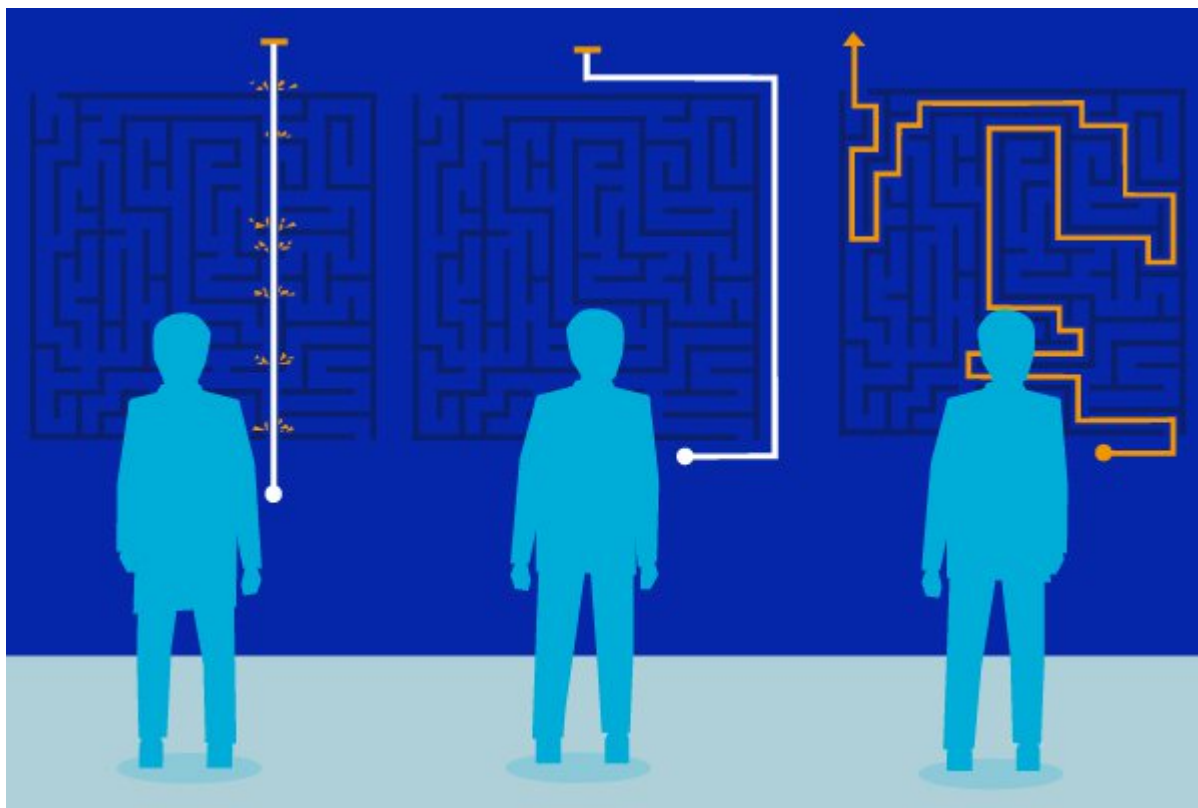


Why We Should Teach Legal-Reasoning Skills to Students



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A legal education is not just for aspiring lawyers

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Law is seen as a discipline in which either you are an expert because you went to law school or completely ignorant because you didn't. Of course, children and young adults learn what rules they have to obey—and they figure out which laws to protest. Yet, this is not the type of legal education that will create engaged citizens. Students should learn how the legal process works and the skills of legal reasoning, just as they learn other comprehension and reasoning skills in school.

Primary and secondary education are meant to provide children with the tools necessary to be productive adults in the real world. Students gain academic knowledge and analytic skills by learning science, math, literature, and history. They develop social skills by participating in sports teams and clubs. In today's social environment where foundations and nonprofits such as the Obama Foundation and Rock the Vote are building awareness and opportunities for civic awareness and action, students are also learning the value of civic participation. Yet, even while this participation is emphasized, instruction on how to participate effectively is not. Law is virtually never taught in the United States other than to aspiring lawyers.

Giving students a legal education involves teaching them how our judges and legislators work within a system. Knowing how judges think and decide cases and how legislators cooperate to create laws will equip students to participate productively in the political and legal process. We have all seen the new normal exhibited in the recent clashes between **student activists calling for the Green New Deal** and seasoned lawmakers who acknowledge the political complexity of enacting such legislation. Children and young adults want to participate in social change, but they first need to be taught the strategic prioritization of social values and constraints, budgetary planning, and persuasive negotiation involved in true democracy.

As an example for how high school students can successfully engage to advance legislative change, one need only to look at the students of Marjory Stoneman Douglas High School in Parkland, Fla. Their efforts have led to a change in gun laws

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in a number of states. They did not simply demand gun safety laws. They were informed and strategic about how to make their case in a way that was effective.

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More broadly, teaching law to young children will provide them with a set of reasoning skills important in many areas of their lives. "Legal thinking"—which is not just rule-obedience—changes the way people approach difficult problems because it gives them tools to organize facts and values to arrive at a reasoned and actionable decision.

As an additional benefit, people will be less inclined to fall for rhetorical arguments that spark an emotional response without offering a clear vision of what should be done and how it can be done effectively. Just as the scientific community advocates for science education so that people can recognize valid arguments about vaccinations and climate change, we hope that giving students a good legal education will reduce the prevalence of bad legal and political arguments that currently permeate social and political discourse.

Like many complex subjects, legal reasoning is rarely black or white. Children and teens will learn not only how to apply a general rule to a situation, but also how to think about the ways in which laws ought to be applied. Consider, as an example, whether the rule "no motorized vehicles in the park" applies to electric wheelchairs. Most of us can intuit that the answer is "no," but we may lack the vocabulary to explain why. After all, electric wheelchairs are motorized, and they are vehicles.

Furthermore, legal thinking helps people find agreement on matters of policy, even when they might disagree on why the policy should be implemented. In his book *Legal Reasoning and Political Conflict*, Cass Sunstein—the former administrator of the White House Office of Information and Regulatory Affairs under President Barack Obama and long-time law professor—calls this "incompletely theorized agreements." We just call it "coalition or community building." Such agreements are not simply compromises; everyone is getting the outcome they desire, albeit for different reasons.

Another major advantage to learning law young is that it helps students learn to reason by analogy. Such reasoning recognizes that each situation may share similarities with others, but is nevertheless unique. Legal reasoning encourages people to consider the particularities of the situation, as well as the commonalities it may have with others.

For example, many parents make different decisions for each of their children, because they understand that what might work for one child might not work for another. Suppose you allow your first child to get her driver's license the moment she reaches the legal age. You do so because she has demonstrated that she is responsible, and you trust that she will drive safely. When your second child reaches the age where she can obtain a driver's license, however, she has not yet instilled the same level of trust in you that she will use the car responsibly. When you demur, she continues to say that you let her older sister get a license at this age. Trying to have your daughter understand how people can treat their children differently while still caring for them equally is a practical example of teaching by analogy. An answer to a child's exclamation "but it's not fair!" might just be a lesson in legal reasoning.

More generally, people most often have to learn the rules of the game while playing. Seldom in life do people get a rule book in advance for how to succeed at work or in a marriage. Analogical reasoning skills help a people identify the right course of action by comparing situations as they experience them.

As an additional benefit, legal reasoning teaches students to consider others' perspectives and thereby learn to appreciate that there may be more than just one side to a question. The starting point to much legal reasoning is an excellent understanding of the other side to any problem. By being exposed to other perspectives, people develop a sense of intellectual humility and honesty, and become more open to other points of view.

We have failed our young learners in America by leaving law to "law school." Like math, science, English, and history, law needs to be a discipline taught in elementary, middle, and high school so that students can become more productive adults. If we learn law young, we will have a less contentious and more democratic society.

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