

public) or areas where real change is needed (requiring law reform efforts). It helps to shape the popular understanding of law and the legal system. It provides a common ground of shared material which can be a starting point for discussion between lawyers and non-lawyers about the issues of the day.

Not too long ago the author was invited to teach an undergraduate course on law and popular culture. His goals for the course were twofold: on the one hand, he wanted to focus on the critique of the legal system in science fiction; on the other, he wanted to focus on actual law and legal materials, both to let students experience 'real' law and also to allow them to compare the popular view of law with actual law on the same subject. For the course the students read three novels, many short stories and legal materials, as well as viewed tapes. The first novel was Philip K. Dick's *Do Androids Dream of Electric Sheep?*, the basis of the movie *Blade Runner*. The second novel, *Circuit* by Melinda Snodgrass, is an explicitly legal tale in which a newly established federal court is used by the government to regain control of the off-world colonies. Told from a libertarian perspective by an author who is also a lawyer, the book is chock full of legal argument, manoeuvring and court procedure. The third novel, *Gladiator-at-Law* by Frederick Pohl and C M Kornbluth, presents a future dominated by large corporations where those who lose their employment contracts are banished to the slums of Belly Rave. The novel was particularly good because it focused on corporate law — an area not often addressed in science fiction.

Each class focused on a particular legal theme in fact and fiction: (1) the question of what is a person; (2) the

question of equality, privacy and autonomy; and (3) criminal law and procedure. When they started, the students thought the questions were easy. They were surprised to find that they had different views. The various views about personhood were given real-world application because they also examined two cases from the United States Supreme Court. *Dred Scott v Sandford* declared that African-Americans, whether slave or free, were not part of the body politic and had no standing in federal courts. The second case, *Roe v Wade*, declared in part that a foetus is not a 'person' under the Fourteenth Amendment.

The discussion of the issues was richer in many respects than in my graduate law classes. This can be partly explained by the willingness of undergraduate students to share ideas and themselves. It can also be attributed to the fact that the focus of the undergraduate class was not to acquire a detailed understanding of doctrine. However, part of the reason was the presence of the science fiction materials which provided a context for the legal ones.

A second major unit was devoted to conflicting goals of equality, privacy and autonomy. A key focus was the idea that we value all of these but that they can conflict. Amongst other material, we viewed a television presentation of *Harrison Bergeron*, a version of a Kurt Vonnegut short story about a future America where everybody is required to be the same by law and those with exceptional abilities are handicapped in the name of equality. For our criminal law and procedure class we viewed the film *Outland*, an outer space version of *High Noon*. Other classes focused on the role of lawyers in the legal sys-

tem, government and international law.

Even those students who did not think they liked science fiction were able to see the relevance of the materials to the legal issues. Students saw points discussed in the cases reflected in the science fiction and could discuss how accurately the latter had or had not captured key legal points. It appears that science fiction can be a rich source of legal issues and ideas for students to explore. As law and popular culture studies grow, they should not be overlooked.

#### **Problem based learning in legal education: intentionally overlooked or merely misunderstood**

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Problem based learning (PBL) has gained wide acceptance in a number of professional fields, notably medicine and architecture. Legal education, however, appears to be offering strong resistance, as only a handful of law schools and practical training institutions have incorporated PBL into their curriculum. Is PBL being intentionally overlooked or is it merely misunderstood?

The introduction of PBL is much more than mere curriculum change. It involves far reaching consequences for teachers, students and course administrators. PBL is not the case method of teaching law. The case method is a teaching method in which students are allocated prescribed cases to read prior to each class and the cases are discussed using the 'Socratic method'. Neither is PBL the use of hypothetical questions posed by teachers using the Socratic method of teaching students. Another common misconception is that PBL is a technique which is utilised at the end

of a series of didactic sessions whether they be lectures or small group discussions. These 'problems' are mere exercises, since they test the application of otherwise acquired knowledge.

In PBL it is the problem which is the focus and catalyst for the acquisition of knowledge through student-centred, rather than teacher-centred, activity. A key characteristic of problem-based learning as identified by Boud is an emphasis on students taking responsibility for their own learning. Students are expected to take an active part in planning, organising and evaluating their own learning. They are not simply subjected to activities designed and controlled by others. The teacher assumes the role of designer of activities in the form of problems by providing adequate resources for all students to have access to materials to acquire new knowledge and skills to solve the problem and also acts as a resource person.

In Australia there has been much discussion in recent years relating to the quality and relevance of current legal education. After years of study students can seem unable to use their knowledge to solve problems because their study is aimed at knowledge acquisition combined with reproduction rather than problem-solving skills.

PBL is a sub-skill of problem-solving within the overall objective for the legal professional of solving clients' problems as much as it is a learning tool. In clinical legal education students are automatically presented with a problem in the form of a live client who recounts events which have led to the problem for that client. However, with the development of PBL and the identification of legal problem-

solving as a skill just like any other legal skill, such as interviewing, legal educators are empowered to teach problem-solving in the classroom because the *problem* need not only come in the form of a real client.

*It is clear that PBL can help fill a large void in legal education. At a time when legal education is under attack and undergoing substantial changes, the claims of PBL to be able to fill the void must not be overlooked. It has the ability to enhance legal education in its academic and practical settings and can provide outcomes that no other form of legal education can provide. p187*

Law schools everywhere are feeling the impact of a vast increase in the amount of substantive law. Much valuable time is given over to knowledge acquisition which is easily forgotten. Furthermore, it detracts from the time available to teach skills. Law schools must seriously reconsider their ability to provide adequate coverage and whether this should be attempted at all. Might it not be better to consider teaching law students how to go about finding the knowledge they need to act professionally in a new area? PBL alone can provide this capability in a student.

There is often concerted effort to derail the adoption of PBL by teaching staff and sometimes management. [The author identifies 17 common obstacles to PBL.] By shifting the responsibility of acquiring knowledge from the teacher to the student, a number of consequences flow which are not always considered to be beneficial. The change of dynamics means that the professional identity of teaching staff as experts in their field is de-

valued. They no longer play that role in front of their students nor display their knowledge and control what happens in the classroom. Teaching staff are required to become part of the background and be a mere resource for timely consultation. Add to this the facts that PBL tends to be more resource intensive, that there is a perceived difficulty in assessing students, that there are reservations about the ability of PBL to ensure coverage and depth of material, as well as misunderstanding about the nature of PBL combined with confusion and perhaps resentment by students, it is no wonder that PBL is proving virtually impossible to implement in legal education and is being intentionally overlooked.

If we are successfully to implement PBL, we must anticipate the problems we are likely to encounter. There must be a long lead time, used to reorientate existing staff and to train new staff. There must be sufficient funds allocated for course development. The course developers must seek and obtain political allies within and outside the organisation who will support the change. The teaching staff need to be informed about the need for change. PBL enthusiasts among the staff need to be identified and act as champions by being the first to embrace PBL.

It must be stressed that introducing PBL is not to be equated with mere curriculum change or course development. The level of change is too far-reaching to be merely changing what is to be taught or how it is going to be taught. Legal educators must themselves acquire new knowledge and skills to effect such change.