

Editorial

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As ever, this issue of the journal provides wonderful examples of work in the field as well as highlighting continuing scope, and need, for further progress and development. We see the possibility of utilising different approaches to teaching and learning in Public Legal Education (PLE) and considerations to take into account when drawing on existing pedagogy and resources.

Our issue starts with an article by Latia Ward which looks at the origins of law-related education in the United States and its interpretation at state level in K-12 education, which is predominantly as a means of preventing violence. The author looks beyond this asserting that law related education is a branch of civics with a wider brief to be taught in schools (and indeed also outside of the classroom), across all states and beyond the remit of violence prevention. Ward makes a strong case for its inclusion as part of K-12 education and explores this within the context of her own experience developing programmes and reflecting upon lessons learnt and key resources.

Our second article, by Abiodun Michael Olatokun, explores the importance of access to justice with a focus on the ability of citizens to challenge public decisions. The author addresses barriers to achieving this which includes, but does not end with, the

availability of legal aid and emphasises the importance of legal capability, and the role that Public Legal Education can play in achieving this, as a means of increasing this access. We are provided with valuable insight into the limitations of Government progress or support in promoting or prescribing PLE and the shortcomings of initiatives to date, whilst also recognising potential means by which more can be done and a call for increased PLE provision.

We then move to Sean Molloy's article which explores the history of training and education of police recruits and the drivers towards change. The author draws upon his own experience of teaching police recruits addressing the challenges of doing so and proposing an alternative human rights-based approach to achieving technical legal knowledge whilst also developing critical thinking skills- both of which are considered fundamental to the role. There is a fascinating discussion here about approaches to education which will resonate, and merit further thought for many readers.

We then turn to a practice report by Jane Secker, Chris Morrison and Frances Ridout, which highlights the value of using open educational resources within our Street Law programmes. This is illustrated by a case study which reflects upon and evaluates the experiences of students involved in a Street Law project in which they adapted and developed such a resource, Copyright the Card Game. The authors explore the skills and abilities which can be gained by this and the challenges in asking students to engage in this way as well as the value of expanding Street Law into a range of perhaps

less commonly covered areas- in this case the topic of copyright. As the article notes, the Street Law community welcomes the sharing of information and resources and this article seeks to consider the possibilities for doing so by also utilising open educational practices.

We close this issue with a review of the UK and Ireland Street Law conference which took place in April 2022. This review, told from a student perspective, provides a valuable summary of Street Law activities across this jurisdiction and beyond and includes important considerations and practices for this work.

On the topic of conferences, many of our readers will have attended the European Network for Clinical Legal Education conference in Brescia in July 2022 or be planning to attend the GAJE/IJCLE/SAULCA worldwide conference in December. Undoubtedly the themes of these conferences are relevant to our work in the field of PLE. I would encourage you to consider whether your delivered or planned presentations could be translated into papers for inclusion in our next issue of the journal. We would welcome contributions including regarding best practice, pedagogy underpinning PLE and evidence of the need and impact of this work in your jurisdiction. Further details regarding the focus and scope of the journal can be found at <https://www.northumbriajournals.co.uk/index.php/ijple/about>.

From the Field: Law-Related Education as a Branch of Civics Education in the United States

*Latia Ward*¹

Introduction

Law-related education is “education to equip nonlawyers 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.”² Law-related education is a branch of civics education although there is overlap between law-related topics and civics topics because both areas include the study of the Bill of Rights, the study of the function of government institutions, and the study of one’s rights with respect to voting, jury duty, etc. Often, the terms law-related education and civics education are used interchangeably. However, there is a trend for law-related education to be associated with violence prevention. In this article, I provide an overview of the origin of law-related education, a discussion of a law-related education program that I developed for K-12³ students, my reflections on implementing the program, key resources that I found during

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² Law-Related Education Act of 1978, Pub. L. No. 95-561, 92 Stat. 2216 (1978) *repealed by* 20 U.S.C. § 3863(a)(1) (1982). <https://perma.cc/G75R-AFKD> and <https://perma.cc/8TAQ-M8R6>

³ In the United States, *K-12* refers to the education of students in grades Kindergarten through twelve before these students enter higher education such as college or university. Generally, elementary school consists of grades Kindergarten through five, middle school consists of grades six through eight, and high school consists of grades nine through twelve. See also Macmillan Dictionary. (n.d.). *K-12*. <https://perma.cc/5D7A-SV6S>

my planning, an overview of state laws that address K-12 law-related and civics education requirements, an analysis of North Carolina's civics education requirement, and an overview of civics education programs outside the K-12 classroom.

Origin of Law-Related Education

The late Isidore Starr, social studies teacher and lawyer, is the father of law-related education in the United States.⁴ In the 1950s and 1960s, he prepared case studies of current U.S. Supreme Court cases for use in the classroom.⁵ While Starr is one of the more well-known people in the field of law-related education, with an American Bar Association award being named in his honor,⁶ there are others who were instrumental in the beginnings of law-related education in the United States. Through the work of Minna Post Peyser, the National Assembly on Teaching the Principles of the Bill of Rights became affiliated with Columbia University and Teachers College.⁷

The 1970s were a particularly innovative time for law-related education.⁸ In 1972, law students founded the Street Law program to teach high school students practical legal principles at Georgetown University Law Center in Washington, DC.⁹ In 1975, West

⁴ Feinstein, S., & Wood, R. (1995). *History of law-related education* at 10. (ED401163). ERIC. <https://perma.cc/KCL2-8VFM>

⁵ *Id.*

⁶ American Bar Association Division for Public Education. (n.d.). *Isidore Starr Award for Excellence in Law-Related Education*. <https://perma.cc/4SZ2-47A9>

⁷ Feinstein & Wood, *supra* note 3 at 12.

⁸ I have prepared a Timeline of Juvenile Law and Related Topics at <https://civicsguide.com/chronology/>.

⁹ Arbetman, L. (2018). Street Law, Inc.: context, history and future. *International Journal of Public Legal Education*, 2(1), <https://perma.cc/P8RH-2E4D>

published the textbook, *Street Law: A Course in Practical Law* for schools across the nation.¹⁰

In 1977, the American Bar Association published the first issue of *Update on Law Related Education*.¹¹ In 1978, Congress passed the Law-Related Education Act of 1978.¹²

Practical Life Lessons

Law-related education programs continue to this day. As a member of the Young Lawyers Division of the North Carolina Bar Association, I was invited to speak to a group of high school students regarding the North Carolina Bar Association publication entitled *Life & Laws 101: Citizenship Rights and Responsibilities Over 18*.¹³ I began thinking about how to present rights and responsibilities concepts to high schoolers and my interest in law-related education continued well after the presentation had concluded. I began saving news articles that dealt with issues of civics education.¹⁴ Later, as part of my course work in the Master of Science in Library Science degree program at the University of North Carolina at Chapel Hill, I designed and completed a service-learning project called

¹⁰ National Street Law Institute & District of Columbia Project on Community Legal Assistance. (1975). *Street law: a course in practical law*. West.

¹¹ The American Bar Association replaced *Update on Law Related Education* with *Insights on Law and Society* in 2000.

¹² Law-Related Education Act of 1978, Pub. L. No. 95-561, 92 Stat. 2216 (1978) *repealed by* 20 U.S.C. § 3863(a)(1) (1982). <https://perma.cc/G75R-AFKD> and <https://perma.cc/8TAQ-M8R6>

¹³ North Carolina Bar Association Young Lawyers Division Civic Education Outreach Committee. (2015). *Life & Laws 101: Citizenship Rights and Responsibilities Over 18*.

<http://web.archive.org/web/20150923012636/http://www.ncbar.org/media/95451/Life-and-Laws-101.pdf>

¹⁴ Also, during this time, I read a book entitled *No One Will Listen* by Lois Forer about Forer's work as an attorney for indigent youth in the late 1960s in Philadelphia. While the book focused on access to justice for youth rather than law-related education, it was useful for the insights that Forer provided about youth and the legal system. Forer, L.G. (1971). *"No one will listen": how our legal system brutalizes the youthful poor*. Grosset & Dunlap.

*Practical Life Lessons*¹⁵ at a high school in Durham, North Carolina. My service-learning project included teaching ninth and twelfth graders their rights and responsibilities and allowing time for questions and discussion. Knowing that not all students would speak up during the class discussion, I used exit tickets (end-of-class surveys in which students may write responses to questions I have asked them or write down questions to ask me) to see how the students were apprehending the information presented. For the session entitled "How to Be Safe on Social Media," I discussed a student who had many Facebook friends. The student told her Facebook friends about her father's confidential settlement with his employer.¹⁶ At the end of the lesson, students wrote responses on exit tickets such as "Everything you post is linked to some form of personal information," and "I will change my Facebook privacy settings." For the lesson, "Never Leave Your Luggage Alone at the Airport," I discussed Indonesia's death penalty for smuggling drugs, the Indonesian government's sentencing to death of people caught drug smuggling,¹⁷ and how one should be vigilant regarding one's luggage at the airport. One student wrote in an exit ticket, "I learned how to be more cautious with my luggage." The students were

¹⁵ Ward, L. (2015). *Practical life lessons* [PowerPoint slides]. SlideShare.

<https://www.slideshare.net/practicallifelessons>

¹⁶ Green, T. (2014, February 28). Who Is Dana Snay? College Student's Facebook Bragging Costs Father \$80,000 Lawsuit Settlement. *International Business Times*. <https://archive.ph/6Q0ga>

¹⁷ Phipps, C. (2015, April 28). Who were the eight people executed by Indonesia? *The Guardian*. <https://perma.cc/9PPQ-E5M6>

interested in the topics presented and they were learning about their rights and responsibilities.

Reflections

I have had opportunities to reflect on the law-related education program that I designed and implemented for high schoolers. The first opportunity came in 2015 when I spoke at the North Carolina School Library Media Association (NCSLMA) 2015 Conference and discussed the Program's content.¹⁸ In spring 2016, I reflected on the Program when I created a version of the program for middle school students. Another opportunity to reflect came when I wrote *Five Key Points for Developing an Informative "Know Your Rights" Seminar* which was published in the fall 2016 issue of the American Bar Association Young Lawyers Division Public Education Committee Newsletter.¹⁹

These opportunities to reflect have led me to the following conclusions about law-related education programs:

1. Providing attendees with information they can review later, even if the information is only a link to a website is key. In 2015, I provided the link to my slides for *Practical Life Lessons* to the students.

¹⁸ Ward, L. (2015, October 24). *A Sea of Information: Navigating the Waters of Digital Citizenship, Rights, and Responsibilities* [Conference Session]. North Carolina School Library Media Association Conference, Winston-Salem, NC, United States.

¹⁹ Ward, L. (2016). Five Key Points for Developing an Informative "Know Your Rights" Seminar. *American Bar Association Young Lawyers Division Public Education Committee Newsletter*, 2(1). <https://perma.cc/9STS-2VTU>

2. Providing content that fits the format of the program and the interests of the attendees is important. I have led law-related education programs in 20-minute and one-hour timeframes. The time-allotted affects the breadth and depth of what I am able to cover. In 20 minutes, I am able to introduce a topic and save the remaining ten minutes for discussion. In one hour, I am able to provide more details about the topic and lead a lengthier group discussion. The topics I selected for the initial iteration were based on students' interests and experience. I selected "How to be Safe on Social Media" because many students have social media accounts. I selected "Never Leave Your Luggage Alone at the Airport" because the students attending the program were at a high school that sponsored travel programs.

Key Resources

In preparing for the law-related education programs that I implemented in spring 2015 and 2016, I came across many resources, however six stand out:

- The original *Street Law* textbook entitled *Street Law: A Course in Practical Law*,
- *Breaking Rank* by Norm Stamper,
- *The Privilege of Silence* by Steven M. Salky,
- *Once Upon a Crime* by Wanda Cassidy and Ruth Yates,

- *Law-Related Education as a Delinquency Prevention Strategy: A Three-Year Evaluation of the Impact of LRE on Students*, by Grant Johnson and Robert Hunter, and
- The Law-Related Education Act of 1978.

The original Street Law textbook was published by West Publishing Company in 1975²⁰ and is the work of former and current law students of Georgetown University Law Center as well as attorneys. It covers practical topics in the field of law such as consumer law, housing law, and criminal law. The book has an outline format and hypothetical problems for class discussion. While I was lesson planning, the book served as a reminder that even from the early days of law-related education programs, law-related education was meant to be practical and applied to everyday life. *Breaking Rank* by Norm Stamper²¹ and *The Privilege of Silence* by Steven M. Salky²² provided useful information such as what happens when average citizens encounter the police and the origin of the Miranda Warnings as I was planning the *Right to Remain Silent* activity²³ in 2015. Wanda Cassidy and Ruth Yates' book *Once Upon a Crime*²⁴ was notable because it supports the notion that

²⁰ National Street Law Institute & District of Columbia Project on Community Legal Assistance, *supra* note 9.

²¹ Stamper, N. (2006). *Breaking rank: a top cop's exposé of the dark side of American policing*. Nation Books.

²² Salky, S.M., et al. (2014). *The privilege of silence: Fifth Amendment protections against self-incrimination*. American Bar Association.

²³ Ward, L. (2015). *Practical life lessons* [PowerPoint slides]. SlideShare. <https://www.slideshare.net/practicallifelessons>

²⁴ Cassidy, W. & Yates, R. (2005). *Once upon a crime: using stories, simulations, and mock trials to explore justice and citizenship in elementary school*. Detselig Enterprises.

even younger youth can be introduced to concepts of rights and responsibilities. In *Once Upon a Crime*, Cassidy and Yates provide guidelines and plans for implementing mock trials in Kindergarten through fifth grade classrooms.

Grant Johnson and Robert Hunter's report entitled *Law-Related Education as a Delinquency Prevention Strategy: A Three-Year Evaluation of the Impact of LRE on Students* prompted me to think about the impact of law-related education on students beyond the classroom. The report is particularly useful for its enumeration and explanation of features necessary for an effective law-related education program. These recommendations include "that the system be depicted neither as infallible nor as a nightmare."²⁵ The discussion of negative realities of the legal system and how people can work within the legal system to advocate for their rights needs to be balanced. From the beginning, law-related education programs have embraced controversial topics,²⁶ however, law-related education was not intended to be a depressing session where people share grievances or engage in never-ending arguments. In the law-related education program that I led in 2015, I spoke of practices students could implement in their daily lives such as not putting one's or one's parents' daily schedule information on social media (and why).

²⁵ Johnson, G. & Hunter, R. (1985). *Law-Related Education as a Delinquency Prevention Strategy: A Three-Year Evaluation of the Impact of LRE on Students* (adapted from *Law-Related Education Project Final Report, Phase II, year 3*) (Publication Number 99991). National Criminal Justice Reference Service. <https://perma.cc/9ZYA-EZQA>

²⁶ Feinstein & Wood, *supra* note 3.

The Law-Related Education Act of 1978 was part of a larger Education Amendments Act, however, sections 346, 347, and 348 dealt specifically with law-related education. In Section 346, Congress stated that it had found that there was a “widespread lack of understanding of how our system of law and legal institutions work.” Furthermore, “such an understanding is essential” for youth to become knowledgeable and responsible citizens and “there is an urgent need for Federal involvement” to develop law-related education programs.²⁷ Section 347 included the definition of law-related education that I stated above and empowered a Commissioner to carry out a program of grants so that local actors could implement law-related education programs at the local level. These programs would be for youth and adults, in community organizations, as well as schools and universities.²⁸ Section 348 authorized \$15 million to implement the provisions of the Act.²⁹ Accounting for inflation, the amount would be approximately \$62 million in 2021.³⁰ The law was repealed in 1982.³¹

²⁷ Law-Related Education Act of 1978, Pub. L. No. 95-561, 92 Stat. 2216 (1978) *repealed by* 20 U.S.C. § 3863(a)(1) (1982). <https://perma.cc/G75R-AFKD> and <https://perma.cc/8TAQ-M8R6>

²⁸ *Id.*

²⁹ *Id.*

³⁰ United States Bureau of Labor Statistics. (n.d.). *CPI Inflation Calculator*. https://www.bls.gov/data/inflation_calculator.htm

³¹ Law-Related Education Act of 1978, Pub. L. No. 95-561, 92 Stat. 2216 (1978) *repealed by* 20 U.S.C. § 3863(a)(1) (1982). <https://perma.cc/G75R-AFKD> and <https://perma.cc/8TAQ-M8R6>

State Laws that Address K-12 Law-Related Education Focus on Violence Prevention

State statutes that address law-related education programs in the K-12 context focus on violence prevention as the goal and not necessarily the goal of educating students to learn the day-to-day rights and responsibilities of citizens. In Alabama, law-related education is "[e]ducation which provides children and youth with the knowledge and skills pertaining to the law, the legal process, school safety, and citizenship responsibilities to promote law-abiding behavior with the purpose to prevent children and youth from engaging in delinquency or violence and enable them to become productive citizens."³² In Arizona, schools may apply for funding to offset the costs of placing school resource officers, juvenile probation officers, school counselors and school social workers at the school. ³³ Schools that apply for the school safety program must have "[a] plan for implementing a law-related education program or a plan that demonstrates the existence of a law-related education program as a school safety prevention strategy."³⁴ In addition, the governing board of schools may "[e]nter into an intergovernmental agreement with a presiding judge of the juvenile court to implement a law-related education program as defined in section 15-154."³⁵ The Colorado Revised Statutes mention "rights and

³² ALA. CODE 1975 § 16-1-24.2(a)(2).

<http://alisondb.legislature.state.al.us/alison/CodeOfAlabama/1975/Coatoc.htm>

³³ ARIZ. REV. STAT. § 15-154(A) and (B)(2) (2021). <https://perma.cc/8JR8-N9Z7>

³⁴ *Id.*

³⁵ ARIZ. REV. STAT. § 15-342(34) (2021). <https://perma.cc/FUW8-ALCV>

responsibilities of citizenship” as a topic within law-related education programs,³⁶ however, these law-related education programs are not mandated but “strongly encourage[d]”³⁷ and their goal is to promote “behavior which will reduce through education the incidence of gang or other antisocial behavior and substance abuse by students in the public school system.”³⁸ In addition, entities such as schools that seek funding for comprehensive health education programs must “include provisions for the implementation of a law-related education program for the purpose of reducing the incidence of gang involvement and substance abuse by students through education” in their applications.³⁹ Iowa requires its department of education to “develop a statewide violence prevention program based on law-related education.”⁴⁰ Effective July 1, 2022, New Mexico will require school resource officers to receive training in “a variety of instructional techniques as well as classroom management tools to provide law-related education to students.”⁴¹ In Ohio, a certified training program for school resource officers must include “Providing assistance on topics such as classroom management tools to provide law-related education to students and methods for managing the behaviors sometimes associated with educating children with special needs.”⁴² New Jersey requires

³⁶ COLO. REV. STAT. ANN. § 22-25-104.5(2)(b)(I) (2022). ([Lexis Advance](#)).

³⁷ COLO. REV. STAT. ANN. § 22-25-104.5(1)(b) (2022). ([Lexis Advance](#)).

³⁸ COLO. REV. STAT. ANN. § 22-25-104.5(1)(a) (2022). ([Lexis Advance](#)).

³⁹ COLO. REV. STAT. ANN. § 22-25-105 (2022). ([Lexis Advance](#)).

⁴⁰ IOWA CODE § 280.9B (2022). <https://perma.cc/EY7Z-DUAB>

⁴¹ N.M. STAT. ANN. § 29-7-14(B)(4) (2021). https://nmonesource.com/nmos/nmsa/en/nav_date.do

⁴² OHIO REV. CODE ANN. § 3313.951(B)(3)(e)(20). <https://perma.cc/6E8N-35C7>

its Police Training Commission to develop a training course for safe school resource officers and public school employees who are liaisons to law enforcement.⁴³ In the legislative findings for the law, the New Jersey Session laws note that “most safe schools resource officers perform many roles, including law enforcement officer, law-related counselor and law-related education teacher.”⁴⁴ Throughout the aforementioned statutes, law-related education is associated with preventing violence in school and the work of school resource officers.

Colorado,⁴⁵ Washington,⁴⁶ and Wyoming⁴⁷ permit participation in a law-related education program as a sentencing option for youth in youth courts. Associating law-related education only with policing and violence-prevention is problematic when there is controversy over whether police should work in schools at all. Schools in Columbus, Ohio removed school resource officers in response to student protests against a police presence in the schools.⁴⁸ Schools in Madison, Wisconsin removed school resource officers to adopt

⁴³ N.J. STAT. § 52:17B-71.8.

<https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>

⁴⁴ 2005 N.J. Laws Chapter 276. <https://perma.cc/29A8-T5XM>

⁴⁵ COLO. REV. STAT. ANN. § 19-2.5-1004 (2022) ([Lexis Advance](#)).

⁴⁶ Participation in law-related education is a youth court disposition. WASH. REV. CODE § 13.40.630(1)(a).

<https://perma.cc/GE95-DH42> Participation in law-related education may be part of a youth court agreement. WASH. REV. CODE § 3.72.020(2)(e). <https://perma.cc/E75R-8636>

⁴⁷ WYO. STAT. ANN. § 7-13-1204(a)(viii)(B) (2021) ([Lexis Advance](#)).

⁴⁸ Schwartz, S., Sawchuk, S., Pendharker, E. & Najarro, I. (2021, June 4). *These districts defunded their school police. What happened next?* EducationWeek. <https://perma.cc/5ZN5-ZGBH>

a restorative justice approach and schools in Oakland, California removed school resource officers to fulfill a request from the community.⁴⁹

The origin of law-related education includes instruction on rights, responsibilities, government institutions, and current court cases of interest as topics to be taught during civics lessons in the classroom, therefore, mentions of law-related education in state law should not be confined to the context of violence-prevention and sentences in youth court. Those involved with law-related education programs should advise state legislatures that law-related education is part of civics education and not primarily a sentencing option in youth court or a subject for police officers who work in schools.

Legislation that Addresses Civics Education in the K-12 Context Throughout the United States

Law-related education is a branch of civics and as such may be taught in schools even though the terminology “law-related education” is not used. States that do not mention civics education in their laws as well as states that do mention civics education in their laws may require civics education through curricula approved by their departments of education and therefore, civics may still be taught in their schools.⁵⁰ My research has

⁴⁹ *Id.*

⁵⁰ The report *Strengthening Democracy with a Modern Civics Education* focuses on civics education requirements set by local departments of education and lists all civics education requirements from local departments of education for K-12 curricula for all 50 states and the District of Columbia. Jeffrey, A. & Sargrad, S. (2019). *Strengthening Democracy With a Modern Civics Education*. Center for American Progress. <https://perma.cc/Z7VT-P9FW>

yielded 28 states that address K-12 civics education in their statutes. Alabama requires students to pass a course in government which includes a civics test.⁵¹ Arizona provides for the recognition of K-12 students who excel in civics through a state seal of civics literacy program.⁵² Arkansas' requirements for social studies courses include civics.⁵³ Colorado requires the teaching of history and civil government in schools and requires that the civics portion of social studies complies with the subjects outlined in the law.⁵⁴ In Connecticut, Students are required to take a half-credit course on civics and American government to receive a high school diploma and the civics education requirement continues for classes graduating in 2023 and later.⁵⁵ In Florida, of the three social studies credits required to receive a high school diploma, a half-credit must be in government.⁵⁶ Idaho requires civics education or "instruction in citizenship" in all elementary and secondary schools and secondary students must pass a civics test and take a course in United States Government.⁵⁷ Indiana requires that instruction in the Constitutions of Indiana and the United States must be included as part of a civics course.⁵⁸ Kansas requires instruction in civil government and United States history as well as passing a

⁵¹ ALA. CODE 1975 § 16-40-10. <https://perma.cc/UX52-EJPD>

⁵² ARIZ. REV. STAT. § 15-259 (2021). <https://perma.cc/GCR4-HNZM>

⁵³ ARK. CODE ANN. § 6-16-148 (2022) ([Lexis Advance](#)).

⁵⁴ COLO. REV. STAT. ANN. § 22-1-104(1)(b) and (c) ([Lexis Advance](#)).

⁵⁵ CONN. GEN. STAT. § 10-221a(b) and (c). <https://perma.cc/7CJ6-J99G>

⁵⁶ FLA. STAT. § 1003.4282(d) (2021). <https://perma.cc/PB4L-9AW5>

⁵⁷ IDAHO CODE § 33-1602(6) and (7). <https://perma.cc/BB8C-QV76>

⁵⁸ IND. CODE § 20-30-5-1(b) (2021). <http://iga.in.gov/legislative/laws/2021/ic/titles/001>

course in United States Government to graduate from high school.⁵⁹ Louisiana requires all public high schools to provide instruction in civics.⁶⁰ Maine requires students to receive instruction in civics to receive a high school diploma.⁶¹ Massachusetts requires all public schools to teach civics.⁶² Michigan requires students to take a civics course to receive a high school diploma.⁶³ The civics course “shall include the form and functions of the federal, state, and local governments and shall stress the rights and responsibilities of citizens.”⁶⁴ Minnesota has set academic standards and civics are part of these standards.⁶⁵ Missouri requires students to take courses on the constitutions of the United States and Missouri, American history, institutions, and civics, and to pass a test on the aforementioned subjects to receive a certificate of graduation.⁶⁶ Montana aims for students to “develop a sense of personal and civic responsibility” and for schools to “provide an in-depth understanding of the American political, social, and economic systems and the historical context from which they arose” as two of its goals for public elementary and secondary schools.⁶⁷ Nebraska requires each school board to form a committee on American civics which must ensure that the social studies curriculum is

⁵⁹ KAN. STAT. ANN. § 72-3217 (2020). <https://perma.cc/NFX9-BEAG>

⁶⁰ LA. REV. STAT. § 274.1 (2021). <https://perma.cc/6XEJ-RKCF>

⁶¹ ME. REV. STAT. ANN. tit. 20, § 4722(2)(B) (2021). <https://perma.cc/3QDB-NJLE>

⁶² Massachusetts MASS. GEN. LAWS ch. 71, § 2 (2022). <https://perma.cc/LM38-BPRW>

⁶³ MICH. COMP. LAWS § 380.1278a(1)(a)(i) (2021). <https://perma.cc/T9BW-B3BW>

⁶⁴ MICH. COMP. LAWS § 380.1166 (2021). <https://perma.cc/M4LQ-ALAG>

⁶⁵ MINN. STAT. ANN. § 120B.021(4) (2020). <https://perma.cc/7L8J-GZKH>

⁶⁶ MO. REV. STAT. § 170.011(3) (2021). <https://perma.cc/3HU2-G67R>

⁶⁷ MONT. CODE ANN. § 20-1-102(4) and (5) (2021). <https://perma.cc/L6XG-U3K9>

aligned with standards adopted by the State Board of Education and “teaches foundational knowledge in civics.”⁶⁸ New Hampshire requires students to take a half-credit civics course to graduate from high school.⁶⁹ New Mexico provides for civic engagement experiences for its students. A “civic engagement experience” is one of three options that students may select to complete for “college, career and civic readiness.”⁷⁰ New York requires public day schools to teach civics.⁷¹ North Carolina requires students to pass the course “Founding Principles of the United States of America and North Carolina: Civic Literacy” to graduate from high school.⁷² North Dakota requires students to take one unit of social studies which may include civics to graduate from high school.⁷³ Oklahoma requires students to take three units of history and citizenship skills to graduate from high school.⁷⁴ Oregon requires public schools to teach students civics.⁷⁵ Rhode Island requires middle and high school students to demonstrate proficiency in civics education.⁷⁶ The Tennessee State Board of Education must include civics in the social studies standards and “an understanding of how laws are enacted, and ways citizens shape and influence government and governmental actions.”⁷⁷ Utah has

⁶⁸ NEB. REV. STAT. ANN. § 79-724(1)(c). <https://perma.cc/7JKZ-VX7R>

⁶⁹ N.H. REV. STAT. ANN. § 189:11. <https://perma.cc/963N-97V6>

⁷⁰ N.M. STAT. ANN. § 22-2F-2(C) (2022). https://nmonesource.com/nmos/nmsa/en/nav_date.do

⁷¹ N.Y. EDUC. LAW § 3204 (2022). <https://perma.cc/TFA6-7YJN>

⁷² N.C. Gen. Stat. § 115C-81.45(d)(**Applicable to students entering the ninth grade in the 2021-2022 school year**)(1). <https://perma.cc/A3XG-EZJM>

⁷³ N.D. CENT. CODE § 15.1-21-02.2(1)(d)(3) (effective through July 31, 2025). <https://perma.cc/W9DT-5GPT>

⁷⁴ OKLA. STAT. TIT. 70 § 11-103.6(B)(4). <http://www.oklegislature.gov/osStatuesTitle.aspx>

⁷⁵ OR. REV. STAT. ANN. § 329.025(8) (2019). <https://perma.cc/W4NV-NM5B>

⁷⁶ R.I. GEN. LAWS ANN. § 16-22-2. <https://perma.cc/3ABC-UXG9>

⁷⁷ TENN. CODE ANN. § 49-6-1028(b)(1) (2021) ([Lexis Advance](#)).

implemented a pilot program in which the state board will assess whether it will require students to complete a civics engagement project to receive a high school diploma.⁷⁸ Wyoming includes civics in the definition of a “basic academic educational program.”⁷⁹ Alaska,⁸⁰ Illinois,⁸¹ and Vermont⁸² are states that have bills addressing civics education pending before their legislatures. The Alaska State Legislature’s S.B. 72 requires the board “to develop and periodically review a statewide civics education curriculum that is based on the civics portion of the naturalization examination used by the United States Citizenship and Immigration Services of the Department of Homeland Security and primary source documents. The curriculum must also include systems of government used by Alaska Natives.”⁸³ The Illinois General Assembly’s S.B. 1830 requires two years of social studies and one of these semesters must be civics.⁸⁴ The Vermont General Assembly’s S. 17 requires students to take and pass a course in United States civics to receive a high school diploma.⁸⁵

⁷⁸ UTAH CODE § 53G-10-204(6)(a). <https://perma.cc/KQ7J-R984>

⁷⁹ WYO. STAT. § 21-4-101(a)(6) (2021) ([Lexis Advance](#)).

⁸⁰ S.B. 72, 32d Leg., (Alaska 2021). <https://perma.cc/C6GB-K4YL> and <https://perma.cc/KML2-5EYS>

⁸¹ S.B. 1830, 102d Gen. Assemb., (Ill. 2021). <https://perma.cc/RB7U-B49R>

⁸² S. 17, 2021 Gen. Assemb., (Vt. 2021). <https://perma.cc/R35W-2ZQC> and <https://perma.cc/6LTJ-UQND>

⁸³ S.B. 72, 32d Leg., (Alaska 2021). <https://perma.cc/C6GB-K4YL> and <https://perma.cc/KML2-5EYS>

⁸⁴ S.B. 1830, 102d Gen. Assemb., (Ill. 2021). <https://perma.cc/RB7U-B49R>

⁸⁵ S. 17, 2021 Gen. Assemb., (Vt. 2021). <https://perma.cc/R35W-2ZQC> and <https://perma.cc/6LTJ-UQND>

The United States Citizenship and Immigration Services Civics Test has a role in the assessment of student learning. Alabama,⁸⁶ Arkansas,⁸⁷ Kentucky,⁸⁸ Minnesota,⁸⁹ Montana,⁹⁰ Nevada,⁹¹ Tennessee,⁹² Texas,⁹³ and Wisconsin require students to pass an examination that contains questions from that test.⁹⁴ In addition, the Michigan Legislature has required the Michigan State Board of Education to “revise the state curriculum content standards for high school social studies to ensure that those content standards cover the same content as covered by the 100 questions on the civics portion of the naturalization test used by the United States Citizenship and Immigration Services as of December 1, 2016.”⁹⁵ In, Minnesota, an examination in civics must include questions from the United States Citizenship and Immigration Services Civics Test, however a school district may not prevent a student from graduating for failing to provide accurate answers these questions.⁹⁶ Missouri requires that students pass a test that includes questions similar to those on the United States Citizenship and Immigration Services

⁸⁶ Alabama requires students to pass a course in government which includes a test with questions from the United States Citizenship and Immigration Services Civics Test. ALA. CODE 1975 § 16-40-10(a).

<https://perma.cc/U3EK-CD9Q>

⁸⁷ ARK. CODE ANN. § 6-16-149 (2022) ([Lexis Advance](#)).

⁸⁸ KY. REV. STAT. ANN. § 158.141. <https://apps.legislature.ky.gov/lrcsearch>

⁸⁹ MINN. STAT. § 120B.02 <https://perma.cc/KE8L-5M5E>

⁹⁰ MONT. CODE ANN. § 20-7-119 (2021). <https://perma.cc/5PXD-UTRN>

⁹¹ NEV. REV. STAT. § 389.009. <https://perma.cc/S83S-26X5>

⁹² TENN. CODE ANN. § 49-6-408 (2021) ([Lexis Advance](#)).

⁹³ Texas requires students to pass a course in United States history which includes questions from the United States Citizenship and Immigration Services Civics Test. TEX. EDUC. CODE ANN. § 39.023(C-9). <https://perma.cc/H8J7-HJPS>

⁹⁴ WIS. STAT. § 118.33(1m)(a)1 (2021). <https://perma.cc/GVW4-DQFQ>

⁹⁵ MICH. COMP. LAWS § 380.1166 (2021). <https://perma.cc/M4LQ-ALAG>

⁹⁶ MINN. STAT. ANN. § 120B.02, subdivision 3 (2020). <https://perma.cc/D6X4-2RDV>

Civics Test.⁹⁷ South Carolina requires students to take a test with questions from the United States Citizenship and Immigration Services Civics Test, however, students are not required to pass the test.⁹⁸ Utah requires students to pass a “basic civics test” to receive a high school diploma.⁹⁹

Civics Education and “The Founding Principles” – North Carolina and Other States

North Carolina General Statutes 115C-81.45 addresses civics education.¹⁰⁰ In 2011, the North Carolina General Assembly adopted a version of the “Founding Principles Act,”¹⁰¹ a model statute developed by the American Legislative Exchange Council (ALEC).¹⁰² ALEC describes itself as “America’s largest nonpartisan, voluntary membership organization of state legislators dedicated to the principles of limited government, free markets and federalism.”¹⁰³ North Carolina’s Founding Principles Act took effect with the 2014-2015 school year.¹⁰⁴ The language of the statute may appear neutral, however, the Center for Media and Democracy, a self-described “nationally recognized

⁹⁷ MO. REV. STAT. § 170.345(2) and (3) (2021). <https://perma.cc/GFV6-2B45>

⁹⁸ S.C. CODE ANN. § 59-29-240. <https://perma.cc/T9WC-79HT>

⁹⁹ UTAH CODE ANN. § 53E-4-205 (2021). <https://perma.cc/75KW-DMJL>

¹⁰⁰ N.C. Gen. Stat. § 115C-81.45(d)(**Applicable to students entering the ninth grade in the 2021-2022 school year**)(1). <https://perma.cc/A3XG-EZJM>

¹⁰¹ H.R. 588, Sess. 2011 Gen. Assemb., N.C. SESS. LAWS. <https://perma.cc/X8MH-QYWS>

¹⁰² Ladner, D. & Myslinski, D.J. (2014). *Report Card on American Education: Ranking State K-12 Performance, Progress and Reform* at 113. American Legislative Exchange Council. <https://perma.cc/SQ5H-3JW6> and American Legislative Exchange Council. (2013). *Founding Principles Act*. <https://web.archive.org/web/20130501114024/http://www.alec.org/model-legislation/founding-principles-act/>

¹⁰³ American Legislative Exchange Council. (n.d.). *ABOUT ALEC*. <https://perma.cc/NT7T-67VD>

¹⁰⁴ H.R. 588, Sess. 2011 Gen. Assemb., N.C. SESS. LAWS. <https://perma.cc/X8MH-QYWS>

watchdog,"¹⁰⁵ noted that the Act could lead to teaching students that the President of the United States has "king-like" powers¹⁰⁶ and that the North Carolina Department of Public Instruction recommended that the curriculum for the Act come from the Bill of Rights Institute, an organization with ties to the politically conservative Koch Brothers.¹⁰⁷ These concerns that the Center for Media and Democracy has raised may cause one to question whether students will get an unbiased view of civics if they are taught in alignment with the "Founding Principles Act." A recent search within ALEC's website did not yield the model legislation labelled "Founding Principles Act,"¹⁰⁸ however, the website now contains a "Civic Literacy Act" which has as its stated purpose "[t]o require during the high school years the teaching of the nation's founding and related documents, which shall include the Declaration of Independence, the United States Constitution and the

¹⁰⁵ The Center for Media and Democracy's PRWatch. (n.d.). *What we do*. <https://perma.cc/6ZBL-KQ7N>

¹⁰⁶ "This model legislation would require the teaching of a semester-long course on the "philosophical understandings" of America's founders, as incorporated in the Declaration of Independence, the United States Constitution, and the Federalist Papers. There are, in fact, many scholarly differences of opinion about what weight to accord writings of individuals involved in the drafting and ratification of the Constitution. For example, a controversial Bush Administration attorney embraced what he called a "Hamiltonian" view of virtually unlimited presidential power as a rationale for presidential violation of laws barring torture and warrantless wiretapping. However, Hamilton's views of king-like presidential power were not shared by other leading founding fathers or by the citizens in the states that ratified the Constitution and who insisted upon the addition of an explicit Bill of Rights to guard against claims of virtually unlimited governmental power to search and seize people and compel them to be witnesses against themselves." The Center for Media and Democracy. ALEC EXPOSED. (2017). *Founding Principles Act Exposed*. <https://perma.cc/6ZQD-2PTZ>

¹⁰⁷ The Center for Media and Democracy. SOURCEWATCH. (2021). *Bill of Rights Institute*. <https://perma.cc/2LZW-V9EE>

¹⁰⁸ American Legislative Exchange Council. (2013). *Founding Principles Act*. <https://web.archive.org/web/20130501114024/http://www.alec.org/model-legislation/founding-principles-act/>

Federalist Papers.”¹⁰⁹ It appears that ALEC has replaced the “Founding Principles Act” with the “Civic Literacy Act.”

Other states mention the “founding principles” in their statutes as well. Georgia,¹¹⁰ Louisiana,¹¹¹ North Carolina,¹¹² and South Carolina¹¹³ have statutes which mention the “founding philosophy” or “founding principles” of the United States and address “federalism” or the “Federalist Papers” in the context of K-12 education. Georgia’s statute mentions “limited government”¹¹⁴ and the Utah Code Annotated mentions “founding principles” however, it does not include language regarding federalism and limited government.¹¹⁵ Texas has a founding principles act pending before its legislature.¹¹⁶ If passed, the bill would require “an elective course on the founding principles of the United States” in high school curricula.¹¹⁷

Civics Education Programs Outside the K-12 Classroom

Civics education mandates aside, across the United States, librarians and others offer civics education programs to high school students outside the K-12 classroom, yet the

¹⁰⁹ American Legislative Exchange Council. (n.d.). *Civic Literacy Act*. <https://perma.cc/F56U-VESA>

¹¹⁰ GA. CODE ANN. § 20-2-142.1 (2022). ([Lexis Advance](#)).

¹¹¹ LA. REV. STAT. § 265 (2021). <https://perma.cc/7GCT-DL24>

¹¹² N.C. Gen. Stat. § 115C-81.45(d)(**Applicable to students entering the ninth grade in the 2021-2022 school year**)(1). <https://perma.cc/A3XG-EZJM>

¹¹³ S.C. CODE ANN. § 59-29-155. <https://perma.cc/BYT9-B76S>

¹¹⁴ GA. CODE ANN. § 20-2-142.1(c)(1)(B) (2022). ([Lexis Advance](#)).

¹¹⁵ UTAH CODE § 53G-10-204(5)(b). <https://perma.cc/H8ZM-U25K>

¹¹⁶ S.B. 1776. 87th Leg., Regul. Sess. (Tex. 2021). <https://perma.cc/LS4U-RL2W>

¹¹⁷ S.B. 1776. 87th Leg., Regul. Sess. (Tex. 2021). <https://perma.cc/5A6Y-72WP>

information shared in these programs is valuable. These programs may focus on knowing one's rights or general information about the legal system in the United States. A *Know Your Rights Workshop for Teens* sponsored by ACLU of Massachusetts and the Boston Public Library¹¹⁸ and the *Teen Workshop (Ages 13-17): Know Your Rights* sponsored by the Glendale Human Relations Coalition and Glendale Police Department of California¹¹⁹ are two examples of such programs.

The 2018 Cornell Law Institute for High School Students at Cornell Law School had a civics or law-related education component through the discussion of the Fourth Amendment to the United States Constitution. The 2018 Cornell Law Institute for High School Students was an outreach program sponsored by the Cornell Law Library and did not provide academic credit for the attendees. The overall goal of the Law Institute was to introduce high school students to legal concepts and legal careers.

During the Law Institute, I led a write-around activity¹²⁰ regarding the Fourth Amendment. Before the write-around activity, I discussed definitions of legal terms such as *warrant* and *probable cause* and then gave the students a short news article to read

¹¹⁸ Boston Public Library. (2020). *Know Your Rights Workshop for Teens*. <https://perma.cc/ZKR8-4N6N>

¹¹⁹ City of Glendale. (2019). *Teen Workshop (Ages 13-17): Know Your Rights*. <https://perma.cc/P8M2-FRFQ>

¹²⁰ The write-around activity allows students time to think about answers to a question and make connections between concepts before engaging in a large group discussion. There are many variations of write-arounds (which are discussed in the book entitled *The Best-Kept Teaching Secret: How Written Conversations Engage Kids, Activate Learning, and Grow Fluent Writers, K-12*. Daniels, H. & Daniels, E. (2013). *The best-kept teaching secret: how written conversations engage kids, activate learning, and grow fluent writers, K-12*. Corwin.

regarding the circuit split¹²¹ and a summary of relevant case law. For the write-around activity, students were in small groups of between three and five. I directed them to write their answers to the prompts on the same large paper (each group had its own large piece of paper). I instructed the students not to speak to one another for the 15 minutes of writing. Next, in their small groups, students discussed what they had written. After the small-group discussions, I facilitated a large group discussion based on what the students had written. The writing prompts consisted of the following questions:

1. What do you know about probable cause so far?,
2. What does the article about car searches based on marijuana smoke remind you of in things you have seen on social media or TV?, and
3. What do you think will happen next? Do you think the U.S. Supreme Court will resolve the circuit split? Why or why not?¹²²

The writing portion of the activity gave the students time to think before sharing their ideas with the class. I ended the lesson with a reflection activity during which we discussed the question: "If you were going to explain today's write-around activity to someone who's not in our class, what would you say?"¹²³ The main goal of the activity

¹²¹ "When two or more circuits in the United States court of appeals reach opposite interpretations of federal law. This is sometimes a reason for the Supreme Court to grant certiorari." Wex. (n.d.). *Circuit Split*. <https://perma.cc/693C-WC7Q>

¹²² Ward, L. (2018, June 28). *Where There's Smoke...A Write-Around Activity Regarding the Circuit Split Over Marijuana-Based Car Searches* [Conference Session]. 2018 Cornell Law Institute for High School Students, Ithaca, NY, United States.

¹²³ *Id.*

was to prompt students to think about why different courts have different rationales when making decisions about similar sets of facts.

Conclusion

From the inception of law-related education, organizers of law-related education programs have endeavored to make the programs practical by covering topics that the students would need to know in daily life. Although the federal Law-Related Education Act was repealed in 1982, states continue to address K-12 civics education in their statutes. Recently, state legislatures that have used the term “law-related education” in the K-12 context have focused on law-related education for violence prevention and within the context of youth courts. Law-related education is about knowing one’s rights and responsibilities as a citizen even in situations where one has not been accused of breaking the law and there needs to be a concerted effort to bring the essence of law-related education within the purview of state legislatures. Additional programs aimed toward teenagers that are organized outside the K-12 school context such as “Know Your Rights Workshops” and other programs, for example the Cornell Law Institute for High School Students, are also valuable in educating youth regarding civics and law-related education. Law-related education is more than violence prevention. It is a branch of civics that is a necessary part of K-12 education.

The Journey To Legal Capability: Challenges for Public Law from Public Legal Education

*Abiodun Michael Olatokun*¹

Introduction

Citizens whose rights are infringed by a public authority are often unable to attain a court judgment to challenge those adverse decisions. The trite explanation is the most compelling; judicial review is a prohibitively expensive process.² This high cost of litigation combined with the fees charged by public lawyers can make fighting for one's legal rights inaccessible to those without independent means or publicly funded legal representation. There is no question that this is a complete explanation for many instances of unmet legal need, but this paper seeks to raise another important barrier to access to justice that is seldom discussed in the recent literature.

Legal capability is defined as the knowledge, skills and confidence required to participate in legal systems and to deal with one's legal issues. It is thought to be improved through

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² Sarah Nason, "Justice Outside London? An Update on 'Regional' Judicial Review" (UK Constitutional Law Association, November 16 2016) <https://ukconstitutionallaw.org/2016/11/16/sarah-nason-justice-outside-london-an-update-on-regional-judicial-review/> accessed 25th July 2022

programmes of Public Legal Education (PLE).³ Whilst the author reiterates that legal education is no replacement for state-funded legal advice for the poor, PLE is a crucial tool in helping people to challenge public decision making.

The UN, amongst others, has suggested that governments can prevent civil legal problems from spiralling out of control by giving those affected the tools to self-diagnose and, where appropriate, act with support to enable them to intervene.⁴

The author is both an academic representing pedagogical ideas to the government and a civil society activist working to implement programmes of PLE in varied settings. These experiences will be used to examine the (minimal) effectiveness of initiatives such as the placement of human rights into the National Curriculum for Citizenship Education in 2013 and the requirement that all English schools promote the ‘fundamental British value’ of the Rule of Law.

This article further argues that the state can provide meaningful information about public authorities’ duties and citizens’ entitlements through public legal information, and that there is a moral impetus for it to do so. A concrete plan for doing so would work to ensure

³ Genn et al, “Developing capable citizens: the role of public legal education The report of the PLEAS Task Force” <https://lawforlife.org.uk/wp-content/uploads/2013/05/pleas-task-force-report-14.pdf> accessed 25th July 2022

⁴ United Nations General Assembly, “Legal Empowerment of the poor and eradication of poverty Report of the Secretary-General” (July 2009) <https://www.un.org/esa/socdev/documents/reports/Legal%20empowerment%20of%20the%20poor.pdf> accessed 25th July 2022

that those subject to unlawful administrative decision making have the legal capability to mitigate further damage to their interests and pursue the correct decision.

Access to justice and the rule of law are broader than legal aid

Access to justice has underpinned English notions of fairness in the legal system since Magna Carta stated that “to no one will we sell, to no one deny or delay right or justice.”⁵

This was echoed some 800 years later by British judge Lord Bingham of Cornhill, who laid out a definition of the rule of law that is striking in its clarity. He described two hallmarks of the rule of law which are of major relevance to this paper; the first that “the law must be accessible and so far as possible, intelligible, clear and practicable.”⁶ The second principle is that “means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide civil disputes which the parties are themselves unable to resolve.”⁷

The practical significance of these principles is that the law should be comprehensible in order to justify its binding role on the actions of citizens, and that the state should provide opportunities to resolve incorrect decisions made about those citizens; there should be access to justice. This line of thinking was key to the reasoning of the Supreme Court in

⁵ Magna Carta Article 40

⁶ Tom Bingham, “The Rule of Law” (Penguin 2010)Pp 37

⁷ Ibid, Pp 85

Unison where Lord Reed goes so far as to say that access to the courts is “inherent in the rule of law.”⁸

The idea that the government has a necessary role to play in ensuring access to justice is baked into the psyche of the British state. How did it come to be so pivotal? As a welfarist political consensus emerged after the Second World War, the Atlee government enacted the Legal Aid and Advice Act 1949. This Act created the Legal Aid Board which would provide those of “small or moderate means” with the necessary funding to secure legal representation for their civil legal problems.⁹

Legal aid has been largely viewed as a welcome achievement, but its operation has not been without criticism. Eligibility for legal aid has always been targeted at the most hard-pressed, and as such decisions to grant funding are subject to a means test.¹⁰ This means test has the potential to leave lower-middle class individuals subject to a legal problem undercompensated if they take a party to court, as they are unlikely to recover all of the costs of representation even if successful.¹¹

This was exacerbated by a change of policy by the UK government as the country entered the second decade of the 21st century. Conservative Party Chancellor of the Exchequer

⁸ R (on the application of UNISON) (Appellant) v Lord Chancellor (Respondent) [2017] UKSC 51

⁹ Joint Committee on Human Rights, *The Implications for Access to Justice of the Government’s Proposals to Reform Legal Aid*, 13 December 2013, HL Paper 100 of session 2013–14, p 7.

¹⁰ Catherine Jennings, “Accessing Justice: Civil Legal Aid, the Public Interest and Judicial Action” (January 30, 2018). <https://ssrn.com/abstract=3396591> accessed 25th July 2022

¹¹ Duncan Watts, “AQA Government and Politics AS” (AQA 2014)

George Osborne announced an ‘emergency’ budget in June 2010 that significantly reduced the Ministry of Justice budget. This was wrought by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) which paved the way for the legal aid budget to be cut by over 1 billion over the next ten years,¹² creating a situation described by the Law Society as ‘a wide[r] and detrimental effect on society’.¹³

Drilling down to the regional level, there are whole areas of the United Kingdom in which there are no qualified legal aid solicitors specialising in given areas of law. This problem has become so pronounced that industry estimates suggest that in 2021, 40% of the population of England & Wales did not have a local legal aid provider working in the area of housing law.¹⁴ More worryingly for present purposes, these ‘advice deserts’ are most stark in the public law jurisdiction, where approximately 80% of judicial reviews between 2018-2020 were heard in London, despite the region containing approximately 7% of the UK population.¹⁵ Thomas argues that this “large but largely hidden and ignored landscape” operates “outside the main political agenda” and is thus not a prominent or

¹² Statista, “Resource department expenditure limit (RDEL) of criminal and civil legal aid in England and Wales from 2005/06 to 2020/21” <https://www.statista.com/statistics/1098628/legal-aid-spending-in-england-and-wales/> accessed 25th July 2022

¹³ Law Society, “Access Denied? LASPO Four Years On: A Law Society Review”

¹⁴ Law Society, “Housing – legal aid deserts” <https://www.lawsociety.org.uk/en/campaigns/legal-aid-deserts> accessed 25th July 2022

¹⁵ Sarah Nason and Liam Edwards, “Reviewing Judicial Review in Wales” (April 2021) pg 11 Figure 1 [https://research.bangor.ac.uk/portal/en/researchoutputs/reviewing-judicial-review-in-wales\(60911944-778a-47a9-8159-872534c22bb5\).html](https://research.bangor.ac.uk/portal/en/researchoutputs/reviewing-judicial-review-in-wales(60911944-778a-47a9-8159-872534c22bb5).html) accessed 25th July 2022

oft-discussed public policy issue.¹⁶ It is clear that there is unmet legal need for judicial review in most parts of the country; if you live outside the capital, your ability to challenge public decision making is severely limited.

It is worth reminding ourselves of the importance of legally aided litigation. Cases of central importance to our democracy have arisen from legally aided claimants who would otherwise have been unable to bring these cases, of which *Donoghue v Stephenson* is the most infamous. Had Ms Donoghue not been able to bring her case, she would not have been compensated for the harm that she suffered, but more crucially the principle that we owe each other a duty of care to prevent reasonably foreseeable harms would not have resulted. It is uncontroversial to say that legal aid, and the legal assistance that it facilitates, is much needed in realising rights.

Legal aid is irreplaceable and serves an important role, but its apotheosis as the main element of the post-Atlee welfare state is highly problematic. As the replacement of the Legal Aid Board with the Legal Services Commission and later the Legal Aid Agency would show, the body was prone to severe disruption by changing political priorities. Legal aid was born in an era of post-war political consensus in which Conservative politicians were more comfortable with supporting social welfare programmes.¹⁷ This

¹⁶ Frances Gibb, "Administrative Justice and Tribunals Service comes out of the shadows" <https://www.thetimes.co.uk/article/administrative-justice-and-tribunals-service-comes-out-of-the-shadows-bqfpjjzsv5p> accessed 25th July 2022

¹⁷ Andrew Marr, "The Making of Modern Britain" (Macmillan 2010)

would not last into the Thatcher administration.¹⁸ By contrast the rather tentative establishment of PLE has been a more politically palatable concept accepted by both Labour and Conservative MPs.¹⁹

The practical significance of this point is that in a situation where the justice sector is at loggerheads with the government over the funding of legal representation, PLE may be an easier tactical target for public interest campaigns than legal aid.

Beyond this further support for PLE is a sustainable investment for creating active, knowledgeable citizens. Some of the greatest gains in legal rights are achieved by using the law outside of the courtroom. Civic participation in Scotland, the so-called ‘Snowdrop campaign’ saw the UK Government pass the Firearms (Amendment) Act 1997 to prohibit the possession of small firearms. The National Farmers’ Union organised blockades in order to argue for a reduction in fuel tax. Though unsuccessful in this aim, they succeeded in securing a freeze of fuel prices.²⁰ These were sophisticated operations in which professional activists used their knowledge of the different ‘levers’ that could be pulled in order to achieve societal change. Such an assessment requires the knowledge, skills

¹⁸ Harrison, “The Rise, Fall and Rise of Political Consensus in Britain since 1940” (Vol. 84, No. 274 April 1999) pp. 301-324

¹⁹ There are numerous indicators of this cross-party appreciation for PLE including the All-Party Parliamentary Group on PLE and Pro Bono, which has been chaired by a Conservative MP in successive Parliamentary sessions: <https://publications.parliament.uk/pa/cm/cmllparty/220722/public-legal-education-and-pro-bono.htm> accessed 25th July 2022

²⁰ Firearms (Amendment) Act 1997

and confidence to deal with law related issues in one's life; in other words, 'legal capability'.²¹

We don't currently have a legal obligation to teach about the law

It has been established above that widespread legal capability is crucial to the achievement of access to justice through the rule of law. As the Public Legal Education and Advice Service task force stated, PLE is the tool needed to achieve legal capability.²²

One might then ask the question, what levers does the UK government pull in order to ensure provision of PLE?

The political geography of the UK makes this question more complex. Education is a devolved competence in the UK, meaning that the devolved administrations of Northern Ireland, Scotland and Wales maintain their own national approaches. There is an awkwardness in the fact that we wish to teach students about the English and Welsh legal system, yet England and Wales pursue different approaches to education. The author is a product of the English education system and this chapter focuses explicitly on the English context.

²¹ Wintersteiger, "Legal Needs, Legal Capability and the Role of Public Legal Education A Report by Law for Life: the Foundation for Public Legal Education" (Law for Life 2015) <https://www.lawforlife.org.uk/wp-content/uploads/Legal-needs-Legal-capability-and-the-role-of-Public-Legal-Education.pdf> accessed 25th July 2022

²² PLEAS Taskforce Report cited above at footnote 2

There is currently no effective legal obligation requiring the UK government to ensure that every English citizen has legal capability; nor is there an obligation to implement PLE across England. PLE has not been the subject of litigation in the United Kingdom, and so the common law does not provide any assistance in this area. Similarly, there are several international treaties that reference PLE's cognate concepts (especially citizenship education) but these are not directly effective in the UK; the UK is a 'dualist' system in which international law and treaties need further national legislation in order to confer real rights.

The major treaties calling on the UK government to implement aspects of PLE are:

- UN Declaration Human Rights Education and Training ('UDHRET')²³
- UN Convention on the Rights of the Child
- Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education ('the Charter')²⁴

Despite a clear thread throughout these instruments that young people should be taught about their rights, these treaties are seldom referred to in the work of Parliament.²⁵ The inability of these instruments to encourage action from politicians was illustrated in an

²³ UNGA, Res 66/137 Declaration on Human Rights Education and Training (19 December 2011)

²⁴ Council of Europe, Recommendation CM/Rec(2010)7 of the Committee of Ministers to member states on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education

²⁵ Searches for these instruments in Hansard suggest that the Charter and Declaration have never been referred to in proceedings of the Commons or the Lords.

almost two-hour-long Westminster Hall Debate in which members failed to reference any of these obligations.²⁶

Domestic legislation involving PLE has also been threadbare. The most compelling provision is s1(g) of the Legal Services Act 2007 (LSA 2007) which imposes an obligation upon the Legal Services Board (LSB) to “increasing public understanding of the citizen's legal rights and duties.”

Though the placement of this obligation in statute is novel, and of relevance to the current discussion it is deficient in several respects. Put simply, imposing the obligation on the LSB doesn't guarantee any PLE activity. Legal professionals are not best placed to provide such an onerous duty alongside their core role, representing clients. The LSB itself is not a ‘front-line regulator’ but instead a ‘regulator of regulators’ in essence acting through regulators such as the Bar Standards Board and Solicitors Regulatory Authority to influence lawyers. This means that the LSB has made a modest number of PLE interventions (such as running the collaborative [‘Justice Week’](#) campaign) and the impact of the LSA 2007 has been limited in respect of legal capability.

²⁶ HC Deb 15 May 2018, vol 641 col 80WH



LSB Justice Week Events

The most authoritative and influential obligation to deliver PLE is the framework surrounding the Education Act 2002. S78 of the Act states that maintained schools should provide a 'balanced and broadly based curriculum' which 'promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society'. This obligation would go on to be known as 'SMSC' by the teaching profession. The Department for Education modified this requirement in September 2014 to require SMSC to include promotion of the 'Fundamental British Values'. These 'FBVs' comprise:

1. democracy,
2. the rule of law,
3. individual liberty and
4. mutual respect and tolerance for those of different and no faiths.

This new requirement was complemented by the Department for Education guidance, 'Promoting fundamental British values through SMSC'. This document sets out a highly

rigid and conformist notion of law with the rather regrettable expression that “The school’s ethos and teaching, which schools should make parents aware of, should support the rule of English civil and criminal law and schools should not teach anything that undermines it.”²⁷

These highly individualised forms of legal education focus specifically around the individual’s responsibility to shape their family life and home affairs in such a way as to avoid criminal liability. This is important, but incomplete; these incentives do not encourage students to consider how they might campaign collectively to achieve societal justice or how they might pursue law reform or how they might act with others to create political change. They encourage the idea that the status quo is optimal without consideration of alternatives.²⁸

The Attorney General’s Office would make another significant intervention in this area in 2017 in the formation of the Solicitor General’s ‘PLE Panel’,²⁹ which would later be renamed the ‘Solicitor General’s PLE Committee’. This group comprised a group of experts who would work with the minister to produce a PLE action plan over the next 18

²⁷ Department for Education, “Promoting fundamental British values as part of SMSC in schools Departmental advice for maintained schools” (November 2014) <https://www.gov.uk/government/publications/promoting-fundamental-british-values-through-smsc> accessed 25th July 2022 pg 4

²⁸ Hugh Starkey “Human rights, cosmopolitanism and utopias: implications for citizenship education” (2012) Cambridge Journal of Education

²⁹ UK Government, “New Panel Launched To Drive Public Legal Education” <https://www.gov.uk/government/news/new-panel-launched-to-drive-legal-education>

months.³⁰ The author worked with then-Solicitor General Robert Buckland QC MP to launch a government vision statement at a combined meeting of the All-Party Parliamentary Group (APPG) on the Rule of Law and the APPG on PLE and Pro Bono.³¹ The action plan³² stated that seven goals should be pursued in order to correct deficiencies in the delivery of PLE:

1. PLE will be supported by a robust evidence base, showing what the need is and what works best,
2. PLE will be of high quality, maintained to ensure that it remains accurate and accessible and useful for the people who need it,
3. PLE will be universal and reach across all demographics, prioritising children, young adults and vulnerable groups,
4. PLE will be scaled up through delivery by the legal community,
5. PLE will harness technology and be delivered through innovative methods, both on and offline,
6. PLE will be embedded into public services and government departments
7. PLE will be understood as beneficial and utilised by other sectors.

³⁰ Members included Young Citizens, Law for Life, the Law Society, the Bar Council, Inns of Court, the Bingham Centre for the Rule of Law, the Magistrates' Association, the Legal Services Board, the National Justice Museum and others.

³¹ The Solicitor General's Public Legal Education Committee, "10 Year Vision for PLE" <https://www.lawworks.org.uk/sites/default/files/files/10YearVisionForPLE-web.pdf> accessed 25th July 2022

³² Attorney General's Office, "Press release Our vision for legal education' Solicitor General Robert Buckland QC MP launches a new PLE vision statement" (October 2018)

Although this launch was enthusiastically attended by the justice sector, and overtures were made to PLE in the Attorney General's Business Plan for 2020-2021, the action plan has so far resulted in minimal activity at the time of writing this piece some three years later.³³ This could be in part due to the de facto role the Solicitor General has assumed in representing PLE within government. The Solicitor General post suffered from the politically unstable zeitgeist as six appointments were made to the role between July 2019 and September 2022. This period also saw the longest-running minister in this period, Michael Ellis QC MP, given additional responsibility for the government's response to the COVID-19 pandemic.

As a leading member of the group it is my view that the Solicitor General's PLE Committee has not been able to achieve the radical promise set out in its vision.

The curriculum operationalised PLE through citizenship education

Another major attempt to place PLE at the heart of the English learning experience has been through the curriculum. The Crick Report in 1999 facilitated the creation of a new national curriculum subject, Citizenship Education.³⁴ It set out the following as essential

³³ Attorney General's Office, "AGO Business Plan 2020-2021" (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906162/2020-21_AGO_Business_Plan.pdf accessed 25th July 2022)

³⁴ The Advisory Group for Citizenship, "Education for citizenship and the teaching of democracy in schools: Final report of the Advisory Group on Citizenship" (Qualifications and Curriculum Authority 1998) <https://dera.ioe.ac.uk/4385/1/crickreport1998.pdf> accessed 25th July 2022

concepts: 'fairness, justice, the rule of law, rules, law and human rights'. It stated that 'civility and respect for the rule of law' were essential values and dispositions. Essential elements of knowledge and understanding were 'legal and moral rights and responsibilities of individuals and communities' and also encouraged teaching 'Britain's parliamentary political and legal systems at local, national, European, Commonwealth and international level, including how they function and change'. All of these areas of knowledge were meant to lead to the development of skills and aptitudes that would provide the 'ability to identify, respond to and influence social, moral and political challenges and situations'.

There is an international consensus that citizenship education should include teaching about law and politics, and that it is the appropriate place in the English student's experience during which they should learn about the rule of law.³⁵ Though not all schoolteachers include PLE in their citizenship education lesson plans, English/European Citizenship Education frameworks have been designed to make law a crucial part. For this reason Citizenship Education and PLE will be used interchangeably throughout this paper.

The placement of this subject as a compulsory element of the curriculum was a welcome boost to legal capability. Educational awarding bodies created GCSE (secondary school

³⁵ Council of Europe, "Knowledge for Critical Understanding, Education for Democratic Citizenship" Figure 20A. Knowledge and critical understanding of politics, law and human rights

leaver exams) and A Levels (exams typically taken prior to higher education) based on the principles above. University graduates trained specifically to teach citizenship on specialist teaching courses. Though we should not think that these years saw perfect provision of PLE throughout the country, this was certainly its heyday, because over the subsequent twenty five years there would be significant decline in this subject.

The early days of the 2010 coalition government saw the Department for Education introduce the Academies Act 2010, which facilitated the transformation in legal status of schools formerly attached to their local authority that would now become 'academies' without an obligation to follow the curriculum. It was at this point that teaching Citizenship became a voluntary, rather than compulsory subject for many academised schools.³⁶

Citizenship allowed to degrade to a parlous state

Several members of the House of Lords who had been involved in the creation of Citizenship Education were concerned about its lack of universality across England. Reacting to this concern, Lord Blunkett (who had been the Secretary of State for Education presiding over its introduction) and others set up an 'ad hoc' select committee

³⁶ Commons Library, "House of Commons Briefing Paper Number 06798: The school curriculum in England" (26 March 2021) pg 5 para 1.3
<https://researchbriefings.files.parliament.uk/documents/SN06798/SN06798.pdf>

in 2017, an accountability and oversight mechanism designed to enable short-term inquiries into specific issues of interest to members of the Lords.

Their educational concerns ran in parallel with wider social issues, such as a downward trend in election turnout over the post-war period.³⁷ The 'Ad hoc select committee on Citizenship and Civic Engagement' heard from an extensive network of experts and reported its findings in 2018. Its report produced damning findings of the operation of Citizenship Education in England and Wales. They concluded that citizenship education in England had been allowed "to degrade to a "parlous state"³⁸ where it was essentially unclear whether a random young person leaving the compulsory school system had experienced high quality citizenship education at all.

The government response to this was unsatisfactory and did not engage with the major challenges involved. The (then) Department for Housing, Community and Local Government wrote a response that reiterated the importance of Citizenship as a subject on the curriculum, spoke of the role that FBVs serve(d) in promoting the rule of law and stated that the varying coverage of citizenship education was not a problem because it

³⁷ The Commons Library, "Turnout" <https://researchbriefings.files.parliament.uk/documents/CBP-8060/CBP-8060.pdf> accessed July 15th 2022

³⁸ Ad Hoc Select Committee on Citizenship and Civic Engagement, "The Ties that Bind: Citizenship and Civic Engagement in the 21st Century" (2018) House of Lords pg 147 para 162

represented a parochial kind of autonomy in which individual schools could make choices on the basis of what would be most appropriate.³⁹

The upshot of this is that the government prioritises local selection of curriculum content over the imposition of compulsory parameters. Whilst this gives schools additional flexibility, it introduces a much lower common denominator in terms of legal capability. In a system where there is no true 'national' curriculum requiring Citizenship Education, a child can go through the entire system without developing any measure of legal capability. The author argues that this contributes at least in part to major challenges for access to justice, such as the Legal Services Board suggestion that up to 36% of the British public possess low legal confidence, leading 52% of those to worse legal outcomes than others with high legal confidence.⁴⁰

Challenges from a parlous state

The fragile state of PLE in England was put to the test as the constitution strained under the weight of a febrile atmosphere in which national politics became increasingly polarised and tribal. Following the UK's decision to withdraw from the EU ('Brexit'), the

³⁹ Ministry of Housing, Communities and Local Government, "Government response to the Lords Select Committee on Citizenship and Civic Engagement" (June 2018) accessed 25th July 2022

⁴⁰ Legal Services Board, "PLE research insights: How access to justice and outcomes vary by legal capability", pg 5 <https://legalservicesboard.org.uk/wp-content/uploads/2020/02/LSB-PLE-event-Feb-2020-for-web.pdf> accessed 25th July 2022

UK government entered into extensive negotiations with the EU about the future relationship between the nation and the bloc.

The EU placed a longstop on those negotiations; existing obligations would expire on 31st December 2020 and the UK would 'crash out' of the provisional arrangements if no deal had been reached by that point. UK Prime Minister Johnson tried unsuccessfully to persuade Parliament to pass the EU Withdrawal Agreement Bill, a legislative instrument that would give effect to his negotiated settlement.

In a widely criticised move, Johnson sought to end the session of Parliament, reducing the number of opportunities MPs would have to scrutinise the legislation. The Supreme Court ruled that this was an unlawful act as its effect was to stymie the ability of Parliament to hold the executive to account.⁴¹ 'Miller 2' suggested that the operation of the checks and balances in the UK constitution were operating effectively; the judicial branch of government acted effectively to restrain the executive branch from acting outside of its powers.

But in the words of Ms Miller's counsel, she is extraordinary; a combative democrat and an immensely wealthy woman with high legal and political capability. Where were the normal citizens standing up for their rights?⁴² This raises a question about how PLE can contribute to the breadth of engagement in our democracy. Should there have been

⁴¹ R (Miller and others) v Prime Minister 2019 UKSC 41

⁴² The Bingham Centre, "The Article 50 'Brexit' Appeal: The Rule of Law After Miller" <https://youtu.be/F1CKnGRSSvA?t=3467> accessed at 25th July 2022

greater social pressure from the public, and a more widespread section of it, upon their elected representative to resist this? Must a citizen be well-advised and wealthy to bring a major constitutional challenge?

This point struck most resonantly in the wake of the 'Miller 2' case. A YouGov instant response poll asked, "the Supreme Court has said that Prime Minister Boris Johnson acted unlawfully in proroguing Parliament. Do you agree or disagree with the ruling?"⁴³

Up to 30 percent of the public disagreed with the court's orthodox decision, and another 21 percent stated that they did not know how they felt. These figures partially illustrate the widespread deficiency in legal capability as well as the complex tribalism effected by the referendum and the post-2019 Johnson administration.

Irrespective of the merits of the decision, enforcement of the constitutional order by citizens is a contemporary challenge described by the Bingham Centre as an urgent need to 'democratise' the rule of law. This is an area in which PLE is better placed than judicial review representation orders in improving the quality of democratic participation. The executive can only be held accountable for breaches of its obligations if individuals are able and prepared to challenge public decision making.

⁴³ YouGov, "By 49% to 30%, Britons agree with the Supreme Court's ruling that proroguing Parliament was unlawful" <https://yougov.co.uk/topics/politics/articles-reports/2019/09/24/49-30-britons-agree-supreme-courts-ruling-prorogui> accessed 25th July 2022

The UK Government can successfully deliver PLE by reference to similar initiatives

There is clear evidence that the UK government can educate and influence the public where it desires to do so. During the COVID-19 pandemic, the UK government increased its advertising spend on public health messaging by almost 800%.⁴⁴ Similarly the document ‘Why the Government believes that voting to remain in the European Union is the best decision for the UK’ (the leaflet) was issued to every household in the UK.⁴⁵ This was a requirement of the European Union Referendum Act 2015, and because it was placed in legislation this secured sufficient resources for this document.

In unpublished research (2016) for the Cabinet Office, I found that the leaflet was an effective means of encouraging both private renters and home owners to engage with politics, even if the arguments in the leaflet themselves did not ultimately convince them. This example has not been followed in a major election or referendum but it provides insights that may assist with the current constitutional furore.

Amidst the turmoil of Brexit the reigning Conservative Government fought the 2019 General Election Campaign on a manifesto (the manifesto) that heralded an extensive

⁴⁴ The Media Leader, “Nielsen confirms £164 million government ad spend for 2020” <https://the-media-leader.com/nielsen-confirms-164-million-government-ad-spend-for-2020/> accessed 25th July 2022

⁴⁵ Cabinet Office, “Why the Government Believes That Voting To Remain In The European Union Is The Best Decision For The UK” Accessed 25th July 2022
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/515068/why-the-government-believes-that-voting-to-remain-in-the-european-union-is-the-best-decision-for-the-uk.pdf

programme of constitutional reform including repeal of the Fixed Term Parliaments Act, a review of Parliamentary Constituency boundaries, introducing requirements for identification to vote at polling stations and a Constitution, Democracy and Rights Commission (CDRC) to 'rebalance' the UK constitution.⁴⁶ This programme of reform was described by Unlock Democracy as a "new interventionist role" that "puts our fragile rights and liberties in the firing line."⁴⁷ Political theorist Aitchinson has described the CRDC as an attempt to "remove the checks and balances of our constitution."⁴⁸

More than two years after the eventual Conservative victory in the 2019 election, the CRDC has not resulted in its full form. Despite this it is clear at the time of writing that the manifesto established sky-high stakes for constitutional reform. The CDRC has been split up into smaller elements that have not been afforded the column inches that an omnibus process might have received. In relation to human rights, the government ran two consultations.

The first, the 'Independent Human Rights Act Review' was led by Sir Peter Gross, with a final report that emphasised the crucial importance of broadening awareness about

⁴⁶ Conservative and Unionist Party, "Get Brexit Done: Unleash Britain's Potential The Conservative and Unionist Party Manifesto 2019" Accessed 25th July 2022 pg 48 https://assets-global.website-files.com/5da42e2cae7ebd3f8bde353c/5dda924905da587992a064ba_Conservative%202019%20Manifesto.pdf

⁴⁷ Open Democracy, "This Tory manifesto is chilling - liberals must vote tactically to protect democracy" <https://www.opendemocracy.net/en/opendemocracyuk/tory-manifesto-chilling-liberals-must-vote-tactically-protect-democracy/> Accessed 25th July 2022

⁴⁸ Aitchinson, 'This Tory manifesto is chilling - liberals must vote tactically to protect democracy'

human rights in order for the public to ‘own’ their rights and to be able to use them.⁴⁹ The second consultation led by Justice Secretary Dominic Raab invited experts to respond to a series of proposals which included substantive amendment of human rights law, making little reference to Sir Peter Gross’ review.⁵⁰

It is worth reflecting on this process as it is instructive of the fragility of such ‘asks’ in an adverse political environment. The gravitas and expertise of the Independent Human Rights Review commissioners could not prevent the government from dropping the vast majority of their recommendations, including legal education about human rights. In an online event discussing this exchange Sir Gross remarked that the review of human rights law should not be premised on the government’s scepticism of a small number of high-profile cases, but should be based on a more widespread ownership of rights by citizens.⁵¹ I have argued elsewhere that the CDRC could represent a pivotal opportunity to facilitate a society-wide discussion about the future direction of our politics.⁵² It is not too late for the government to conduct a nationwide CDRC that represents the best of the principles

⁴⁹ The Independent Human Rights Act Review available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040525/ihrar-final-report.pdf

⁵⁰ Ministry of Justice, “Human Rights Act Reform: A Modern Bill Of Rights A consultation to reform the Human Rights Act 1998” (2019) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040409/human-rights-reform-consultation.pdf Accessed 25th July 2022

⁵¹ UCL, “The Human Rights Act- Reviewed” (2022) <https://www.youtube.com/watch?v=uKe10pYbQXA> Accessed 25th July 2022

⁵² M A Olatokun, “Consult beyond the usual suspects to renew the constitution” Times Red Box

above; an opportunity for constitutional education accompanied with a concrete opportunity to feed back into current government proposals.

One example of this model was run by the UCL Constitution Unit in 2021. The Unit convened a stratified sample of citizens from across the country and presented them with a series of informational presentations by legal and political experts. After these presentations the citizens were asked for their views on matters at the heart of the UK democracy such as strengthening the role of Parliament in holding the executive to account, maintaining the role of the courts in limiting the actions of governments and strengthening the code of conduct for MPs and peers.⁵³ These recommendations are very different from the aims of the CDRC and thus represent a very important potential contribution of citizens to the political discourse.

Poor legal capability is undermining Parliamentary intention

The most compelling argument in favour of mainstreaming legal capability through PLE is that the present situation has the potential to undermine the implementation of rights that Parliament confers upon citizens. The Windrush Lessons Learnt Review, an inquiry into the mistreatment of Caribbean Britons by the immigration system, recommended extensive training for civil servants on the Human Rights Act 1998 and Equality Act 2010,

⁵³ Alan Renwick, "People want politicians to act with integrity, says citizens' assembly" (UCL Constitution Unit) <https://www.ucl.ac.uk/constitution-unit/news/2022/jan/people-want-politicians-act-integrity-says-citizens-assembly> Accessed 25th July 2022

finding that senior civil servants were making decisions otherwise than in accordance with these legislative instruments despite the existence of a well-known legal framework AND adverse court judgements in which their departments had been unsuccessful defendants.⁵⁴

Throughout 2020, I convened a series of roundtables with senior politicians and civil servants to hear from them about how the law could have better protected those affected. The closed 'Windrush Roundtables' made clear that the complexity of the rules around immigration made it very difficult for those affected to understand their legal position; another area in which the government has not provided sufficient clarity as to citizens' rights on the one hand, and has made those rights inscrutable on the other.

In a literature review of PLE evaluations the author and others found that high-quality interventions that combine case work principles with a PLE approach can work well for claimants in the social care setting.⁵⁵ The application of PLE to real-life legal issues involving public authorities is somewhat underexplored, but if done successfully it could prove transformative in improving access to justice in the public law space and could encourage further engagement in developing a rule of law culture across England.⁵⁶

⁵⁴ Wendy Williams, "Windrush Lessons Learned Review"
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/87402/2/6.5577_HO_Windrush_Lessons_Learned_Review_WEB_v2.pdf Accessed 25th July 2022

⁵⁵ Wintersteiger et al, "Effectiveness of Public Legal Education Initiatives A literature review" (2021)
<https://legalservicesboard.org.uk/wp-content/uploads/2021/02/PLE-systematic-review-report-Feb-2021.pdf> Accessed 25th July 2022

⁵⁶ UNESCO, "Strengthening the rule of law through education: a guide for policymakers" (2018)
<https://unesdoc.unesco.org/ark:/48223/pf0000366771> Accessed 25/7/2022

Conclusion

English PLE is at an early point in its implementation. There have been a number of highly promising governmental initiatives that have not received sufficient political will or resources in order to make legal capability stick. The information distributed to influence citizens during the referendum and public health campaigns (e.g. smoking and coronavirus) show that the government is capable of disseminating compelling messages; choices about resources prevent it from exercising that ability.

This knowing choice to baulk at recent opportunities to accompany major moments of constitutional reform with PLE is distressing. It is problematic because of the scale of proposed reform, which will likely take place without most citizens being aware of its stark consequences.

Although superficial, the author has observed clear cross-party popularity for PLE initiatives. Advocates of access to justice can and should continue to pursue increasing the legal aid budget in order to assist people with resolving disputes they cannot resolve themselves. However PLE should always be on the table whenever we make any argument about legal aid funding due to its invigorating effect on the democracy as well as the role it serves in bridging warring political ideologies.

Our advocacy of PLE should be passionate but not uncritical. There is a possibility that PLE becomes a neo-liberal political vehicle for the laissez-faire state providing nothing.

This is an undercurrent I am aware of from my several years advising ministers in this area and such an ideology ought to be resisted; we call for increased support and expansion of PLE to complement a fully functioning, properly funded legal system.

The Power of Teaching Police through the Prism of Human Rights¹

Sean Molloy²

Abstract

As part of their training in England and Wales, police recruits are required to engage with a complex mix of law, often with no prior background in legal education. In addition, they must learn, understand, and apply the content of a highly descriptive national police curriculum (NPC). The combination of these tasks, amongst other things, can limit the extent to which police training can cultivate critical thinking, a central objective of efforts to professionalise the police in recent times. In this article and based on the author's experience of teaching law to police recruits, the challenges of the current approach to police training are explored through Freire's pedagogy of the oppressed and what he terms the banking model of education. After drawing connections between this model and the current approach to police training, a human rights-based approach to police teaching is offered as an example of Freire's preferred problem-solving method. Central to this model is utilising the views of recruits regarding the role of the police in balancing rights to help understand the law as it exists.

Keywords: Police Pedagogy; Pedagogy of the Oppressed; College of Policing; Police Education Qualification Framework; Stop and Search; Human Rights

Introduction

¹ The author wishes to thank Professor Colin Murray, Professor Chris Ashford, Dr Conall Mallory, and Dr Helene Tyrell for comments on earlier drafts. Any errors that remain are my sole responsibility.

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The training and education of police recruits in England and Wales was historically 'provided through a patchwork of local provision, known as the Initial Police Learning and Development Programme.'³ In 2011, the Home Secretary commissioned Peter Neyroud, then Chief Executive of the National Policing Improvement Agency, to undertake a review of police leadership and training. During a subsequent Home Affairs committee review, Neyroud stated the '...police service needs to move from being a service that acts professionally to becoming a professional service.'⁴ Based on his review, he outlined the principles of policing in the 21st Century as ensuring the police are democratically accountable, legitimate, evidence-based, nationally (and internationally) coherent, capable, competent, and cost-effective.⁵ In 2016 and in response, the UK College of Policing (CoP)- the professional body that oversees the police in England and Wales- published the Police Education Qualification Framework (PEQF), which provides a framework for degree-level entry qualifications and sets out three entry routes for new probationer constables:⁶

³ Mike Hough and Elizabeth A. Stanko 'Designing Degree-Level Courses for Police Recruits in England and Wales: Some Issues and Challenges' [2005] *Policing*, 14(1): 31–42.

For history see M Mahruf C Shohel and others, 'Police Education in the United Kingdom: Challenges and Future Directions.' In: Nugmanova, M., Mikkola, H., Rozanov, A., and Komleva, V. (eds) *Education, Human Rights and Peace in Sustainable Development*. Intech Open, 2020.

⁴ Peter Neyroud, *Review of Police Leadership and Training* (2011). London: Home Office, at 129.

⁵ *Ibid.*

⁶ See Pauline Ramshaw and Sarah Soppitt, 'Educating the recruited and recruiting the educated: Can the new Police Education Qualifications Framework in England and Wales succeed where others have faltered.' [2018] *Police Science & Management*, 20(4): 243–250; Jyoti Belur and others, 'A Systematic Review of Police Recruit Training Programmes' [2019] *Policing* 14(1): 76–90.

1. The Police Constable Degree Apprenticeship, introduced from 2018, involving 3 years of work-based learning from operational work combined with degree level study;
2. The pre-join degree in professional policing, introduced from 2020, where prospective recruits acquire their degree in policing in advance of recruitment;
3. The Degree Holder Entry Programme (DHEP), introduced from 2020, where prospective recruits 'convert' an existing degree level qualification into a policing degree.

The Policing Vision 2025 defines the overall strategic purpose of the PEQF as providing an improved service for the public.⁷ This is namely, the 'translation and application of the knowledge, skills, capabilities and approaches covered by the new educational approach into effective professional performance will play an important part in delivering what Policing Vision 2025 identifies as 'a more sophisticated response to the challenges we face now and, in the future.'⁸ Central to the professionalisation of the police and the PEQF are two aspects: collaborative teaching partnerships between the police and universities and developing critical thinking.

⁷ Katie Strudwick 'Learning through practice: Collaborative policing partnerships in teaching in higher education' [2021] *The Police Journal: Theory, Practice and Principles*, 94(1) 58–74; Colin Rogers and James Gravelle, 'Implementing a police foundation degree – insights from South Wales'[2019] *Policing: A Journal of Policy and Practice*, 1–13

⁸ College of Policing. *Policing Education Qualifications Framework, Initial Entry Routes into Policing: Police Constable. A Strategic Overview* [2018] at 13 cited in Belur and others (n. 4) at 77.

When the PEQF was introduced, one of the underlying drivers for the reform of the police entry routes was to increase the professionalization of the police service in England and Wales.⁹ A central component of this professionalization drive was and remains to harness and nurture the capacity for police officers to think independently and critically. The salience attached to critical thinking is directly connected to the new approach of collaborative teaching and, in particular, the inclusion of universities in the delivery of police training. As McCanney, Taylor and Bates note, '[i]t is claimed that graduate entry will ensure that recruits possess critical thinking skills enabling them to make autonomous decisions by assessing and balancing complex risks.¹⁰ A move intended to elevate policing to a profession.'¹¹ This reflects the view that a degree of 'graduateness' of the university experience empowers police constables with the critical thinking that higher-level education helps cultivate.¹² In their study, McCanney, Taylor and Bates set out to determine whether opportunities existed for graduate officers to find the 'discretionary space' to employ skills associated with university study.¹³ Surveying 234 police constables, their analysis revealed that officers faced barriers to decision-making from bureaucratic and managerial

⁹ Cheryl Simmill-Binning and Jude Towers, Education, training and learning in policing in England and Wales' [2017] N8 Policing Research Partnership. Lancaster: Lancaster University.

¹⁰ John McCanney, Julie Taylor and Elizabeth Bates, Elizabeth 'Is there 'discretionary space' in rank-based police constabularies for graduate constables to think critically and make autonomous decisions?' [2021] *The Police Journal: Theory, Practice and Principles* 1–18, at 2.

¹¹ *Ibid.*

¹² Almuth McDowall and Jennifer Brown, 'Do Good Cops Need a Degree? Introduction to the Special Issue on Developing and Evaluating Graduate Policing Training' [2020] *Policing: A Journal of Policy and Practice* 14(1): 1–8; Jennifer Brown, 'Do graduate police officers make a difference to policing? Results of an integrative literature review. [2018] *Policing* 14(1):9-30.

It should be noted that whether university degrees do in fact harness critical thinking skills is contested. See, for example, Brett A. Brosseit, 'Charting the Course: An Empirically Based Theory of the Development of Critical Thinking in Law Students' [2016] *Albany Law Journal of Science & Technology* 26(2): 143-171

¹³ See McCanney and others (n. 8)

procedures. The conclusion reached was that police organisations may need to make changes structurally and procedurally to benefit from a graduate workforce. Yet, in seeking to identify this ‘discretionary space’, the authors assume that critical faculties have been developed, the central issue now becoming whether space is afforded to put these skills into practice.¹⁴ The extent to which the objectives of developing critical thinkers can be achieved through the PEQF is, however, contested. Lambert, for instance, has been critical of the apprentice degrees in general in that only a minimum 900 hours of learning is required compared to 3,600 hours of a full degree leading to ‘misleading’ claims for the student’s achievements.¹⁵ Others assess that there is an urgent need for a proper theory of change and the design of logic models to guide the design and implementation of the three training routes under the PEQF.¹⁶ Some are more reserved in their assessment. Turner notes that ‘education within a university setting could ... provide a balanced approach to student learning and development, which would be presented by both police practitioners as educators and academics.’¹⁷ The remainder of this article draws on the author’s experience teaching police recruits across all three entry-level routes. This article focuses particularly on the challenges associated with teaching police recruits about their powers under public law in England and Wales before proposing an alternative pedagogical approach, one that

¹⁴ Simon Holdaway, ‘The re-professionalization of the police in England and Wales’ [2017] *Criminology & Criminal Justice* 17(5): 1–17

¹⁵ Steve Lambert ‘Are Current Accountability Frameworks Appropriate for Degree Apprenticeships?’ [2016] *Higher Education, Skills and Work-Based Learning* 6(4): 345–356.

¹⁶ Turner (n. 13)

¹⁷ Allison Turner, ‘Police education and role play: Insights from the literature’ [2021] *The Police Journal: Theory, Practice and Principles*, Vol. 0(0): 1–26.

combines a focus on human rights with a wider objective of promoting more engaged and critical thinking on the part of police recruits.

From Banking Models to Problem Solving Models of Education Freire's: Pedagogy of the Oppressed

The starting point for this article is a degree of skepticism surrounding the potential for the PEQF to harness critical thinking. Based on experience delivering teaching to police recruits, a useful way to think about and conceptualise the challenges faced is offered through the banking approach to education as articulated by Paulo Freire. Freire was a Brazilian educator and philosopher who was a leading advocate of critical pedagogy. His approach to pedagogy emerged from his observations and experiences working as an instructor in literacy programs with peasant labourers in Brazil. In his classic text- the pedagogy of the oppressed- he critiqued what he terms the banking model of education.¹⁸ This form of delivery involves an individual- usually a teacher- reciting facts and ideas to a group of students who are required to listen and memorize the content.¹⁹ Freire identified a distinct lack of connectivity between the content and people's real lives; the banking model is built on the fact that the teacher knows all, and there exist inferiors that must just accept what they are told:

The teacher talks about reality as if it were motionless, static, compartmentalized, and predictable. Or else he expounds on a topic

¹⁸ See Paulo Freire, *Pedagogy of the Oppressed* (30th Anniversary Edition) (Continuum: New York, London, 2005). The original was published in 1970.

¹⁹ See, for example, *Ibid.*, chapter 2, pages 71-86

completely alien to the existential experience of the students. His task is to "fill" the students with the contents of his narration— contents which are detached from reality, disconnected from the totality that engendered them and could give them significance. Words are emptied of their concreteness and become a hollow, alienated, and alienating verbosity.²⁰

This approach to pedagogy, according to Freire, is a form of oppression. He reasoned that it encouraged students to just accept what is thrust upon them as correct. Freire concluded that if students are trained to be passive listeners, they will never be able to come to the realization that there even exists oppressors. While Freire champions a problem-solving model to overcome oppression, the banking model approach to teaching is evident in police education and, it is suggested here, a significant barrier to the very objective of critical thinking that the PEQF purports to achieve. While there is a range of factors that limit the scope for critical thinking in the PEQF context, the complexity of the legal landscape and the magnitude of content covered in the National Police Curriculum (NPC) provide two useful demonstrations of the creep of banking model in this context. The discussion below briefly unpacks both to elucidate the need for creativity within the confines set by the framework when attempting to deliver police training.

²⁰ *Ibid.*, at 71.

The legal Landscape

Upon entering the profession, police recruits are required to engage with a complex mix of legal and non-legal sources so that, by the end of their training, they are in a position to know and apply the law, often in circumstances, which do not permit prior reflection and contemplation.²¹ Moreover, they must also know and apply the law in ways that are compliant with human rights, reflecting the fact that the police are a public authority pursuant to section 6 of the Human Rights Act, 1998. The scale of this task is evident when considering the multiple sources of law in England and Wales. Firstly, the law can be found in primary legislation, such as the Police and Criminal Evidence Act (PACE), 1984. As just one piece of legislation, PACE 1984 comprises 11 parts, 7 schedules, and 122 provisions. Many of the provisions are themselves highly complex, involving layers of legal jargon and statutory semantics. Despite the complexity of PACE, it is, however, but one statute. Regarding most areas that engage the police in some form, it is rare that just one piece of legislation is applicable. In relation to stop and search, for example, powers are also included in the Misuse of Drugs Act, 1971, the Firearms Act, 1968, and the Psychoactive Substances Act, 2016, as examples. Furthermore, different pieces of legislation place different requirements on the use of this power. Section 60 of the Criminal Justice and Public Order Act 1994, for instance, contains a power which allows officers to search without reasonable

²¹ Peter Leyland, (2021), *The Constitution of the United Kingdom: A Contextual Analysis*. Bloomsbury.

grounds, sometimes known as ‘no suspicion’ or ‘section 60’ search.²² The law is also included in secondary legislation, which is law created by ministers (or other bodies) under powers given to them by an Act of Parliament. The parent Act of Parliament will specify the body or person who power has been delegated to by Parliament. Often, secondary legislation is used to fill in the details of primary legislation. These details provide practical measures that enable the law to be enforced and operate in daily life. Police powers have also been developed by the courts. For instance, the police have powers of both entry and arrest to prevent a breach of the peace. However, an individual officer wishing to ascertain both the existence and scope of these powers will not find such authority in the statute books. Rather, they will instead be required to engage with court judgements as contained in such databases as Westlaw UK, LexisNexis or British and Irish Legal Information Institute. Further complicating matters, case law can also be used to develop the scope and contours of primary and secondary legislation through a process of statutory interpretation. For the police recruit keen to understand the particular contours of these more specific provisions, the jurisprudence of English courts, formed as a result of judicial statutory interpretation, often ‘puts meat on the bones’ of bare legal provisions.²³ In addition to these primary sources of law, recruits are also required to engage with a number of additional sources- what we might call soft law. As an example, the College of Policing

²² See Ben Bowling and Estelle Marks, ‘The Rise and Fall of Suspicionless Searches’ [2017] *King’s Law Journal*, 28(1): 62-88; *R (Roberts) v MPC* [2015]

²³ There are, however, some excellent resources that seek to elucidate court judgements. See, for example, Dominic Wood and others, *Blackstone’s Handbook for Policing Students* (Oxford University Press, 2022); Richard Card and Jack English, *Police Law* 15th edition, (Oxford University Press, 2015); The Police National Legal Database ([PNLD - Document Portal - Home](#))

(CoP) assumes the responsibility for issuing 'codes of practice' to Chief Constables. These codes of practice are issued under section 39A of the Police Act 1996 (as amended) and therefore have a statutory footing.²⁴ A prominent example of such a code is the Code of Ethics, which compliments the policing standards of professional behaviour.²⁵ The Code of Ethics sets out the policing principles that members of the police service are expected to uphold and the standards of behaviour they are expected to meet. Many forces have their own values statements, which are complementary to the Code of Ethics. Sometimes specific legislation requires the government to publish guidance on a specific set of powers. For example, part IV of the Police and Criminal Evidence Act 1984 requires the government to publish and maintain codes of practice on the powers in the Act (what are known as the PACE Codes). Regarding Stop and Search Powers, for instance, the relevant Code of Practice is Code A (Home Office, 2015). The College of Policing also publishes Authorised Professional Practice (APP) documents.²⁶ These documents are themed around different aspects of policing, advise police staff on how to use their powers lawfully and effectively, and are designed to support the training and development of police personnel. The police are expected to 'have regard' to APP guidance whilst on duty. In 2020, the College of Policing updated its Authorised Professional Practice for stop

²⁴ See Jessica Brown, 'Police powers: an introduction' [17 June 2020], House of Commons Library Briefing Paper, Number 8637.

²⁵ College of Policing, Code of Ethics A Code of Practice for the Principles and Standards of Professional Behaviour for the Policing Profession of England and Wales (2014), [code_of_ethics.pdf \(paas-s3-broker-prod-lon-6453d964-1d1a-432a-9260-5e0ba7d2fc51.s3.eu-west-2.amazonaws.com\)](#)

²⁶ College of Policing, APP content, [College of Policing APP](#)

and search in respect of public engagement.²⁷ There is, furthermore, scope for voluntary guidelines and best practice. For instance, the Home Office has published guidance on the Best Use of Stop and Search Powers. This is a voluntary scheme, which all forces have signed up to, the legislation has not been amended.

The Police National Curriculum

Another significant challenge facing the goal of creating critically thinking recruits is one that derives from the excessive and unrealistic scope of the National Police Curriculum (NPC). The NPC comprises learning standards which have been designed to meet policing needs. Each of the learning standards is fully mapped to the aforementioned Authorised Professional Practice, as well as to relevant National Occupational Standards contained within the Policing Professional Framework. The curriculum consists of approximately 23 thematic headings (see box 1).

Box 1: Themes Addressed in the National Police Curriculum
Understanding the Police Constable Role
Valuing Difference and Inclusion
Maintaining Professional Standards
Evidence-based Policing
Problem Solving

²⁷ College of Policing, Stop and search, [Stop and search \(college.police.uk\)](http://college.police.uk)

Research Methods and Skills

Decision-making and Discretion

Communication Skills

Wellbeing and Resilience

Leadership and Team-working

Managing Conflict

Criminology and Crime Prevention

Vulnerability and Risk

Public Protection

Victims and Witnesses

Criminal Justice

Digital Policing

Counter Terrorism

Response Policing

Policing Communities

Policing the Roads

Information and Intelligence

Conducting Investigations

Each of these specific themes has several learning outcomes. For instance, the learning outcomes for managing conflict are as follows:

Box 2: Examples of PNC Learning Outcomes

1. Examine the theories and models underpinning the causes of conflict within policing interventions
2. Explain the types of situations where conflict may occur and the appropriate response
3. Analyse the ethical and moral implications of the police using force
4. Identify levels of tension within a conflict situation
5. Describe the process for determining whether the use of force is necessary in a conflict situation
6. Examine alternatives to using force when involved in a conflict situation
7. Employ personal protection skills within a conflict situation
8. Effectively use personal protection equipment, physical and mechanical restraints
9. Effectively use personal safety skills as determined by the specific role of the officer or designated operating environment
10. Account for, and justify the use of force in a conflict situation

Each learning outcome then disaggregates further to encompass a range of what is known as minimum core content- the bare minimum that each learning outcome must achieve. These are specific aspects that must be addressed. If we- Effectively use personal protection equipment, physical and mechanical restraints- the MCC are as follows:

Box 3: Example of PNC Minimum Core Content

1. Use of an authorised issue baton
2. Use of an authorised incapacitant spray, including the effects of such usage and aftercare requirements
3. Application of physical and mechanical restraints
4. Multi-officer techniques
5. Possible medical implications following use of restraints and personal safety equipment
6. How to evaluate the use of personal protection equipment

Thus, notwithstanding the aspirations of the PEQF to develop and harness critical thinking police officers, the NPC is, to put it mildly, 'very prescriptive about what should be taught and as a result of this prescriptive nature [and] this could prevent all the benefits of higher education being accessed by the students who undertake these

programmes.’²⁸ The reality that emerges is that police recruits enter the PEQF process often with little experience in dealing with the law. The law in England and Wales is itself highly complex and multi-tiered, deriving from the constitutional set-up of the UK and includes primary and secondary law, common law and judge developed law, in addition to a range of additional standards, codes and guidelines. Given the scope of police powers and responsibilities, this complex web of information is replicated and repeated across different law-related topics, which include but are not limited to powers of arrest; entry, search, and seizure; detention and questioning; counterterrorism; public protection; and public order, as examples. Added to this, police recruits must also engage in a range of non-law topics as defined in the College of Policing Curriculum.

It is the sheer scale and complexity of the task that necessitates a banking approach to education. Yet, paradoxically, it is this approach which severely limits the extent to which the critical faculties of the recipients are developed. The question that emerges, therefore, is how those responsible for delivering police training can cover the necessary content while doing so in a manner that cultivates the overarching goal of harnessing critical thinking? Against this backdrop, the remainder of this article articulates a human rights-based approach to teaching police about their powers. It utilizes insights from Paulo Freire’s Pedagogy of the oppressed as the theoretical framework.

²⁸ See Shohel and others (n.2).

Towards a problem-solving approach and human rights

In response to the limitations of the banking model, Freire urges the adoption of the problem-posing model.²⁹ This approach to education encourages a discussion between teacher and student. It is, in essence, a method of teaching that promotes critical thinking for the purpose of liberation and depends on students as co-creators in the delivery of teaching. The distinction between the two was summarised by Freire in the following way:

[Banking education] attempts, by mythicizing reality, to conceal certain facts which explain the way men exist in the world.... Banking education resists dialogue; problem-posing education regards dialogue as indispensable to the act of cognition which unveils reality. Banking education treats students as objects of assistance; problem-posing education makes them critical thinkers.... Problem-posing education bases itself on creativity and stimulates true reflection and action upon reality, thereby responding to the vocation of men as beings who are authentic only when engaged in inquiry and creative transformation.³⁰

The problem-solving model seeks to blur the distinction between teacher and students as everyone learns alongside each other, creating equality. A problem-solving approach relies on the constructivist theory, which holds that knowledge is

²⁹ See Freire (n. 16), chapter 2.

³⁰ *Ibid.*, at 83.

constructed by individuals by using their experiences, which is what Freire drew upon in developing his pedagogy. In *Pedagogy of the Oppressed* Freire wrote:

Education as the practice of freedom—as opposed to education as the practice of domination—denies that man is abstract, isolated, independent, and unattached to the world; it also denies that the world exists as a reality apart from people. Authentic reflection considers neither abstract man nor the world without people, but people in their relations with the world.³¹

The starting point for a human rights-based approach to teaching is not to view human rights as yet another layer to heap onto an already overwhelming pile of existing hard and soft law. Instead, it seeks to channel and harness the nature of rights contestation and the competing obligations that police officers must attempt to balance. This is achieved by asking police recruits, in line with a discursive approach, to think about the types of rights issues that a particular police power affects. In *Pedagogy of the Oppressed*, Freire insisted that dialogical encounters help students to develop a critical consciousness of social, political, and economic contradictions so that they can take action against them.³² In the context of police powers, however, this dialogical exercise can help provide a lens through which to examine legislation. In conformity with Freire’s problem-solving approach, the central objective is to develop critical thinking. This is done primarily by exploring the nature of competing rights

³¹ *Ibid.*, 81.

³² *Ibid.*, chapter 3.

obligations that police officers, as public servants possess by drawing on the perspectives and views of police recruits. Understanding these competing claims to rights requires officers to draw on their own experience and knowledge in order to question how police powers might relate to the safeguarding of human rights.

Let us take a number of rights in turn by examining the stop and search powers under the PACE, 1984. Section 1 of PACE 1984 allows an officer to search a person or vehicle, or anything in or on a vehicle if they have reasonable grounds to suspect that stolen or prohibited articles, bladed or sharply pointed articles, or prohibited fireworks will be found.³³ Not only is the use of stop and search one of the most controversial of police powers, it is also an area that illuminates gaps in police knowledge of the law. For instance, a 2013 Her Majesty's Inspectorate of Constabulary (HMIC) report examined police compliance with the law in respect of stop and search.³⁴ The findings raised 'concerns about the differing views among officers of what constitutes reasonable grounds for suspicion, [and raised] questions about the levels of training provided to officers and supervisors, and about how they develop a practical understanding of reasonable grounds for suspicion.'³⁵ The report also concluded that '[t]raining should be improved so that officers better understand, amongst other things, what constitutes reasonable grounds.'³⁶ In 2016, as part of the HMIC's report

³³ The items referred to reflect the scope of material which is covered under Part 1 PACE, 1984. Other pieces of legislation are concerned with different items. As examples, Section 23 Misuse of Drugs Act, 1971- search for controlled drugs; Section 47 Firearms Act, 1968- possession of a firearm; and Section 36 Psychoactive Substances Act, 2016- Legal Highs.

³⁴ HMIC (n. 37)

³⁵ *Ibid.*, at 29.

³⁶ *Ibid.*

on stop and search powers, questions, which tested officers' knowledge of Code A and formed part of the HMIC's investigation, were put to serving officers. The report found that the officers asked answered 82 percent of the questions correctly.³⁷ While a relatively high return, the realities of this statistic are that in 18% of cases, officers were uncertain as to their legal powers. Six years later, the scope for improvement remains evident. The 2021 Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) report on Stop and Search powers found that while training on stop and search has improved, with some examples of good practice, there are still gaps in too many officers' skills and knowledge.³⁸ It also found that '[o]ver 35 years on from the introduction of stop and search legislation, no force fully understands the impact of the use of these powers.³⁹ These reports echo earlier research by Quinton and others, who identified that officers' knowledge and practices often vary in respect of the law,⁴⁰ and innumerable studies that identify the lack of reasonable suspicion.⁴¹

An initial question to ask recruits is why police are afforded the power of stop and search. Police recruits typically respond to the initial questions with a range of scenarios and potential rights. One response, for instance, is that where officers stop and search an individual and find a knife and where that person intends to use the knife to attack a particular individual, the use of the power can protect the right to life.

³⁷ HMIC, Stop and search powers 2: are the police using them effectively and fairly? [2016]

³⁸ HMICFRS. Disproportionate use of police powers A spotlight on stop and search and the use of force, [2021]).

³⁹ *Ibid.*

⁴⁰ Tiratelli and others (n. 33).

⁴¹ Mike Rowe, *Policing, Race and Racism* (Cullompton: Willan, 2004), at 95-96.

Another is that where police officers stop and search an individual who is in possession of stolen goods and where these goods belong to an individual whose home has just been robbed, the use of the power can be justified from the perspective of protecting the right to property. From an operational perspective, the use of stop and search can, in theory, be a significant tool in the armour of the police, one which, depending on the circumstances can protect individual rights and the interests of society more generally. According to Code A of PACE Act 1984, the power enables officers to allay or confirm suspicions about individuals without exercising their power of arrest.⁴² More concretely, the power can be used, amongst other things, to prevent crime, investigate crime, and detect crime.⁴³ This initial discussion opens recruits' minds to interrogating why certain powers are there, what purpose they serve and how these powers might relate to human rights issues.

At the same time, the use of stop and search can undermine rights in various ways. The most consequential impact of the use of stop and search has been the disproportionate use of the power against the Black community and ethnic minorities.⁴⁴ In 1999, for instance, the MacPherson report into the death of Stephen Lawrence, while not focusing on stop and search specifically, found that institutional racism was apparent in the disproportionate use of stop and search against black

⁴² See Home Office. Police and Criminal Evidence Act 1984 (PACE) Codes of Practice, [Police and Criminal Evidence Act 1984 \(PACE\) codes of practice - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/282222/Police_and_Criminal_Evidence_Act_1984_(PACE)_codes_of_practice_-_GOV.UK_(www.gov.uk).pdf), PACE Code A, 2015: para. 1.4

⁴³ Although research suggests that the impact on deterrence is weak (see Matteo Tiratelli, Paul Quinton, Ben Bradford. Does stop and search deter crime? Evidence from ten years of londonwide data' [2018] British journal of criminology, 58(5): 1212–1231

⁴⁴ *Ibid.*, Tiratelli and others

people.⁴⁵ In 2010, the Equality and Human Rights Commission concluded that if you are a black person, you are at least six times as likely to be stopped and searched by the police in England and Wales as a white person.⁴⁶ In 2013, Her Majesty's Inspectorate of Constabulary found that of the 8,783 stop and search records examined, 27% did not include sufficient grounds to justify the lawful use of the power.⁴⁷ These findings mirror those by academics. For instance, Bowling and Phillips, writing in 2007, found that the use of the powers against black people is disproportionate and that this is an indication of unlawful racial discrimination.⁴⁸ The second aspect of a rights-based approach to teaching police about their powers is to think about the potential adverse impacts on the enjoyment of human rights. Most cases, presumably given the high-profile nature of stop and search powers, involve some discussion around equality and non-discrimination. The act of stopping and searching can also undermine such rights as privacy and the right to be free from detention, which is less frequent but nevertheless consistent responses from police recruits. The purpose of integrating competing rights considerations into the discussion- s that through stop and search, police can both protect and undermine rights- is to provide a lens through which to better understand the legislation. That is,

⁴⁵ William Macpherson, *The Stephen Lawrence inquiry* [1999]. London: The Stationary Office, Cm 4262.

⁴⁶ Equality and Human Rights Commission, *Stop and think: A critical review of the use of stop and search powers in England and Wales* [2010].

⁴⁷ HMIC, *Stop and Search Powers: Are the police using them effectively and fairly?* [2013], https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522804/hmic-report-stop-and-search-powers-jan16.pdf; HMIC (2016), *Stop and search powers 2: are the police using them effectively and fairly?*, *stop-and-search-powers-2.pdf* (justiceinspectors.gov.uk)

⁴⁸ Ben Bowling and Coretta Phillips 'Disproportionate and discriminatory: reviewing the evidence on police stop and search' [2007] *Modern Law Review*, 70(6): 936–961.

in recognising both scenarios, it becomes clearer why the legislation exists as it does. For instance, returning to section 1 of PACE, there is an express requirement of reasonable suspicion found in section 1(3). The test must be applied to the circumstances in each case and is in two parts: (i) Firstly, the officer must have formed a genuine suspicion in their own mind that they will find the object for which the search power being exercised allows them to search and (ii) Secondly, the suspicion that the object will be found must be reasonable.⁴⁹ Reasonable grounds must be based on objective facts. At this point, the question is posed as to why reasonable suspicion must be held and what it might mean. Generally, reasonable suspicion must be grounded upon objective facts and fall into two categories: Current Intelligence or information, for example, the fact that a person matches the description of a suspect in a nearby burglary and/or suspicious behaviour, for example, attempting to hide or discard something, behaving nervously, or being seen with something that looks like a controlled drug. Crucially, 'reasonable suspicion cannot be based on generalisations or stereotypical images that certain groups or categories of people as more likely to be involved in criminal activity.'⁵⁰ The requirement of reasonable suspicion informed by objective facts can be thus understood against an initial framing of competing rights interests; it preserves the power while limiting its application in ways that can be discriminatory.

⁴⁹ Home Officer, PACE Code A, 2015

⁵⁰ Home Officer, PACE Code A, 2015, para. 2.2B(b)

Another example exists in the respect of Section 2 PACE 1984. Under this provision officers conducting a stop and search must also provide an individual with certain information. For instance, an officer must first explain the grounds for the search. In other words, why is the search being conducted? This requirement necessarily ties in with the requirements of reasonable suspicion in that to explain why someone has been stopped, there first must be a reasonable suspicion to explain. Secondly, an officer must explain the object and purpose of the search. To this end, an officer must also explain a third element- the legal power being used. These two elements must be read together in the sense that the particular legal power being used impacts that which can be searched for. In addition, an officer must tell an individual that they are being searched alongside providing the identity of the officer, and the station to which the officer is attached. If the officer is in plain clothes, they must produce a warrant card and a person must be told that they are entitled to a copy of the search. These requirements can again be understood against the initial framework of rights contestation. The respective legislative provisions exist to balance the potential misuse of these with the need to ensure that the police continue to possess the legal capacity to conduct stop and searches.

The above examples demonstrate elements that must be present before, during and after conducting a stop and search. The utility of this approach is limited to one aspect of the police curriculum, namely police powers. However, the ways in which police hold and use these powers are important and rights contestation can be used to

interrogate a whole host of powers from powers of arrest to questioning, detention to entry, search and seizure. Against the backdrop of the initial rights-based framing, facilitated through open discussion about competing rights interests that can emerge, recruits and officers are informed as to why legislation has been constructed in the ways that it is. As a result, recruits are positioned to think critically about why specific provisions are contained in the law; the objectives they seek to achieve; and what they are attempting to prevent.

Additional Benefits of a Rights-based Approach

There are several benefits to a rights-based approach to teaching police powers. Firstly, a human rights-based approach places human rights at the centre of police education. As noted, not only are the police, as public bodies, legally obligated to comply with human rights but this is also a stated aim of the College of Policing which, to their credit, has afforded human rights a central place in the PEQF. However, the complexity of the law can mean that precisely where human rights fit into these obligations can be uncertain. Rather than viewing human rights as yet another layer of information- one that sits alongside case law, primary and secondary legislation and a suite of guidelines, codes, best practices and recommendations- under a human rights-based approach to teaching they form the central element of police education. This, inadvertently, helps police officers not only to know what their human rights obligations are but to critically engage with competing rights. While looking at stop and search, this could be applied in respect of a range of police powers (Bonner and

Dammert, 2021).⁵¹ Similarly, case law, when utilised correctly, can be used as an additional teaching tool one that helps to elaborate on the real-life examples of legislative provisions in action. As an example, section 2 of PACE is a provision that tends to invoke much discussion amongst police recruits. For instance, while under s. 2- the requirements to follow GOWISELY- appear in the PACE, 1984, case law has also determined that the same information should be given when effecting a stop and search under other pieces of legislation, such as the Misuse of Drugs Act.⁵² Thus, the decisions of the courts help to identify that s.2 PACE must be followed when conducting a stop and search under other pieces of legislation. Case law has also helped to illuminate that when the police are confronted by a gang, it is not necessary to reasonably suspect every member of the gang.⁵³ Court rulings have also reaffirmed that failing to follow the requirements laid down in s. 2 of PACE renders a stop and search unlawful.⁵⁴

Secondly, identifying the tensions inherent in rights not only assists in understanding the law. It also acts as an organising concept for other sources. For instance, there will always be additional questions on the technical aspects of law; what do we mean by personal characteristics when it comes to the idea of reasonable suspicion? How do abstract provisions relate to the many different scenarios that police officers are likely

⁵¹ Michelle D. Bonner and Lucía Dammert ‘Constructing police legitimacy during protests: frames and consequences for human rights’ [2021], *Policing and Society*

⁵² *R v Fennelley* [1989] CrimLR 142

⁵³ *Howarth v Metropolitan Police Commissioner* [2011] EWHC 2818 (QB)

⁵⁴ *B v DPP* [2008] EWHC 1655 (Admin); *Osman v DPP* (1999) Times 28/09/99

to face? On this latter point, experience drawn from teaching police recruits illuminates that such questions are not only inevitable but also highly desirable and useful. In contemplating potential scenarios and searching for answers to these hypotheticals, recruits are fully engaging in the process of learning and seeking to better interrogate how, faced with a particular set of circumstances, they might react. It is here, then, that additional sources of information, such as case law, and in the context of PACE Stop and Search powers, PACE Code A, can exist not to add additional layers of seemingly unconnected information but rather to elaborate on the nature and scope of police powers. For instance, PACE Code A usefully elaborates on the characteristics which cannot amount to reasonable suspicion. They include someone's physical appearance (accept where it matches the description of a relevant suspect), an individual's known past convictions, any protected characteristic (age, disability, gender reassignment, pregnancy, race, religion, sex and sexual orientation), generalisations or stereotypes about groups of people. An officer's hunch or instinct is not an objective factor on which to base a reasonable grounds search.⁵⁵

Thirdly, a human rights-based approach to teaching pushes against the tendencies to embrace the banking model of education. For instance, to assist with learning police trainers often use a series of mnemonics to help officers remember the law. An example is GO WISELY- used to help officers remember the information to be given upon stopping and searching someone under certain pieces of legislation. COPPLAN-ID is

⁵⁵ Home Officer, PACE Code A, 2015, para. 2.6B

another, utilised to assist officers in remembering the various grounds for necessity under s. 24(5) of PACE when making an arrest. The mnemonic CIAPOAR helps users to remember the six key elements of the NDM. It also acts as an aide-memoire in aspects of decision-making. As a final example, DIE is used to remember the level of search upon arrest. While these mnemonics serve as a useful device in helping officers remember legislation, they can also serve to limit any level of critical thinking. For example, while the G in GO WISELY is useful in helping to identify the grounds for forming reasonable suspicion, they are limited in informing an officer what the basis of that suspicion can be. However, understood against the backdrop of competing rights, an officer is better equipped to form the basis of suspicion. Thus, a rights-based approach can underpin these mnemonics and help ensure that officers are not simply regurgitating acronyms in the absence of critical thinking.

Conclusion

The inspiration for this article came from delivering a number of courses as part of changes to police recruitment and education. Underpinning these reforms is undoubtedly a strong commitment to harnessing a police service that acts fairly, lawfully and without discrimination. Indeed, professionalization and developing analytical and informed officers is both necessary and desirable. However, achieving these objectives is stifled by the complexity of the law, an overly ambitious curriculum, and insufficient time afforded to cover the syllabus in sufficient detail. The result is that both teaching and learning are rooted in the banking model of

education where the aspirations of critical development are subverted to getting the course done. It is thus necessary to think laterally regarding how best to work within this system. As an alternative to the banking model of education, Freire articulated what he termed the problem-solving method. Amongst other things, this method of teaching emphasizes critical thinking for the purpose of liberation of the individual in question. By shifting the delivery of information to a form of collaboration and discussion, one where lived experiences and viewpoints of police recruits serve as context for learning. A human rights approach to teaching seeks to harness the inherent tensions and trade-offs associated with human rights to provide a lens through which to look at specific legislative provisions. The intention of doing so is to encourage recruits not simply to memorize the law, but to think analytically about why the law is the way it is and what objective it seeks to achieve. Moreover, through engaging recruits in discussion and debate about the rights that are employed, it is recruits who are helping to construct the framework through which to examine and understand the law as it will ultimately apply to them.

The Art of Adapting Open Educational Resources for Street Law: Copyright the Card Game a Case Study

Jane Secker¹, Chris Morrison² and Frances Ridout³

Abstract

The Street Law community is well practiced in designing bespoke activities for particular community groups. Starting with a blank canvas can often be the easier formula. How often do we consider inviting our Street Law students to adapt works, games, and materials designed for one purpose or audience (i.e. not Street Law) and transform them into a different format? This paper highlights a case study involving undergraduate law students adapting an openly licensed card game originally designed for use with academic librarians, and using it as a tool to raise awareness with sixth form students about the laws and issues of copyright.

Open Educational Practices, Information Literacy and Street Law

This article sits at the intersection of three areas of interest: information literacy, open educational practices and Street Law. While the article is largely practical in focus, we start by providing a short theoretical framework to our work, which we believe makes some new connections between these disciplines.

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³ Frances Ridout is the Director of the Queen Mary Legal Advice Centre, Queen Mary University of London. She is a Barrister and Senior Lecturer.

Firstly, the article is about the adaptation of an information literacy teaching resource, developed to educate librarians about copyright. Information literacy is the ability “to think critically and make balanced judgements about any information we find and use”.⁴ The teaching resource in question is available under a Creative Commons licence⁵ which allows it to be shared and adapted. The resource is also an example of the growing global movement towards recognising the benefits of what Cronin calls ‘open educational practices (OEP)’ in higher education and more broadly⁶. This includes publishing research on open access platforms but also sharing teaching materials as open educational resources (OERs) and considering the benefits to learners of more open and equitable access to education. Open access as defined by the Budapest Open Access Initiative, is scholarly literature that is:

“.. free(ly) availability on the public internet, permitting any users to read, download, copy, distribute, print, search, or link to the full texts of these articles.”⁷

While this movement has gained considerable traction across the world, including from research funders, the focus of this article is on raising the profile of OERs, which are freely available, openly licensed teaching materials. UNESCO recognise their value, saying that OERs “*contribute to peace, sustainable social and economic development*

⁴ CILIP Definition of Information Literacy (2018) Available at: www.cilip.org.uk/news/421972/What-is-information-literacy.htm <accessed 13.06.2022>

⁵ “Creative Commons licenses give everyone from individual creators to large institutions a standardised way to grant the public permission to use their creative work under copyright law.” www.creativecommons.org/about/ccllicences/ <accessed 13.06.2022>.

⁶ Cronin, C., 2017. Openness and praxis: Exploring the use of open educational practices in higher education. *International Review of Research in Open and Distributed Learning: IRRODL*, 18(5), pp.15-34.

⁷ See https://en.wikipedia.org/wiki/Budapest_Open_Access_Initiative

and intercultural dialogue". They also believe they improve the quality of education and help with capacity building.⁸

Secondly the article reports on the experiences of law students, working on a Street Law programme to adapt the teaching resource to a new audience, in this case sixth form students in schools, who need to engage with copyright as it relates to their own online behaviour and the social justice issues surrounding it.

There are several interesting theoretical links between the three areas that we have observed. Firstly, the very nature of public legal education is about democratising, demystifying and decoding complicated (and often hard to find) legal information for the benefit of communities - especially those affected by laws. The law should not be secret, it should not be hidden and it should be easily accessible to all who want or need to engage with it.⁹ The Street Law movement is inextricably linked to both a commitment to social justice (it having been described as a type of civic education¹⁰) and a culture of being free of charge. Secondly, within public legal education and Street Law communities we not only recognise and share good practice and resources but encourage the adaptation and development of these resources¹¹. It is an academic

⁸ See UNESCO page on Open Educational Resources <https://www.unesco.org/en/communication-information/open-solutions/open-educational-resources> <accessed 13.06.2022>.

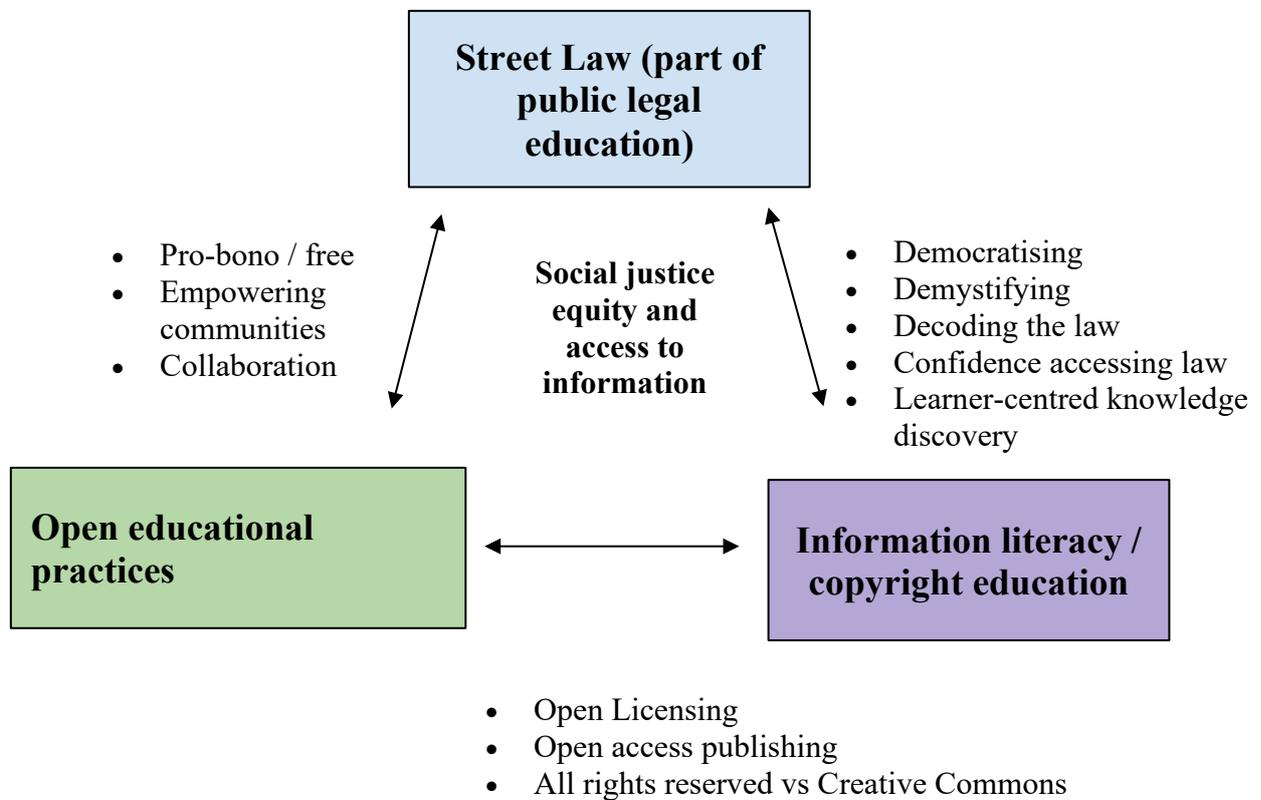
⁹ Per Lord Bingham "the law must be accessible and so far as possible intelligible, clear and predictable." Bingham, L. (2007) "THE RULE OF LAW," *The Cambridge Law Journal*. Cambridge University Press, 66(1), pp. 67–85.

¹⁰ Arthurs, S., Cooperman, M., Gallagher, J., Grealy, F., Lunney, J., Marrs, R. and Roe, R.L., 2017. From zero to 60: Building belief, capacity and community in Street Law instructors in one weekend. *Int'l J. Clinical Legal Educ.*, 24, p.118.

¹¹ Examples include, but are not limited to, those freely available from Street Law Inc. <https://store.streetlaw.org> <accessed 13.06.2022>, McQuoid-Mason, D.J., 1994. *Democracy for all: education towards a democratic culture*. Juta and Company Ltd. www.google.co.uk/books/edition/Democracy_for_All/Vgnu448i15IC?hl=en&gbpv=1&pg=PP1&printsec=front

field which is proudly collaborative. Diversity of input to resources improves them and ensures they are updated. This spirit aligns closely with the ethos of Creative Commons licences which are designed to encourage remixing and building on the work of others. Finally, copyright education is one aspect of information literacy teaching often undertaken by librarians who seek to empower communities to use information to achieve their personal or professional goals. Understanding copyright, particularly the application of copyright exceptions, can help ensure it is not seen as a barrier to learning. Therefore, what these three disciplines share is a concern about equity, social justice and opening up access to knowledge as represented in Figure 1. This collaboration potentially led to a more transformational educational experience for both the students and the tutors.

Figure 1: The relationship between Street Law, information literacy and open educational practices



Copyright might, at first glance, feel like an unusual topic for a Street Law activity, it being initially associated with the restriction of individual’s rights, and business law. Through the diagram above, we have sought to demonstrate that it is in fact a direct fit with the social justice mission of clinical legal education. Perhaps, most importantly, clinicians need to provide suitable opportunities for the students engaging with Street Law projects in this area to see these connections. Ultimately, developing information literacy skills in the area of copyright will serve many individuals, protect culture and perhaps ultimately support small businesses in the

future¹². Businesses need to understand how and where they might have copyright protection in part of their business that they have created, but also understand the degree to which rules can enable or restrict their output / product.

Copyright the Card Game

Copyright the Card Game was created by Chris Morrison and Jane Secker in 2014, initially as a training resource for librarians to communicate the changes to UK copyright law following the Hargreaves Review of Intellectual Property (Hargreaves, 2011).¹³ It was designed as an accessible and interactive way to introduce the complex area of copyright law, and has been effective with a wide variety of audiences including educators, researchers, creators and entrepreneurs.¹⁴ The card deck and associated PowerPoint slides are available for free download from the website www.copyrightliteracy.org.¹⁵ They are available under a Creative Commons licence that allows them to be shared and for others to make derivative versions. These digital resources can be adapted for use in in-person workshops or digital workshops. As a result, a range of international versions have been developed including in the US, Canada, New Zealand and Australia.

¹² Elaine Campbell (2015) A dangerous method? Defending the rise of business law clinics in the UK, *The Law Teacher*, 49:2, 165-175.

¹³ Hargreaves, I. (2011). 'Digital Opportunity: A Review of Intellectual Property and Growth'.

¹⁴ Secker J and Morrison C. (2016) *Copyright and E-learning: a guide for practitioners*. Facet Publishing: London. Chapter 6: Copyright education and training:

https://ukcopyrightliteracy.files.wordpress.com/2016/07/chapter-6_secker-m_copyright-e-learning-2nd-edn.pdf <accessed 13.06.2022>.

¹⁵ <https://copyrightliteracy.org/resources/copyright-the-card-game/> <accessed 13.06.2022>.

The game works by covering different aspects of copyright law in a series of rounds with an associated suit of cards. Firstly, the 'works' round covers the subject matter protected by copyright. The second round covers 'usages' which are the restricted acts in the copyright legislation. Round three provides an overview of different types of licences which allow legal use of copyright material with the permission of the copyright owner. The fourth round introduces the 'exceptions' cards, which list a selection of permitted acts - those where activity is legal without the copyright owner's permission. This round also introduces the concept of risk when making decisions about using content protected by copyright.

All rounds involve providing participants with context-specific scenarios related to copyright and asking them to select the appropriate cards. Teams then come together to share their answers and the facilitators discuss these and award points based on well thought through interpretations of the law.

The game is based on active learning principles and is designed to provide a 'safe space' where participants are allowed to work through different possibilities without fear of 'getting it wrong'. In fact, the game is specifically designed to address the fact that those who are given responsibility within their organisation often feel the need to find the 'right' answer to copyright questions. However, copyright law is rarely clear cut, particularly when it comes to interpretations of copyright exceptions and risk.

This has been shown to be particularly helpful for the library and information profession where copyright can cause significant anxiety.¹⁶

The game incorporates many of the fundamental principles of Street Law; it is interactive, fun, and empowering for the participants who have the opportunity to develop their knowledge / expertise in an area of law. Areas of law such as copyright are too often overlooked as ideal areas of law for Street Law activities; seen in a commercial, money driven light rather than as a social justice tool. Society has changed in the last decade, even more so since the Covid19 pandemic in 2020. People now have greater access to a wide-ranging set of digital tools that allow them to create and share their creative work. Most young people have access to a smart phone years before they reach adulthood, and social media platforms such as Tiktok and Instagram are increasingly focused on visual content rather than words. As such, the need for young people (school students and Law students) to be aware of the concept of copyright and start the journey of engaging in the various rights and responsibilities has never been greater. This is partly reflected in the launch of the Government's Online Media Literacy Strategy in July 2021, which while focusing on countering online harms also recognises the need for people to understand how online content is generated and be able to critically analyse the content they consume.¹⁷ In addition the Intellectual Property Office Strategy 2018-2021 highlights the importance of raising

¹⁶ Wakaruk, A., Gareau-Brennan, C., Pietrosanu, P. (2021). Introducing the Copyright Anxiety Scale. *Journal of Copyright in Education and Librarianship*, 5(1), 1–38 www.jcel-pub.org/article/view/15212 <accessed 13.06.2022>.

¹⁷ <https://www.gov.uk/government/publications/online-media-literacy-strategy> <accessed 13.06.2022>.

awareness of IP law through education and work is underway to develop a new IP education framework due for launch in 2022.¹⁸ The need for awareness in this area has been amplified by the Covid19 pandemic and advancement of digital communication. Put simply, society (and in-particular young people) have access to more digital platforms and are creating more digital content with them.

Adapting for Street Law

Copyright the Card Game is an ideal tool to be adapted for use in a Street Law activity because it is openly licensed. The trial started with a group of 9 undergraduate Law students engaging with a 15 credit, level 6, optional module: Street Law. The game was first introduced to the students through their participation in a seminar run by the game's creators. The real aim was to get the students (especially those who had not studied an intellectual property law or copyright module) comfortable with the format and the content. Particularly the idea that intricacies around the law were not the priority; engaging in the discussion and issues was. The different rounds were used as a way to introduce them to the area of law and effectively help them 'research' the legal content for their Street Law activity. This came with the caveat that they were engaging in more legal content than would be necessary for a teenage audience. Their brief was to deliver an engaging Street Law session via Zoom, to approximately 20 sixth form students who had already self-identified as being interested in Law

¹⁸ <https://www.gov.uk/government/publications/ipo-strategy-2018-to-2021> <accessed 13.06.2022>.

through a school club. For ease and clarity, we will call the Law students, students, and the sixth form students, SFS.

The students were encouraged to work together in a team of 9 and were given all the raw resources, logos and content to adapt in any way they saw fit. In reality they stripped out approximately 50% of the cards from each round, but did not change the written text on any of the cards. They re-named the game Copyright Countdown and thought of two current audience appropriate examples per round that the groups could fit the cards into. Due to Covid19 restrictions, they could not physically attend, so were told that the session would be 'beamed' into the classroom with the teacher present and all SFS physically present in the same room. This had the advantage that the SFS could sit in teams, and the drawback that the students found it challenging to see the group via the small laptop camera pointed at the body of the classroom.

The students designed a scoring system, where the teams could win points. Points meant the SFS could open one of a number of envelopes (the more envelopes they opened, the more letters they would get in the concluding 'hangman' style game). The winning team was the team who was able to work out the word from the letters they had at the end of the rounds. However, in reality everyone got sweets or a chocolate prize!

Interestingly, the students found it helpful to divide up the different rounds (with two students leading on each round) and the ninth member of the team acting as a team leader to organise the team and introduce / conclude the session.

The actual workshop took place during spring 2021 when the SFS were physically in the classroom, but the students were stationed around the world and only available online. This in itself provided challenges.

The nine students joined the teaching session on Zoom, being projected onto a main screen so they were both visible and audible. The SFS sat around small tables in their classroom. The students shared their screen and they were able to see the SFS through a webcam in the classroom. The session was facilitated by their class teacher who played a pivotal role in supporting the session.

The students had prepared physical tools for the workshop which had been dropped into the school in advance. These were: a brown envelope with a deck of adapted cards for each team, a worksheet with scenario questions on (these were also on the share screen PowerPoint but in hard copy for ease), and 8 mini envelopes (only to be opened if the student won the point). There were also prizes for all teams and SFS at the end.

The session was fully rehearsed with academic support twice before the session was facilitated with the SFS.

Reflections

Reflecting on the session using Gibbs' model¹⁹ helped us to evaluate the experience and to plan for future collaborations. This model involves starting by describing the experience, noting our feelings and thoughts, our evaluation of the experience, an analysis to make sense of the situation, a conclusion about what we learned and what we could have done differently, and then finally creating an action plan for the future.

The experience

Much of the work is described above, so rather than repeat this, one thing we reflected on was how it was a different task to adapt someone else's work, rather than letting the students start from scratch to facilitate a workshop on copyright. The adaptation process allowed the Street Law students to have lived experience of the advantages of open educational practice and deep 'team work' (meaning with the original creators of Copyright the Card Game rather than just each other). One additional important stage was ahead of running the session for the SFS, the group did a 'dry run' in front of the team, who then provided them with additional feedback on how to improve the running of the game.

As with a lot of Street Law projects, the students initially fell into the trap of wanting to teach the SFS about the law - and excessive detail on it. It took a number of rehearsals (and building of their confidence) for them to realise that the SFS

¹⁹ Gibbs G (1988). *Learning by Doing: A guide to teaching and learning methods*. Further Education Unit. Oxford Polytechnic: Oxford.

discovering the law through the cards was a much more effective method of learning. This also links with the common problem of students viewing themselves as the teachers, rather than it being a peer learning exercise. Students took time to understand that the discussion and debate on the issue was as important as the content. We really encouraged them to think about what they would learn from the SFS and how the reaction and answers might be used by them to shape and adapt the game further for future workshops. The students essentially needed to understand the essence of public engagement as a two-way process.²⁰

Feelings and thoughts

As creators of the Card Game, Chris and Jane felt invested in helping the Law students to understand the design of the original game and its learning outcomes, while trying to step back and let them adapt it in the way the group felt was best. For example, one experience from using it as a resource is not to present about copyright, but encourage the participants to read the cards themselves. When students wanted to 'lecture' to their students in the initial rehearsal, efforts were made to remind them of this essential Street Law pedagogy. While they had the advantages of our experiences as creators of the game, and our many hours of using it with different groups, it felt unfair to try and unduly influence them by saying 'that won't work'. This resulted in

²⁰ The National Co-ordinating Centre for Public Engagement describe the importance of “an open, two-way conversation” with communities (<https://www.publicengagement.ac.uk/about-engagement/what-public-engagement>) <accessed 13.06.2022>

further discussions with the students about the importance of student-centred learning as a fundamental feature of Street Law.

Evaluation of the experience

The outcome of the activity was impressive and professional. SFS feedback included:

- *“Copyright Card game was very engaging and provided us with an insight into the various different forms of copyright!” and*
- *“During the Queen Mary seminar on copyright law, not only did they provide us with useful practical gifts but also a great insight to the world of law. We played multiple games on different sectors of copyright law. We studied the key aspects of copyright found in all parts of our society (music, advertisement, companies) and had to answer multiple questions. The session was entertaining, helpful and informative”*

Having the starting base of a professional resource really allowed the students to see the standard expected of a ‘learn by doing’ game and concentrate on maintaining and building on that standard of work. It is not uncommon to hear Street Law clinicians anecdotally describe the difficulties in encouraging students to increase their creativity (possibly a hangover from the more formal authoritarian style of mainstream legal education). Adapting resources gives students a physical example of interactive facilitation, and is a worthwhile activity for students at the start of their Street Law course. School teacher Ms Dene, who was based in the classroom with her SFS during the session, noted;

“The Copyright Card game was brilliant fun! We ran it with our Sixth Form Law Scholarship Society. The Queen Mary students ran the competitive game online with different rounds, which kept it engaging and exciting. The students had a great time and also learnt a lot! For students who were already interested in law, I think they were surprised at how little they knew about a strand of law that is so important to their everyday lives.”

Despite being actively encouraged to dissect all the original teaching resources, the actual cards were not altered. The pack of cards was stripped back to reduce complication and sections added in, but the students felt reluctant to change the terminology on the cards. In this respect, Street Law students adapting other resources need as much encouragement to change them - perhaps something which comes with confidence, experience and demonstration. Just as those leading Street Law teaching, model student-centred teaching practice within their own classes; we found that students benefit when Street Law teachers model the art of adaptation to them. This can easily be achieved through adapting the wealth of Street Law resources readily available, running a session and then showing the students the original resource²¹.

One Street Law student provided the following feedback:

“Working with a copyright card game was very different from the learning resources I was used to working with, but it made me be more creative. It gave me a different

²¹ There are some excellent resources available such as ‘Should it be a Crime?’ and ‘Who gets a Heart’ in: Arthurs, S., Cooperman, M., Gallagher, J., Grealy, F., Lunney, J., Marrs, R. and Roe, R.L., 2017. From zero to 60: Building belief, capacity and community in Street Law instructors in one weekend. *Int'l J. Clinical Legal Educ.*, 24, p.118.

perspective of copyright. It is a challenge to adapt complex copyright concepts to a six form audience but working with a card game as a resource made it interactive and easy to understand. [Sixth form] students engaged more and as a result better grasped the concepts."

Analysis

The fact that the students were adapting an open educational resource raised awareness of this fundamental principle in public legal education and Street Law. It enabled discussions on information literacy and perhaps most importantly allowed for a demonstration of how both areas link to legal literacy. Law students in the UK are often painstakingly aware of rules of plagiarism, citing and linking facts to authorities. Perhaps it should come as no surprise that the very concept of adapting another work and re-using it felt unnatural to them.

One thought for why it was so hard for the students to realise that it was a peer to peer (two way) learning experience as much as a leader disseminated (one way activity) was the nature of the delivery. Were they in the room physically they could have been sitting with, walking around, or overhearing the group discussions. Perhaps one student would have been integrated into each team of SFS playing the game. This could have provided more content to stimulate discussion. Hopefully, in a post pandemic world where face-to-face Street Law can resume, this will not be a problem. When repeated, we might invite the students to learn more about the two-way process

of public engagement before delivery, and take time to think about what they are seeking to gain from the SFS.

Wallace and Perdue (2020)²² published a study reflecting the views of 63 participants in Street Law projects from multiple jurisdictions. Their study revealed five key themes in student self-identified learning: explaining legal topics to lay audiences, public speaking in a non-academic setting, building substantive legal content, research and preparation and developing cultural competency and community connections. The research highlighted the adaptation of lesson plans in Street Law, but there was no further evidence that adapting resources was seen or viewed as a skill by the students. Further, in many other research papers on student skills development from both clinical legal education and more specifically Street Law; the ability to adapt, develop and edit other people's work is rarely, if not ever, recognised. Commercial awareness, adaptability (in terms of their own behaviour), and innovation are recognised²³, but specifically not the ability to adapt tools and resources. Grimes et al (2011)²⁴ acknowledged the need to research materials already available, but the skill of adapting open educational resources seems to be an area for the Street Law community to explore with Law students both in terms of using, and recognising as a valuable employability skill.

²² Wallace, A., & Perdue, B. (2020). Preparing Lawyers for Practice: Developing Cultural Competency, Communication Skills, and Content Knowledge through Street Law Programs. *Journal of Legal Education (forthcoming)*.

²³ Thomas. L., 2018, 'It puts the law they've learnt in theory into practice', *Reimagining Clinical Legal Education*. Bloomsbury Publishing, 127-154.

²⁴ Grimes. R, McQuoid-Mason. D, O'Brien. E, Zimmer.J., (2011) StreetLaw and Social Justice Education The Global Clinical Movement, 2011, Edited by Bloch. F., Oxford University Press.

This small-scale case study does not seek to be that research. But given the difficulties the team had in encouraging the students to adapt the materials (rather than just reduce the number of cards in the game which were available to the SFS), it may indicate a reluctance within Street Law students to develop and build on work already in existence. We suggest this is an area for discussion and development within the Street Law community.

As with many Street Law activities, really grasping the logistics of running a session was one of the factors that needed to be stressed. For example, helping the Street Law students to understand the importance of the SFS being comfortable with the cards, giving them time to read the cards, and talking slowly and clearly through the rules. As with many Street Law sessions, this was achieved with rehearsals and feedback.

Action Plan

As a point of principle, this work proved that Copyright the Card Game was a resource that could be adapted for quite different audiences to the original intended one. It also created an engaging session with SFS. The plan is to share the newly created resource so it can be used in other Street Law projects or in schools who wish to teach students about copyright and also to share this on the copyrightliteracy.org website. The team plan to continue to work together to explore other audiences that might benefit from engaging with copyright law using this resource.

We ran a further adaptation experience of Copyright the Card Game, at the Law Society of Ireland orientation weekend in October 2021 (a weekend devoted to

training trainee solicitors in Ireland to facilitate Street Law sessions in schools). By contrast, here it was played with trainee solicitors who were learning about Street Law. The game was played to demonstrate to them the art of adaptation and the link between copyright and social justice. At the end of playing a significantly paired down and compressed version of the game (partly due to time constraints), the trainees were asked how copyright links with social justice issues. All the comments were related to the right to protect your own work from abuse and exploitation. As a twist, trainees were then shown a trailer for Paywall the Movie (<https://paywallthemovie.com/trailers>²⁵) which is an open access documentary highlighting the issues of academic writing (especially those coming from publicly funded universities) being kept behind expensive paywalls and how this impacts on society's ability to innovate - particularly with medical advances²⁶. This additional adaptation to the game further emphasised how it is about the discussion of legal issues in society rather than participants of the game developing an intricate knowledge of copyright law.

Giving it a Go

This article aims to inspire you to think about a broad range of topic areas for Street Law projects and the social justice benefit in widening awareness about copyright, especially in a post Covid19 world. Perhaps most importantly, we hope this article

²⁵ <accessed 13.06.2022>.

²⁶ The full version of the documentary is available here: https://www.youtube.com/watch?v=HM_nWsdbNvQ <accessed 13.06.2022>.

will inspire you to think about how you can design Street Law projects which adapt and develop already available open educational resources. For those looking for existing open educational resources there are numerous collections online, but we recommend the University of Edinburgh's guide to finding suitable resources.²⁷ When re-using or re-purposes educational resources students need to be mindful of any financial implications, copyright restrictions on any resources and of course ensuring that they are jurisdiction appropriate. The key advantage of open educational resources is that they are by definition free and openly licensed so can be freely reused and adapted subject to the specific Creative Commons licence. However introducing students to these resources can ultimately help them to focus the time they do have on producing a better final Street Law session. As clinical legal education academics, we must at all times remember the importance of the process on Street Law student learning. How can we turn the art of adaption into learning rather than being viewed (rightly or wrongly) by Law students as being a short cut to the final product.

Outside of the UK, Street Law students are perhaps more accustomed to working with templates or adapting materials through the work of Street Law, Inc.²⁸ (providing materials for use in the USA) and books like *Democracy for all: education towards a democratic culture* by David McQuoid-Mason.²⁹ In clinical legal education, we strive to develop innovative graduates who think and behave differently; we hope that this

²⁷<https://open.ed.ac.uk/how-to-guides-old/where-to-find-oers/> <accessed 13.06.2022>.

²⁸<https://www.streetlaw.org/> <accessed 13.06.2022>.

²⁹ McQuoid-Mason, D. J. (1994). *Democracy for all: education towards a democratic culture*. Juta and Company Ltd.

article has encouraged you to consider teaching Street Law students about open educational practices and Creative Commons materials, as well as the art of adapting. We hope it persuades you to approach and encourage your institution to promote openness within practice both within and outside of clinical legal education. This final quote from one of the Street Law students sums up the benefit he saw:

“Adapting the game in light of all of these considerations (the knowledge of our participants, the length of our session and the impact of COVID-19 on both us and the participants) was a challenging but incredibly useful exercise. I enjoyed ‘thinking outside the box’ with the added benefit of ‘standing on the shoulders of giants’. If we had started from scratch, I do feel that our session would have been much less successful. In fact, I used the skills that I developed in adapting this activity in my final project, which was an adaptation of another street law activity. In turn, I managed to go even further in my final project.”

The open access resources for Copyright the Card Game are available for download from the www.copyrightliteracy.org website³⁰.

A special thank you goes to Ms Dene at Seven Kings School for facilitating the game. Without her enthusiasm present in the classroom, this workshop and trial would not have been possible during the pandemic.

³⁰ See <https://copyrightliteracy.org/resources/copyright-the-card-game/> <accessed 13.06.2022>.

Image of SFSs participating



UK and Ireland Street Law Conference 2022 Review

Ruth Nwosu, Sabrina Shafi, Kristianna Peel, Isabel Ng & Heloisa Chambisse¹

Introduction

The UK and Ireland Street Law Conference brings together academics, lawyers, students, and other Street Law enthusiasts to promote, support and celebrate public legal education (PLE) and the progress being made in this important field. Normally held annually, this was the first conference since the outbreak of the Covid-19 pandemic, taking place over the 7th and 8th April 2022 and hosted in Edinburgh by the Law Society of Scotland.

The conference was centred around Street Law's commitment and desire in helping the lay person to 'understand their rights and responsibilities in a world full of increasingly complex and obtuse legal systems.'² The ethos of the conference was to provide a valuable resource within the PLE community for those who were present across the two-day conference and for future guidance. As students and Street Law initiators, it was gratifying to be a piece and player on the chessboard - to interact, connect and understand the multitude of approaches to teaching and learning in a Street Law context. In accordance with the principle of collaboration and to promote open education, this article aims to collate the insightful topics and discussions from the key-note sessions. This article will then move on to discuss the value of the conference from the perspective of students as well as wider stakeholders in PLE programmes. Further, we will explore how

¹ Law students at the University of Sussex

² Sean Arthurs et al, 'From Zero to 60: Building Belief, Capacity and Community in Street Law Instructors in One Weekend' (2017) 24(2) International Journal of Clinical Legal Education 118, 120.

the conference could be improved moving forward with suggestions as to how students and future lawyers and/or professionals, can contribute to PLE in the future.

Summary of the UK and Ireland Street Law Conference, Day 1, Thursday 7th April 2022

Session 1: Counterbalancing Teen Reliance on Social Media News Using Street Law Methodology by Amy Wallace, New York Law School

The opening session of the conference was a fascinating presentation performed by Amy Wallace from New York Law School. Through her research, she showed the dependency of the teenage population on social media to learn about the 'news' and how one can use a Street Law approach to act as a check upon or a corrective device in relation to the source and accuracy of social media versions of 'news' and current affairs. Wallace presented an array of relevant and practical role-play scenarios that would serve usefully for these purposes. Delegates were then split into groups and were given different role-play scenarios, for example a mock legislative hearing, to address contemporary issues or 'news' and then share with the rest of the conference. Overall, this session was a highly educational presentation that demonstrated a range of useful session ideas and delivery methods, completed in the traditional Street Law style of interactive teaching.

Session 2: Environmental Rights & Protection by Alannah Short & Luke McGivern, Law Society of Ireland

Session two offered a highly relevant insight into one particular Street Law programme. First, delegates were offered a handout to read about pollution issues near a school. They were then given an A-Z sheet and had to write down a word for every letter of the alphabet that related to the scenario in terms of environmental rights and protection. This

activity was highly engaging and brought out the creative, even competitive, side of the participants! Overall, the activity enabled conference members to understand the power of a seemingly 'fun' activity that allows an audience to think and learn in a cooperative, constructive and creative way. Reference was then made to other teaching and learning methods that could be linked to the A-Z words such as letter writing and, campaigning. Examples were then given of a case upon which the scenario was based. This session allowed the participants to gain ideas for future sessions as well as better understanding the Street Law style of 'active' learning. This contrasted usefully for us, as students, given that much of our own institutional teaching can be better described as 'passive' – dominated by lectures.

Session 3: Diversity and inclusion: is your PLE project accessible to all of your student body? by Racheal Kirkup & Colleagues, BPP Education Group

One of the important aspects of conducting Street Law projects is ensuring that they are inclusive – and this is what was explored and shared in this session. Following a short presentation on the diversity and inclusion issues faced by the presenters and the mechanisms used to address them, the exercise that followed allowed participants to think about the challenges that teachers and learners may have when facing a diversity or inclusion problem. We were encouraged to list possible sources of internal and external support that may be sought by or directed to students. The main piece of advice given by the speakers was to make the project diverse and inclusive from the outset. In other words, it should be clear from the beginning how students can and should be supported if needs arise. For example, the contact details of the university's Wellbeing Officer can be included in the project's handbook so that in the event of a student having anxiety or panic attacks, they know to whom to reach out. In addition, an array of personal circumstances that may impede students from participating in Street Law projects were noted, including anxiety, costs (such as travel expenses) and limits of

current legal knowledge amongst other things. Student participation in a variety of roles including behind the scenes support should be widely encouraged so that contributions can be made to projects from different perspectives that meet student needs as well as project objectives.

Session 4: Identifying client opportunities and tailoring materials by Kristina Garner, University of East Anglia

Kristina Garner led an insightful session into how Street Law programmes can successfully target, and address clients' needs by tailoring materials to them, reinforcing the idea that Street Law cannot and should not be a 'one size fits all' programme. Garner illustrated the flexibility of Street Law to be able to mould and address the needs of target groups, referring to the world's estimated population she suggested that there are 7.9 billion possibilities as to how Street Law programmes can be set up. The session highlighted the processes and considerations that can be taken to tailor Street Law sessions, beginning with identifying the client base and the opportunities of reaching a diverse number of people within that. For example, in post-sixteen education there are possibilities for Street Law to be set up for sixth forms, apprentices, university students, as well as a wide range of legal issues that may be of significant interest to the particular Street Law community group. It was agreed that an effective way to address this was to conduct client interviews to assess what legal education they believe they could benefit from. Finally, the importance of addressing different delivery methods was stressed – what may be captivating to primary school children may not be as attractive for an adult writers' group. It is important to understand Street Law as a flexible programme and to use its adaptability to tailor to the needs of the client base.

Session 5: Reflections so far by Law Society of Scotland Committee

Following the insightful and fruitful first four sessions of the conference, we regrouped to share our current reflections thus far. The key takeaways included how to effectively design inclusive programmes that were tailored to be adaptable, if necessary, depending on the target audience. To enhance the accessibility of Street Law, it was considered what a suitable 'dosage' of educational material would be. It was noted that spreading out a single topic over several sessions would maximise learning and would enable the facilitators to focus on producing engaging active-based sessions.

Session 6: Keynote Workshop: 'Capturing the learning' - Maximising the educational benefit of Street Law and other forms of PLE by Richard Grimes, University of Edinburgh

Led by Richard Grimes, session six was an enlightening keynote workshop that covered every aspect of an ideal Street Law programme. It specifically focussed on maximising the educational benefit of Street Law. First, the core features of an effective programme were defined. Grimes provided questions to think about regarding one's programme such as: what legal knowledge one will be learning?; what skills have been developed?; what values and teaching outcomes will be created?; and more besides. Then, the discussion focused on who is learning the content, and how to specifically target that audience be they law students, community groups or other stakeholders. The importance of this as well as significance of monitoring learning and how exactly one can do it was emphasised. The value of using specific, measurable, attainable, relevant and time-bound (SMART) learning outcomes that are aligned carefully for each activity, and the keeping of records and documents for evidence was stressed. The session then moved on to the delegates working in small groups to prepare a proposal for a Street Law module to be included in the curriculum and then representatives of each groups had to do a presentation before a mock Board of Studies of a law school to make the case for

accreditation. The session therefore covered basic principles of course outcomes, content, delivery, assessment and evaluation with a hands-on dimension to put it all in context.

Session 7: Sharing Ideas and Innovations - Quickfire Round by Law Society of Scotland Committee

This quickfire session allowed for each participant to reintroduce themselves and give a brief overview of their own Street Law projects. Frances Ridout spoke about the two Street Law projects at Queen Mary University London, 'Sharing and Publishing Images to Embarrass (SPITE)'³ and 'I Am You'⁴. The former involves undergraduate students running workshops on the illegality of image-based sexual abuse and harassment and the latter seeks to educate primary school children on the protected characteristics of the Equality Act 2010, through a series of interactive workshops. The Law Society of Ireland shared a project they had undertaken with children of a similar age, which concerned environmental rights and protection. They began their Street Law workshops by taking the children outside and making them note and appreciate key aspects of their local environment, before returning their focus to the laws that protect the environment. Overall, this session demonstrated the diversity in the structure and execution presented by each Street Law facilitator.

Summary of the UK and Ireland Street Law Conference, Day 2, Friday 8th April 2022

Session 1: Sheffield Hallam and our Street Law programme by Lisa Woolley, Sheffield Hallam University

³ Queen Mary University of London, 'SPITE for schools' < <http://www.lac.qmul.ac.uk/clients/community-projects/spite-for-schools/>> accessed 13 June 2022.

⁴ Queen Mary University of London, 'I am You' < <http://www.lac.qmul.ac.uk/clients/community-projects/i-am-you/>> accessed 13 June 2022.

Sheffield Hallam's Street Law experience was shared in this session by Lisa Woolley. The COVID-19 pandemic moved everyone towards designing and delivering online Street Law sessions and Sheffield Hallam was no different. Woolley explained that the switch was difficult at the start but, with time, they managed to gain momentum. A highlight of their Street Law project in the academic year 2020-21 involved delivery of sessions to primary schools. With this experience, they had significant practical takeaways such as the need for Disclosure and Barring Service (DBS) checks. A few of the schools in which they had planned to deliver the sessions were unable to take part as not everyone had been able to carry out a DBS check. If planning such sessions, it is vital that the DBS check is successfully completed. As Street Law is taught as a module not an extra-curricular activity at Sheffield, Woolley also shared how the module curriculum is structured and how the students are assessed. Finding the most efficient way to assess Street Law projects as a module is challenging, as it is difficult to decide on what exactly is being assessed: the sessions delivered or the work that is done in preparation for the same. The assessment mode adopted at Sheffield is a 3000-word essay and a 1000-word self-reflection piece, in which the research and documents gathered by the students can be used as addenda in the reflective piece.

Session 2: Street Law Scotland: Online lessons in a changing teaching environment by Georgia Turnbull & Robb Marrs, Law Society of Scotland

The pandemic has forced many communities to work and engage online and so, within Street Law, there is a need to learn how to develop an effective online community. In this session, ideas and tips were shared to facilitate building online communities to ensure that the delivery of the Street Law sessions is of high quality and as engaging as the face-to-face sessions. These included carrying out icebreaker and other interactive exercises throughout sessions to keep everyone involved and make the people delivering the sessions even more relatable. The latter point is crucial as virtual sessions can present

obstacles to making a personal connection with audiences – humanising trainers and fostering greater levels of engagement. At the end of the session, a group exercise was done where we were given a hypothetical scenario of a Zoom session of twenty students, and we had to design an online class for the students. Again, it was a demonstration of the range, variety and scope of Street Law work.

Session 3: Copyright: The Card Game by Frances Ridout & Meghan Mizen, Queen Mary University London (QMUL)

Demystifying the law, building confidence accessing the law and promoting learner-centred education are common aims of PLE. In this session, Frances Ridout and Meghan Mizen explained how they used Street Law as the means to achieve these overall aims and to provide greater access to information in the legal and highly technical field of copyright. Engaging delegates in the ‘Copyright: The Card Game,’ Ridout and Mizen demonstrated, yet again at this conference, the importance of producing engaging activities to advance legal education. This literal card game covered the main aspects of copyright in a thorough and captivating manner. Playing the game, target audiences draw cards displaying objects and their copyright status. The implications are then debated using facilitated discussion. This session underlined the important link between copyright and Street Law itself. Street Law, being an open educational practice and available as a shared resource for the benefit of all, engages in open licensing, open access publishing and creative commons. It is, therefore, necessary for all Street Law initiatives to be attuned to this to continue to promote accessibility and spread knowledge.

Session 4: Designing Street Law Lessons – Ingredients in the Secret Sauce by Lee Arbetman, Street Law Inc.

Using the culinary recipe analogy there are key ‘ingredients’ to effective Street Law sessions and Lee Arbetman shared these in this session. He referred to the well-known

learning pyramid which studies suggest show that teaching others can lead to a retention rate of information of up to 90%, a significant improvement when compared to more traditional, often university-style approaches to learning and teaching which consists predominantly of lectures and seminars. Some studies suggest that knowledge retention can be significantly lower under such passive forms of study (5% and 50% respectively).⁵ Street Law's proactive teaching style allows for research, analytical and problem-solving skills when structuring an interactive lesson with relevant material for the specific target audience, ranging from primary school children to adults of all ages, depending on the community group involved. To further unpack the 'secret sauce' to an impactful lesson, Arbetman placed emphasis on the 'dosage' of information being taught to your audience in order to create an interactive lesson, a method which should be preferred to the heavy offloading of knowledge in one sitting. Arbetman's formula made complete sense both as a presentation and in the context of the other PLE work we had heard about at the conference so far.

Session 5: Reflections so far by Law Society of Scotland Committee

The reflection session of the second and final day of the UK and Ireland Street Law Conference 2022 was given by the Law Society of Scotland Committee. They first acknowledged the thought-provoking and open atmosphere of the conference and how such valuable round-table discussions lead to a continuous flow of ideas in the conference room, in turn extending to the global community once ideas are implemented and developed. The Committee also recognised the importance of the 'unlearning process' when it comes to creating a more agile learning environment to deliver Street Law workshops both in person and online. In terms of online teaching, as demonstrated by the earlier session delivered by Georgia Turnbull and Robb Marrs, the paradigm of how

⁵ See: McQuoid Mason, David, 'Introduction to Democracy Education, Best Practices Handbook' (2018) UNDEF, pp 7-8.

a Street Law lesson is shaped in person had to be unlearned to give space for new online teaching tools (e.g., Padlet) and ideas to maintain student engagement.

Session 6: SL and QWE, Linden Thomas & Lucy Blackburn, University of Birmingham & University of Central Lancashire

In light of the Solicitors Qualifying Exam (SQE) being phased in to become the predominant method to qualify as a solicitor in England and Wales – candidates need to ‘complete two years’ full-time (or equivalent) QWE’ which enables aspiring solicitors to gain legal work experience.⁶ Following the reflection session, Linden Thomas and Lucy Blackburn delivered a topical session on the connection between Street Law and Qualifying Work Experience (QWE). Through several quick-fire rounds, delegates worked in small groups to distinguish whether six case studies could be classified to be QWE or not. This was conducted by using the competences guide that the Solicitors Regulation Authority (England and Wales) applies to determine whether an experience constitutes QWE, examples include working with other people, managing yourself and your work, ethics, and professionalism. This session highlighted the value of Street Law and PLE Workshops in aiding students to be critical learners and thinkers and the transferable skills to be applied in future practice as a solicitor.

Session 7: A PLE for Help: Filling Public Legal Education Gaps in Canada by Natasha Jaczek, University of Ottawa

To understand why there has been a lack of PLE in Canada, Jaczek’s session inspired insightful discussion into both the benefits and challenges of setting up a Street Law programme in school settings and in the wider community. Street Law initiatives can be included within the school’s timetable, which in turn makes the programme more

⁶ Solicitors Regulation Authority, ‘Qualifying work experience for candidates’ (SRA, 5 April 2022) <<https://www.sra.org.uk/become-solicitor/sqe/qualifying-work-experience-candidates/>> accessed 9 June 2022.

accessible to a diverse range of pupils. If seen as part of the curriculum, attendance levels should be high. It was noted, as in a previous presentation, that background and security (DBS) checks must be completed to ensure the safeguarding of all concerned. A potential challenge regarding school-based initiatives was maintaining continuity within each school's curriculum and resources are an ever-present issue. Regarding community-based programmes, benefits included, amongst other things, the ability to address a more diverse range of socially relevant legal topics.

Overall, this session successfully concluded the conference with a consistent theme that ran throughout – the importance of clear outcomes for all, the need for interactive learning and teaching, the significance of reflecting community-need in terms of topics covered, the practicalities of establishing and managing a Street Law module and the value of sharing ideas, experiences and 'best practice'.

The overall value of the conference for students and Street Law participants in general

Looking specifically from the students' perspective, the main takeaway from the conference was the high level of participation due to the interactive nature of the sessions that were provided by the speakers – it truly symbolised the ethos of Street Law and its delivery. Given the nature of much, if not most, university teaching, students are conditioned to learn from, and adopt to, a specific way of delivery dominated by lecture-style and PowerPoint assisted presentations. Whilst many universities and other higher education institutions have introduced more student-centred learning opportunities (such as law clinics and Street Law), these are still vastly outnumbered by more traditional forms of knowledge transfer. The conference allowed us, as students, to engage with innovative methods of teaching and learning, showcased by the different presenters. For example, the 'Copyright: The Card Game' session, was the epitome of

demystifying and decoding the law (in this instance being copyright and business law) through an engaging card game. Such sessions enabled us, as students, to better comprehend the underpinnings and structure behind a lesson/project before incorporating the substantive law and applying this, perhaps, to other settings.

From the students' perspective, the conference allowed us, as existing participants in Street Law, to become more aware of the design and mechanics involved in a project rather than just the delivery aspect. Most importantly, it allowed us to gain real insight into the aims and philosophy behind the PLE programmes, which has helped motivate and inspire in a very personal way. The session held by Lee Arbetman on the 'Ingredients in the Secret Sauce' combined with the keynote workshop led by Richard Grimes, which included a simulation of a presentation to a Board to persuade it to support a Street Law Programme, were particularly helpful. These sessions put the rest into context and perspective – giving a foundation on which all else could be appreciated. For us, it made sense of much of the work we had already done back at our law school. It was truly 'doing' and reflecting on the 'doing'. Additionally, this conference gave a basis for us and the potential for other students to truly understand the purpose of Street Law and the chance to be more involved in the process moving forward.

For the Street Law delegates more generally, the conference allowed all to refresh their minds on innovative ways to introduce, develop and/or improve projects. It was agreed during these 2 days that the starting point in designing an effective Street Law session was to identify common aspects of what a successful lesson looks like. In addition, there was useful discussion on the types of activity that can interest and engage different audiences, in particular those based in the school environment, the wider community and a mix between the two (as discussed in Jaczek's session on day two). The topic of dosage of material opened valuable discussion into the several ways Street Law initiatives can

be run effectively, concluding that the focus lay in the captivity of the activities with a lesser focus on providing extensive knowledge in one session.

The inclusion of topical but perhaps not commonly addressed topics for Street Law was another innovative idea that participants at the conference appreciated. For example, copyright and environmental rights were the two of the subjects that stood out as perhaps non-typical matters covered by Street Law sessions.

Aside from being inspirational the conference was an excellent opportunity to network and meet potential collaborators for the future.

How could this conference be improved going forward?

A key suggestion for improvement is to encourage more students to attend the conference. A significant number of the sessions referred to students' contribution and raising questions about how they felt the activity went and could be improved. Without students being well-represented at the conference, an opportunity is missed for such important feedback. Having students present at future events would also allow for a first-hand account of their experiences more generally. Such conferences are a fantastic platform to exchange ideas and discuss common challenges. In the spirit of co-creation and more effective learning and teaching, involving students from the outset would no doubt contribute to more successful Street Law and other PLE projects. Students and facilitators would, thereby, be encouraged to engage in meaningful communication at all developmental stages of projects, as opposed to only giving feedback at the end of particular activities. This could only constructively contribute to PLE work in general and Street Law activity in particular.

Another improvement could be the inclusion of more examples of active Street Law programmes. Whilst the presentations themselves were highly valuable, observing and

taking part in exercises and simulated Street Law work was, for us, an unforgettable experience. It proved to be especially useful as it helped inspire ideas for us to include in our own future programmes whilst also helping us to visualise how projects can be better tailored to serve different audiences and address relevant topics.

Further, in conjunction with an annual Street Law conference, it would be beneficial to have more frequent virtual meetings between universities and the organisations present at the conference. This could create an opportunity for a continuing dialogue on new teaching and learning methods, on potential presentation topics and enabling a more effective sharing of resources that could be useful across the board.

Suggestions as to how students and future lawyers/ professionals, can contribute to Public Legal Education in the future

As future lawyers, or practitioners more broadly, a suggestion as to how one can contribute to PLE could be by volunteering to give inspiring talks to universities about the programme. Just as the conference demonstrated, inspiring students is a powerful tool and connecting students with practitioners enables greater understanding and access to the Street Law community. In continuity with student-focused initiatives, campaigns or taster sessions at universities could be held to increase awareness about educating individuals on legal issues. Raising awareness amongst students generally of access to justice and the role of legal literacy could incentivise them to join the Street Law teams. In turn, creating a positive domino effect, and expanding the reach of Street Law to non-law university students will allow for an increase in people being able to provide workshops to the wider community.

Another way in which students can contribute to PLE in the future is by starting programmes in their local areas. For some of us, one of the reasons we took part in the Street Law project at our university was to learn the building blocks of the project to

create a similar one back in our home country. With this aim in mind, we thoroughly immerse ourselves in the experience and learn as much as we can from it so that we can apply our knowledge elsewhere. With an expanding digital era, creating and presenting free, online, programmes/sessions is another viable option. In such a diverse environment, an online lesson can mean that PLE could be encouraged and accessed by a wider range of audiences and can mean that lawyers/professionals may find it easier to volunteer, compared to in-person sessions, as it does not require travel and is less time consuming.

Conclusion

Prior to the conference, we anticipated a more 2D, presentational-style discussion. Instead, the conference exceeded our expectations and revealed a totally different ballgame. We were presented with a truly captivating 2 days which embraced the Street Law methodology of interactive discussion. From this, we were able to gain a holistic outlook on several different strategies and how one can structure and deliver Street Law sessions to a variety of target audiences. It was enriching to witness Street Law being applied across the board and to see students, academics and other Street Law enthusiasts working and sharing ideas and learning skills to be able to apply in the future.