and student must be willing to place into question their original perspectives, their assumptions, their hypotheses, and the values they assume or wish to examine. In other words, only if students and teachers are willing to subject their implicit knowledge of the situation to open inquiry can they hope to achieve a better (i.e., more explicit) understanding of, and justification for, their solution to the problem.

The primary goal of the dialectic, however, is not concerned with the discovery of better answers to particular problems. Socrates’ primary objective in using the dialectic was to internalize the questioning process in those with whom he was conversing. For example, at the conclusion of the *Meno* Socrates asks Meno to try to work through with his friend Anytus the original problem that they (Socrates and Meno) failed to solve. The clear implication is that although Socrates and Meno failed to achieve a resolution of the particular problem before them, the Socratic method achieved its primary goal of creating a self-learner and self-questioner of Meno. Socrates’ primary reason for engaging others in the dialectic, for returning to the cave, was to provide participants with a method whereby they can give birth to their own ideas by their own devices.

If the primary goal of Socratic law teaching is to get our students to internalize the questioning process, this does not mean that our students must internalize the questions we as teachers place before them (they may do this, but only if they see why the questions are justified). Instead, we have succeeded in teaching our students if they become self-questioners, or self-taught, capable of rendering explicit what they know implicitly by their own devices. Socratic inquiry succeeds when “[t]he student sees that he could have asked himself those questions before class; that the kinds of questions the instructor asked can be self-imposed after class. The internalization of that questioning process is not an illusion. It is the essence of legal reasoning and the prize of the [Socratic method].”

---

25 This list of tasks is not meant to be exhaustive; after all, even this list, or any other listing for that matter, is open to question under Socratic inquiry. However, the above list of tasks, questioning perspectives, assumptions, hypotheses, and values, corresponds fairly closely to Plato’s division of epistemic states in *The Republic*. See *Plato, The Republic*, supra note 9, at 745-47 [509d-511e] (the “divided line” of knowledge).

26 See *Plato, Meno*, supra note 11, at 384 [100b].

27 See Areeda, supra note 4, at 922.
Socrates' answer to the second question with which this essay began — how should we teach our students — is now evident. His answer is that we should ask students questions designed to elicit the knowledge that they already possess. Additionally, we should aim to get our students to internalize the questioning process so that they will become self-questioners, and thus self-learners. In time, if this methodology is successful, then our students will no longer require us to ask them questions in order for them to learn. Once again, it appears that the normative pedagogical commitments of Socratic teaching, at least as Socrates understood this method, are heavily student-centered.

There is an important objection that must be met at this point in the discussion. If the primary goal of Socratic teaching is to have our students internalize the questioning process, does this not imply that teachers already have internalized the process? And further, this apparently implies that teachers already possess the correct answers to their questions. In other words, how can teachers get someone else to "re-collect" his knowledge unless the teachers have already recollected their own knowledge? Accordingly, the argument goes, Socratic teaching is at bottom a sham. It is a process in which teachers only feign ignorance while exposing their students' ignorance.28

Does Socratic teaching require teachers to feign ignorance? It is true that most teachers have dealt with the class materials previously.29 They have mastered the process of asking tough questions concerning those materials and they are cognizant of alternative interpretations, of different arguments and legal perspectives in the literature that might be posited. They also know the standard interpretations of the class materials and prepare their questions with the expectation that the standard answers will be, and should be, covered in class. The teacher brings all this preparation, and much more, to the dialogue with students. Here, at least, the teacher does feign ignorance about what answers she has arrived at, if by "feigning" one means continuing to ask questions so students arrive at the standard answers through self-discovery. But even here, the teacher does not know how students will in fact answer the questions posed, or what questions students will bring to the dialogue.

In another important sense, however, the answer to the above question must be no. Socratic teaching does not require teachers to "feign" their ignorance because even their ignorance is genuine. The "standard" answer is itself subject to further questioning and, according to Socratic inquiry, its status as a standard is always provisional. This crucial insight leads to the final pedagogical commitment of Socratic teaching — the teacher must also enter into the dialogue as a full participant. Because teachers have undergone the process before, perhaps many, many times, they can serve as guides, but they should never claim

28 See supra note 4 and accompanying text.
29 Indeed, no one (seriously) argues that Socrates was not familiar with Pythagoras' Theorem.
final authority if they take seriously the value of Socratic ignorance. The dialogue may elicit something new from teacher and students.\(^{30}\)

D. **Professors Know Less Than They Think**

What can it mean to the Socratic teacher to claim that the aspirational value of Socratic teaching is ignorance, or a unique type of ignorance, even if we attempt to stave off this paradox by invoking the hallowed name of Socrates? To answer this question, an obscure (and often overlooked) passage in the *Meno* offers insight. Socrates recounts a tale of a traveler who must choose the correct road to town without knowing it. If the traveler guesses correctly, Socrates claims that the guess is just as good a guide for the traveler's actions as if he knew the correct way – a surprising admission from an alleged rationalist.\(^{31}\) Of course, the traveler might guess incorrectly. How can we be sure if our guesses are good guesses, correct guesses, if we all start from mere hunches? The short answer is that we cannot be sure. Instead, Socrates suggests that by exposing our hunches to questioning we might be able to “tie them down,” and once tied down they are termed knowledge.\(^ {32}\) It seems that hunches are the stuff of which knowledge is made – another surprising admission.\(^ {33}\)

Nonetheless, a new question can always be asked, and if interesting, it can open a whole new line of questioning. And why do we find a question interesting? At best, we have another hunch. It seems that we must constantly be relying on, while simultaneously tying down, our hunches if we are ever to claim that we know anything. This is why Socrates concludes the passage, and most other Platonic dialogues, by stating that there are few things he claims to know.\(^ {34}\) He “knows” that he does not know. However, the one thing he does claim to know is the value of the questioning process itself – though open-ended, it is the only way we learn, and if knowledge is ever achieved, it is the only way we achieve it.\(^ {35}\) The paradox is that all our knowledge is always open to question and questioning our knowledge is what creates more knowledge. The questioning process simultaneously “ties down” and “unties” what we claim to know. Realizing the dual functions of the dialogue, and realizing that all of our epistemic claims, teacher’s and student’s alike, should be subject to ongoing

\(^{30}\) In the words of Rabbi Hanina, “I have learned much from my teachers, and from my colleagues I have learned much more than from my teachers; but from my students I have learned more than from all of them.” 13 THE TALMUD: THE STEINSLTZ EDITION 82 (1995).

\(^{31}\) PLATO, MENO, supra note 11, at 381 [97b-c].

\(^{32}\) Id. at 381-82 [97e-98a].

\(^{33}\) Cf. JEROME FRANK, LAW AND THE MODERN MIND 143-47 (1930) (arguing that the vital motivating impulse for a judicial decision is the hunch – an intuitive sense of what is right or wrong in the particular case).

\(^{34}\) PLATO, MENO, supra note 11, at 382 [97b].

\(^{35}\) See id.
questioning, is to achieve a gain in self-knowledge (paradoxically). As Professor Eisele aptly observes, "The point of Socratic questioning is simply to show not where we all differ but rather where we all are the same: we all share the condition of, on occasion, not knowing what we claim to know." Socrates thought this awareness was the first step towards wisdom; it is the state of Socratic ignorance.

What follows for the Socratic teacher and what are the practical consequences for the classroom if we assume as an aspirational pedagogical value the state of Socratic ignorance? First and foremost, for the Socratic teacher it means that the dialogues in classes cannot be limited to questioning only students' "hunches" about the law. If the teacher is going to engage in a Socratic dialogue, the teacher's hunches, perspectives, assumptions, presuppositions, and values must also be put into question. The Socratic teacher must constantly be open to exposing and changing her perspective, reevaluating her assumptions, questioning her policy analyses in light of what students answer and ask.

Yes, it also follows that students should ask questions in the Socratic classroom; it is a dialogue after all. Needless to say, if it is the fundamental goal of Socratic teaching to get our students to internalize the questioning process, then students, if we as teachers are successful, are going to ask questions and pose hypotheticals of the teacher. In the Socratic classroom, students as well as the teacher should lead the dialogue by asking questions, and the hunches of both the teacher and students must be exposed to the questioning process.

Third, when students do question the teacher's "hunches" about the law in the class, the teacher must be willing to hold our "answers" up to the public light without lashing out at the questioner. When teachers are successful at varying their perspectives, assumptions, and evaluations in the light of student questions, the students soon learn that the dialogue really can be a collaborative process. At its best, Socratic teaching really does uncover shared questions that neither the teacher or the students were aware of prior to the dialogue.

This brief glimpse of Socrates' educational theory has uncovered several important normative pedagogical commitments and several practical classroom techniques. First, students know more than they think they know. Accordingly, the Socratic teacher must take students and their ideas seriously, care-

36 Eisele, supra note 16, at 614.

37 See PLATO, SOPHIST (F.M. Cornford trans.), reprinted in THE COLLECTED DIALOGUES OF PLATO, supra note 9, at 957, 972 [230a].

38 See id. (Socrates states that "no one who thinks himself wise is willing to learn any of those things in which he is conscious of his own cleverness."); cf. Eisele, supra note 16, at 617 (The Socratic teacher always must be "open to the possibility that the teacher – and not the student – is wrong in this instance.").

39 Professor Rosato terms this type of dialogue the "true" Socratic method, but she questions its practical application in large first-year classes. See Rosato, supra note 2, at 41-43. I would like to believe that for most teachers committed to Socratic teaching the "true" Socratic method remains, at the very least, an aspirational goal.
fully listening to students' answers and questions, and reinforcing students as they attempt to make sense out of their experiences with the law. Second, students learn best by actively participating in class via a process of self-discovery. Again, the Socratic teacher must "ease the delivery" of students' contributions, since their contributions are what fuel the dialogue. Third, the goal of education is to have students internalize the questioning process and thereby become self-questioners and self-learners. If the method is successful, students will assume the role of inquirer, both of their classmates and the teacher. Fourth, the teacher must also enter the dialogue as a full participant, ready to vary her perspectives, question her assumptions, create new hypotheses, and address competing, and often marginalized, values. This follows from the aspirational value of Socratic ignorance: the recognition that teachers and students alike often do not know what they think they know.

As noted earlier, this part of the essay was primarily addressed to teachers committed to Socratic teaching. The insights drawn from this brief glimpse at Socrates' theory of recollection are to serve as guides for the proper approach to and application of the method. The secondary purpose was to present in stark contrast the popular image of the overbearing, brow-beating professor who claims to use the Socratic method with an image of a teacher derived from the internal pedagogical commitments of the method itself. Hopefully, readers can now see that the Professor Kingsfields of the academy misapply the method.

Nevertheless, if modern Socratic teachers deviate too greatly from the internal pedagogical commitments of the theory, then the criticisms concerning the overbearing "Socratic" professor would be, and sometimes are, justified. If modern Socratic law teaching claims that its pedigree derives from Socrates, then it must also adhere closely to the pedagogical commitments developed by its namesake. It is a cautionary tale; our students' legal careers are at stake. The potential for great good contained in the proper application of the method is accompanied by the potential for great harm if misapplied.

III. ONCE MORE INTO THE CAVE: ADDRESSING THE CRITICISMS

The most salient criticisms in the literature target the alleged deleterious effects on students of current Socratic law teaching. Do these criticisms apply to the type of Socratic law teaching developed in Part II? This Part will demonstrate that the four main criticisms raised against the current Socratic method do not directly apply against the method developed in Part II, or where they do indirectly apply, there are significant gains to students that more than offset the potential risks. Nevertheless, this part will also demonstrate that the concerns of critical scholars serve as guideposts or warnings to avoid improperly applying the method—because the simple fact is that proper Socratic teaching is difficult.
A. The Humiliation of Students

Perhaps the most troubling criticism raised against current Socratic law teaching is that it humiliates students. This criticism is so troubling because if true it would undermine one of the primary goals, if not the main goal, of the method discussed in this essay. Plainly, Socratic teachers cannot secure the internalization of the questioning process if students are being humiliated in the process. It is also clear that Socratic teaching, properly understood, does require students to be honest and candid in their assessment of their own perspectives, assumptions, experiences, and values. When students are required to speak in class on a particular matter often it will be their personal opinion that will be discussed and possibly found to be wanting. Additionally, as Professor Areeda notes, "[f]or many students, the law school classroom is their first exposure to public speaking and argument, which will be scrutinized by their classmates and the instructor." All this can be fairly intimidating, and possibly unintentionally humiliating, for some students. Any teacher properly using the Socratic method must take heed.

Given the possible unintentional intimidation and humiliation of some students, the reasons for still using Socratic teaching, as developed in Part II, are twofold. First, although we do test students on their ability to identify the standard legal doctrines and policies in the particular areas of the law we are teaching, we also test students on their ability to arrive at those answers. We test them on their ability to analyze how the doctrinal analysis has been applied in the past, how it might be applied in the future, and how the application or doctrinal construct itself might change given a corresponding change in fact pattern or background assumptions. These doctrinal analytical skills, which form the foundation of more sophisticated legal thinking, are modeled, learned, and reinforced in the Socratic dialogues of the classroom.

Second, more than any other pedagogy, the Socratic method closely models fundamental skills required by current legal practice. The current practice of law, for better or worse, often entails publicly addressing on and responding to difficult questions where the speaker's reasoning must withstand close scrutiny. Before the court, in the boardroom, before the senior partner, or engaging clients, difficult questions will be asked of our students, often in a (painfully) public forum. In order to prepare our students for the rigors of current

---

40 See supra notes 3-4 and accompanying text.
41 Areeda, supra note 4, at 917.
42 See, e.g., Alan A. Stone, Legal Education on the Couch, 85 HARV. L. REV. 392, 415 (1971) (noting that "the professor's capacity to criticize within the Socratic method [often] exceeds his [ability to use it]"); Eisele, supra note 16, at 601 n.11 ("On several occasions, I have received comments on student evaluation forms that my continual interruptions of my students are an irritating habit of mine (distracting, and impolite as well). This may be an inevitable cost of what I see as the benefits of such a teaching technique - but I do not want to deny that this reaction means that I have to continually rethink both the efficacy and the ethics of this way of teaching.").
legal practice, we must prepare them for public speaking in difficult situations, often with minimal information and preparation, and with large interests at stake. Our students must be able to address the problems presented, analyze applicable legal doctrine, evaluate the underlying concerns and commitments of those affected, effectively respond to the questions asked, and ask the right questions in turn, all the while thinking on their feet. Socratic teaching uniquely prepares students for such important legal tasks.

Socratic teaching should never humble or intimidate students if properly applied, but obviously, what one person perceives as an enlightening experience, another might perceive as humiliating. To the extent that the proper application of Socratic teaching unintentionally intimidates or humiliates a student, the cautious response is that Socratic teaching more than any other available pedagogy closely models and prepares students for the rigors of "the intellectual exchange" that repeatedly occurs in current legal practice. The Socratic method also internalizes in students the analytical and doctrinal problem solving skills that they will be tested on and use in developing more sophisticated legal reasoning.  

The unintentional act, however, does not necessarily imply that Socratic teaching entails the intentional humiliation of students. Some critics of the traditional method apparently make this further inference. For example, Professors Thomas Shaffer and Robert Redmount write:

Any adequate teaching method requires trust. In law school, though, trust may turn to consternation when the professor then teasingly (and, in the traditional model, sadistically) exploits the student's thinking to demonstrate that the student is not only ignorant but incompetent. It is, then, as if the professor is saying to the student: "You see, you really don't know how to do it. You cannot even think straight. But, still, if you will listen and follow me carefully, you may catch on somehow."  

As previously shown, nothing could be further from the pedagogical commitments entailed by Socratic inquiry. The above example is little more than an example of ridicule. Ridicule presupposes that the targeted student is somehow different from or inferior to the rest of the class and the teacher. To the contrary, Socratic teaching commits us to the view that we all, teachers and students alike, are subject to self-ignorance; we all make mistakes – we all do not always know what we think we know. Socrates would admonish that "a sensible man, .

---

43 See Rosato, supra note 2, at 44 ("Socratic dialogue models the same kind of intellectual exchange that occurs in the practice of law . . . most lawyers are regularly 'called on' to articulate arguments to an inquisitive, incredulous audience – be it client, a senior partner or a judge.").

44 SHAFFER & REDMOUNT, supra note 4, at 158.
. . whenever he saw a soul perturbed and unable to discern something, he would not laugh unthinkingly."45

To believe that Socratic teaching countenances such abuse of students is to ignore that at the heart of Socratic teaching is the commitment by the teacher to the attitude that students know more than they think they know. The criticism also downplays the fact that the teacher too is personally exposing her beliefs in the process. Socratic teaching is a reciprocal process, a dialogue (not a monologue), between the teacher and student, and between student and student. Nevertheless, no one likes to be proven wrong. Accordingly, students "need to be told and reminded that error is inevitable,"46 and that error is inevitable in both teachers and students.

This particular line of criticism demonstrates that some critics of the traditional Socratic method are often carried away in their analysis by a conception of the overbearing law professor. Such a teacher is not truly Socratic. Because this particular line of criticism fundamentally misconstrues Socratic teaching, "this objection is to misuse the method."47

B. "Hiding the Ball" From Students

Another line of criticism often urged against Socratic teaching is that it is an inefficient48 and unfair way to communicate information that the teacher possesses but does not reveal. The teacher either unfairly "hides the ball"49 from students by feigning ignorance or, if information is given to students, the teacher insists that the information is inadequate. Professors Shaffer and Redmount term this criticism "the riddle of ineffective information."50 They assert that "[t]he professor possesses, and will provide (in his own way) essential information, but he never tells all he knows and what he does tell will not suffice to provide the commodities the student wants."51 These authors go on to explain that the "commodities" that students want is "to learn the law."52 This same criticism is voiced by Professor Nancy Schultz when she argues that "if one has something important to tell, and takes one's teaching seriously, there is no

45 PLATO, THE REPUBLIC, supra note 9, 749-50 [517a-518c].
46 Areda, supra note 4, at 917.
47 Id. at 916.
48 See, e.g., Weaver, supra note 3, at 547; A. HARNO, LEGAL EDUCATION IN THE UNITED STATES 63 (1953) (voicing the concern that the Socratic method is an inefficient and extremely time consuming way to impart information).
49 See supra note 4 and accompanying text.
50 See SHAFFER & REDMOUNT, supra note 4, at 154.
51 Id.
52 Id. at 156.
power that can interfere – unless the teacher chooses to become artificial, ‘Socratic,’ deviously ‘permissive,’ ultimately withholding.”

In the face of these criticisms should Socratic teachers simply tell students what they know? The answer must be no, primarily because the law, and our understanding of the law, is not a fungible “commodity.” Only by assuming, as these critics do, that the law is a “commodity,” with a determinate body of given content, will law teaching entail little more than spoon-feeding that commodity to law students. Based on this assumption, the appropriate model of legal education apparently is the transmission of the teacher’s “answers.” To withhold the teacher’s answers under this model is disingenuous.

Perhaps most incoming first-year law students view the nature of the law in this way and this might explain their initial frustration with Socratic teaching, which does withhold the teacher’s “answers” from them. Who wouldn’t want to be given the “correct” answers? The problem with this line of criticism is that the assumption that the law is largely determinate with given content and settled boundaries (i.e., law as a “commodity”), is seriously under-inclusive, if not outright wrong. In fact, most legal principles are fundamentally unsettled with, as yet, no determinate boundary conditions or answers. Rather than withholding the “correct” answers from students, Socratic questioning in fact arms students with skills for gaining or creating solutions in unsettled areas of the law. If we are trying to make our students better lawyers (capable of discovering those answers for themselves), then we must teach them how to solve legal problems on their own. Socratic teaching is uniquely suited to this

53 See Nancy Schultz, How Do Lawyers Really Think?, 42 J. LEGAL EDUC. 57, 87-88 (1992); see also Coleburn & Spring, supra note 4, at 26 (“The Socratic method induces students not to know what they thought they knew – and before a jury of their peers – while the professor can choose to reveal whether or not she knows.”).


55 See supra notes 28-30 and accompanying text.

56 It is one of the ironies of legal history that these same scholars rail (rightly, I think) against using the Langdellian case method in law school classes while uncritically accepting (wrongly, I think) a conception of the law with precisely defined contours, which is a vestige of Langdell’s notion of the law as a science. See, e.g., C.C. LANGDELL, A SELECTION OF CASES ON THE LAW OF CONTRACTS vi (1871). Even Oliver Wendell Holmes, an early admirer of Langdell’s case method, would later reject Langdell’s formalistic conception of the law stating “[t]he truth is, that the law is always approaching and never reaching, consistency . . . . It will become entirely consistent only when it ceases to grow.” OLIVER W. HOLMES, JR., THE COMMON LAW 36 (Dover 1991) (1881); see also Paul D. Carrington, The Romance of American Law: Making A Public Profession, 1779-1979, at 3-4 (July 10, 1997) (unpublished manuscript, on file with author) (“In the same way that a detailed knowledge of the river is insufficient to make a good pilot, a detailed knowledge of statutes and legal decisions is insufficient to make a good lawyer; knowledge must be accompanied by judgment. The medium of lawyers is, of course, words not water, and the forces that influence their meanings are social and political, not natural. Even less than the river is law subject to precise measurements and certain predictions. Law is a craft, or perhaps an art or even a faith, but seldom in any useful sense a science.”).
task. Seen in this light, spoon-feeding settled legal content to our students performs a disservice. It presents students with an erroneous conception of the law while at the same time denying them the tools to create answers or solutions out of unsettled legal principles.

C. Creating the “Combative” Student

An additional complaint raised in the literature concerning traditional Socratic teaching is not that it does not work but, rather, that it works too well in producing unnecessarily combative and competitive students. Critics assert that Socratic teaching produces students who “analyze and dissect everything that someone says . . . not so much to find the truth, but just for the sake of arguing and pointing out frailties.”\(^57\) This line of criticism claims that Socratic teaching devolves into little more than “a hunt for the right answer . . . [and] talk of collaboration and compromise is dismissed as sour grapes.”\(^58\)

These scholars do not seem to be making the claim that competition, without more, is harmful to our students. Fair competition does not inevitably lead to abusive behavior and it can (sometimes) determine relative merit. At the end of each semester, we grade student papers and exams, hopefully fairly, in competition with each other. The real concern with asking our students to compete against one another is to ensure the competition is fair, not to do away with the competition.

Rather, these scholars seem to be claiming that traditional Socratic teaching creates an unnecessarily virulent form of competition in our students, a form of competition that precludes meaningful collaborative behavior and engenders abusive behavior in our students. Neither conclusion, of course, follows from the proper use of the Socratic method described in Part II. First, when a particular class matter is open to Socratic inquiry, often, if not always, the most plausible answer will be a compromise solution gleaned from the various student opinions, perspectives, or arguments proffered around the room. There is no intrinsic reason why students utilizing Socratic inquiry cannot collaborate with one another—they often do collaborate with another—in developing the compromise answer that the class finds most adequate.

Perhaps these scholars merely assume that Socratic teaching cannot be usefully combined with more collaborative teaching styles such as the “problems approach.” To the contrary, the collaborative “problems approach,” for example, and Socratic teaching are in fact complementary methods. Under the “problems approach,” student groups are first given assignments before class to work on together. Then, when the groups report their findings, solutions, and comments in class to the general class, the Socratic dialogue continues as usual between teacher and group(s), and between the groups themselves. Addition-

\(^{57}\) See, e.g., Shaffer & Redmount, supra note 4, at 160-61.

\(^{58}\) See, e.g., Coleburn & Spring, supra note 4, at 26.
ally, our understanding of Socratic teaching discloses the collaborative effort between the teacher and students, and between the students themselves. At its best, Socratic teaching really does uncover shared questions that neither the teacher nor the students were aware of prior to the dialogue.\(^5^9\)

Second, arguing for the sake of attacking others is no different from misusing the Socratic method to ridicule others.\(^6^0\) It bears repeating that Socratic teaching should demonstrate that we all are alike in our quest for knowledge: we all, on occasion, know more than we think we know and do not know all that we think we know.\(^6^1\) Here, again, these scholars improperly identify the difficulties that result from a misuse of the Socratic method—difficulties that would also surface with the improper application of any teaching pedagogy—with the method as properly applied.

D. The “Silencing” of Women and Minorities

Finally, there is a related and extremely influential line of criticism charging that traditional Socratic teaching is effectively opposed to the achievement of the indisputably important educational goal of diversity. The claim is that current Socratic teaching hinders the educational opportunities of women and minorities, being particularly deleterious to African American women. Originally utilizing the heralded work of Carol Gilligan,\(^6^2\) these scholars claim that the way women think is different from the way men think, and that women’s communal, collaborative, and moral thinking is ignored, discouraged, and silenced by Socratic teaching that reinforces the independent, isolated analytical thinking of white men.\(^6^3\) If we continue to utilize Socratic teaching, the argument goes, women and non-whites will be marginalized in the classroom, which will eventually lead to their marginalization in the legal profession. This argument is all the more troublesome because continued efforts at achieving diversity have at long last resulted in women composing roughly half of entering law school classes.\(^6^4\)

In the late 1980s and early 1990s several individual law school studies uniformly indicated women’s experience of law school was markedly different from that of their male classmates.\(^6^5\) Although women performed approxi-

\(^{59}\) See supra Part II.D.

\(^{60}\) See supra notes 44-45 and accompanying text.

\(^{61}\) See supra Parts II.A., D.

\(^{62}\) See, e.g., CAROL GILLIGAN, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN’S DEVELOPMENT (1982).

\(^{63}\) See, e.g., Ohio Study, supra note 5, at 314; Pennsylvania Study, supra note 5, at 61-68; Berkeley Study, supra note 5, at 18, 28-29; Yale Study, supra note 5, at Pts. IV & V; and ABA Study, supra note 5, at 15-17.

\(^{64}\) See ABA Study, supra note 5, at 23.

\(^{65}\) See, e.g., supra notes 5 and 63 for individual law school studies.
nately as well as men, women did not perform as well as their prior undergraduate performance indicated. Additionally, the results of the studies indicated that women felt less accomplished and confident in their skills after completing law school, and much narrative evidence suggested that Socratic teaching played a role in women’s unfavorable experience of law school. The problem with these studies is that they reported on fairly small samples of students, making it difficult to base general conclusions on the data. Additionally, the original starting assumption of some of the studies that all women, minorities, or ethnic groups think alike or monolithically came under attack. Further, the studies did not quantitatively link Socratic teaching to the lower than expected performance of women or minorities but instead primarily relied on narrative evidence. Nevertheless, the reported narrative evidence was overwhelmingly negative concerning the traditional use of the Socratic method.

In 1996 the Law School Admission Council (“LSAC”) reported on a study of women in law school, examining entrance qualifications of approximately 28,000 students from 152 law schools, and analyzing questionnaires completed prior to entrance and after completion of the first year of law school from approximately 7,000 students. The LSAC study found that, consistent with the earlier individual school studies, although women perform approximately as well as men in their first year of law school, women’s entering qualifications are higher and therefore women were expected to perform slightly better than men. Significantly, the LSAC study found that while women’s academic self-concept was lower than men’s after the first year of law school, women enter law school with a significantly lower academic self-concept. Accordingly, the decline in academic self-concept was approximately the same for men and women, although unfortunately, women start law school with a

66 See, e.g., Ohio Study, supra note 5, at 314; Pennsylvania Study, supra note 5, at 61-68; Berkeley Study, supra note 5, at 18, 28-29; Yale Study, supra note 5, at Ps. IV-V.

67 For example, the Yale Study consisted of 20 students, the Stanford Study consisted of 343 students, the Berkeley Study consisted of 667 students, the Ohio Study consisted of 800 students. Ohio Bar Ass’n, Final Report: Ohio Joint Task Force on Gender Fairness 35-40 (1995).


69 See supra notes 63 & 66 and accompanying text.


71 Id. at 26-27.

72 Id. at 72-74. The study operationally defines the notion of “academic self-concept” as how students rate themselves in comparison with their classmates, on a scale of 1 (lowest) to 5 (highest), in academic ability, competitiveness, public speaking ability, self-confidence in academic situations, and writing ability. Id. at 53-55.
lower academic self-concept than men. The study indicated that higher debt, lower socio-economic status, greater external family commitments, the lack of role models within the law school and legal community, and persistent experiences of sexual and racial discrimination from some fellow students and some faculty members were factors that positively correlated with those women who performed worse than expected, particularly African American women. Most important for present purposes, the study found that there was no correlation between the number of Socratic classes taken by women who performed worse than expected. The study concluded:

There are no significant differences between [women who performed better than expected and women who performed worse than expected] in the proportion of their first-year classes that used different teaching methods. These data were examined to determine whether those women who performed worse might have been exposed to a disproportionate number of classes that employed the Socratic method. The data did not support that hypothesis.

Where does this leave us? Although the literature expresses an overwhelming negative attitude towards traditional Socratic teaching, the "hard" data on precisely how Socratic teaching affects women, ethnic groups, and minorities is sketchy and conflicting. The most comprehensive study to date of women in law school indicates that socio-economic and cultural factors, rather than the particular teaching pedagogy encountered in law school, are causally linked to the lower than expected performance of women in law schools, particularly African American women. Until more evidence is available, it is premature to conclude that traditional Socratic teaching, much less the type of Socratic teaching derived from the internal pedagogical constraints of Socrates' educational theory, is responsible for the different experience of or performance in law school by women and minorities.

Having briefly canvassed the four main lines of criticism against the traditional use of Socratic method in law schools, the conclusion is that their

73 Id.
74 Id. at 111-14.
75 Id. at 113.
76 Id.
77 Cf. Rosato, supra note 2, at 49 ("At the outset, it is important to distinguish the negative effects on women purportedly caused by the Socratic Method itself and those caused by other factors such as the adversarial nature of the adjudicatory system, the inappropriate conduct of professors and fellow students and the lack of support for women in law school community. In my view, the disparate impact of legal education on women students is primarily attributable to these factors and not the Socratic Method.").
critical sting does not directly apply to Socratic teaching properly employed. Specifically, Socratic teaching does not entail the intentional humiliation of students. Some critical scholars too often assume that professors must harass students with questions calculated to reduce them to tears in order to perform the Socratic method properly.\(^7\) Moreover, the discussion indicated that the proper use of Socratic teaching does not prevent students from cooperating with one another or from asking questions of the teacher, and, when information is withheld from students, it is withheld for good reason. The teacher’s answers are withheld from students because students learn best by creating their own answers; students learn best by doing. Finally, the discussion canvassed the data marshaled to support the claim that traditional Socratic teaching disadvantages women and minorities. This data indicated that societal factors outside of law school as well as the lack of role models and support mechanisms within law school are probably the primary factors for women’s, particularly minority women’s, lower than expected performance in law school. As for the particular strengths to be gained through the proper use of Socratic teaching, the method closely models the intellectual exchanges that predominate current legal practice, with special emphasis being placed on improving students’ public speaking and analytical skills when the students are placed before an inquisitive, incredulous audience.

Nevertheless, those of us who are committed to the proper use of Socratic teaching must candidly admit that the successful classroom dialogue is often more an aspirational goal than a factual accomplishment. Without question, the proper use of Socratic teaching takes its toll on the teacher; it is a difficult teaching technique to apply properly. The long preparation time, framing just the right questions, carefully responding to student answers and questions, and collaborating with the participant(s) of the dialogue and the general class in achieving a better understanding of the particular legal problem, all point to potential areas where the method can go wrong. It stands to reason that if the method takes its toll on teachers, the method can also take its toll on students. Socratic teachers can profit from a deeper understanding of the critical literature because it serves as an important checking function against the possible excesses of the method. In particular, teachers who wish to use Socratic inquiry must heed the warning that students are often intimidated by the method. Additionally, the consistent negative narrative evidence of women, particularly African American women, against Socratic teaching must commit us to ensuring that women, particularly African American women, become full participants in the dialogues in our classes. The combined strength of these criticisms of traditional Socratic teaching should lead those of us who are committed to the proper use of Socratic teaching to redouble our efforts to abide by the internal constraints of the method.

\(^7\) See, e.g., SHAFFER & REDMOUNT, supra note 4, at 158.
IV. FROM DARKNESS TO LIGHT

This essay has attempted to take a fresh look at Socratic law teaching. Mindful of the critical legal scholarship against a type of Socratic teaching alleged to be in current use in the legal academy, Part II returned to the method's source and developed the internal pedagogical commitments of the method. Part III then applied the most salient criticisms in literature to the newly uncovered Socratic pedagogy and discovered that this method is not directly subject to their critical sting.

Nonetheless, even if it has been demonstrated that the proper use of Socratic teaching should continue to be a central component of law school teaching, one should not claim that Socratic teaching is the only teaching technique or the only skill set we need to teach our students. For example, Part III suggested that the tendency in the literature to identify Socratic teaching with the case method and not with a problems approach is misguided. By combining Socratic teaching with a problems approach, we can increase the collaborative efforts of our students. When the groups report their findings, analyses, and comments to the general class, Socratic questioning between teacher and group(s), or between the groups themselves, can be usefully employed to elicit what the students have worked on previously outside of class. Additionally, role playing, where students might assume the persona of judge, jury, or litigant, or where the student participant of a particular dialogue becomes the "expert" on that legal problem for further class discussions, can be used to great effect in Socratic teaching.

Socratic teaching also does not provide students with all of the skills necessary for their legal careers. A quick read of the MacCrate Report will indicate that the oratory and analytical problem solving skills involved in Socratic law teaching comprise only a small, though important, subset of the skills needed by lawyers in various settings. For instance, clinical and writing skills play little to no part in traditional Socratic teaching.

---

79 See, e.g., Richard Neumann, Jr., A Preliminary Inquiry into the Art of Critique, 40 HASTINGS L.J. 725, 740 (1989) (properly distinguishing Langdellian case method from Socratic teaching); see also supra note 56.


81 See MacCrate Report, supra note 1, at 138-41.

82 Jerome Frank was the first to bemoan the lack of clinical skills (i.e., teaching law students the complex interaction skills between client and practitioner, practitioner and court, what "lawyers actually do") in the Socratic method. See, e.g., Jerome Frank, Both Ends Against the Middle, 100 U. PA. L. REV. 907, 913-21 (1951); Jerome Frank, Why Not A Clinical Lawyer-School?, 81 U. PA. L. REV. 907, 913-21 (1933). Notable legal scholars soon followed Frank's lead. See, e.g., Karl Llewellyn, The Current Crisis in Legal Education, 1 J. LEGAL EDUC. 211, 216 (1948); see also Weaver, supra note 3, at 546-47 n.85.
ing provides our students with some of the “effective techniques of learning from experience.”

Socratic teaching develops the fundamental analytic and doctrinal problem solving skills required for development of more sophisticated legal reasoning. Accordingly, students should encounter the method in their first-year law classes. As our students proceed in their law school careers, having internalized the questioning process, a more open forum of general discussion and problem solving can be substituted as the predominant pedagogy for upper-level law classes.

Perhaps no single teaching method is most effective for teaching the law. This essay has presented the case for reconsidering Socratic teaching as one of the methods most effective for teaching the law. The primary goal of Socratic law teaching is to empower law students to think for themselves. The method seeks to avoid what Socrates termed the worst kind of ignorance, “the ignorance which deprives one of mastery over himself.” Current critical legal scholarship notwithstanding, Socratic teaching when properly applied does accomplish its goal, and the goal is worthy of our renewed interest and continued commitment.

---


84 See supra notes 42-43 and accompanying text.

85 See Schultz, supra note 53, at 71-72 (noting that attempts to measure the effectiveness of the case method, problem method, lecture, programmed instruction, and audiovisual methods did not disclose significant differences).

86 PLATO, PROTAGORAS (Paul Shorey trans.), reprinted in THE COLLECTED DIALOGUES OF PLATO, supra note 9, at 308, 346 [354D].