Reflections on teaching law

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Introduction

This essay contains some personal reflections arising from a career as a law teacher. This experience has suggested conclusions as to the nature and purpose of the study of law in a university. The conclusions concern the academic’s ongoing commitment to achieve a greater and better-ordered knowledge of the discipline that he teaches and the goals that he aims at in teaching.

Teaching and research support each other and each at the service of the University’s mission

The University (as an institution) is committed to the orderly pursuit of knowledge. Academics try to deepen their knowledge and understanding in their subject area, to teach others to be able to do the same and to help to increase the general stock of knowledge and understanding in their area. The University exists to help all of this to happen. This its ‘social responsibility’ and its responsibility to the people who form part of the University community.

The University (as a whole) is not a research institute and the commitment to teaching is at its core. On the other hand, the University (and the individual academic) would be lacking in a vital dimension if there were no commitment to deeper understanding and, in contexts where this is appropriate, to the discovery of new and original ideas and things.
So the University needs to have a twin commitment to both teaching and to scholarship or research leading to new discoveries.

Teaching and research or scholarship go together. The teacher relies on his ability to carry out scholarly work as the basis for teaching. In the classroom, the teacher tries to introduce students to a subject area and to lay the foundation for them to carry out their own scholarly work in the same area. Teaching lays this foundation by providing students with the core knowledge, concepts, tools and methodologies that they will need in doing their own scholarly work. The teacher should hope to inspire in at least some of his or her students the desire to continue to carry out scholarly work in the subject after the course has ended. This process will be helped immensely if the teacher is himself committed to scholarship. It is this commitment and a practical knowledge as to how to pursue it effectively that the teacher offers to his or her students. The teacher is not just a talking textbook. Teaching supports research by pushing the academic to understand a subject more clearly and deeply and to understand the areas where greater clarity is needed.

The stages of teaching a subject

One learns as a result of the effort to teach. Every time that one delivers a course one comes to see it in a new perspective. Gaps discovered in the previous iteration are filled in. One’s conception of the scope of the subject alter. The ongoing scholarly effort to get to grips with the subject area should result in better teaching for the reasons just given. The written and spoken expression of the teacher’s ideas should improve each year and
this is linked in several ways with the teacher’s own improving understanding of the subject.

Preparation for teaching is part of the teacher’s scholarship. Scholarship and the preparation of teaching materials are a constant, year-long effort. For most of the time, the teacher’s preparation consists in an orderly and constant effort to carry on scholarly activity and to write. The actual teaching materials and teaching in the classroom are just the tip of a large ice-berg. They give expression to understanding, thoughts and ideas that have been worked on since long before the actual class.

The teaching and discussion that takes place during formal contact hours should be seen as a starting point. Most of the student's work (both individual and collaborative) is done outside of the classroom. The aim of the teacher is to help students to be able to work effectively on their own. This is done by offering a clear introduction to the topic, access to scholarship (including the teacher's own scholarship) and clarity as to what students are expected to achieve. Teachers need to encourage students to work on their own and make it easy for them to do so effectively.

The teacher owes it to students to make it easy for them to know and understand the most basic ideas about the subject. The students can then spend their time in trying to build on this foundation. They are not obliged to spend an unnecessary amount of time on discovering and understanding basic ideas. So clear and detailed notes (possibly supplemented by other teaching materials such as podcasts) allow students to feel
confident and comfortable about the core ideas of the subject. They are thus freed up to spend their time on a deeper, more scholarly engagement with the subject.

The scholarship that underpins teaching can be pursued constantly and built into one’s daily activity. The same can be true of teaching materials. Notes or guides (even textbooks) can be a focus of this constant effort. So too can be materials such as podcasts and blog posts. And web 2.0 technologies (podcasting, blogging and Youtube) allow for the teaching process to be constant. These technologies make open access to teaching content easy. They can easily and cheaply be made available to anyone who has an interest in them. Whether to make some of one’s work and ideas freely available is a question that requires thought. Sensibly done, however, experience shows that doing this is not only consistent with the University’s social mission but can also benefit the University economically by increasing student enrollments.

The availability of modern technologies does not alter the fundamental tasks to be achieved at all. The modern technologies can, however, allow the academic to achieve the perennial goals of the academic life in ways that can have a very profound impact on the way that things are done. Technologies (such as publishing and broadcasting) that were previously very expensive are now very cheap. This means that they can be deployed to help the academic in his work. These new technologies can also allow greater access to knowledge than has previously been possible.
What should the student gain from studying a University course?

A university course introduces students to a particular subject area and contributes to the broader objectives of the programme as a whole. So a course in Hong Kong Land Law introduces students to the central themes of the subject and to the most important primary literature (principally judicial decisions and legislation) and secondary literature. It tells the student about how Land Law draws on what they have learned in other subjects (especially Contract Law and Equity and Trusts). The student is also asked to think about broader themes where law and philosophy intersect (the idea of property).

It should be possible for the student to derive a range of benefits from the study of, for example, Hong Kong Land Law. Most obviously the student should simply be better informed about the essential ideas covered by the course and have a firm grasp of them. At the same time, this study can help the student to have a better and more detailed grasp as to how some aspects of Hong Kong’s legal system works (and about how a common law system works).

The course should also allow those students who want to do so to begin a more sustained relationship with the subject. First, within the course there should be an opportunity for the student to do some scholarly work such as a coursework or essay / article. The academic should remind students as to how to carry out and present legal research and then help each of them to choose a topic and to structure their written work. The academic can be a mentor inducting less experienced potential scholars of the subject into its concerns and methodologies. Students will have been introduced to the basics of legal
research at the beginning of the course and get their best opportunity to practice those skills in a capstone legal research paper. Nevertheless, it is appropriate for students to carry out (probably smaller) pieces of research within the courses that make up the law curriculum.

This need not be the end of it and some students will choose to continue their study of Land Law after the course has ended. They can do this by taking a land law subject as the focus for a capstone research course or even by pursuing an M.Phil. or Ph.D. in the area. In an ideal world, new teachers of land law will emerge from among the people who studied the course. The teaching of the land law course should have these possibilities in mind.

As an aside, there is a lot of potential in the idea of advanced courses in, for example, Hong Kong Land Law, that are entirely research-focused. I have personal experience of a year-long course where students were introduced to a series of themes. Each student was then helped (in a classroom discussion) to choose a suitable topic. Students would then carry out research for two to three weeks and submit a dissertation of 2,500 to 3,000 words. At the same time, a small number of students would give a ten minute presentation of their research to the group. The research cycle would then start again. There were 8 cycles over the course of the academic year. Students received their mark and feedback on their work within two weeks of submission. This allowed them to make use of the feedback in later research work carried out for the course. So there was real training in research skills and palpable improvement by nearly every student. Students
got immediate feedback on their presentations and also saw other students give presentations so that students made more rapid progress in their presentation skills.

Most of the undergraduate teaching in a law faculty has a professional, vocational dimension. One of its dominant goals is to introduce students to legal concepts and to legal thinking so that they will be able (if they wish) to work as lawyers. The idea of training and of induction into a particular line of work is very present in the syllabus and in the minds of teachers and students. At the same time, however, the undergraduate degree also provides training in research and aims at a broader development of the intellect than is strictly necessary for professional purposes. Many law faculties also offer courses where the idea of preparation or specialisation for professional purposes is uppermost. Hong Kong's law faculties, for example, offer the PCLL programme. These courses too offer opportunities for scholarship even if it is more focused on professional demands than need be the case for work carried out on other programmes. Having an academic / vocational split in legal training can give rise to conceptual difficulties. Those working on the academic side of the fence can be ambivalent about the vocational aspect of their work; some might feel that the idea is shameful and try to distance themselves from this aspect of work in the law school. Those working on the professional side might implicitly buy into this and respond by taking a slightly reductionist view of their work. This idea of a rigid division between vocational and the academic study of law should be resisted. Further, proficiency in appropriate forms of legal scholarship should be encouraged in staff and students engaged in professional programmes.
Student learning and engagement with the course need not end when the course ends

A course lasting just a semester (or even an academic year) can only be an introduction to a subject. Completing the course puts the student in a position to carry on learning about a subject. And yet there is typically no provision for students to keep in touch with the course and its materials. As far as the University is concerned, their involvement with the course ends with the release of the grade for the final examination. This is a pity. One of the avowed aims of any course is to promote deep student engagement with the subject. The course itself can only be the beginning of this process; students who truly want to engage with it in a scholarly way will need to continue their studies long after the course has ended. They may do so for professional reasons, as a focus of their further studies (including postgraduate study) or simply because they are interested in it.

It would be helpful if some provision could be made to allow former students to continue learning with the University after they have finished a course or a programme. They could be given access to course materials that are only available to registered students or to alumni who have completed that particular course. There could be other materials that the academic or the institution chooses to make available to the world at large on an open access basis.

Teaching, then, can continue after the course has ended. The teacher can try to create a platform of interest, ideas, knowledge and ongoing scholarly effort that is available to
current and former students (and possibly to others with an interest in the subject). The aim is to make each course into an opportunity for students to become scholars of the relevant subject area. The course is an introduction on which students can build. It needs to point the way forward for students who want to build on that introduction. One of the aims of the teacher should be to foster a desire in at least some students to stay in touch with the subject even after the course has ended. The teacher should try to stimulate the interest of the students and to point out possible research areas. The teacher could go further and try to reach out to those who wish to continue to study the subject with him after the course has ended. Blogs, podcasts and even social networking sites like Facebook can be used to help create these ongoing communities of learning (in which current students can also participate). Thus, the teacher plays a part in helping to develop interest in his or her subject and in making his scholarship and that of others available to a wider community. This openness to a broader and more enduring engagement with the subject adds meaning and value to the course and creates a richer set of possible benefits for those who decide to enroll on it. This approach would also allow for dialogue between 'generations' of students of a subject. The current generation can learn from those who have gone before them as well as learning from the teacher.

**Assessment**

Assessment needs to cover the range of learning outcomes. In the case of Hong Kong Land Law (as with many other subjects) this requires the use of more than one type of assessment. At the very least, there needs to be an exam that will check for problem-
solving skills and for an acceptable level of understanding of the syllabus in general. Then there needs to be some kind of coursework to allow the students to carry out research related to some part of the subject matter of the course. This could be a case-note or an essay or article. In any event, students should be asked to take pride in their work and to make it publishable; indeed, they should be asked to try and publish it. Producing work that can be of use to others and that the student wants to show to others helps to give meaning to the assessment. The grade is important but it is not the most important thing.

It is helpful to have assessment tasks that have a relevance that extends beyond grading. The thought that the only expression of one’s efforts is the answer to an exam paper that (once graded) will never see the light of day is scarcely conducive to a scholarly engagement with the subject. Students should be encouraged to keep their best work in some kind of portfolio and to improve and build upon that portfolio. Even after grading, students would have an incentive to keep working and to make use of any feedback that they have been given.

**The teacher as model**

The teacher creates the infrastructure for student engagement with the subject and student scholarship. He or she does this by introducing students to the subject, by setting relevant tasks and giving guidance and feedback and by modeling scholarly skills and attitudes for students. The teacher points out subjects of interest, introduces students to the principal
authorities and secondary literature and helps students to be able to conduct further legal research under their own steam.

So the scholarship of the teacher is a great help to students; it makes it much easier for interested students to progress in the subject. It can happen that the scholarship of the teacher sets a standard for students (or sets limits on their intellectual horizons). Put another way, the teacher cannot lead from behind. If the teacher is both engaged in scholarly work and open with students about the process that he has undergone then students can learn by observation.

Teaching has to be both well-organised and a platform for a more open-ended and enduring commitment to the subject

It follows from the above that a course needs to be taught with both short term and longer term goals in mind. The short term goal is to introduce the subject to the students as clearly as possible and to make sure that students acquire the knowledge and skills required by the course goals and syllabus as fully as can be within the time available. For most students active engagement with the course will end when these short term goals have been accomplished. For them, the course will best be seen as a component of the broader education provided by the programme. These short term goals will be accomplished more easily and fully if the teaching and the associated teaching materials are well organized. Written guides, slides and podcasts can all help to make student
learning as painless as possible. It will help a lot if these materials are co-ordinated and consistent with each other.

The fact that the materials are orderly and well-presented is helpful. These materials can be part of the foundations on which students who envisage a longer-term engagement with the subject can build. They should be open to further learning and give an indication of the vastness of a subject such as land law. They should not, of course, give the false impression that they are an exhaustive account of the subject. Further, the teaching of the subject should point out the links with other subjects both within and outside the area of legal studies. In the last analysis, every subject taught in a university is united by the common endeavour to truth and knowledge and to a greater understanding of the human person and human communities.

**Podcasts and university teaching**

Podcasts (video or sound files available for download) can be a very useful and effective way of making sure that students get a firm grasp of the essential knowledge and ideas covered in a lecture. They contribute to the laying of a firm foundation. This means that students do not have to waste time and energy in an effort to understand basic ideas. This frees them up to pursue deeper understanding and higher level outcomes. Short (ten or fifteen minute) podcasts can be used to give an outline of each week’s topic. It is also useful to make podcasts that are effectively full lectures (perhaps broken down into shorter segments). Many students find such podcasts useful as a way of preparing for
class or reviewing a class. They can listen to the podcasts (or segments of them) as often as they like until they feel comfortable with the ideas. This is useful for many students and especially so for some, such as students whose first language is not English or part-time students. The latter may come to an evening class very tired and may be forced by work or family pressures to miss a class occasionally. Podcasts can help to keep them in touch with the course.

It is important to understand, though, that podcasts complement face to face attendance but do not replace it. When surveyed, students express concern on this score. They value the face to face class even if at its core is a lecture that covers the same ground as the podcast. Paradoxically, it may well be that students are more likely to attend class when they have had the advantage of a podcast to prepare the ground. More happens in a face to face session than simply listening to a lecture. Students have the opportunity to ask questions and the teacher can pick up other clues during the course of the class and shape what he has to say accordingly.

However, given the fact that much of the basic material has already been covered in the lecture, the teacher needs to think carefully about how the face to face session will add value to the podcast. There should be more prompts for class discussion since it is reasonable to take it for granted that the students have some familiarity with the material to be discussed before attending the session.
Podcasts can also be a way for an academic and the university to engage with the outside world. They can be made available for download through a website and it can be made possible to subscribe to a podcast series through software like iTunes. The judgement as to how much to give away for free is, no doubt, a difficult one. Nevertheless, there are several good reasons to err on the side of allowing open access. One of these is that at the heart of a University’s mission is the orderly pursuit and transmission of knowledge. In society’s eyes, the University stands for the quest for truth for its own sake. It is consistent with that role for the University to do what it can to allow the world at large to benefit from its riches. In a sense it is wasteful not to give a high priority to this possibility. Clearly, the University has to sustain itself economically. For this and other reasons, its focus must be principally on its own students. So while making knowledge available to the world at large cannot be the only goal of the University, it can be one of its goals. It helps to make sure that the greatest possible social value is drawn from the scholarship carried on in the University.

Conclusion

A commitment to scholarship and to the quest for a better understanding of the human person and human communities are at the heart of much of the activity within a University. This common value is part of what unites the various faculties and departments and prevents them from being a conglomerate of technical schools. Teaching and research are interrelated manifestations of this commitment to scholarship and an orderly, disciplined quest for truth. A university course is not self-contained. While the
course has its own objectives these contribute to the broader objectives of the programme (such as the JD or LLB). Further, the course is only an introduction to a subject area and it should offer the possibility of ongoing scholarly work in that area on the part of at least some students.

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