



The Role of Debate in Legal Education

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ABSTRACT

This paper examines the integration of debate as a pedagogical tool in legal education, tracing its historical roots, theoretical underpinnings, and practical implementations. Traditionally dominated by lectures and rote memorization, legal instruction often fails to engage students in dynamic, critical thinking. Debate, however, demands verbal dexterity, structured argumentation, and ethical reasoning, thus positioning itself as a transformative medium in the development of legal professionals. Through various formats—including Oxford-style and open forum debates—law students are exposed to real-time reasoning, collaborative learning, and public engagement. Case studies highlight the practical challenges and benefits of incorporating debate into legal curricula. Ultimately, this paper argues that debate does not merely supplement traditional legal education but redefines it, fostering skills essential for legal reasoning, courtroom advocacy, and civic participation.

Keywords: Legal education, debate, advocacy, legal reasoning, moot court, oral argumentation, pedagogical methods.

INTRODUCTION

Law is traditionally delivered in formal lectures. Those wishing to attract the attention of their audience in this formal context have recourse to devices such as brightness of dress, vocal style, and session length. Nevertheless, to make one's points emphatically in court, at a tribunal hearing or a formal debate, the legal practitioner is compelled to manipulate the most powerful delivery tool of all – words. Debate is the most advanced skill available to law schools. It hones higher-order cognitive skills while captivating, informing, and entertaining large audiences. The mode of delivery is revolutionary in its own right. As a legal rhetoric, it stands alone, being distinct from any of the other rhetorical skills, from poetry and prose on the one hand, to negotiations and advocacy on the other. In a courtroom, a lawyer and judge both take a single argumentative position; in negotiation, two negotiating parties are advocates of opposite stances. In formal debates, however, the speaker is expected to argue for and against the same proposition in alternate speeches. In addition, the high verbal complexity of legal argumentation creates confusion about the nature of legal reasoning. Single words may evoke a myriad of complex interlocking meanings. Instead of demystifying words and concepts, law schools may be complicit in making them more obscure. Debate acts as a valve relieving this circuitous transmission of information and as a softener of the cognitive load. Other students evaluate the performance in terms of reasoned argumentation and verbal dexterity. Occasionally, there is riotous laughter, but most of the time, the responses match the 'Great Idea in a Small Package' aphorism. It remains a presentation remote and closing a PowerPoint slide – or turning a courtroom chair and silhouetting a spectator against flood lights – that is most likely to capture student attention. So, task completion proof remains on the other side of a proverbial gun barrel [1, 2].

Historical Context of Debate in Legal Education

Debate has had a long tradition in American colleges and universities that spans over 200 years. Much of this tradition was largely informal; such activities as disputation or Greek games of debate were commonplace and often included but a small number of interested individuals. Early in the Nineteenth century, this informal atmosphere began to take on a more guild-like character in the form of the debate or discussion societies. These societies, which grew out of the European literary societies, met in an informal manner to discuss various topics of current interest. In the early days, the societies were able to function autonomously from the authority of the colleges. As these societies began to be recognized, the colleges began to take an active interest in their management and function. In the latter part of the

Nineteenth century, debate societies began to take on a more academic or collegiate approach to debate. Emphasis altered from an informal "general symposium" to a formal discussion of a single subject. Public debating was first introduced into intercollegiate competition by Franklin and Marshall in 1850, bringing a wave of interest in the subject to institutions on other campuses. Yale hosted the first collegiate public debate in 1862, a contest between Yale and Columbia, which was won by Yale. The success of public debates led to more intercollegiate public contests and a proliferation of competitions outside of the intercollegiate format. Public debating became increasingly complex, with a need for operational rules and regulations and an organizational framework. Through the efforts of Ames and other leaders in collegiate public debate, an Intercollegiate Union was formed in 1896, which strictly controlled the rules and regulations governing public contests. The format of debate control was passed on to the models of intercollegiate debate [3, 4].

Theoretical Frameworks

Debate has been an important pedagogical tool in legal education for a long time. It comes in many forms and is referred to by various names, including moot courts, mock trials, trial advocacy, and forensic debating. Debate is often part of a larger set of programs under the title "advocacy." Regardless of the name, the underlying goal of debate is similar: to produce lawyers with the ability to advocate for clients and enter a courtroom or legislative chamber to represent them before courts, parliament, or diverse decision makers. "Advocacy" represents the application of legal knowledge acquired in classrooms and reading materials. People who have received a law degree are sometimes referred to as lawyers even if they do not practice as lawyers. Therefore, the use of the term "advocacy" in a legal context is broader than "debate." It also means legal writing, negotiation, and other forms of representation. There is consensus that training should include both written and oral advocacy. Legal writing is much better included in syllabi than is oral debate. Nevertheless, oral debate has great significance in disciplinary education, both as a theory and a performative craft. Furthermore, because of its public nature and relevance to society, oral debate is a great instance of, and a more significant addition to, legal education than any other mode of advocacy. Debate is also a common and significant activity in the world today. It comes in many forms, including but not limited to court cases, legislative representations, public hearings, and participatory governance. Regardless of its form, it has an underlying goal that advocates a position and/or makes a decision based on the foregoing. Meaningful participation in debate requires knowledge of all aspects of the matter on which a position is taken (advocacy), whether legal or otherwise. One represents a position (advocate) instead of remaining neutral for another side (object), and this again requires knowledge of the law besides knowledge of other relevant matters [5, 6].

Debate Formats in Legal Education

Two formats – a modified Oxford-style debate and an open forum debate – will be used. The Oxford format is appropriate because it allows students to be on their feet and engaged while also giving them time to reflect and think critically about their arguments. Having designated affirmative and negative sides allows the class to have a structured discussion within the more free-wheeling open forum format. The open forum debate will take place after the Oxford-style debate, with questions from the audience directed to both sides. This should allow both teams, as well as their teammates, to clarify points and the vague benefit of "practice" responses. The instructors should influence who gets to talk in this format less, but it will be easier to engage more students, particularly those who do not speak in the Oxford-style debate. Wading into these preeminent debates in both law and society has the potential to teach students many things. First and foremost, it is an opportunity to delve into material that is intellectually stimulating and politically relevant. Few students in legal education do not have a view on the benefits or regulations governing the administration of the benefits for mood and productivity that are ubiquitous in the world. Debate and negotiation on the merits of regulating this information, and the consequences of doing so, have played out in both courts and legislatures for decades. In light of ubiquitous cannabis use in society and the accompanying worries about legality, production, health, mental health, and criminal activity, there is also a desire for the regulation of both cannabis and the open forum style of the debate. If successful, the side arguing for regulation will have taught students about the importance of legality, transparency, and accountability, while the side arguing against regulation will have taught students not only about their minutiae but also about the importance of an unapologetic and consequential assertion of one's rights. Another aim is getting students to engage with the law in a substantive way. Legal education often relegates meaningfully creative and original engagement with law to second- and third-year courses on things like international law or non-competition clauses. This side of the debate concerns much more traditional notions of good and bad law – either regulation generally, or regulating based on knowledge production as opposed to, say, divestment or a general ban [7, 8].

Skills Developed Through Debate

Engaging in debates is an increasingly popular and effective teaching technique that can be utilized to facilitate student participation, critical thinking, and experiential learning. The debate format requires students to construct a position on an assigned topic, work with their peers to construct arguments in favor of that position, and defend that position in the face of rebuttals from the opposing team. Because debate is multiparty and consists of students of varying skill and knowledge levels, this format can entice strong performers and mitigate dominance by any one student. While this technique is often implemented as a stand-alone assignment or as a portion of a larger assignment, a debate can also serve as an appetizer to an in-class activity, as a review of material covered earlier in the semester, or as a wrap-up of a learning experience. The implications for implementing a debate in a health professional education classroom are discussed below. Before conducting a debate, the instructor must develop a topic and create a rubric to grade the debate. The instructor can create a handout that includes the structure of the debate, expectations/rules for participants, and any additional information relevant to the specific classroom implementation. Efforts should be made to create a debate topic that is dynamic and engaging to all students. A thorough understanding of the debate topic, as well as a variety of skills, such as critical thinking, interpersonal communication, empathy, and public speaking, is essential to successfully construct and deliver arguments and rebuttals. Knowledge of the debate topic pertains to comprehension and retention of information regarding the topic being debated. To participate, students must engage in a literature review to become knowledgeable about the topic. During the debate itself, participants must organize their ideas into claims supported by factual evidence. Participants are also required to listen to the opposing team's arguments and phrases to successfully formulate rebuttals. Following the debate, participants should engage in self-reflection to assess team performance as well as their contributions to the debate [9, 10].

Impact on Legal Reasoning

Debate enhances legal reasoning, which is indispensable to legal analysis, practice, and pedagogy. It requires thinking logically and rigorously and presenting and defending positions. Effective legal reasoning involves extensive preparation, analysis, planning, and time to think and manage complexities. Normative theories of legal reasoning, which attempt to describe how legal reasoning does or should work, present multiple, competing theories. Emphasizing debate teaches students how to formulate hypotheses, gather relevant information and authority, develop and test arguments, and recognize strengths and weaknesses in reasoning. In short, debate helps law students transition from a core undergraduate curriculum to legal education designed for future lawyers. Law schools often struggle to prepare students for the rigors of legal reasoning, where thousands of distinct rules interpret myriad words in complex statutes and thousands of cases involving millions of factual variations. Indeed, many argue that legal reasoning is doomed to subjectivity or inconsistently applied rules. Nevertheless, legal systems generally work well, making a serious inquiry into legal reasoning's nature and folklore only natural. An empirical question exists as to whether there is a way of thinking and arguing peculiar to the legal profession. It might be argued that lawyers only use distinctive information and rhetoric to present long-held beliefs. Or it might be argued that once a person has an opinion, it matters little for practical purposes whether that opinion was arrived at using reasoning typically employed by lawyers. However, these content-based questions seem to get the nature of legal reasoning wrong. Much of sophisticated and professional legal advocacy deals not with content but with form. It cares not so much what substantive opinion an advocate reaches but the legal reasoning process by which the opinion is reached. Attorneys who argue a side in taxation or insurance law do not have any substantive stake in their client's opinion. Nevertheless, their appellate advocacy work is among the most labor- and time-intensive [11, 12].

Debate As a Tool for Ethical Reasoning

Putting aside the correct place of televised debates in American political culture, it is rather clear how recent developments in other political systems necessitate an increased focus on debate as a tool of education in legal reasoning and ethical discourse. Countries with a history of political oppression, censorship, and deprivation of critical thought urgently need to teach and counterpoint the many-sided issues that arise in developing domestic and foreign policy. The age of uncontrolled access to emphatic and passionate rhetoric calling for simplistic and swift answers to complex challenges underscores the need for teaching students both to think and argue clearly, methodically, critically, and civilly in a democratic society. The need for legal education and a better understanding of legal reasoning across the law can become lawyers across the court who can also fill the expanding public post, critically evaluating the working of city councils, ministers of states, and examining the constitutionality of laws. It is vital to teach the formal structures that define and delineate arguments across areas of common inquiry. When

well understood, such structures are powerful tools for broadening student horizons in more equality of debate and increasing the quality of discourse outside academia. The legal debate can be successfully used to analyze social issues with worldwide concern. Debating can assist students in developing public speaking skills, critical reasoning, and research and teamwork, regardless of their socio-cultural background, personal experience, or educational approach. They can become better listeners, understanding the other side of the question instead of vice-versa. Debate is the arena of tolerance, respect, and mind-broadening understanding well supported in the literatures on discipline. Debate is also a laboratory of reasoning and research, where to quantify or qualify pro and con positions affecting large audiences. Legal education taboo on an upper hand would make concerns raised by ill-fated academic debates alluring [13, 14].

Engagement and Participation

Engagement is vital to persuade the audience of the effectiveness of the arguments. Participation should be equally divided within the team, and everyone should be encouraged to show engagement. One of the teams should be nominated general speaker, and the team should assign roles within the team to create engagement. A team or individual without a pronounced role becomes a passive member and seems ineffective. The general speaker should be capable of elaborating discussion points, paraphrasing arguments, and addressing the audience. This speaker should be chosen from the dialogue participants of the debate, where they can freely elaborate on the discussed points. During the rebuttal, however, this speaker should summarise the previous speakers' points. Two other members should be assigned roles diplomatically and rebuttally. The diplomat should be in charge of polite remarks and addressing the overall debate structure in the summary. The respondent should also redirect discussed matters but focus on the specifics of the arguments and counterarguments. Audience engagement also could be of use in this case, taking questions from them if the format allows it. This role distribution should by no means be rigid, and the other opportunities should be seized. For instance, the broader objection to the debate name, grammar, and nation could have been brought up. Nonetheless, with a strongly defined topic choice within debate, it was good to keep these parameters well-defined. This method is particularly useful within longer debates on complicated topics. In the case of a narrower focus, it might have been a better approach to have just four engaged speakers. The extent of preparation was truly impressive, and the quick thinking displayed in the rebuttal and reconstruction was equally so [15, 16].

Challenges In Implementing Debate

In this paper, there will be discussions on several aspects of debate and the challenges faced in the implementation of debates in legal education. Although debate as an educational technology is argued to be effective and feasible in improving legal education, a number of issues still need to be solved. Introducing debate in legal education will involve various stages: choosing legal debates, possibly adjusting the original debates in the Asian context, designing the debate course materials with regard to the functions of the debate courses and the specific needs of students, ensuring sufficient participation and preparedness from students, and improving the quality of debate in law school. Deciding whether or which legal debates to involve in a course is the only issue that needs to be solved in a relatively short amount of time, while most of the issues will need long time efforts to minimize or totally avert. Concrete considerations of the last four aspects will follow. As a beginning for the design of the debate courses, it is suggested that consideration of choosing and adjusting the legal debate topics and preparation of debate education should begin as early as the summer before the first academic year because arguing over legal issues requires knowledge that cannot be extemporaneously acquired within a very short amount of time, even when enough effort is spent. Legal topics also require effective adjustment due to language, content and culture differences, so they should be ensured in advance of a significant amount of time. Once the foundation of knew knowledge of the legal topics is acquired, providing debate education on how to conduct debate from both theoretical and practical aspects for debate coaches will need time and sustained effort as well. So, suitable legal debates and appropriate debate education should be ensured early in the course design process. Then, sufficient and successful participation in the debate course will need to be ensured well, or at least reasonably satisfied, in order for the course to maintain its operation. Finally, quality of debate as a relevant part of legal education will need sustained efforts and management to improve [17, 18].

Case Studies

In a previous article, I presented details about twelve law schools - in the United States and elsewhere - which had debated on videotape the merits of various constitutional provisions at a time of constitutional crisis. The class meetings of four of these schools were described in some detail, as were the tapes showing those classes. As a case study in law schools' use of video-taped debates, this prior article

provided great insight into effective uses of video-taping, but also demonstrated the considerable difficulty in using educational experimentations as a case study for others' replication. A great many decisions go into preparing such events. The unintended consequences and ripples of the planning, the very decisions that must be made, are fascinating and telling. But they are also a journalistic dead-end. There are wonderful human stories to be told about how different people think, feel, and experience events. And the searches for the inevitable "better" or "best" way to debate, to be professional in one's debating, etc., were worthy of discussion. But the argument to be made is much broader in scope and determination, drawing on experiences from those debates, as well as those elsewhere, including those second-guessing these debates as they were happening. The "recording" options for such debates are broadly plethora, even exhausting, and they multiply as increasingly greater technologies seize the imagination. By contrast, to plot the principles, paths, and pursuits of debates in tandem with all the pressing variables present on an individual or organizational technician level - wealth, fame, social standing, reputation, expertise, vanity, ego, etc. - generates an almost infinite variability on both an individual and organizational level. But now, arguendo, on what debts cast their shadows on the scene and, as irreversibly political consequences come to be allowed for, what one finds present in those shadows? Debates, among other pursuits, cast those shadows; and how principled or unprincipled the debates might be is, in many instances, a matter of degree [19, 20].

Future Directions for Debate in Legal Education

There exists a wealth of information, both published and in the planning stages, about the reform movements in legal education, meant to adopt the standards of the MacCrate Report more entirely and substantially within the law school curriculum. There are also means of automating oral and written feedback on the quality of both argument construction, oral presentation, and writing. These "debate" concepts and tools, incorporating new technology, can enhance legal reasoning and writing courses while providing globally scalable and deliverable legal education tools. Thus far, most of the reform innovations and ideas in the MacCrate Report have taken an "one-off" approach to solving impediments to the delivery of future-ready legal education. What should happen next is known as the "Law + Debate Renaissance". Throughout history, debate has played a role in the law and legal education. Debate societies at universities have been created and then merged with law schools, most recently Washington & Lee University. Over the past ten years, these debate programs have broadened their tentacles to embrace formatively assessing, mentoring, and training all students in law schools-and many faculty in legal writing or the law of legal reasoning. "Debate" societies within law schools can be transformative for legal education, as they have been for high/significant school experience, civic engagement, and legal and civic workforce readiness. At this point, the question must be asked: What is the fate of the law + debate renaissance? A legal industry need has been identified and a strategy drafted for "scaling/de-elevator" affordable and accessible global access to training and mentoring programs. Be it legal reasoning and writing programs fed by automated technology, the transformation of debating societies with their institutional marketplace was predicted to deliver reforms to legal education and the legal industry. However, implementing this transformation into for and not-for-profit and/or global business start-ups remains the greatest challenge. Nonetheless, a company offering accountability and adherence to "gatekeeper issues" such as "credit obligations" can be transformative for legal education and the legal/civic workforce. The vision for "winning the debate" in legal education and the profession at large remains intact [21, 22].

CONCLUSION

Debate plays a pivotal role in reshaping legal education by bridging the gap between theoretical knowledge and practical application. It cultivates essential competencies such as critical thinking, persuasive communication, ethical reasoning, and structured argumentation—skills that are indispensable for future legal practitioners. Far from being an extracurricular novelty, debate provides a robust framework for engaging with complex legal issues, encouraging students to think from multiple perspectives while grounding their arguments in legal precedent and policy. Despite implementation challenges, such as resource constraints and the need for curricular adaptation, the value of debate as a performative and cognitive tool remains undeniable. As legal systems become more participatory and globally connected, law schools must embrace debate as a core element of their teaching methodology to produce reflective, articulate, and socially responsible lawyers.

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