

June 1998

## Symposium on the Relation between Scholarship and Teaching: Introduction

Richard Delgado

Follow this and additional works at: <https://scholarship.kentlaw.iit.edu/cklawreview>

 Part of the [Law Commons](#)

---

### Recommended Citation

Richard Delgado, *Symposium on the Relation between Scholarship and Teaching: Introduction*, 73 Chi.-Kent L. Rev. 749 (1998).  
Available at: <https://scholarship.kentlaw.iit.edu/cklawreview/vol73/iss3/2>

This Article is brought to you for free and open access by Scholarly Commons @ IIT Chicago-Kent College of Law. It has been accepted for inclusion in Chicago-Kent Law Review by an authorized editor of Scholarly Commons @ IIT Chicago-Kent College of Law. For more information, please contact [dginsberg@kentlaw.iit.edu](mailto:dginsberg@kentlaw.iit.edu).

## INTRODUCTION

RICHARD DELGADO\*

This Symposium on the Relation Between Scholarship and Teaching owes its origin to an earlier landmark symposium in this Review. Published in 1996 and co-edited by Fred Shapiro and Jean Stefancic, the *Symposium on Trends in Legal Citations and Scholarship*<sup>1</sup> featured a sterling collection of articles on various aspects of legal scholarship, including the most-cited law review articles of recent years,<sup>2</sup> the most prolific law professors and faculties,<sup>3</sup> the single most-cited article of all time,<sup>4</sup> whether courts and scholars cite the same articles,<sup>5</sup> the reception of interdisciplinary and outsider scholarship,<sup>6</sup> and a humorous reflection on the meaning of it all.<sup>7</sup>

Publication and scholarship are only one aspect of a legal academic's daily life, however. What about teaching? And what about the relation between them? Those twin aspects of law professors' professional lives, along with public service, occupy most of our time and determine our fortunes at promotion and tenure time and our prestige in our law schools and the wider community. Is one aspect more determinative of our careers, and, if so, should it be? Can one be very good at both teaching and scholarship? Are the most distinguished

\* Charles Inglis Thomson Professor of Law, University of Colorado; J.D., University of California at Berkeley, 1974.

1. 71 CHI.-KENT L. REV. 743 (1996).

2. Fred R. Shapiro, *The Most-Cited Law Review Articles Revisited*, 71 CHI.-KENT L. REV. 751 (1996).

3. James Lindgren & Daniel Seltzer, *The Most Prolific Law Professors and Faculties*, 71 CHI.-KENT L. REV. 781 (1996).

4. R.H. Coase, *The Problem of Social Cost: The Citations*, 71 CHI.-KENT L. REV. 809 (1996).

5. Deborah Jones Merritt & Melanie Putnam, *Judges and Scholars: Do Courts and Scholarly Journals Cite the Same Law Review Articles?* 71 CHI.-KENT L. REV. 871 (1996).

6. Richard Delgado, *The Colonial Scholar: Do Outsider Authors Replicate the Citation Practices of the Insiders, but in Reverse?*, 71 CHI.-KENT L. REV. 969 (1996); William N. Eskridge, Jr., *Outsider-Insiders: The Academy of the Closet*, 71 CHI.-KENT L. REV. 977 (1996); Nancy Levit, *Defining Cutting Edge Scholarship: Feminism and Criteria of Rationality*, 71 CHI.-KENT L. REV. 947 (1996); Frances Olsen, *Affirmative Action: Necessary but Not Sufficient*, 71 CHI.-KENT L. REV. 937 (1996); Jean Stefancic, *The Law Review Symposium: A Hard Party to Crash for Critics, Feminists and Other Outsiders*, 71 CHI.-KENT L. REV. 989 (1996); Jean Stefancic & Richard Delgado, *Outsider Scholars: The Early Stories*, 71 CHI.-KENT L. REV. 1001 (1996); Mark Tushnet, *Interdisciplinary Legal Scholarship: The Case of History-in-Law*, 71 CHI.-KENT L. REV. 909 (1996).

7. J.M. Balkin & Sanford Levinson, *How to Win Cites and Influence People*, 71 CHI.-KENT L. REV. 843 (1996).

scholars—the superstars—also good teachers? Conversely, can a person be a superb teacher if he or she never writes a word; or a brilliant thinker or wordsmith, yet an uninspiring, lackluster teacher?

This symposium is blessed with no fewer than four empirical articles exploring these and similar questions. Jean Stefancic asks whether new scholarly movements have any impact on teaching materials, in particular casebooks.<sup>8</sup> Her exhaustive study of teaching materials by major academic presses shows that the editors of these compendious collections, when faced with a choice between the mainstream and the innovative, generally opt for the former. Articles by Deborah Jones Merritt,<sup>9</sup> James Lindgren and Allison Nagelberg,<sup>10</sup> and Fred Shapiro<sup>11</sup> all address the question whether good teaching and good scholarship tend to go together in the same individual. The first two find a positive correlation, either slight or substantial, depending on the measure of teaching effectiveness used.<sup>12</sup> Shapiro, however, reports a surprising finding: At the very highest reaches of legal scholarship, the writers producing it may be lackluster, or even bad, teachers.<sup>13</sup> Finally, Jonathan Entin, editor of the *Journal of Legal Education*, writes on scholarship *about* teaching, concluding with suggestions for how that scholarship could be even more rigorous than it is now.<sup>14</sup>

Are good teaching and good scholarship synergistic? Do they tend to go together? Might there be, in other words, a single quality or cluster of qualities, corresponding perhaps to the “G” of psychometric theory, that enables the same individual to display virtuosity in either teaching or writing?<sup>15</sup> Or, as the school of “multiple intelligences” holds, may teaching and writing represent different (although perhaps overlapping) skills, so that any correlation between them would be indirect and muted?<sup>16</sup> Perhaps the two performances are

8. See Jean Stefancic, *Needles in the Haystack: Finding New Legal Movements in Casebooks*, 73 CHI.-KENT L. REV. 755 (1998).

9. Deborah Jones Merritt, *Research and Teaching on Law Faculties: An Empirical Exploration*, 73 CHI.-KENT L. REV. 765 (1998).

10. James Lindgren & Allison Nagelberg, *Are Scholars Better Teachers?*, 73 CHI.-KENT L. REV. 823 (1998).

11. Fred R. Shapiro, *They Published, Not Perished, But Were They Good Teachers?*, 73 CHI.-KENT L. REV. 835 (1998).

12. See Lindgren & Nagelberg, *supra* note 10, at 832-33; Merritt, *supra* note 9, at *passim*.

13. See Shapiro, *supra* note 11, at 839-40.

14. See Jonathan L. Entin, *Scholarship About Teaching*, 73 CHI.-KENT L. REV. 847 (1998).

15. For a partisan view of “G,” see RICHARD J. HERRNSTEIN & CHARLES MURRAY, *THE BELL CURVE: INTELLIGENCE AND CLASS STRUCTURE IN AMERICAN LIFE* (1994).

16. On the theory of multiple intelligences, see HOWARD GARDNER, *FRAMES OF MIND: THE THEORY OF MULTIPLE INTELLIGENCES* (2d ed. 1993).

even slightly (or greatly) antagonistic, like excellence at radically different sports, so that the effort to develop, say, the showmanship required for great teaching would turn out to interfere with the quiet, contemplative, cloistered quality of life and mind required for great scholarship. (Or are these qualities required?) Three empirical studies in this symposium suggest answers to some of these questions without resolving any of them definitively.

## I. TOWARD A FUTURE EMPIRICAL STUDY

With the thought that someone—perhaps a major law review—might sometime carry out the large statistical study necessary to shed light on the relationship between classroom ability and scholarly distinction, the remainder of this Introduction discusses a few issues any such team might wish to consider.

### A. *Constituencies and Sociology-of-Knowledge Considerations.*

Because any such study is apt to have political repercussions and to draw both favorable and unfavorable comment from the outset, those carrying it out should proceed aware of who the various constituencies and pressure groups are apt to be and what is at stake. The constituencies are likely to be at least three, corresponding to each of the areas in which professors are expected to demonstrate expertise. The natural constituency for teaching is, of course, current students. They are the ones who are most immediately affected by what we do in the classroom, how often we keep office hours, and whether we adopt one approach to classroom teaching, say the Socratic method, rather than another, for example, lecturing. This group is apt to care less about what we do in the way of public service or scholarship. Like the children of professional parents, they are less concerned about what we do in our office lives than what we do “at home” in the way of nurturing and caring for them. Indeed, some students, like the sons and daughters of the busy executive, may resent a teacher who, in their view, spends too much time in the library or study, writing obscure treatises that can only enhance the professor’s reputation.

A second group of constituents, young lawyers in their early years of practice, are apt to want the law faculty to engage in as much public service as possible, giving CLE lectures, serving on law reform committees to straighten out legal tangles, and giving advice to tyros like them over the telephone. They are apt to care less about how we teach—indeed they may favor the most scathing, anti-humane So-

cratic teaching because "if I survived it, so can they (the current crop of students)."

Finally, the natural constituency for legal scholarship is likely to turn out to be senior attorneys, many years into their practice lives, who are now partners, commissioners, judges, and holders of other weighty positions invested with social and political power. These graduates, some twenty or more years out of law school, are apt to be more concerned with the reputation of the school (which they may remember with rose-colored glasses) and the contribution of its faculty to the broad social currents that now engage their attention. Judges will also be interested in legal scholarship, especially the doctrinal kind concerned with resolving conflicts among circuits and the other day-to-day problems of the bench. Tenure committees are apt to favor scholarship as well. At any rate, this outline of likely constituencies and pressure groups may help any future researcher understand reaction, and possible resistance, to his or her impending study.

### *B. Scholarly and Teaching Merit—How Measured?*

An early issue any researcher interested in examining the relation between teaching and scholarship must address is how to measure performance. With scholarship, the Chicago-Kent criteria, devised for previous surveys, recommend themselves for their simplicity and broad acceptance.<sup>17</sup> Yet those criteria measure only publication in the top law reviews.<sup>18</sup> It would seem that future research should consider some method for awarding points for the publication of books and teaching materials, as Professor Merritt has done.<sup>19</sup>

What about teaching? Unfortunately, no universal criteria for rating classroom ability exist except student teaching evaluations, which have come under fire recently for volatility and manipulability. A recent issue of the *Chronicle of Higher Education*, for example, describes a study in which a professor who had gotten mediocre marks for several years decided to teach the same class but with greater enthusiasm.<sup>20</sup> The professor consciously spoke with more inflection and waved his hands more.<sup>21</sup> The professor otherwise taught in exactly

17. See, e.g., Lindgren & Seltzer, *supra* note 3, at 781-82.

18. See *id.*

19. See Merritt, *supra* note 9, at 770-71.

20. See Robin Wilson, *New Research Casts Doubt on Value of Student Evaluations of Professors*, CHRON. HIGHER EDUC., Jan. 16, 1998, at A12, A12-13 (discussing Wendy M. Williams & Stephen J. Ceci, "How'm I Doing?" *Problems with Student Ratings of Instructors and Courses*, CHANGE, Sept. 19, 1997, at 12).

21. See *id.* at A13.

the same way he always had, using the same notes and materials.<sup>22</sup> Not only did the professor's course evaluations soar, the evaluations professed greater satisfaction with the textbook and other aspects of the course.<sup>23</sup> Student evaluations may also be difficult to obtain for a large sample. For this symposium, Professor Lindgren was able to obtain evaluations for the faculty at three law schools.<sup>24</sup> But Professor Merritt, with a much larger sample to analyze, used teaching awards<sup>25</sup> which measure teaching effectiveness less directly than the evaluations themselves. Still, student evaluations undoubtedly register *something*, and their potentially wide availability—some universities put them on websites<sup>26</sup>—would make it a relatively straightforward matter to compile a sample of teaching evaluations and calculate a coefficient of correlation. One group of data might consist of each teacher's average teaching evaluations and their relationship, positive or negative, to various measures of scholarly productivity. A negative correlation would confirm scholarship's detractors, who argue that scholarship is given too much weight at the expense of teaching, while a positive or zero correlation would cut the other way—would show that topflight legal publishing is not carried out to the detriment of a professor's obligations to students.

The massive amount of work such a study would require would suggest that it would best be carried out by a team of researchers, perhaps the staff of a major law review. Sponsorship by such an organization could, as well, avoid the suspicion that the researcher had an axe to grind, as might be the case were it carried out by a professor or a professional organization. But that is another symposium—and, I hope, another story. In the meantime, the rich and thought-provoking articles that form this symposium supply important insights into the way teaching and research—the main tasks of a law school—work together.

22. *See id.*

23. *See id.*

24. *See* Lindgren & Nagelberg, *supra* note 10, at 823.

25. *See* Merritt, *supra* note 9, at 772-74.

26. *See, e.g.*, University of Wisconsin-Madison, *UW-Madison Student Evaluations of Courses and Instructors: A Pilot Project Using Evaluations of Courses Offered in Fall 1996 and Spring 1997* (visited May 18, 1998) <<http://www.wisc.edu/evals>>.

