Becoming Lawyers

The Role of the Socratic Method in Modern Law Schools

Lani Guinier, Michelle Fine, & Jane Balin
Becoming Gentlemen: Women, Law School, & Institutional Change
Beacon Press 1997

Elizabeth Garrett

"It should be one of the functions of a teacher to open vistas before his pupils, showing them the possibility of activities that will be as delightful as they are useful."[1] These words by Bertrand Russell capture what I valued as a student and what I aspire to do as a law professor. I thus find Lani Guinier's study of the experience of women at the University of Pennsylvania Law School profoundly disturbing. She and her co-authors found "many women are alienated by the way the Socratic Method is used in large classroom instruction" and that "[e]ven those women who do well academically report a higher degree of alienation from the law school than their male counterparts" [page 28]. These conclusions not only contrast sharply with my own perceptions of the legal academy, but they also differ from the reactions of my students – male and female – who have participated with me in Socratic dialogues. The recent publication of Professor Guinier's book *Becoming Gentlemen: Women, Law School, and Institutional Change*, parts of which she wrote with Michelle Fine and Jane Balin, presents an opportunity to revisit the criticisms she levels against traditional legal pedagogy and to assess whether we can use some aspects of her work to improve the process through which students become lawyers.

Nearly half of the book is a previously published study conducted by Guinier, Fine and

Professor Garrett is an Assistant Professor of Law at The University of Chicago. *She appreciates the helpful comments of Richard Badger, Scott Brewer, Emily Buss, Ellen Cosgrove, Barry Friedman, Jack Goldsmith, David Gossett, Dennis Hutchinson, Tracey Meares, Bernard Meltzer, Martha Nussbaum, Geoffrey Stone, David Strauss, and Cass Sunstein, as well as the fine research assistance of Donald Bly.*

1 Bertrand Russell, *The Functions of a Teacher*, *in* Gentlemen, Scholars and Scoundrels 522, 528 (Horace Knowles ed., 1959).

Balin of the experience of women at the University of Pennsylvania Law School in the early 1990s.[2] In addition, Professor Guinier provides an introductory chapter that draws broader conclusions about institutional reform; she includes a short essay about her role as a mentor;[3] and she concludes with a brief afterword linking the preceding chapters to her controversial and short-lived nomination to serve as Assistant Attorney General for Civil Rights. In this short review I will not attempt to discuss all the ideas and arguments that Professor Guinier provides; rather, I will focus on her analysis of legal pedagogy, most particularly her indictment of the Socratic Method. My emphasis underscores the nature of our disagreement, but our important areas of agreement should not be overlooked. We both believe that the law school experience should help all students, men and women and students of diverse backgrounds, become lawyers; we differ in our assessment of the value of the Socratic Method, properly used, in that endeavor.

My discussion of the Socratic Method should not be understood as an argument that it is the only legitimate teaching method in a law school; on the contrary, I believe professors should adjust their teaching techniques to fit their abilities, the nature of the material, time constraints, and other factors. But many of Guinier's criticisms of legal pedagogy are directed at the Socratic Method, so, as a professor who believes strongly that the Method is a vital tool to help students become lawyers and that it is not inherently alienating or abusive, my discussion of legal pedagogy here is more limited than my practice in the classroom.

First, I offer a vision of the Socratic Method different from Guinier's, and argue that this teaching method has a central role to play in modern legal education. Second, I discuss some of Guinier's findings concerning the experience of women in the Socratic classroom, an experience that she and her co-authors claim differs in a systematic way from the experience of male students. Finally, I turn briefly to Professor Guinier's recommendation that law schools offer students a variety of teaching methods and calibrate classroom experiences with the skills that lawyers use, whether they are litigators, transactional lawyers, in-house counsel, legislative aides, or law professors.

At one point Professor Guinier states that law schools establish "the harshest and most adversarial version of the Socratic Method as the benchmark for success" and relates that one commentator has described "the stereotypical Socratic approach at its worst as learning how to ask rude questions" [page 13]. Her phrasing in this passage suggests that there is a kind of Socratic Method other than the harsh stereotype, but much of her discussion centers around this caricature. She does not provide a definition of the Socratic Method, except in a footnote where she does not sufficiently distinguish it from the case method of teaching[4]

2 Lani Guinier, Michelle Fine, Jane Balin, Ann Bartow & Deborah Lee Stachel, *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. Pa. L. Rev. 1 (1994).

3 This essay was previously published as Lani Guinier, *Of Gentlemen and Role Models*, 6 Berkeley Women's L.J. 93 (1991).

4 These are two different teaching methods; one can study cases through the Socratic Method or through a traditional lecture format. I use the Socratic Method in my introductory tax class, but I teach the concepts primarily through a series of problems rather than judicial opinions. See also Philip E. Areeda, *The Socratic Method (SM) (Lecture at Puget Sound, 1/31/90)*, 109 Harv. L. Rev. 911, 911 (1996) (noting that the Socratic Method is not the case method, but stating that they are "well suited to each other").

and where she again talks about "its most extreme form" [page 110, n.10]. In fact, the modern Socratic Method differs dramatically from the stereotype; as Professor Areeda observed, "The relentless questioner who never utters a declarative sentence is extinct."[5] Moreover, most of Guinier's descriptions of Socratic classrooms strike me as descriptions of bad teaching. For example, she relates stories of professors who appear not to value critical thinking [page 35] or appear to reward people who "think fast but not always those who think deeply" [page 2]. To assess whether Professor Guinier's critique of the Socratic Method is warranted, we must first understand the Method as it is actually practiced in modern law schools and analyze the reasons professors use this teaching style to train lawyers. We can then identify more accurately both the benefits it provides to all students, as well as the dangers it may present.

A professor who relies on the Socratic Method today uses participatory learning and discussions with a few students on whom she calls (in some classrooms, randomly) to explore very difficult legal concepts and principles. The Socratic Method should not be a destructive tournament where gladiators of unequal power and experience vie to the death. Rather, the effort is a cooperative one in which the teacher and students work to understand an issue more completely. The goal is to learn how to analyze legal problems, to reason by analogy, to think critically about one's own arguments and those put forth by others, and to understand the effect of the law on those subject to it.[6] As Professor Guinier observes several times in her book [e.g., pages 4, 6, 15], lawyers are, first and foremost, problem solvers, and the primary task of law school is to equip our students with the tools they need to solve problems. The law will change over the course of their lifetimes, and the problems they confront will vary tremendously. Law professors cannot provide students with certain answers, but we can help them develop reasoning skills that they can apply, regardless of the legal question.

Professors could lecture students about legal reasoning, but those who use the Socratic Method prefer to rely as much as possible on active learning. Just as a professor who immediately answers her students' questions loses an opportunity to help them discover the answers on their own, the professor who dispenses legal principles in classroom soliloquies will reduce students' opportunities to engage in independent critical thinking that could lead them to a deeper understanding of the material. In addition, Socratic discourse requires participants to articulate, develop and defend positions that may at first be imperfectly defined intuitions. As Martha Nussbaum writes in a related context, such critical examination means "accept[ing] no belief as authoritative simply because it has been handed down by tradition or become familiar through habit, … question[ing] all beliefs and accept[ing] only those that survive reason's demand for consistency and for justification."[7]

One challenge of law teaching is to provide an environment of active learning for 100 or more students at one time. A teaching strategy which includes calling on students without

5 *Id*. at 919. Professor Areeda's outline is the best description of the Socratic Method I have found, as well as one of the best justifications for its use.

6 *See also* Martha C. Nussbaum, Cultivating Humanity: A Classical Defense of Reform in Liberal Education 20-28 (Harvard 1997) (arguing that liberal education, particularly at the undergraduate level, should include Socratic inquiry in part because of its benefits to democracy and because it enables students to develop a capacity for critical examination of themselves and their traditions).

7 *Id*. at 9 (defining what it means to live "the examined life").

giving them prior notice is one of the best ways to foster critical thinking for all members of such a large group. No student is certain before class whether she will be called on to discuss difficult issues or to respond to answers provided by one of her colleagues. She must therefore pay close attention to the discussion between the professor and other students so she will be ready to play a meaningful role. Moreover, the Socratic Method places some responsibility on students to think about the questions silently and participate actively on their own; the element of surprise provides a powerful incentive for them to meet that responsibility. It also encourages students to prepare for class, which will enable them to learn more from the Socratic dialogue that takes place. The objective is to inculcate in the students the habit of rigorous and critical analysis of the arguments that they hear, as well as the practice of assessing and revising their own ideas and approaches in light of new information or different reasoning.

This description of the Socratic Method may make it sound eminently reasonable (and very different from the teaching that Guinier indicts), but we know that many students view the experience with enormous trepidation. To reduce such anxiety, the University of Chicago Law School includes, as part of the orientation for first-year students, a panel discussion of the Socratic Method. In part, the objective of this presentation is to explain why many of us use the method and to discuss students' fears about class participation and classroom dynamics. Many students are worried about speaking in front of 100 or so other people, including a professor. Speaking in public, whether in the courtroom, before a group of clients or opposing counsel, or in a meeting of lawmakers working to draft a statute, is part of every lawyer's job, so developing the ability to present ideas forcefully and effectively in such contexts is integral to becoming a lawyer.

In addition, students are very anxious about making mistakes when they participate in a Socratic dialogue. During the orientation panel, we explain that making mistakes in class is inevitable and ultimately helpful as we work toward solutions to difficult legal problems. Any professor who uses the Socratic Method has had the experience of getting a "right" answer too early in the class and then facing the challenge of working backward to clarify for other students the process of reaching that solution. We are teaching reasoning skills, and the process of discovering a right answer is often more important than the answer itself. Mistakes – or perhaps, more accurately, tentative steps toward a solution that lead us down unavailing but illuminating paths – are part of learning.

Another reason for the lingering student unease is that the Socratic Method places in high relief the absence of easy answers to legal problems. I do not mean to suggest that there are no easy legal answers; of course there are. Some statutes are unproblematically clear; some taxpayers face no intractable problems in computing their tax liability. But focusing on the black-letter law or on less challenging legal questions would not long hold the attention of either students or professors, nor would it be a sensible allocation of our resources. We apply legal reasoning, as well as our policy and value judgments, to questions that lack clear answers and problems that defy simple solutions. In this environment, students can sometimes be frustrated by the uncertainty and superficial indeterminacy. Students' feelings of unease and discomfort may be heightened during the first year, when the Socratic Method is the dominant teaching style. They are confronting a new vocabulary, unfamiliar logical analysis, and the unusual form of narrative found in appellate court cases. Professors must be aware of these feelings and take them into account during interactions with students. But to provide certainty where there is none or to give a neat framework where the

law is messy is to teach dishonestly.

My description of the modern Socratic Method is vulnerable to the mirror image of the criticism I leveled earlier against Professor Guinier for relying on its harsh stereotype. Some might claim that I have painted too rosy a picture of the Socratic Method, using the ideal rather than reality to defend this technique against its detractors. I believe that the kind of Socratic Method I describe is closer to the technique used in most modern law school classrooms, but I also acknowledge that the teaching style can be misused. Guinier writes that women feel alienated when "the Socratic method is employed to intimidate" students. Of course they do, and those feelings of alienation and anger should be (and no doubt are) shared by their male colleagues. Professors who are intolerant of opposing perspectives, who are mean or rude to students, who abuse their power in order to intimidate students are bad teachers – whether they engage students in a Socratic dialogue or use a lecture format. Perhaps the Socratic Method provides more opportunities for such abusive behavior because it demands constant interaction between professor and students. But a bad teacher who does not use the Socratic Method can be offensive during a lecture or dismissively rude to students when they ask questions.

The solution to bad teaching is not to eliminate a challenging teaching strategy that, properly used, can enhance the law school experience; rather, we must try to discover and eliminate problems, in part through regular peer and student evaluations of teaching. As a faculty, we should discuss legal pedagogy and emphasize our commitment to fostering an atmosphere where ideas are analyzed rigorously and disagreement is welcomed as part of learning in an environment where all who participate are treated with respect. Such attention is necessary not only to identify abuse of the Socratic Method, but also to enable professors to improve their ability to use the Method to impart information effectively. Teaching legal reasoning and substantive law through a dialogue that is only partially scripted is a difficult task, and we should take advantage of opportunities to talk with each other and with students about ways to refine our skills.

The more common problem in the Socratic classroom is disrespectful treatment of students by some of their peers. Professor Guinier relates stories of students who roll their eyes at answers they deem unacceptable, throw pencils down in disgust, and resort to crude name-calling. This kind of behavior is a manifestation of the competition that inevitably occurs as students who have always excelled in their academic studies realize that all of them cannot continue that pattern in law school. Students will seek ways to distinguish themselves from their equally outstanding peers, and some will resort to strategies designed to denigrate other students rather than finding more constructive ways to succeed. We should not tolerate this kind of childish behavior in the law school community, and professors should be the first to condemn publicly the behavior that Guinier describes. During the University of Chicago's orientation panel on the Socratic Method, faculty members discuss the role of civility and tolerance in the law school classroom – a discussion that might be warranted regardless of the prevalent teaching method. An emphasis on civility should not be limited to the first day of school. In each class, a professor should emphasize the difference between cruel and destructive behavior and genuine debate and disagreement both by her example when she treats students with respect and by her strong reaction to any unprofessional behavior exhibited by students.

In some places, Guinier's critique seems to acknowledge that the Socratic Method used correctly and respectfully has a place in the law

school curriculum [e.g., page 58]. Even so, she argues that it may be disproportionately alienating or worrisome to women students. These conclusions seem to rest on the belief that women are different from men in the way that we respond to this kind of questioning and dialogue, to public speaking, and to legal analysis.[8] My experiences are different from Professor Guinier's and from those of many of the women that she quotes, but I am willing to assume that her description is accurate with respect to some women – and, I suspect, to some men. Unlike Professor Guinier, however, I conclude from these descriptions that the Socratic Method is a very good thing for such women who choose to become lawyers. Whether or not they choose to litigate in private practice or pursue other careers, women lawyers must present ideas to groups, defend those ideas, and propose solutions to legal problems. Participating in a dialogue in a classroom (a relatively safe place compared to the professional world) affords an invaluable opportunity to learn and improve those indispensable skills. The training provided by the Socratic Method may therefore be most important for students who experience the most discomfort when they are asked to engage in this form of legal discourse. In an atmosphere of relatively low stakes, these students have the chance to develop their analytical and oral advocacy skills. In this way, the Socratic classroom functions as a "safe space" for students, a term used several times in this book by those who responded to Guinier's survey [see, e.g., page 48]. If the respondents were using the term to mean a place where people can articulate their opinions without thinking about them critically or being forced to reassess their values and principles, then no law school classroom should be safe.

But Professor Guinier's discussion of women's perceptions of the law school classroom should cause us to think about some of our teaching techniques. For example, she finds, on the basis of surveys of about half of Penn's student body,[9] that women may volunteer less readily than men [page 43]. That conclusion, which is consistent with my observations of classroom dynamics,[10] justifies a

8 Claims that the Socratic Method has a disproportionate adverse impact on women are very difficult to assess accurately and comprehensively. A study to measure any such adverse impact would present complex empirical issues, such as how to find the appropriate control groups of women students and which Socratic and non-Socratic classrooms to use in assessing the impact of the different environments on women's performance. In addition, researchers would have to address difficult and logically prior analytical issues. Consider, for example, just some of the analytical challenges inherent in setting up the appropriate measure of "adverse impact." Suppose arguendo that we could show that the grades of women in Socratic classrooms were, on average, 5 units lower than their grades in non-Socratic classrooms, while the grades of men were only 2.5 units lower across the same comparison. But assume also that at the same time we observed that women in Socratic classrooms improved their oral advocacy skills by 5 units compared to their performance in non-Socratic classrooms, while men in Socratic classrooms improved their skills by only 2 units. Would such findings show, all things considered, that the Socratic Method "adversely" affects women? What other effects would have to be measured to make useful comparisons? (Thanks to Scott Brewer for helpful discussion on this point.)

9 Questionnaires were provided to every student attending the law school in April 1990; 366 of the 712 students chose to respond. Only 104 of those respondents answered the open-ended question from which many of the narratives are drawn [page 30]. The authors acknowledge a selectivity bias, noting a larger number of women than they expected and a smaller number of men than they expected answered the survey [page 112, n.20].

10 *See also* Elizabeth Mertz, *What Difference Does Difference Make? The Challenge for Legal Education*, J. Legal Educ. (forthcoming 1998) (with Wamucii Njogu and Susan Gooding) (surveying literature

decision to rely less on volunteers and more on students that one calls on. Indeed, professors who use the Socratic Method should alternate calling on men and women in class to produce gender parity in class participation. We should talk about issues in detail with both men and women to avoid the perception that women are thrown softballs or are asked fewer questions. Such practices ensure that all students – not just those who are the most aggressive about drawing attention to themselves – are heard in the classroom and that their ideas are discussed critically but respectfully. Professors also need to be conscious of the signals they send to students and must respond in similar ways to men and women and students of diverse backgrounds.

In a class with people of diverse backgrounds and experiences, professors should also take advantage of the heightened awareness of the relevance of class, race and gender to the cases and examples that we study. For example, accurately teaching *Hansberry v. Lee*,[11] a suit challenging restrictive racial covenants in a neighborhood near the University of Chicago, requires giving students a sense of the racial tensions in South Chicago and the role of the restrictive covenant cases in the NAACP's strategy toward integration. To discuss only its holding that class action suits were not necessarily unconstitutional is to provide a very cramped legal and historical understanding of this important case. Similarly, analyzing the notion of imputed income is more meaningful when we focus on the interaction between the tax treatment of such income with women's decision to work in the market, as well as its effect on society's perception of the relative value of housework and work outside the home.[12]

In short, professors should use the opportunity presented by the Socratic Method to help female and male students who may find this process intimidating develop important advocacy and reasoning skills. We must also take advantage of the opportunity presented by a classroom filled with students from different racial, geographic, and economic backgrounds to understand how the law is perceived by people in different ways and how it can be used in a variety of contexts to improve social and legal policies. I am not arguing that students must invariably act as representatives of their race, class or gender (a phenomenon indicted by Professor Guinier); indeed, I would be surprised if there were a monolithic "female" perspective on problems.[13] But a diverse student body, along with an increasingly diverse faculty, allows us to talk more intelligently and more fruitfully about the challenges that face the legal system in a heterogeneous society.

In her introductory chapter, Professor Guinier offers several suggestions for reform-

that reaches similar conclusions and providing her own analysis as part of the first systematic observational study of law school teaching conducted across multiple law schools).

11 311 U.S. 32 (1940).

12 *See* Nancy C. Staudt, *Taxing Housework*, 84 GEO. L.J. 1571 (1996).

13 *See also* Scott Brewer, *Pragmatism, Oppression, and the Flight to Substance*, 63 S. CAL. L. REV. 1753, 1762 (1990) (noting that "within an oppressed group there will be many competing perspectives"). Similarly, I am concerned about some of the implications of Professor Guinier's argument that she has a "special role" to play as a mentor of students who share her attributes of race and gender. She writes: "I value my role as a translator and facilitator, a beneficiary of and contributor to a transformed and transformative educational conversation with black women, people of color, and minority viewpoints of any color" [pages 96-97]. She acknowledges that she seeks "to transform the educational

ing the law school curriculum, a familiar theme in the large body of literature studying legal pedagogy and the law schools' role in training lawyers.[14] Professor Guinier writes that her recommendations for institutional reform, while prompted by her study of women's experiences, have wider relevance. "Restructuring legal education to benefit these women may also improve the experiences for all students. And, in the end, the process of reform, or at least reexamination, could have a beneficial effect on the practice of law itself" [page 72]. She argues that the case-method of study and the Socratic Method do not fully expose students to the range of problems they will confront as lawyers, nor do these methods allow students to develop all the skills necessary to solve such problems. She contends that "law faculty, law firms, public interest law organizations, and graduates [should] 'strategize backward' [from the qualities demanded of lawyers] to identify what skills, talents, angles of vision need to be sharpened, invented or unearthed by law school students prior to graduation" [page 20].[15]

Professor Guinier reminds us that the legal academy is designed to teach lawyers, and most lawyers do more than write legal briefs and argue before appellate judges. She calls into question the appellate-court-centrism that pervades law schools and unwisely nar-

dialogue for *all* my students," and she "take[s] issue with the idea that someone of a given person's own gender or racial or ethnic group is necessarily a model or representative for that person" [page 90]. Nonetheless, despite these gestures toward universalism, she concludes the chapter by stating that she has special responsibilities to engage "particular students" [page 97]. The argument that women have special responsibilities for women students, or that racial minorities bear special responsibilities for others of their race, has elicited a great deal of thoughtful debate. *See, e.g.,* Randall Kennedy, *My Race Problems – And Ours*, Atlantic Monthly, May 1, 1997 ("I contend that in the mind, heart, and soul of a teacher there should be no stratification of students such that a teacher feels closer to certain pupils than to others on grounds of racial kinship. No teacher should view certain students as his racial "brothers and sisters" while viewing others as, well, mere students."); David B. Wilkins, *Two Paths to the Mountaintop? The Role of Legal Education in Shaping the Values of Black Corporate Lawyers*, 45 Stan. L. Rev. 1981 (1993) (discussing, in the context of professional ethics, corporate practice, and law school education, the thesis that black lawyers have a special obligation to advance the interests of the black community). I find the notion of a special responsibility troubling because it is the responsibility of all of us to help groups who suffer disadvantages, not the special or sole responsibility of those who share traits of race, ethnicity, or gender with those whom they can, and should, assist. A professor owes a responsibility to all her students who work to become lawyers and look to her for help in that endeavor, and she should pay particular attention to those who can benefit the most from her advice and support. Perhaps women will be more comfortable turning to female professors for guidance because of their gender. But these students should seek to learn from the example, experience, and knowledge of all faculty members who are willing to serve as mentors, men as well as women, and people of ethnic, religious, and racial backgrounds different from theirs.

14 *See, e.g.,* Jerome Frank, Courts on Trial: Myth and Reality in American Justice 233-242 (1949) (rejecting the case-method style of teaching and arguing for a transformation of the law school curriculum so that students learn a variety of legal skills and receive practical training).

15 Law schools cannot effectively teach all the skills that a lawyer will use; some training must inevitably occur on the job. Thus, the strategizing that Professor Guinier describes should consider both the training programs in educational institutions, including clinical opportunities and other skills-oriented courses, and the training appropriately provided by law firms and other employers, both in summer programs and through permanent employment.

rows our pedagogical focus. Many lawyers will never enter a courtroom as advocates, but they will counsel clients, devise strategies for legal challenges to social institutions like schools or prisons, draft legislation and advise state and federal lawmakers, or run businesses. All lawyers can benefit, however, from some study of judicial opinions which helps them master legal reasoning and become familiar with legal drafting. Similarly, the Socratic Method provides all students greater confidence about talking to large groups, allows them to develop the ability to argue forcefully and persuasively, and teaches them to think critically. It may make sense, then, for professors who teach first-year classes to rely primarily on the Socratic Method and perhaps to use the case method of study during much of the year to familiarize students with legal writing and reasoning. But law schools should diversify their offerings, particularly in the second and third years, so that students develop a wider array of skills and are able to pursue particular substantive interests. Of course, professors teaching upper-level courses who do not use the case method may still engage students in Socratic discourse. For example, lawyers who draft legislation will spend a great deal of time critically examining policy options and methods of implementation, as well as working to understand political realities; thus, a legislative process course can be taught effectively using the Socratic Method, perhaps supplemented by exercises that groups of students work through.

In fact, since this critique of law schools was first sounded decades ago, the legal academy has changed dramatically to meet the challenges of the modern legal profession. Many schools construct the first-year curriculum so that at least one substantive course, in addition to the legal writing class, is a relatively small class. In such an environment, for example, a contracts professor could require students to draft contracts or focus on other transactional skills. Smaller classes allow professors to provide more feedback on written assignments or practice exams, and to require students to work as teams to present arguments and ideas. A few schools offer seminars taught by a member of the academic faculty and a practitioner so that students see more immediately the connection between theory and practice.[16] These and other seminars may encourage students to work cooperatively to solve problems or require them to negotiate with other groups of students. My colleague Dan Kahan, recognizing that the legal academy is one of the professions for which our students are training, has designed a seminar to teach students how to write a scholarly paper and present it in a jobtalk format. Law schools are professional schools, and our first obligation is to train students to be good and thoughtful lawyers in whatever job they choose. One challenge is to provide such training while maintaining an academic environment that also fosters intellectual inquiry and scholarly debate, aspects of legal education with less apparent practical benefits but vital to the attorney's role in the development of the law and the formation of public policy.

My frustration with this part of Professor Guinier's project is that she suggests very little in the way of concrete curricular changes, nor does she advance the debate significantly. How would she encourage cooperative learning in, say, a corporations class of 150 students? She cannot rely wholly on a shift to smaller classes and more seminars given the student-to-teacher ratio in most law schools, a reality that cannot easily be changed with-

16 For example, the University of Virginia Law School offers such seminars as part of its Principles and Practice Program.

out serious economic ramifications. How can clinical education be restructured so that students are exposed to transactional work as well as litigation? Many law firms have developed pro bono practices for their corporate, tax and transactional attorneys; perhaps such programs can provide a model for a new kind of clinical experience that includes pursuing regulatory and zoning work, writing articles of incorporation, and counseling clients on contract matters and estate planning. Legal writing classes could include exercises in drafting legislation and contracts, as well as in writing briefs and participating in moot courts. How should a school evaluate its efforts to adopt innovative teaching strategies and new learning environments? Not all the skills involved in becoming a lawyer can be taught by the law schools; some must be learned on the job. We need to establish ways to determine when curricular experiments have been successful, and when they have not. Perhaps in her future work on legal pedagogy, Professor Guinier will turn to these challenging questions, as well as providing her assessment of the innovations in legal education that many schools have been implementing over the past several decades.

One of finest teachers at the University of Chicago, Professor Norman Maclean, the author of *A River Runs Though It*, presented "a few remarks on the art of teaching" two decades ago.[17] He ended his remarks with the definition of "teaching" that he thought his father, a taciturn Presbyterian minister, might have offered. "Teaching is the art of conveying the delight that comes from an act of the spirit (and from here on the Presbyterianism gets thicker), without ever giving anyone the notion that the delight comes easy."[18] The Socratic Method, as it is currently used by professors throughout the country, is admirably suited to conveying to women and men who seek to become lawyers the delight in understanding, improving, and applying the law and the difficulties inherent in that endeavor. Professor Guinier's failure to assess the Method as it should be, and often is, practiced in the modern legal classroom undermines some of her larger conclusions. The Socratic Method is an important tool of legal pedagogy, one of many that law schools should use to prepare students to excel in the varied careers open to them.

17 Norman F. Maclean, *"This Quarter I am Taking McKeon": A Few Remarks on the Art of Teaching*, U. Chi. Mag., Jan./Feb. 1974, at 8.

18 *Id*. at 12.