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ABSTRACT

This collection of four short articles presents teaching strategies to enrich the social studies curriculum and promote students' sense of citizenship. Diana Hess outlines how cooperative learning stimulates the skills necessary for effective participation in a democratic society. By taking an active role in their own education and respecting the contributions of others, students begin to learn how to work together for the common good. The second article, by Charlotte Anderson, reflects on the need to rethink the context of citizenship in the global context. Anderson shows how, through global education, students learn that institutions such as the law can be used to help people cope with the immense social and environmental problems of the current age. Ronald Banaszak explains how studying the decision-making processes in economics can help students understand the analytical thinking required of responsible citizens. In the concluding article, David Naylor discusses the importance of teaching students about the heritage of liberty, equality, and justice and how these values are protected by the rule of law. Naylor suggests ways to convince students that history and the law are not abstract concepts, but how "real people face real situations." The articles illustrate how each of these areas of the social studies curriculum -- global education, economics, and history -- are intertwined with legal issues. (JD)

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# Teaching for Tomorrow: Integrating LRE and the Social Studies

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American Bar Association

Special Committee on Youth Education for Citizenship



## Introduction

Schools must remember that they are not primarily for helping children acquire jobs, get into college, or develop a better self-concept. As worthy as these goals may be, they are less important than the school's distinctly *civic* mission: to educate students to be capable of—and passionately committed to—meeting the challenges of the democratic way of life.

In his quote above, Walter Parker focuses in one the primary goal for American schools from the founding of this nation: preparing young people to become tomorrow's citizens. The primary task of educating young people about democracy, the ways in which citizens can work together, and how they as individuals have certain rights and responsibilities has been placed squarely upon the schools generally and, more specifically, on the social studies curriculum.

The role of social studies in carrying out this task is reflected in the National Council for the Social Studies (NCSS) revised curriculum guidelines:

The basic goal of social studies education is to prepare young people to be humane, rational, participating citizens in a world that is becoming increasingly interdependent. . . . Social studies education provides the only structured school or community focus for the preparation of citizens.

In taking on this considerable responsibility, the social studies program must concern itself with teaching several concepts and skills. It must develop in students the skills needed for thoughtful analysis and informed decision-making. It must lay a foundation of historical and social knowledge, so that students can build on what others have learned. And it must help students understand how the Constitution and the Bill of Rights give meaning to our nation's overarching ideal—human dignity.

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In this book, four prominent educators discuss teaching strategies and concepts which will enrich any social studies curriculum. In the first article, Diana Hess outlines how cooperative learning, by requiring students to combine their talents and energies to reach a shared goal, stimulates the very skills necessary for effective participation in a democratic society. By taking an active role in their own education and respecting the contributions of others, students begin to learn how to work together for the common good.

The second article, by Charlotte Anderson, reflects on a growing global awareness and the need to rethink the concept of "citizenship." The author shows how, through global education, students learn that institutions such as the law can be used to help us cope with the immense social and environmental problems of our age.

Economics, as Ronald Banaszak points out in the third article, is ultimately about making choices, and choosing intelligently from an often bewildering array of options demands a high level of skill. By providing a basic understanding of economic concepts, teachers can help students begin to develop the analytical thinking that our society expects of responsible citizens and consumers.

In the concluding article, David Naylor discusses the importance of teaching students about our binding heritage—a democratic vision of liberty, equality, and justice—and how it was shaped by the rule of law. He suggests ways to convince students that history and the law are not abstract concepts, but how "real people face real situations."

While diverse, these four teaching concepts—cooperative learning, global education, economics, and history—share two common characteristics. First, they all force young people, who are naturally focused inwardly, to look beyond their own selves and interests.

Secondly, the articles presented here illustrate how each of these areas within the social studies curriculum are closely intertwined with legal issues. At the core of their existence, both social studies and law-related education teach about how the individual relates to society.

Viewing law-related education through these four different lenses helps to bring into focus the interrelationships between LRE and cooperative learning, global education, economics, and history. The challenge remains for educators to make these concepts come alive within the classroom, as they do every day in the world outside it.

## A Magical Fit: Law-Related Education and Cooperative Learning

*Diana E. Hess*

A recent episode of the television show *Northern Exposure* concerned the transformation of a small town in Alaska from a violent and unruly community to a peace loving and harmonious one. This dramatic change was caused by two committed and brave women whose cooperative efforts

improved the lives of hundreds of people. A community resident, reflecting on the work of the two women said, "One person can make a difference, but two people, ah, two people can work miracles."

Throughout the United States, many thousands of law-related education (LRE) teachers believe LRE is making a difference in the lives of their students. As a result of LRE, teachers report their students behave better, are more likely to attend class, have improved critical thinking skills, exhibit enhanced participation in lessons and show a heightened interest in social and legal issues. (CRADLE, 1991.)

Similarly, teachers who use cooperative learning in their classrooms are seeing positive outcomes. Commonly cited results of cooperative learning include a more sophisticated understanding of content, the development of social skills and overall improvement in self-esteem and intercultural and interracial understanding.

Individually, the results of LRE and cooperative learning are impressive. Merged together, these two educational innovations can be even more effective.

"Law-related education can make an enormous contribution to cooperative learning," according to Susan Gruber, an associate professor and Assistant to the Dean in the School of Education, University of Wisconsin-Milwaukee. "The combination of law-related content and the structures of cooperative learning are truly a magic fit."

### Elements of Effective Cooperative Learning

The basic idea of cooperative learning is simple: students are asked to harness their efforts and energies in order to accomplish a common task or shared goal. Cooperatively structured lessons have students working together in small groups to master a skill or understand a particular idea.

In practice, cooperatively structured classrooms are much different from the typical teacher-centered classroom. "In cooperative classrooms, the role of the teacher shifts from director to consultant," explains Spencer Kagan, author of *Cooperative Learning*. "[T]eachers in cooperative classrooms are freed to do more of what they do best, teach, because many of the management and discipline issues are taken care of by the classroom structure." While there are a variety of cooperative learning models, they share an emphasis on creating positive interdependence between students. This focus is rooted in concerns about the negative consequences on both student achievement and the development of pro-social attitudes caused by the competitive atmosphere often found in traditional classrooms.

Consider the likely effects of the structure of this classroom described by Kagan:

In the traditional classroom, the teacher is in front of the class; he or she asks the students questions. Following each question a number of hands go up. Some students are anxiously stretching their hands in the hopes of being called. Others, of course, do not have their hands up and try not to have their eyes meet those of the teacher in hopes that they will not be called. The teacher calls on

Juan. Peter, who sits next to Juan, knows the right answer. As Juan begins to hesitate, Peter becomes glad and stretches his hand higher. Peter knows that if Juan misses, the teacher may call on him. In fact, the only way Peter can obtain a reward in this situation is if Juan fails.

The clear message that the students receive is, "If you win, I lose." In this zero-sum game of instruction, students see only the teacher or curricular resources as valuable sources of knowledge. Their classmates are at best irrelevant, and at worst, competitors who might be detrimental to individual students' self-interest.

In a cooperative learning environment, students need one another to achieve. For example, a typical law-related adaptation of Jigsaw, a cooperative strategy, involves students in "expert groups," learning the key facts, issues, arguments,

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decisions and reasoning in thematically similar constitutional cases. When the groups are reconfigured, with one member of each "expert group" going to a new group, the students teach one another about their case. An understanding of all the cases is necessary for the group to progress and master the next step, which is often an application of the case precedents to a new situation. In this type of learning structure, students see their classmates as necessary resources. The "I win, you lose" mindset is replaced by a recognition that "We all sink or swim together."

### Holding Each Student Accountable for Learning

Notwithstanding the importance of students perceiving the shared nature of the task, it is also essential that students understand that the group won't save them if they don't individually learn the material. In non-cooperatively structured group work, students often choose to be "hitchhikers" and refuse to fully participate. While the "leader" of the group (typically the student assigned the task of reporting out to the whole class) does everything, other students are not held accountable at all.

Contrast this scene with David and Roger Johnson's (1986) explanation of individual accountability:

Cooperative learning groups are not successful until every member has learned the material or has helped with and understood the assignment. Thus, it is important to



frequently stress and assess individual learning so that group members can appropriately support and help each other. Some ways of structuring individual accountability are by giving each group member an individual exam or by randomly selecting one member to give an answer for the entire group. The growing interest of law-related educators in alternative assessments may provide teachers with models to help with individual accountability in the context of cooperative group work. Some alternative assessments (e.g. portfolios, moot courts, mock trials and simulated congressional hearings) hold promise in this regard.

### Group Interaction

The strongest cooperative learning activities require students to talk with one another to construct understanding of significant ideas. Even if students perceive interdependence and are held individually accountable, without meaningful

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interaction, the gains of cooperative learning will be minimized. Simply talking to one another, for example, is not meaningful interaction.

N.M. Webb (1985) has shown that the power of interaction lies with the type of help students give to and receive from each other. Her research indicates that giving and receiving short-answer terminal responses has no positive effect on individual achievement. However, giving and receiving substantive explanations has a major effect on achievement. What might this mean in the context of LRE? Consider this hypothetical dialogue between a group of high school students in an LRE class:

**Student A:** "I don't think prayers led by members of the clergy should be banned at public school graduations. If Congress can start its sessions with a prayer, then why shouldn't we have a prayer at our graduation?"

**Student B:** "I think there is a difference. Students of many different religions attend graduation, and there is no way one prayer can speak to all of them. Some students are going to feel left out and graduation is for everyone. Besides, people choose whether to be in Congress. We can't choose whether to go to school."

**Student C:** "But you don't have to go to graduation at all—the school will mail you your diploma."

**Student D:** "Kids didn't have to stay in the classroom when teachers used to lead prayers, they could go in the hall or something. The Supreme Court still said those prayers violated the First Amendment."

In this dialogue, the students are not only supporting their views with reasons, but they are using analogies to challenge the reasons advanced by their peers. Developing these critical thinking skills will serve them throughout their lives.

### Explicit Teaching of Group Skills—Group Reflection

Although all of the various cooperative learning structures require that students possess a number of cooperative/social skills (e.g. listening, encouraging participation, respecting individual differences), there is a difference of opinion about how students learn these skills. As Kagan notes in the book *Cooperative Learning*:

At one extreme there are those (cooperative learning trainers) who provide almost no instruction in social skills, with the belief that skills will be acquired naturally in the process of social interaction . . . at the other extreme are those who emphasize social skills as a defining component of a cooperative learning lesson, and recommend including, with each lesson, formal instruction in a social skill.

In between these two extremes, Kagan recommends a middle ground—to use some cooperative learning lessons that have no explicit emphasis on social skill development, while including others that are designed to focus on a specific "skill of the week." Additionally, many cooperative learning experts advocate giving students plenty of opportunities to reflect on and discuss how their groups worked as an additional step in honing cooperative skills.

### Exploring the Fit Between LRE and Cooperative Learning

When first exposed to the theory and practice of cooperative learning, many experienced LRE teachers almost immediately recognized the compatibility between the way they taught LRE and the tenets of cooperative learning. This is not too surprising, given that both innovations share an emphasis on small group work, the development of participatory skills, and interest in the affective domain, especially in terms of helping diverse students work together and value one another.

Exemplary LRE curricula and virtually all of the staff development programs in LRE make the point that lecturing about the law, if that is the only methodology used, is not effective LRE. The active engagement of students, through the use of small and large discussion groups, role plays, simulations and other interactive structures, is as fundamental to LRE as the content.

One of the primary reasons for the emphasis on interactive methodology is the recognition that these strategies are an effective means to a significant end: to help students develop the skills to work together in a participatory democracy.

"The purpose of LRE is to develop responsible citizens," explains David Harris, Social Studies Director for the Oakland County Schools in Pontiac, Michigan. "If LRE is to fulfill its mission, students must be engaged in cooperative decision making about what is just and fair in our society."

For young people to value participation in a diverse democracy, they must first possess a feeling of personal efficacy ("I *can* make a difference and I *am* important to this society") and appreciate other people's contributions. This underscores the importance that LRE professionals often place on encouraging students to develop attitudes that will enhance their desire to effectively engage in civic society.

Notwithstanding the similarities between LRE and cooperative learning and the ways in which many experienced teachers have meshed the two innovations, evidence suggests that the merger is incomplete. For example, research conducted by the Social Science Education Consortium and the Center for Action Research on the delinquency prevention effects of LRE found that teachers had tremendous difficulties with implementing group work effectively. Referring to this research in 1983, Mary Jane Turner noted, "Some teachers seem to struggle when working with small groups. Many of the exercises observed during the evaluation either were preceded by inadequate directions, were unsuited to the task at hand, or simply consumed inordinate amounts of time."

A decade later, Harris observes that, "Often kids are just talking to one another in groups, no common task has been made explicit and students are not held accountable."

The problems noted by Turner and Harris could be avoided if the structures of cooperative learning were more frequently used by LRE teachers. The step-by-step processes advocated by many cooperative learning trainers provide LRE teachers with the necessary paradigms to create effective small group lessons by structuring group tasks to ensure more interdependence and individual accountability.

Another significant contribution that cooperative learning can make to LRE is the emphasis on the explicit teaching of small group skills. Often LRE teachers bemoan the tendency of their students to either monopolize groups or to withdraw from them. Students are often viewed as already possessing these skills (e.g., "Mary really gets along well with other students and can work effectively in small groups") although it is not clear where or if students learn them.

In cooperative learning, the acquisition of small group skills is viewed as something that all students can achieve if there is an explicit expectation that these skills are important learning outcomes. There are many models for introducing these skills and providing students with structured opportunities to practice them.

There are also important contributions that LRE can make to cooperative learning. Foremost is that the raw content material of LRE provides an ample supply of engaging issues for students to discuss.

"The kinds of issues that are the basis of many LRE lessons are the issues that kids will be faced with the rest of

their lives," Dr. Gruber points out. "They provide wonderful opportunities for kids to really engage in constructively discussing the controversies that will drive society in the future."

The inherently controversial nature of many of the questions discussed in LRE (for example, "Should hate speech be protected by the First Amendment?") provide a special power. Where there are authentic issues and cases, there is sure to be controversy, controversy that sparks dissonance which engages students, leading them to reach out to others for help in sorting out the dilemma.

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This need for resolution requires cooperation and discussion, according to Anna Bowie, the local project director of the Constitutional Rights Foundation in Chicago. To illustrate this process, she refers to comments made by eighth grade Chicago public school students discussing which rights in the Bill of Rights are the most important:

**Student A:** "The right to bear arms is really important. People need to be able to defend themselves from the gangbangers and criminals."

**Student B:** "Yeah, but you hear on the news all the time about some little kid who found his father's gun and was playing with it and blew himself away."

**Student C:** "Anyway, this says right of a state militia to bear arms. That doesn't mean individual people have a right to have a gun."

**Student D:** "Oh, yes it does. The Second Amendment says we can have guns. Doesn't it?"

Another potential contribution that LRE can make to cooperative learning stems from the use of outside resource people in law-related lessons. LRE often invites lawyers, law enforcement personnel, judges, political leaders, and community activists into the classroom. Unlike the typical "guest speaker," who simply lectures to students, outside resource people in effective LRE programs interact with students, often by working with them in small groups. While the primary emphasis of cooperative learning is to help students cooperate with their peers, there is also value in providing students with experiences that help them use cooperative skills with adults. The use of outside resource persons in LRE provides a good model for how cooperative learning can become more intergenerational.

## Obstacles to Combining Cooperative Learning and LRE

Notwithstanding the contributions that cooperative learning can make to LRE and vice versa, there are daunting obstacles in the path of a more complete melding of the two. The lack of content-specific cooperative learning training opportunities, the expository orientation of many LRE teachers (some of whom may view cooperative learning as posing a number of classroom management issues) and the relatively small number of LRE materials that explicitly include the elements of cooperative learning all help explain why a combination which seems so powerful, natural and logical has not been fully exploited by more LRE teachers.

## Cooperative Learning Training

Unfortunately, most cooperative learning training programs are relatively generic. They are designed to help teachers of diverse subjects and grade levels learn the elements of cooperative learning.

Many teachers have problems transferring generic elements to the specific content and skills they want students to master. After attending a cooperative learning training for K-12 teachers, Susan Maurer, a high school social studies teacher in Des Plaines, Illinois, commented that the lessons focused on teaching third graders.

"Many of the techniques that the elementary school teachers were enthusiastic about simply won't work with my high school students," she explained. "I need models of how to use cooperative learning with the content that my kids are supposed to learn in history class."

She suggested that cooperative learning advocates borrow one of the great strengths of the law-related education field—the effort that has gone into training teachers to train their peers.

"In virtually every state there exists a cadre of exemplary teachers who have participated in a sophisticated and thorough LRE training of trainers process," according to Maurer. "If these trainers were also trained in cooperative learning, they could provide the kind of content-specific training to teachers that would help mesh LRE and cooperative learning."

## The Control Issue

Another impediment to connecting LRE and cooperative learning is rooted in many teachers' fears of the chaos that often results from poorly structured small group activities. While the interactive methodology of LRE is touted as one of its main strengths, many LRE teachers shy away from small group interactive structures because they fear losing control of their students.

"Because many teachers have not been given the opportunity to learn how to effectively structure and monitor small group work they rely on expository teaching, primarily as a method of control," notes Dr. Harris.

Often when teachers read about cooperative learning, or even experience it in workshops, they still do not believe it

will work with their students. One way to allay some of these misconceptions is to show teachers actual videotapes of students engaging in cooperative learning in law-related lessons. Another way to ease teachers' initial fears of moving off center stage would be to bring students to an LRE training session to demonstrate a cooperative learning LRE lesson.

## Materials

Although a number of recently published LRE curricular materials emphasize cooperative learning, there is still a need for more, especially at the secondary level. Without these materials, teachers new to cooperative learning lack the necessary models to adapt cooperative learning to their curriculum and the needs of their students.

It would be enormously helpful if LRE publishers would provide more explicit directions to indicate how lessons can be cooperatively structured. One important caveat to this recommendation stems from the concern that teachers not view cooperative learning as a one-shot strategy.

"Cooperative learning must be viewed as a process or it will not be successful," according to Dr. Gruber. "There are so many skills that students need to acquire to work successfully with their peers, it is imperative that teachers appreciate that one cooperative learning lesson won't do it."

To address this concern, LRE publishers should carefully integrate cooperative learning throughout their materials, sequenced in a developmentally appropriate manner. For example, students need to first have experience working cooperatively with a partner on simple tasks before they launch into a complex lesson, such as the Jigsaw strategy with the constitutional cases discussed above.

## Conclusion

Cooperative learning strategies offer real opportunities for improving the quality of small group activities in law-related education. In addition, the inherent interest that students have in law-related issues provides particularly rich content for cooperative learning.

It can be argued that if LRE is to reach its full potential, it is essential that it employ such cooperative activities. Students must have cooperative learning experiences if they are to learn how to participate thoughtfully and effectively in civic life.

These experiences can be particularly effective in helping students value the contributions that all people can make to our society, building the community of learners in the classroom that is so vital to civic education. The role of cooperative learning is so vital, according to Dr. Harris, that "law-related education that does not involve cooperative learning is law-related miseducation."

*Diana Hess is the Associate Director of the Constitutional Rights Foundation Chicago.*

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This article was based on interviews with the following people: Anna Bowie, Local Project Director of the Constitutional Rights Foundation Chicago; Susan Gruber, an Associate Professor and Assistant to the Dean in the School of Education, University of Wisconsin-Milwaukee; David Harris, Social Studies Director for the Oakland County Schools in Pontiac, Michigan; and Susan Maurer, a social studies teacher at Maine West High School, Des Plaines, Illinois.

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## Preparing Students for Global Citizenship: Law-Related Education and Global Education

Charlotte C. Anderson

The United States is fast becoming a world nation in a global society—a society in which the whole of human experience on this planet is woven into globe-spanning networks of technological, political, cultural, economic, and ecological interdependence. In this global society national boundaries are blurred, and peoples, places, and events in different parts of the world are linked and interrelated.

Within the United States, our citizens have ethnic and cultural ties to virtually every race and region on the planet. In a nation known for its diversity, we are becoming even more diverse.

The challenge of educating young people so that they may assume their role as a global citizen is a daunting one but one that is essential as the twenty-first century unfolds. In order to meet this challenge, schools will need to develop a social studies curriculum that includes global education and law-related education (LRE).

## Definitions and Comparisons

Contemporary LRE and global education have many commonalities. Both trace their origins to the period of the late sixties and early seventies. Both are generally considered to be movements or interest areas whose predominant curricular home is the social studies.

In fact, the National Council for the Social Studies (NCSS) has been instrumental in strengthening each through conferences and workshops, publications, and position statements. Not so incidentally, many of the educators most active in each field have also been very active in leadership positions in local and state social studies councils and in NCSS.

People working in each field are likely to agree with the observation that defining the respective fields is not easy. In both cases, the difficulty lies in a basic strength of each—both are broad-based, multi-faceted curricular areas that profess many goals and take many forms.

Most would probably describe LRE as "education to equip non-lawyers with knowledge and skills pertaining to the law, the legal process, and the legal system, and the fundamental principles and values on which these are based." LRE helps students develop the knowledge, skills, understanding, and attitudes necessary to function effectively in our pluralistic, democratic society based on the rule of law. (Law-Related Education Act of 1978.)

Using an amalgamation of definitions, global education can be described as education that provides students with the knowledge, skills, and attitudes to be responsible citizens of their community, state, and nation in a culturally diverse and increasingly interdependent global society. (*Teaching About the World: Teacher Education Programs with a Global Perspective*, Merry Merryfield, ed., Mershon Center, The Ohio State University 1990.)

Educators in both fields have faced the challenge of overcoming initial misperceptions of what each entails. Explanations such as these are typical when they try to describe their work.

**LRE educator:** "No, I am not talking about 'legal' education *per se*. We do not intend to make 'little lawyers' out of students. Rather, we are striving to help all students understand their own role in a pluralistic, democratic, lawbased society. We want them to recognize that law is not something abstract, distant, and restrictive but, rather, that it pervades their lives and is potentially liberating and empowering."

**Global educator:** "Yes, the terms global education and international education are sometimes used interchangeably. The problem, however, is that to the extent that 'international' suggests 'between nations' and something that is outside national boundaries, the term is misleading. We are not striving to make 'little foreign policy experts' out of children. Rather, we are striving to help students understand that local actions have global consequences. We want them to recognize that as citizens



they have the responsibility and the potential capacity to exercise a global perspective.”

While initial efforts in both fields focused primarily at the secondary level, both now have extensive programming in elementary schools throughout the country. This span of primary grades through high school (and beyond) challenges both fields to plumb for the essentials. One of the hallmarks of quality law-related education and global education is that they develop foundational competencies and orientations that enable students to ultimately manifest civic competence.

For example, LRE seeks to develop legal literacy, critical thinking, the capacity to recognize and to deal with moral dilemmas, and the competence to act effectively and respon-

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*Both law-related education and global education emphasize decisionmaking, critical thinking, and participatory learning experiences.*

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sibly in shaping and maintaining the social order. Global education promotes the development of perspective consciousness, cross-cultural awareness and competence, knowledge of global systems and the state of the planet, and capacities to act for the common good. Both stress participatory learning experiences as essential to student learning. The following review of the four identified areas of common interest will offer insight into additional focuses and strategies of these fields.

### **Comparative Law**

While the term “comparative law” suggests cross-cultural comparisons, it is often used to refer to the study of law in other societies. All societies have law, whether written in the form of a complex and lengthy legal code or whether by general and unwritten consensus.

Law reflects the collective values of a people while directing their individual lives. In the social studies classroom, students can gain considerable insight into the foundation as well as the texture of a society through a study of its law. As knowledge of other peoples accumulates, students begin to recognize universal human concerns and gain a context for examining our own and other societies’ methods of addressing them.

Students learn a great deal about a society by seeking answers to such law-related questions as “What rules do people have for settling disputes, exchanging goods, or

carrying out the myriad of other everyday tasks of living together in groups—be they families, classrooms, clubs, cities, provinces, or nation-states? Who makes the rules? Who decides what a rule means? Who enforces the rules? What happens to those who break them?”

Such queries can provide clues to even more important questions, e.g., What do the rules tell us about a society’s vision of what is just and good and how do the rules promote that vision? In his analysis of law as a source and means of culture learning, John Walsh suggests, for example, that traffic laws in the United States are outcroppings of the societal values of promptness, punctuality, responsibility, methodicalness, and, even, of leadership.

Walsh notes,

The law is much more than the culture’s way of resolving conflicts; it is also the culture’s way of achieving its social purpose and expressing its sense of justice and fairness. Underlying all considerations of the relationships between the law and the deep cognitive and affective structure of the culture is the premise that the law is a product of the culture’s historical experience and its collective intelligence rather than simply an arbitrary and random product of individual lawmakers or judges. (Walsh, p. 104)

According to Walsh, examining the law should enable us to ferret out the fundamental values underpinning a particular society.

It is important to note, however, that the manner in which Walsh states his case tends to reify culture. In fact, it is not “culture” that acts; rather, these are individual human beings acting in “cultural concert,” as it were. This point is not meant to detract from Walsh’s analysis. Rather, it is intended to remind us that a primary goal for any law study in our schools is, or should be, to develop a sense of individual efficacy and responsibility before the law. We cannot, therefore, afford to suggest that law is ever separate or somehow apart from the people’s doing.

Anyone launching into a study of law and society would do well to keep in mind two factors that could skew one’s vision of the society under investigation. The first is that while law is not static, neither does it change in exact harmony with the social institutions it reflects.

A good example of this is the whole area of family law in the United States. As roles shift within the family and relationships are continually refined, court dockets as well as legislative calendars fill up with sessions sure to have an impact on the law and the family, as we have come to know it. The lesson is clear, as Paul Bohannon cautions us, that at any point in time, the law you see will inform you about the society or culture of which it is an integral part but is it the society as it is, the society as it was, or the society as it is yet to be? (This point is discussed in more detail later in the section dealing with the global penetration of domestic law.)

Just as the nature of law can skew one’s perception of reality so does the nature of one’s self—the investigator. We

human beings are by "nature" culture makers and culture bearers. The culture into which we mature shapes our orientation, our perceptions, and our values. We cannot discard the cultural prisms through which we view law in unfamiliar cultural contexts. We can, however, diminish potential ethnocentric bias by continually reminding ourselves that what we see is not "reality," but an interpretation of reality skewed through our own cultural perspective.

### International Law

International law is the body of rules and principles governing the relations between nations. At first blush, one might think that law focusing on the relations of nations is law far removed from the individual citizen and, further, is law that is much too complex for students in elementary and secondary classrooms to comprehend. Donald Duvall, writing for educators in 1983, observes:

... practically every facet of our everyday lives is affected by international law, a point well illustrated by the fact that over 85 percent of all the goods and articles manufactured in the United States today, from skateboards to television sets, contain foreign-made components. Our country is party to literally hundreds of treaties and international agreements affecting both the private and public affairs of our citizens. These agreements address such diverse subjects as the disposition by will of property in more than one state, the hunting of migratory birds, the exploitation and development of the polar regions, the deep seas, and outer space. Indeed, since 1946, over 626 volumes of treaties have been registered with the United Nations. In addition, a myriad of lesser regulations and agreements, having the force of law, issued by United Nations, specialized agencies and related organizations, seek to eliminate or minimize the political, economic, and social causes of international friction, disputes, or war. (Duvall, p. 4)

Duvall goes on to ask: "Given the diversity and complexity of international law and international relations, how can one educate students and other adults about such issues without fostering a sense of bewilderment and frustration?" He then responds to his own question by observing that "Traditional categories of international law can serve as focal points for instruction. Consider, for example, the following:

1. Human rights (e.g., the Universal Declaration of Human Rights and related covenants and conventions, European Court of Human Rights);
2. International agreements (e.g., definition, effect, interpretation, and termination of treaties and executive agreements based on the principles of *pacta sunt servanda* [agreements will be observed] and *rebus sic stantibus* [subject to unforeseen drastic changes of circumstances]);
3. International disputes (addressed by arbitration and other means of settlement);

4. War and the use of force (e.g., lawfulness of war and measures short of war, rules of warfare and war crimes, neutrality, arms control and disarmament);
5. International organizations (e.g., the United Nations and its related entities such as the Security Council, the Economic and Social Council, the Universal Postal Union, and the World Health Organization; NATO; the Hague Conference on Private International Law; international bar associations);
6. Membership in the international community (by duly recognized states, international organizations, and persons—individuals and corporations);
7. Territory of states (e.g., title and extent of territorial and extraterritorial authority);
8. Nationality (e.g., rules governing determination of nationality, dual nationality, and statelessness);
9. Jurisdiction (e.g., over nationals and aliens, territory, vessels within and outside of territorial waters, airspace, and immunities of foreign diplomats and international organizations from national jurisdiction); and
10. State responsibility and international claims (e.g., rights and duties respecting expropriation and nationalization of foreign property, extradition and the right of asylum of individuals).

He then suggests that "these topics can be explored from an overall perspective: What rules and policies govern international relations in each area? What principles underlie such rules and policies? What organizational structures are in place?" And, further, they can be given "life" and specificity by focusing on specific events, conflicts, or issues, such as the Iran hostage ordeal, the recent Israeli-Palestinian peace agreement, global warming, and international fishing rights.

"The goal of international law—to accommodate peaceful change with justice for every nation in response to changing circumstances—remains elusive even though it intimately affects each and every one of us," Duvall laments. But, he challenges us with this observation, "As witnesses to the pitiful and painful plight of millions of people who are still homeless, despoiled, tortured, destitute, or starving in prisons, refugee centers, concentration camps, and Gulags around the world, we realize that the business of international law has merely begun." (Duvall, p. 5)

### Domestic Law and Legal Structures—Shifting Under Global Impacts

If, as Walsh tell us, "... the law is a product of the culture's historical experience and its collective intelligence rather than simply an arbitrary and random product of individual lawmakers or judges," then, it stands to reason that law and legal institutions in the United States are undergoing a metamorphosis paralleling those of the society and the world as a whole. (Walsh, p. 104) There is considerable evidence that this is occurring.

In the spring of 1992, the Illinois Supreme Court and the American Judicature Society held a conference on "The Future and the Courts in Illinois." A newspaper account of this meeting began with this story:

About three years ago, Cook County Circuit Judge Stuart Nudelman was presiding over a case in Chicago involving a Southeast Asian immigrant unfamiliar with the way witnesses in this country are sworn to tell the truth and nothing but the truth.

In the immigrant's culture, oaths required ceremonial sacrifices and the blood of a chicken. Nudelman pondered this and realized that American courts already recognize alternatives for Orthodox Jews and Jehovah's

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Witnesses. The immigrant went to the alley behind the court facility at 13th Street and Michigan Avenue, then returned to the courtroom to testify a short time later with a vial of what appeared to be blood. For Nudelman, the future of the Illinois courts had arrived.

Over the next 30 years, the state's court system likely will be transformed by computer technology and confronted by ethical puzzles that result from advances in medical science—and which even today are requiring judges to make difficult decisions well in advance of community consensus.

But the biggest challenge facing the Illinois courts of the future may be adapting to economic, demographic and cultural changes in a state where the population will be less white, more susceptible to the whims of global business, and much more diverse. . . . Will a changing population allow trials and court proceedings to be conducted only in English by the year 2025? . . . Will there even be a role for state courts in a world of multinational corporations and international business transactions?

States are entering into trade and investment agreements with foreign nations and multinational corporations to a greater extent than ever before in history. Such new relationships are affecting laws and lawmaking.

Writing in the *Journal of State Government* (October-December 1991), John "Eek" Rose, President Pro Tem of the Kentucky Senate worries, "it is possible that when a state offers a financial incentive [to a foreign-based company] to relocate in its borders, it is in violation of the General

Agreement on Tariffs and Trade (GATT)." He also notes that local and state laws regarding waste disposal, product labeling and antitrust regulations may be in violation of GATT.

Such conflicts between local law and international law are certain to increase as global systems penetrate even more deeply into the social-civic fabric of our society. Out of such encounters new law will emerge. That law will be "good" law to the extent that it is hammered out by lawmakers who are capable of recognizing and accommodating both local and global interests and values, who, indeed, recognize them as one in the same.

The paradigms that have governed our responses to domestic and international law have much in common with those governing our responses to domestic and foreign policy; and both are undergoing dramatic shifts. The billiard ball paradigm, which has shaped our approach to foreign policy since the inception of this nation, represents nation states as balls on a billiard table. Each nation is a rigid, self-contained unit interacting with other nations only at the periphery. The balls hit and bounce off one another with no apparent effect on the internal structure of the ball or of the nation-state.

The paradigm of the web rejects the billiard ball image of unidimensional contact between nation-states and acknowledges the complex network of local-national-regional-international actors involved in international politics/foreign affairs and reveals the interpenetration of the local-national-regional-global. The law is no less immune to these interpenetrations.

#### **Civic Competence and Citizenship Education**

Both law-related education and global education contribute to the social studies' fundamental goal of developing civic competence. Both emphasize decisionmaking, critical thinking, and participatory learning experiences. However, each makes its own unique contribution to citizenship education.

A major contribution of law-related education to citizenship education is to highlight the role that law can play in helping achieve civic values. In addition to developing knowledge about law, LRE promotes a broad range of civic attitudes and competencies perhaps best capsulized in the term "legal literacy," an essential ingredient of effective citizenship today and especially for the future.

A major contribution of global education to citizenship education and the development of civic competence is to highlight the fact that the context for modern day citizenship is a highly interdependent, culturally diverse world. Responsible, effective citizenship in a global age is a complex process, one which includes the ability to (1) perceive and participate in one's own society from a global perspective (recognizing that local actions have global effects); (2) know the various cultures and cultural perspectives that exist and be able to relate effectively to individuals from other cultural backgrounds; and (3) recognize and participate in civic

decisionmaking opportunities that permeate national borders and affect many cultural groups.

One simple teaching strategy that suggests the power of merging global and law-related education for citizenship development is to ask students to identify and rank the seven most critical problems facing humankind today. It would be an unusual group of students whose list did not include such issues as hunger and famine, environmental destruction, terrorism and violence, ethnic and racial hatred and conflict, disease, and inequitable access to resources.

After generating the list, students turn to local newspapers to find articles addressing these subjects as well as interviewing local civic leaders about local problems. This exercise triggers recognition that these are not merely abstract "global" problems but, in fact, have regional, national, state, and local ramifications as well. The next step is to identify the ways in which law (both internationally and within various societies) is used to solve or manage these problems; how existing law and legal structures might be more effectively applied; and what law and legal structures might be created to more effectively manage particular problems. Students come to see that human-created institutions—such as the law—can help us deal with the overwhelming problems of our global age.

### The Charge

If people in the United States are caught up—along with the rest of the world—in rapid and pervasive change, and if this nation is undergoing the inevitable metamorphosis of becoming a world nation in a global society, the social studies curriculum must adjust to these changes. What, for example, is civic competence under these conditions? What knowledge orientations, skills, and competencies will sustain and extend democracy? How does one recognize and promote the public good in a complex, interdependent system?

The areas of common concern of law-related education and global education offer critical ingredients to the social studies curriculum. Critical, because it is evident that competent citizens of the 21st century will simply have to be knowledgeable about societies and cultures around the world. They will have to know something about the ways societies interact and about the ways they are linked into global systems. They will have to be able to carry out their citizenship responsibilities in culturally diverse and globally interdependent settings. Given the fact that law is a fundamental underpinning of all societal functions, they will have to develop global legal literacy.

Law-related education and global education, individually, make significant contributions to quality social studies programs. Together they are even more powerful and, moreover, are essential for a social studies program for the 21st century.

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*(Author's note: The discussions of comparative law and international law are adapted from publications of The American Forum for Global Education developed in cooperation with the American Bar Association Special Committee on Youth Education for Citizenship and edited by the author. These and other INTERCOM issues are available from The American Forum for Global Education, 45 John Street, Suite 908, New York, NY 10038.*

*The comparative law discussion is derived from: Through the Legal Looking Glass: Reflections of Peoples and Cultures. INTERCOM #100, 1981.*

*The international law discussion is derived from: Beyond Boundaries: Law in a Global Age. INTERCOM #103, 1983.)*

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## Voting with Dollars and Ballots: Teaching Economics and Law-Related Education

*Ronald A. Banaszak*

In *Citizenship for the 21st Century*, A.B. Campbell describes the waking hours of a teenager to illustrate how the economy and the legal system touch nearly every facet of our daily lives.

The alarm clock sounds and it is 6:00 a.m. according to the standard time established by law. Our high school student sheds her night shirt which, as required by law, is flame retardant. She brushes her teeth and showers in water that meets the purity regulations established by local town ordinances. After getting the paper and milk from the front porch, which were delivered pursuant to legal agreements with the local newspaper and dairy, our subject eats her corn flakes from a box complying with legally fixed weights and measures for content and which was purchased with legal tender. After a ride in a legally licensed school bus with a legally licensed driver who followed the legal rules of the road which was built with tax dollars that were raised and spent according to law, our young citizen arrives at school. Here she confronts more legally licensed professionals, operating under legally binding contracts, who will address with her a legally sanctioned curriculum. She has been out of bed



less than two hours and our target of civic education has had more than a dozen brushes with the law (none of them, incidentally, with the criminal law).

(Campbell, 1990)

As this passage shows, the law regulates and facilitates our actions, and its variety of intersections with economics are tightly woven into the fabric of our society, acting to regulate commerce, create safety standards for products, redistribute wealth through taxation and create jobs.

We interact with these systems on both a social and a personal level. In our democracy the legal and economic

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systems are managed by every citizen. The level and quality of this management, however, depends upon informed and thoughtful choices.

Just as our political votes help determine public policy, we also "vote" with our dollars to give direction to the economy. On a personal level, the daily decisions we make as we exist in each system have consequences as well. Choices such as whether to obey or disobey a specific law and choosing to purchase or not purchase a specific product are personal choices that have impact on the operation of these systems in our society.

As George Stigler, winner of the Nobel Prize in economics, observes, economic principles "work in ways so subtle that their comprehension cannot be left to intuition or general training in other disciplines." (1983). The same argument can be made for our legal system. Direct instruction about both systems is necessary, and instruction about one system should not be separated from the other.

Contemporary topics provide ample illustrations of the intersections of these complex systems. Scarcely a day passes without newspaper or television coverage of a story that involves both economic and legal issues, many of which are rich in instructional opportunities.

One prime example is the ongoing controversy over logging and the fate of the spotted owl in the Pacific Northwest. Questions that are sure to spark lively classroom discussion might include:

- How do we balance laws which protect endangered wildlife with the need to promote economic growth?

- Should the preservation of the environment through legislation be a priority, regardless of the economic cost?
- When environmental legislation has a very specific economic impact on a region, a community, or a group of individuals, does the government have an obligation to address those economic effects?
- Is it appropriate to apply a cost/benefit analysis to weigh the impact of environmental legislation?
- Which takes precedence—the right of the private landowner to develop property for economic gain or society's obligation to preserve the environment for future generations?

The interrelationships between economics and the law suggested by this example indicate clearly that to address them strictly from one perspective—either economic or legal—deprives students of the opportunity to examine the issues in a fuller and more meaningful context.

### **Promoting Reasoning Skills**

Law-related education deals with the role of the legal system, and promotes civic literacy through instruction about the rights and responsibilities of citizenship. Economics deals with the "study of mankind in the ordinary business of life" according to British economist Alfred Marshall (1948). More specifically, it deals with the study of the allocation of scarce resources to meet our unlimited wants.

Economic literacy involves individuals knowing and applying fundamental economic ideas to make rational decisions about the use of limited resources. An economically literate individual has a general understanding of the institutions which comprise our economic system and an accurate understanding of basic economic knowledge. Such an individual uses that knowledge to conduct objective, reasoned analysis of economic issues. Economic reasoning, a highly transferable skill, is the central benefit of education for economic literacy. Thus, economically literate citizens enjoy a more complete understanding of their world, are better able to make reasoned decisions, and should be more fully in control of their economic futures.

There is an overlap between the content of law-related education and economics education. Professors Summers and Howard identify seven uses societies make of law: providing health, including a healthful environment; reinforcing the family and protecting privacy; keeping order; securing individual freedoms; minimizing unjust inequalities of opportunity; enhancing reliability of exchange relationships; and promoting private ownership (1972). Each of these is directly or indirectly related to the economy.

Our legal system sets up a framework within which the economy must function. Law is primarily facilitative and only secondarily restrictive, and much of what law facilitates is related to the economy. For example, even though the Constitution is very brief, it does assure ownership of private property and the sanctity of contracts, both of which are

essential to the operation of our economy. Money, in similar fashion, is established by law as the medium by which wealth takes tangible form. Common weights and measures, essential to the predictable and smooth conduct of commerce, are likewise prescribed by law.

A variety of other laws regulate the economy as well, and have, from protective tariffs to airline industry deregulation, sparked debate about the proper role of government in the economy. Classical economists argue that the economy will be most efficient when operating with the least possible governmental restraint. Even classical economists agree,

however, that some laws are needed to set the ground rules for the operation of businesses. Contracts need to be reliably and uniformly enforced, and laws are needed to prevent businesses from engaging in unfair practices, such as making false claims about their products or acting in concert to set prices for their products.

Many laws exist to control business practices. These include local ordinances, such as those which specify the width of parking spaces, as well as others which govern the size and height of advertising signs and limit a business' hours of operation. Laws which, for example, provide for

### Teaching Strategies for Combining Economics and Law

Many excellent materials and activities are available to help students learn about the economy and the law. The following activity, entitled "Who Pays the Bounty?", adapted from Lovell and Harter (1975), presents a hypothetical situation in a Western town in the last century. The procedure involves dividing a class into groups of six students each and assigning one of the six positions below to each student. Explain that each group will conduct a "Wolf Bounty Meeting" in which each student will present his or her assigned position and attempt to persuade the other group members that it is the position that should be adopted. After each presentation, students may ask questions or make additional comments. After all positions have been made and discussed, the group should reach a decision (which may come as the result of a vote) as to which position should be adopted.

In 1845, the problem of wolves attacking livestock had become so bad that settlers in Oregon's Willamette Valley called a meeting to discuss the situation. Someone suggested that a bounty be paid for every wolf killed. As this was a common practice, it was generally agreed that this would be a good solution. However, there was one question: How would the money to pay the bounty be raised?

Position 1: "Let those who are attacked kill their own wolves."

Position 2: "Let each person decide if they want to contribute to the bounty fund."

Position 3: "Why should I contribute? I live in town and wolves don't bother me."

Position 4: "Why should I contribute? If everyone else does, the wolves will be killed and I will be safe."

Position 5: "Everyone is threatened by wolves. Everyone must contribute whether they want to or not! Otherwise, there won't be enough money to pay the bounty and to get rid of the wolves."

Position 6: "Some of us can afford more than others. Let those who can afford more pay a larger share."

Have each group report its decision and, as part of a general class discussion of the students' choices, indicate how each of the proposals can be related to taxing policy. Each represents a different point of view about who should pay taxes for government services. As might be expected, some very dynamic discussions have been triggered by this exercise.

Another activity shows how trading with money compares with barter as a method of exchange. Select four students and give each the item(s) listed in the "Has" column in the chart below. Hand each a slip of paper indicating what that student wants in exchange; do not let students see each others' slips. Next, allow students to complete their trades, a process they will probably find difficult. Some will have to make several intermediate trades before they can complete the trade they want to make. Then, give each student 50 cents and tell them to trade again. With money, the trades should be much easier. Tell students that the type of money we use is determined by law and is called legal tender (Adapted from Meszaros, 1978).

Player	Has	Wants
A	1 compass	3 pencils
B	3 pencils	1 ruler
C	1 ruler	1 scissors
D	1 scissors	1 compass

A number of good economics education simulations exist which involve students in playing roles to resolve various situations. Frequently, these simulations cause students to generate data which they can then analyze. One example is "A Market in Wheat" which appears in *Capstone: The Nation's High School Economics Course* (Reinke, Schug, Wentworth, 1989). In this activity, students buy and sell wheat and record the prices at which their trades were made. They then analyze the results to see the law of supply and demand at work. This same publication also contains "The Circular Flow of Economic Activity," an activity in which students act out the circular flow model.

meat inspection and full disclosure of financing terms, are designed to protect consumers. A number of laws are designed to protect the environment by requiring businesses to install pollution control devices, while others, such as the minimum wage and occupational safety rules, are designed to protect workers.

Through the judicial system, the law also provides a way to resolve disputes between businesses and between business and others. Many laws have implications for the profitability of a business, and business owners may resist them. Laws which establish a minimum wage, prohibit the hiring

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### *Both LRE and economics education have a values dimension.*

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of illegal aliens, and permit workers to join labor unions are some examples of laws which often cause disputes which can be addressed in the courts.

#### **A Common Dimension: Values**

Both LRE and economics education have a values dimension. Human dignity has often been suggested as the fundamental value of American society from which all other values flow (Myrdal, 1944; Oliver and Shaver, 1966; Newmann and Oliver, 1970). As we make legal and economic decisions, we attempt to achieve valued ends. Law-related education stresses values such as justice, freedom and due process. Economic values include economic freedom, economic efficiency, equity, security, full employment, stability, justice and a minimum standard of living for everyone (Saunders et al., 1984). While recognizing that the values held by society and individuals are often at odds, these values function simultaneously as our goals as well as our yardstick for evaluating the consequences of our decisions, helping us, both as a society and as an individual, decide if those consequences are satisfactory.

Conflict among values is normal. In different situations, different values may be emphasized and have a stronger influence on behavior. For example, our society expects individuals to simultaneously be obedient to legal authority and to question it. Individuals who feel strongly about the value of human dignity can at the same time oppose capital punishment and support abortion rights.

Another factor which contributes to conflict is that individuals adhere to societal values with varying degrees of intensity. Such inconsistencies are normal, healthy and contribute to the rich dialogue about social policy. They do not undercut the validity of the role of values in shaping society, but rather illustrate the complexities and subtleties

of human values. The study of values, therefore, is an integral part of both law-related and economics education.

#### **The Economics Model**

Another way in which LRE and economics education complement each is in the thinking skills they instill in students. Both encourage students to develop and practice the analytical and critical thinking skills they need to become responsible citizens and consumers. Both promote the analysis of data, an essential step in reaching well-reasoned conclusions. Law-related education teaches students about judgment and reflection, while economics focuses on the economic reasoning model. Teaching the economic reasoning model is critical in economics education since economics deals with decisions about how to use scarce resources. The economics model has the following elements:

1. clearly identifying the details of the decision situation;
2. determining what personal and social goals are to be attained;
3. identifying alternative decisions;
4. considering each alternative and its consequences;
5. deciding on the best alternative for reaching the desired goals; and
6. reviewing and evaluating the decision.

As the earlier illustration involving the spotted owl indicates, it is important to recognize that the actions and decisions stemming from the legal system frequently have significant economic consequences. When weighing alternatives and consequences, some important economic relationships need to be taken into account, including the law of supply and demand, scarcity, opportunity cost, production possibilities, cost/benefit analysis, long-term effect, marginal analysis and sunk costs; definitions of these concepts may be found in most economics texts.

The process used to teach both law-related education and economics education can further enrich the skills students develop. Both disciplines readily lend themselves to activities which encourage a high level of student involvement, such as role plays, simulations and games. These involvement activities require students to organize data, make decisions, predict consequences and make oral and written presentations, important skills that students will use not only in school, but also in a variety of situations which call for active citizen participation.

#### **A Need for Balance**

Both LRE and economics education contribute to the knowledge, skills and attitudes needed by the citizens of tomorrow. Students who understand how law and economics are inter-related will be more informed policymakers as adults, able to make well-reasoned decisions in their dual roles as both citizens and consumers. A public which lacks understanding of how the economy works might well prevent lawmakers from acting to address real problems by failing to consider and balance short-term loss versus long-term gain.

One good example is free trade. Economists generally agree that free trade among nations maximizes efficiency as each country capitalizes on its natural resources and production strengths, such as different sectors of the economy, such as mining, agriculture and manufacturing, are centered in various regions of the U.S. They also realize that this long-term benefit has a cost attached, namely, that free trade might hurt some domestic industries that cannot compete effectively with foreign rivals. Economists further argue that such competition would spur inefficient industries to develop new products or services that could compete on the world market, but the short-term costs are that the transformation might be costly, cause unemployment and force people to move to new locations. While many may agree on the long-term benefits, these short-term costs of free trade are politically very unpopular in many quarters, thus exerting pressure on legislators to maintain the status quo.

Citizens in our democracy need to rely on themselves rather than experts to make informed public policy decisions. Experts cannot be easily employed to advise citizens on public policy issues because such issues require an understanding of fundamental social goals rather than technical knowledge. Debate over subsidized housing, welfare and urban renewal, for example, cannot be resolved simply through technical knowledge of economic factors that come into play, though that knowledge may be helpful in understanding the situation and the consequences of various policy actions. The conflicts and tensions inherent in these

issues concern social goals, and expertise in economics alone is insufficient in resolving such debates. Citizens, therefore, must have sufficient knowledge about both economics and the law if they are to intelligently reflect on public policy issues and make informed decisions.

One frequently voiced complaint about economics is that it is boring and irrelevant. Infusing law in economics courses is one way to address this concern. By introducing law-related topics in an economics class, the interrelationship between economics and the law can be examined in a manner which engages student interest in both areas. Such topics might include the role of government in managing the economy, the impact of various tax laws on the economy, the role of law in establishing a legal framework for the economy, and consumer law. Connecting the two disciplines offers students a number of ways to explore the relationship of law to the economy, enabling them to better understand the relationship as it exists in the real world.

In our democracy, our legal and economic systems coexist. They are dependent upon and complementary to each other. Adding legal content to economics courses and economic content to law-related education courses helps students see how the two systems relate in the real world and promotes the development of the skills students must have if they are to be informed, participating citizens and consumers.

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Publications of the following organizations contain excellent teacher education materials and instructional materials designed to actively involve students in learning about economic principles:

Joint Council on Economic Education  
432 Park Avenue South  
New York, NY 10016

Junior Achievement  
One Education Way  
Colorado Springs, CO 80906

Securities Industry Foundation for  
Economic Education  
120 Broadway, 35th Floor  
New York NY 10271

Both the Joint Council on Economic Education and Junior Achievement have local affiliates that can be contacted for more information about materials and teacher training.

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## History and Law-Related Education: You Can't Have One Without the Other

David T. Naylor

In the spring of 1983, a small, government-issued report, entitled *A Nation at Risk*, caught the nation's attention and ushered in a period of widespread educational reform. Today, more than ten years later, we are still in its throes.

Amidst the reform fervor, the area of social studies has come under increasing scrutiny, and advocates of a more history-centered curriculum have made significant inroads. Works, such as *What Do Our 17-Year-Olds Know?*, published in 1987 by Diane Ravitch and Chester Finn, decried the lack of student knowledge of history and fueled efforts to give history a more dominant role in our elementary and secondary schools. The Bradley Commission on History in the Schools, the National Commission on Social Studies in the Schools, and the National Center for History in the Schools are among the most prominent advocates of this idea. The California History-Social Science Framework, adopted in 1987, is its most visible manifestation.

Today, history is experiencing a resurgence in America's public schools. As it does, proponents of law-related education (LRE) are finding it increasingly necessary to make clear the fit between history and LRE. It is not a difficult task. Alexis de Tocqueville's prescient observation—"Scarcely any political question arises in the United States which is not resolved, sooner or later, into a judicial question"—remains as valid today as when it was written more than 150 years ago.

"[A]s the record of past human activity and endeavor." Gerald Fetner (1977) observed, "history is enriched through the study of law's influence on society." Law is an integral part of the human experience, past and present. Given the law's far-reaching influence and impact, LRE must be considered an integral part of the teaching of history in our schools. The following assessment of the nature of American history by the Bradley Commission on History in Schools makes clear why LRE is such an important component of the study of American history. "Unlike many other peoples," the Commission wrote,

Americans are not bound together by a common religion or a common ethnicity. Instead, our binding heritage is a democratic vision of liberty, equality, and justice. If

Americans are to preserve that vision and bring it to daily practice, it is imperative that all citizens understand how it was shaped in the past, what events and forces either helped or obstructed it, and how it has evolved down to the circumstances and political discourse of our time.

LRE plays an indispensable role in developing that understanding.

In *Law in American History*, James Lengel and Gerald Danzer illustrate how LRE contributes to the teaching of American history. Intended to supplement an American history course, their text focuses on key law-related concepts, including the three cited by the Bradley Commission (i.e., liberty, equality, and justice) and others (e.g., authority, due process). Its chapters address such topics as "Colonial Origins of American Law," "Origins of the Court System," "The Law of the Frontier," "Law and Economic Change," and "Minorities and the Law."

In addition, Lengel and Danzer pair case studies—a historical case study (e.g., *Marbury v. Madison*, 1803) with a contemporary case study (e.g., *United States v. Nixon*, 1974) "to show how the law has changed over the years and how the same legal issues that concern us today have their roots in earlier days." Speaking about the relationship between the law and American history, Lengel and Danzer concluded:

The law has played a special role in the history of the United States . . . We can separate the legal events in life from other events and study them carefully. But in fact, we often find that we cannot separate the history of law from the history of people. Our system of law and our history reflect each other. Each mirrors the hopes of the American people and sheds light on their conflicts and controversies.

Just as law is an integral part of history, so, too, is history a part of the law; you can't have one without the other. Hence, when teaching history, LRE must be regarded as an integral component of the instructional program.

LRE enables young people to acquire a knowledge and understanding of law and the legal process, the fundamental principles and values on which they are based, and their impact on society. It seeks to equip young people with the essential skills, attitudes, and values necessary to become informed, responsible participants in the civic affairs of their local community, their state, their nation, and the global community.

The social studies curriculum offers many opportunities for LRE, especially in the areas of American history, world history, and American government. For experienced LRE teachers, these opportunities are extensive and readily identifiable. For the inexperienced or uninformed, these opportunities, once pointed out, are easily recognizable and understood.

The challenge is not to invent links between LRE and history—they already exist. Rather, the challenge is to get teachers to recognize and capitalize upon those links and use

LRE to enhance the teaching and understanding of history and government.

### The Constitution as a Teaching Tool

Teaching about the U.S. Constitution is perhaps the most obvious example of the strong relationship between LRE, the teaching of history, and the social studies curriculum. The Bradley Commission included it as part of one of the eight topics it identified as central to the history of the United States. Teaching about the Constitution is also emphasized in *Lessons from History*, published in 1992 by the National Center for History in the Schools.

In recent years, celebrations marking the bicentennial of the writing and ratification of the Constitution and the Bill of Rights have sparked renewed interest in teaching about their origins, contents, and evolution. Scores of special courses, institutes, and workshops have been conducted for elementary and secondary school teachers, and a wide variety of high quality instructional materials have been developed for use in elementary and secondary schools.

*Lessons on the Constitution: Supplements to High School Courses in American History, Government and Civics* (1985) is one example. Sponsored by the American Historical Association and the American Political Science Association and written by John Patrick and Richard Remy, *Lessons on the Constitution* is a collection of source materials and lessons for students, teachers, and curriculum developers that emphasizes the importance of constitutional literacy for good citizenship. The authors explain:

As a symbol, the Constitution is an unchanging expression of the unity, continuity, and ideals of the American nation. As a practical instrument, the Constitution is a dynamic legal framework for popular government. From busing students to setting the limits of Presidential power, political leaders and citizens regularly confront constitutional issues that directly affect their lives and the destiny of the nation. Citizens who do not understand the Constitution cannot really know how their government affects them. Of course, knowledge of the Constitution alone is not sufficient to comprehend political reality in the United States. It is, however, a necessary condition for knowing how the government works. In particular, knowing the main ideas of the Constitution enables citizens to understand what the government may do for them, what it may not do to them, and what they may do to sustain civil liberties and the rule of law.

*Lessons on the Constitution* contains a number of excellent materials and instructional ideas for teaching about the Constitution. Its five chapters address the text of the documents themselves, the origins and purpose of the Constitution, principles of constitutional government, and landmark Supreme Court cases.

Intended to remedy textbook deficiencies, these materials do *not* require teachers to depart significantly from typical course objectives and content. Instead, they are

designed to help teachers illuminate, enrich, and enliven their instruction with topics rooted in the study of American history and government. Since teaching about the Constitution and the Bill of Rights has long been a staple of LRE, it is not surprising to find a "tight fit" between LRE and many of the topics, materials, and instructional ideas in presented in *Lessons on the Constitution*.

### LRE and the Story of Democracy

Historian Paul Gagnon is affiliated closely with the Bradley Commission and the National Center for History in the Schools. Writing in *The Atlantic Monthly*, he urged teachers

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to focus on "broad, significant themes and questions, rather than short-lived memorization of fact without context."

For Gagnon, one of the few major themes should be the story of American democracy, the story of the slow, unsteady journey of liberty and justice together with the economic, social, religious, and other forces that barred or smoothed the way, with careful looks at advances and retreats made and at the distances yet to be covered.

In its 1989 report, the Bradley Commission identified eight major topics as central to the history of the United States. Significantly, three of the eight have especially strong LRE elements:

- The evolution of American political democracy, its ideas, institutions, and practices from colonial days to the present; the Revolution, the Constitution, slavery, the Civil War, emancipation, and civil rights.
- The distinctively American tensions between liberty and equality, liberty and order, region and nation, individualism and the common welfare, and between cultural diversity and civic unity.
- The major successes and failures of the United States in crises at home and abroad. What has "worked" and what has not, and why.

The National Center for History in the Schools has also identified salient themes for teaching history. In *Lessons from History*, published by the Center in 1992, Charlotte Crabtree, Gary Nash, Paul Gagnon, and S. Waugh set forth the essential understandings and historical perspectives they

feel students should acquire as a result of the study of history. They identify four "major narrative themes" in history (e.g., "the development and changing character of human societies") and five "major spheres of human activity" (e.g., "political sphere of activity"). Echoing the Bradley Commission, they assert that "[s]harp, recurrent conflicts between such values as liberty and equality, or between personal freedom and social justice, are . . . at the very heart of American history from its beginning and are its central themes."

The relationship of law and LRE to the thematic recommendations of both the Bradley Commission and the National Center for History in the Schools should be readily

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apparent. In the United States, "the tensions between liberty and equality, liberty and order, region and nation, individualism and the common welfare, and between cultural diversity and civic unity" often play themselves out in the legal arena—the laws we make, the way we enforce them, and how we interpret them. This is especially true in relation to our major successes and failures in crisis. As de Tocqueville observed, the courts are typically America's battlefields of these types of political questions.

Gagnon (1988) argues that increased attention to history in the schools will lead to improved citizenship education. Good judgment, he contends, is what is needed "most in the profession of citizen." Good judgment, Gagnon wrote, is the primary benefit of studying history.

#### **Rights Rooted in Values**

Noted social studies educators Shirley Engle and Anna Ochoa (1988) provide additional perspectives on the importance of the ability to develop good judgment. Well-known advocates of developing decision-making skills, they emphasize the important roles that values education and ethical reasoning play in civic education.

Democracy is not only an enlightened way of governing and being governed; it is also a system based on ethical and moral principles that requires continual attention to what is right and just. Every social problem has an ethical and moral dimension, and learning to deal with this dimension is as important as learning to deal with facts.

Sound ethical reasoning demands students (citizens) who possess a reasoned commitment to democratic values and principles and strong decision-making skills. "[T]here is no trick to virtuous behavior when things are going well," Gagnon (1988) pointed out. "The truly tough part of civic education is to prepare people for bad times."

Prominent social studies educator James Shaver and his co-author William Strong (1982) contend that the emphasis on civic education makes the focus on moral values and ethical reasoning particularly relevant in social studies, and the same could be said for LRE. Maintaining that values are the essential ingredient in defining a democratic society, Shaver and Strong stress that our basic democratic rights are rooted in moral values, citing, as examples, equal protection of the law, equal opportunity, freedom of speech, and freedom of religion. They characterize these basic rights "as principles or standards by which we judge the morality (i.e., the good or bad, right or wrong) of individual, collective, and governmental actions." While each of these rights, or values, is an important end in itself, they continue, we cannot fully attain all of the basic values at any one time. Conflict is inevitable; as we move toward full attainment of one value, we unavoidably must compromise another. The result is a persistent tension between these often competing rights, or values, coupled with a continuing reliance on moral and ethical reasoning to determine an appropriate balance in specific concrete situations.

It is in the area of ethical reasoning that LRE makes some of its strongest contributions to the study of history, social studies and, ultimately, civic education. Isidore Starr (1975), the widely acknowledged "father of law-related education," has long held that ethical reasoning is fundamental to LRE.

Law studies, by their very nature, force students and teachers to grapple with and analyze the issues in a value conflict. What is especially intriguing about the law is that it often forces us to choose between two desirable values: free press versus fair trial or the rights of a seller and the rights of a buyer, or the right to property and the right to fair or open housing. . . . These are not conflict [sic] between good values and bad values; the problem here is which of the good values deserve priority in our hierarchy of values at a given time and place. What we are really stressing is moral and ethical reasoning.

The late Paul Freund, a noted professor of law at Harvard, concurred with this view. In an influential article published in 1973, Freund identified ethical reasoning as the first, and most important, of three primary goals of law-related education in schools. (The other two were understanding and appreciating the legal process and acquiring information about the law.)

#### **Using Case Studies to Foster Reasoning Skills**

Legal cases, a staple in law-related education approaches and programs, provide excellent opportunities for students to engage in ethical reasoning. They serve as powerful



vehicles for students to gain understanding of and insight into the nature of conflicts over basic values that our society has wrestled with over time.

Each legal case necessarily involves real people, in a specific situation involving rights and values in conflict, at a specific time. Analysis of them reveals how our society, through its legal system, has dealt with those conflicts and considers the reasoning used in our attempts to resolve them. Landmark cases involve clashes between fundamental values. Their resolutions have a marked effect on how we define and apply those basic values and help shed light on the nature of a democratic society and what it means to live in one.

The authors of *Lessons from History* recommend "pausing for depth" when teaching history. They advocate "longer, closer looks at selected episodes" and the use of primary sources "which have the power to draw students into the historical moment itself." This is exactly the power that can be found in the study of legal cases. The drama and excitement inherent when real people face real situations spurs student interest and yields valuable historical insights into the nature of the courts and society of the time period studied. When teachers use trial records and appellate court decisions as the powerful primary sources they are, they enable their students to acquire a richer understanding of history, an understanding far richer and more meaningful than the "history-as-collection-of-chronological-facts-without-interpretation" approach that is still experienced by far too many students in their history textbooks and classes.

The use of legal cases in the teaching of history addresses another concern the authors of *Lessons from History* identify—the potential distortions that may arise when students attempt to relate history to their own times. Crabtree et al. (1992) warn of the tendency for students to apply contemporary standards to a situation that occurred earlier in time. "It is too easy," they write:

to see people in the past as terribly odd, or different, or even inferior to us in the present. Teachers ought not to turn history into an indictment of them for not thinking and behaving as we do; the aim should be to explain why they thought and behaved as they did and how they might, in turn, judge us and our familiar world.

Here, an LRE approach, using whole or edited versions of court decisions, can provide an effective countervailing force. For example, by considering *Dred Scott v. Sanford* (1857), students can learn not only what was decided but, by reading Chief Justice Taney's opinion (or selected excerpts), they gain insight into the legal status of slaves and the rationale which shaped it.

Likewise, in *Bradwell v. Illinois* (1876), a case in which the Supreme Court upheld a state's right to deny a married woman the right to practice law, students can learn about the legal and social views on the role of women and how religious beliefs were used to justify those views. Many other such examples can be drawn from our nation's rich legal history.

Clearly, such cases, by emphasizing the *why* in addition to pointing out the *what*, can provide students with a perspective that is frequently absent in their history textbooks and classes.

### Ethical Reasoning, History, and LRE

In their *Reasoning with Democratic Values: Ethical Problems in United States History*, Alan Lockwood and David Harris demonstrate how ethical reasoning contributes to the study of history and how LRE complements both. Their two-volume work consists of a collection of 49 episodes (most, if not all, of which are clearly law-related) involving conflict over democratic values in their historical context.

The episodes begin with the colonial era and extend to contemporary times, and some examples include Mary Dyer's fight for religious freedom in Puritan New England, defiance of the Fugitive Slave Law in Wisconsin, Susan B. Anthony's difficulties during the 1867 women's suffrage campaign in Kansas, the conflict between the U.S. government and Chief Joseph of the Nez Perce Indians over reservation policy, Eugene V. Debs's decision to violate the Espionage Act during the World War I, the U.S. government's refusal to grant an exception to its immigration laws for Jewish refugees from Nazi Germany, the relocation of Japanese-Americans during World War II, Lt. Calley and the My Lai massacre, the Watergate scandal, and the Iranian hostage crisis.

Intended to supplement a basic textbook, the Lockwood-Harris material vividly demonstrates how teachers can use historical episodes with strong law-related content to enrich and enhance student understanding of the people and events that make up the rich mosaic of American history. While designed for use in secondary schools, these materials may be successfully adapted for use in upper level elementary/middle level grades as well.

In *Lessons from History*, Crabtree et al. endorse the teaching of history in this manner. They write:

Indeed, the basic principles of democracy—liberty, equality, justice—are all declarations of right and wrong, of moral values. They not only allow, but compel, citizens to make moral choices again and again, to choose what their society ought to do, and to accept its costs to themselves, according to what they value most and their private views of what constitutes the good life and the good society . . . Sharp, recurrent conflicts between such values as liberty and equality, or between personal freedom and social justice, are natural and necessary. *They are at the very heart of American history from its beginning and are its central themes* [emphasis added].

In two essays written in conjunction with the bicentennial celebrations of the Constitution of the United States, Starr (1987) explored the origins and evolution of five fundamental concepts, or themes, within American history—liberty, justice, equality, property, and power. Stressing the need for a historical perspective on contemporary conflicts involving these basic concepts, Starr emphasized:



The problems confronting American society seem like tidal waves about to engulf the nation. Present discontents, however, are not unique. They have ancient roots; the issues of the past mesh with the issues of the present. To focus on one to the exclusion of the other is either to drown in the murky waters of antiquarianism or to wallow in the shallow streams of presentism.

### Conclusion

Law-related education has much to offer in the teaching of history. LRE is an integral, indispensable part of civic education in general, and the teaching of history in particular. The fit between history and law is tight and dynamic; the same is true of the teaching of history and LRE. Each interacts with, amplifies, and strengthens the other. They are, and must be recognized as, inseparable parts of an integrated whole. You can't have one without the other.

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