

Observing the Emperor's Nakedness: Law and Literature Studies in the Law School Context

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In the almost twenty-five years since my graduation from law school, legal education's modes of instruction and substantive content have changed dramatically. Almost completely extinct are the Socratic bullies who used to leave students shaking in their boots. Courses in legislation and administrative law, in health law and corporate reorganization, and in a whole bevy of environmental law areas now stand confidently alongside the traditional common law offerings. But despite these changes and others, one still senses that the controlling animus and ultimate goal of legal education have not changed. Law schools maintain a commitment to law as an autonomous discipline. Most law professors and students think of their discipline as more of a science than a humanity. Students are to learn "to think like a lawyer," and after graduation they are to be lawyers, that is, members of the nation's technocratic, secular priesthood.

Law and literature studies waft through the law school kitchen with much sweetness. Most courses and seminars of this sort explore the law-related content of works of fiction. Others contemplate the narrative and literary features of legal artifacts, and still others place

both literary and legal assignments in cultural, historical, and philosophical frameworks. The rewards of such courses are legion: There is a chance to contemplate character and context in more than the attenuated forms found in appellate opinions. There is an occasion to take values seriously, not merely to acknowledge them but to explore them, shape them, even take them to heart. Most importantly, there is the opportunity to shout out that the legal emperor has no clothes.

The last of these possibilities is something of a secret among law and literaturists. One hardly stresses subversion to curriculum committees considering new courses. One hardly reveals to colleagues the ways their rigor might be rigidity. But behind closed doors in the law school's law and literature classroom, law's failures are regularly laid bare. Legal concepts reveal their arbitrariness. Legal institutions are exposed. The entire rule of law seems more an ideological premise than actuality. Studied in conjunction with literature, law emerges as a fluid, contested, and contradicted discourse grounded in history and power.

The law students who would most benefit from these lessons, of course, never contemplate taking a law and literature offering. There is always another tax or commercial law course available, and, then too, the bar exam looms. Yet for small numbers of contemporary law students law and literature offers a special opportunity for critical thought about law and its potential.

Having noted the law's nakedness, these students, one hopes, are poised to knit some useful garments and drape them appropriately.